

**DURHAM, NORTH CAROLINA  
MONDAY, FEBRUARY 15, 2016  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers 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 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 Bell called the meeting to order with a moment of silent meditation; and the Pledge of Allegiance was led by Council Member Davis.

**[ANNUAL STATE OF THE CITY ADDRESS]**

The Mayor’s *Annual State of the City Address* was held; Bill Shore, a Durham Community Leader, retired GlaxoSmithKline executive and Interim President of the Durham Chamber of Commerce, moderated the session.

Mayor Bell and Mr. Shore shared the following:

- An upbeat video, titled “*This is How We Do It*” consisting of Council members, residents and staff who highlighted aspects of elements that make the Bull City a great place to live, work and play.
- Opening statement focused on population growth of 250,000, diverse community, excellent workforce and public-private partnerships, that working together, create excellent quality-of-life and services.
- Resident Satisfaction Survey, the joint survey with Durham County, showed Durham’s image had improved dramatically over the last ten years.
- Downtown growth and reformation included residential, commercial and entertainment options as a 24/7 destination point; City Center’s 27 floor building was under construction along with the innovation district for adaptive reuse, the Chesterfield building, was now under renovation.
- Low unemployment rate; Durham County had conducted its property reevaluation assessment resulting in increases in property values.
- Devising options for more affordable housing in the Downtown area; noted that one cent of the property tax has been allocated to affordable housing for persons living below the median income; and referenced collaborative environment responsible for new housing.
- Expectations of the upcoming roadmap to provide affordable housing from the city’s consultant at Enterprise Community Partners, Inc.
- Accomplishments of the Mayor’s Poverty Reduction Initiative that focus on ameliorating poverty in Northeast Central Durham by utilizing volunteer taskforces on education, jobs, housing, finance, public safety and health; and spoke to implementation of 2016 goals.
- Challenges in controlling violent crimes of aggravated assault, robbery, homicide and rape; and efforts to seek-out community buy-in to promote crime reduction.

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- Regional issues of traffic, roadways and light rail; addressed FTA's permission announced in 2013 that allows Durham to develop light rail system between Durham and Orange counties; and stated the city planned to submit application to FTA for engineering/development of the rail system with an overall estimated completion/operation date of 2026.
- Biggest challenges affordable housing, crime, sustainable growth, quality jobs, infrastructure, road maintenance and recreation.

Mayor Bell acknowledged that the state of the city of Durham was good and getting better; that that were challenges but he was overall very optimistic; emphasized that public-private partnerships helped achieve goals; referenced the upcoming *Coffee with Council Sessions*; the recent citizens' survey; and summarized that Durham was in good hands with a capable Council, administration and employees.

Mayor Bell called for a brief recess and requested that Council reconvene at 7:38 p.m.

**[ANNOUNCEMENTS BY COUNCIL]**

There were no announcements by Council.

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

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

Mayor Pro Tempore Cole-McFadden requested that Item #9, Contract Amendment with Republic Parking Systems for Parking Management Services, be deferred for discussion to the February 18<sup>th</sup> Work Session. Item #14, Contract for the Purchase of Body Worn Cameras for the Police Department, was also pulled for further discussion.

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to approve the Consent Agenda as amended was approved at 7:43 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 Moffitt, seconded by Council Member Reece, to approve the City Council Minutes for the following meeting dates: December 22, 2015; January 4, 2016; January 7, 2016 and January 19, 2016 was approved at 7:42 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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**SUBJECT: FIREFIGHTER'S RELIEF FUND BOARD OF TRUSTEES  
REAPPOINTMENT**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to reappoint Cheryl Klein to the Firefighter's Relief Fund Board of Trustees with the term to expire on January 1, 2018 was approved at 7:42 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 APPOINTMENT**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to appoint Yolanda Keith to the Human Relations Commission representing an African American female with the term to expire on June 30, 2018 was approved at 7:42 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: HOUSING APPEALS BOARD APPOINTMENT**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to appoint Maria Singleton to the Housing Appeals Board as an Alternate Member representing a Lawyer with the term expiring on June 30, 2018 was approved at 7:42 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 PERFORMING ARTS CENTER OVERSIGHT COMMITTEE  
APPOINTMENT**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to appoint Susan Callaghan to the Durham Performing Arts Center Oversight Committee representing Finance with the term expiring on March 1, 2019 was approved at 7:43 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 Moffitt, seconded by Council Member Reece, to appoint Thomas Davis to the Durham Open Space and Trails Commission representing At-Large with the term to expire on June 30, 2017 was approved at 7:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor ProTempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

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**SUBJECT: 2015 MUNICIPAL PRIMARY AND MUNICIPAL CITY ELECTIONS**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to authorize payment in the amount of \$400,386.00 to the Durham County Board of Elections for the City of Durham 2015 Municipal Primary and Municipal City Elections was approved at 7:42 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: RESPONSE TO RECOMMENDATIONS PRESENTED BY THE HUMAN RELATIONS COMMISSION – WATER MANAGEMENT DEPARTMENT**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to receive a report on the Administration's response to the Human Relations Commission Recommendations regarding the Water Management Department was approved at 7:42 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: IMPLEMENTATION PROGRAM FOR PEDESTRIAN AND BICYCLE NETWORKS – STANTEC CONSULTING SERVICES, INC.**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to authorize the City Manager to execute Supplemental Agreement No. 3 to the Master Agreement for Transportation and Engineering On-Call Services Between the City and Stantec Consulting Services Inc. in the amount of \$125,000.00 was approved at 7:42 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: PROPOSED ADVANCE ACQUISITION FOR THE FUTURE EXPANSION OF LAKE MICHIE, PROPERTY OF MILDRED Y. ELLIS, ET AL**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to approve the fee simple acquisition of +/- 6.918 acres (Parcel ID 192263) from Mildred Y. Ellis (widowed); Tony and Grace Ellis; Robert P. and Marilyn Ellis; Grover C. Ellis, Jr. (unmarried); and Kae Ellis (unmarried) for \$80,000.00 was approved at 7:42 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: RESOLUTION IN SUPPORT OF ROADWAY IMPROVEMENTS RELATED TO SUNCAP LOCATION WITHIN THE DURHAM CITY LIMITS**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to adopt a Resolution in Support of SunCap's request to the North Carolina Department of Transportation to

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receive grant assistance to fund roadway improvements within the Durham City limits was approved at 7:42 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 #9954**

**SUBJECT: CARVER STREET EXTENSION CONTRACT ST-257 AWARD TO TRIANGLE GRADING & PAVING, INC.**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to adopt an Ordinance Amending the General Capital Improvements Project Ordinance, Fiscal Year 2015-16, as amended, the same being Ordinance #14778;

To authorize the City Manager to execute a contract for Carver Street Extension Contract ST-257 with Triangle Grading and Paving, Inc. in the amount of \$5,869,345.49;

To establish a contingency fund in the amount of \$586,934.55; and

To authorize the City Manager or his designee to execute change orders to the contract so long as the total project cost does not exceed \$6,456,280.04 was approved at 7:42 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 #14892**

**SUBJECT: ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE SOFTWARE MAINTENANCE SERVICE AGREEMENT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to authorize the City Manager to execute an agreement with Environmental Systems Research Institute, Inc. in the amount of \$98,350.00 to cover the period of one year for software maintenance service was approved at 7:42 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: RESOLUTION REQUESTING A DEED OF PARTIAL RELEASE FOR CERTAIN PREMISES RELATED TO AN INSTALLMENT PURCHASE CONTRACT WITH NEW DURHAM CORPORATION AND RELATED MATTERS**

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**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to adopt a Resolution of the City Council of the City of Durham, North Carolina, requesting a Deed of Partial Release for certain premises related to an installment purchase contract; and

To authorize the City Manager or his designee to execute other associated legal documents as necessary and to make changes to any of the legal documents prior to execution, so long as the changes are consistent with the intent of the agenda item memo and the existing versions of the documents was approved at 7:42 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 #9955**

**SUBJECT: PROPOSED SALE OF THE NORTH PARKING GARAGE BY UPSET BID PURSUANT TO NCGS 160A-269**

**MOTION** by Council Member Moffitt, seconded by Council Member Reece, to declare the Subject Property at 305 W. Pettigrew Street as surplus;

To adopt a Resolution Authorizing Upset Bid Process for Sale of the North Garage in accordance with G.S. 160A-269;

To propose to accept the offer of \$8,000,000.00 from ATC North Garage, LLC as described in the attached Offer to Purchase Form, and advertise for upset bids pursuant to the Upset Bid Procedure (G. S. 160A-269) and the resolution; and

To authorize the City Manager to negotiate, grant and execute a temporary construction easement to the buyer of the Property, from, under, across and through certain portions of 515 West Pettigrew Street, Durham Station Transportation Center, for purposes of adding parking spaces and other improvements to the North Garage was approved at 7:42 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 #9956**

The City Council disposed of the following agenda items at the February 4, 2016 Work Session:

12. City of Durham Employment and Training 2015-2017 Grant Project Ordinance Superseding Grant Project Ordinance #14786  
*(This item was approved at the 2-04-16 Work Session with a vote of 7/0)*
  
16. Global North Carolina, Inc. (GEEP) Contract to Transport, Process and Market Electronic Materials  
*(This item was approved at the 2-04-16 Work Session with a vote of 7/0)*

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18. Presentation on the Downtown Durham Rental Housing Subsidy Program by Enterprise Community Partners, Inc.  
*(A presentation was received at the 2-04-16 Work Session)*
19. Presentation on the Mayor's Poverty Reduction Initiative - Jobs Taskforce  
*(A presentation was received at the 2-04-16 Work Session)*
20. Presentation on Proposed Fee Revisions for the Underground Utility Permit Program  
*(A presentation was received at the 2-04-16 Work Session)*

**[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT - 1650 T. W. ALEXANDER DRIVE (A1500009)**

Steve Medlin, City-County Planning Director, certified that all the public hearing items satisfied General Statute notice requirements and affidavits were executed to that effect and were part of the case files; stated the plan amendment was associated with a zoning map change, case Z1500022; the applicant, Capital Civil Engineering, requested an amendment to the Future Land Use Map (FLUM) from Office (OFC) and Commercial (COM) to Industrial (IND), for a 13.25 acre site located at just to the west of the intersection of T.W. Alexander Drive and Stirrup Creek Drive; the site was in the Suburban Tier and currently vacant. The site surrounded a small private cemetery which was not part of the request; the applicant stated that the proposed industrial use was more compatible with surrounding uses and/or designated future land use patterns than the current commercial (COM) and office (OFC) designations.

Mr. Medlin noted that staff recommended approval, based on conditions warranting an amendment to the Future Land Use Map and the proposed land use pattern meeting the four criteria for plan amendments; and the Planning Commission recommended approval, based on information provided in the staff report, by a vote of 10-0 on December 8, 2015.

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

Michael McQuillon, representing Capital Civil Engineering, summarized the project and its location; and stated he was available to answer questions regarding the comprehensive plan and the rezoning.

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

**MOTION** by Council Member Schewel, seconded by Council Member Moffitt, to adopt a Resolution to change the Future Land Use from Office and Commercial to Industrial was approved at 7:46 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 #9957**

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**SUBJECT: ZONING MAP CHANGE - 1650 T.W. ALEXANDER DRIVE (Z1500022)**

Steve Medlin, City-County Planning Director, explained Zoning Case Z1500022, 1650 T.W. Alexander Drive, was the companion zoning case to the previous item; stated the applicant made a request to change the zoning designation of 13.07 acres located at 1650 T.W. Alexander Drive, with frontage on T.W. Alexander Drive, South Miami Boulevard, and Stirrup Creek Drive, from Commercial Center with a development plan (CC(D)), Office Institutional (OI), Industrial Park (IP) to Industrial Light with a development plan (IL(D)); indicated the development plan associated with the request committed to 200,000 maximum square feet of floor area, two external access points and one access point to Guess Family Cemetery, maximum limitation of 66.41% impervious surface and 10% tree coverage; indicated that the text commitments on the development plan included limitation of uses, accommodation of transit facilities, including dedication of right-of-way and four feet of additional right-of-way for a bicycle lane along T.W. Alexander Drive.

Mr. Medlin stated that commitments regarding roadway improvements resulting from the Traffic Impact Analysis would be provided at T.W. Alexander Drive, Stirrup Creek Drive, Presidential Drive, South Miami Boulevard, and at the site access. Graphically, the development plan commits to general location of site access points, location of tree preservation areas, and building and parking envelopes.

Mr. Medlin noted that staff determined that, should the plan amendment be approved, the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances; and Planning Commission recommended approval of the request on December 8, 2015 by a vote of 10-0.

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

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1500022 out of Commercial Center with a development plan (CC(D)), Office Institutional (OI), and Industrial Park (IP) and placing same in and establishing same as Industrial Light with a development plan (IL(D)) was approved at 7:49 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 #14893**

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Schewel, to adopt a consistency statement as required by GS 160A-383 was approved at 7:49 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 Z1500022, 1650 TW ALEXANDER DRIVE

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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 Z1500022, 1650 TW Alexander Drive, 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.

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT - 5515 AND 5517 NC 55  
HIGHWAY (A1500011)**

Steve Medlin, City-County Planning Director, explained case Z1500024, stated the applicant, Horvath Associates, P.A.; was requesting an amendment to the Future Land Use Map (FLUM) from Commercial (COM) to Industrial (IND), for a 3.5 acre site located 5515 & 5517 NC 55 Highway, south of Sedwick Road; indicated the site was in the Suburban Tier, within the F/J-B Watershed Protection Overlay and comprised two parcels; stated the southern parcel was vacant, while a single-family home was located on the northern-most parcel; and noted the applicant stated the proposed change to Industrial (IND) would allow for a pest control operation on the site, whereas the current commercial designation would not, and that the existing building on the site could be used to house the operation.

Mr. Medlin stated that staff recommended approval, based on conditions warranting an amendment to the Future Land Use Map and the proposed land use pattern meeting the four criteria for plan amendments; and stated the Planning Commission recommended approval by a 10-0 vote on December 8, 2015.

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

Tim Sivers, representing Horvath Associates PA, summarized the item; and stated he was available for Council's questions.

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

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**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt a Resolution to change the Future Land Use from Commercial to Industrial was approved at 7:52 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 #9958**

**SUBJECT: ZONING MAP CHANGE - 5515 AND 5517 NC 55 HIGHWAY (Z1500024)**

Steve Medlin, City-County Planning Director, stated the zoning case was a request to change the zoning designation of 3.46 acres located at 5515 & 5517 NC 55 Highway, south of Sedwick Road and north of T.W. Alexander Drive, from Commercial Neighborhood (CN) to Industrial Light with a development plan (IL(D)) for a pest control operation with office (not committed); indicated the development plan associated with the request commits to 50,000 maximum square feet of floor area, one external access point, maximum of 70% impervious surface and 10% tree coverage as well as text commitments on the development plan included accommodation of transit facilities and limitation of uses; as well as the general location of site access point, location of tree preservation areas, and building and parking envelopes.

Mr. Medlin stated staff determined that, should the plan amendment be approved, the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances; and the Planning Commission recommended approval on December 8, 2015 by a 10-0 vote.

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

Tim Sivers, representing Horvath Associates PA, stated he was available for Council's questions.

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

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1500024 out of Commercial Neighborhood (CN) and placing same in and establishing same as Industrial Light with a development plan (IL(D)) was approved at 7:54 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 #14894**

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt a consistency statement as required by GS 160A-383 was approved at 7:54 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

**February 15, 2016**

BY THE DURHAM CITY COUNCIL  
REGARDING Z1500024, 5515 & 5517 NC 55 HIGHWAY

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 Z1500024, 5515 & 5517 NC 55 Highway, 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.

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT - 4062 STIRRUP CREEK DRIVE (A1500008)**

Steve Medlin, City-County Planning Director, explained case Z1500021 by indicating the applicant, Capital Civil Engineering, requested an amendment to the Future Land Use Map (FLUM) from Office (OFC) to Industrial (IND), for a 6.57 acre site located at 4062 Stirrup Creek Drive in east Durham, at the intersection of T.W. Alexander Drive and Stirrup Creek Drive; and stated the site was in the Suburban Tier and a portion of a 22.15 acre parcel. The remainder of the parcel was already designated Industrial (IND) on Future Land Use Map. Mr. Medlin continued explaining that the site was currently vacant and noted the applicant stated the proposed use was more compatible with surrounding uses and/or designated future land use patterns than the current office designation.

Mr. Medlin added that staff recommended approval, based on the conditions warranting an amendment to the Future Land Use Map and the proposed land use pattern meeting the four criteria for plan amendments; and stated the Planning Commission recommended approval by a 10-0 vote on December 8, 2015.

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

Michael McQuillon, representing Capital Civil Engineering, summarized the project adjacent to the Triangle Business Center; and stated he was available for Council's questions.

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

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**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt a resolution to change the Future Land Use from Office to Industrial was approved at 7:56 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 #9959**

**SUBJECT: ZONING MAP CHANGE - 4062 STIRRUP CREEK DRIVE (Z1500021)**

Steve Medlin, City-County Planning Director, stated Zoning Case Z1500021 was a request to change the zoning designation of 22.15 acres located at 4062 Stirrup Creek Drive, southeast quadrant of Stirrup Creek Drive and T.W. Alexander Drive, from Office Institutional (OI), Industrial Park (IP) to Industrial Light with a development plan (IL(D)); explained the development plan associated with the request committed to 350,000 maximum square feet of floor area, five access points, maximum of 65% impervious surface and 10% tree coverage; stated that text commitments on the development plan included limitation of uses, accommodation of transit facilities including four feet of additional right-of-way for a bicycle lane along T.W. Alexander Drive. Roadway improvements resulting from the Traffic Impact Analysis will be provided at T.W. Alexander Drive, Stirrup Creek Drive, Presidential Drive and at the site access. He stated the development plan committed to general location of five site access points, location of tree preservation areas, and building and parking envelopes.

Mr. Medlin added that staff determined the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances; and the Planning Commission recommended approval on December 8, 2015 by a vote of 10-0.

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

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1500021 out of Office Institutional (OI) and Industrial Park (IP) and placing same in and establishing same as Industrial Light with a development plan (IL(D)) was approved at 7:58 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 #14895**

**MOTION** by Council Member Schewel, seconded by Council Member Reece, to adopt a consistency statement as required by GS 160A-383 was approved at 7:59 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

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BY THE DURHAM CITY COUNCIL  
REGARDING Z1500021, 4062 STIRRUP CREEK DRIVE

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 Z1500021, 4062 Stirrup Creek Drive, 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.

**SUBJECT: ZONING MAP CHANGE - FARRINGTON MIXED USE (Z1500009)**

Steve Medlin, City-County Planning Director, stated Zoning Case Z1500009, Farrington Mixed Use, was a request to change the zoning designation of 19.95 acre tract located at 5708 Farrington Road, between Rutgers Place and NC 54 Highway, from Office Institutional with a development plan (OI(D)) and Residential Suburban – 20 (RS-20) to Mixed Use with a development plan (MU(D)) to allow a mix of office and residential use; indicated the development plan associated with the request committed to range of 500-600 residential units, maximum office square footage of 100,000-173,000 and a parking structure ranging between 100,000-500,000 square feet.

Mr. Medlin continued by stating the text commitments included a commitment for vertical integration, transit improvements, four additional feet of asphalt for a bicycle lane, right-of-way improvements for Rutgers Place, Crescent Drive, and Cleora Drive, and details regarding architectural features and site amenities. The Traffic Impact Analysis requirements included improvements at NC 54 Highway, Farrington Road, Rutgers Place, Crescent Drive, Cleora Drive, and at the site access and cross-access driveways. Graphically, the development plan commits to general location of five site access points and building and parking envelopes and clarifies the location of site amenities as proffered through text commitments.

Mr. Medlin indicated that staff determined that the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances; and the Planning Commission recommended denial on December 8, 2015 by a vote of 8-2.

Mayor Bell opened the public hearing and stated there were speakers to the item.

The following individuals spoke in support of the item:

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Ken Spaulding, attorney representing the applicant, stated the developer had followed protocol during the process; and added that there was a significant revision pertaining to the affordable housing element compared to the item formerly presented at the Planning Commission.

Deb Anderson, representing Wood Partners, introduced her development team; spoke in support of the project and summarized the project's elements; displayed the site for the Farrington Road Mixed Use development; explained the project included 500-600 apartments, in two phases, and 100,000-173,000 feet of office; revised text commitment #1 to read as follows, "the project will include at least one vertically integrated building in the first phase consisting of a minimum of 5,000 square feet of ground floor office space"; modified the development in response to neighbors' concerns; read correspondence from John Eddy noting comments of support for the mixed-use project; addressed three features of the development- density, mixed use design and timing of the future Leigh Village design district; spoke to the incorporation of the compact neighborhood standards into their plan; and stated by proposing mixed use and the compact neighborhood standards, they will be able to develop up to 53 ½ units per acre; noted project would comply with the build-to lines requiring that buildings be located close to the streets; stated they have worked with the City's transportation staff including NCDOT preparing a Traffic Impact Analysis; and followed by additional studies which were requested, and stated their proposed rezoning committed \$1.7 million of developer funded roadway improvements to the intersection.

Ms. Anderson added a new text commitment #10 that read as follows, "The developer/owner will provide ten affordable rental units at 80% of AMI and ten affordable rental units at 60% of AMI, prior to the issuance of the final Certificate of Occupancy in Phase II of the residential portion of the project. These units would be provided for twenty-five years. In the event the City of Durham established a program in the future that provides incentives for affordable housing units, the project shall not be prohibited from participating in such a program. Each year following the final Certificate of Occupancy for Phase II of the residential portion of the project, the Owner of record would provide annual certification of compliance with the commitment to the Durham City-County Planning Department. The Owner of record shall pay a penalty of \$1,000 per non-compliant unit made payable to the City of Durham for each unit not meeting the threshold for any given year of service." Ms. Anderson stated they believed by offering the units in the second phase the City would have had time to develop and adopt a program that included annual certification.

Ms. Anderson referenced the staff report indicating only 10 affordable housing units in the immediate area; and by adding 20 units of affordable housing they would be tripling the stock of affordable housing in the Leigh Village design district. She requested Council's approval of the project that included high density development near future light-rail transit stop, vertically integrated mixed use design, roadway improvements privately funded, increase in the city's tax base, new water/sewer/ stormwater infrastructure, new multi-family rental housing stock for Southwest Durham; new affordable housing units for Southwest Durham; and neighborhood support for the high density mixed use development.

The following individuals spoke in opposition to the item:

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Christine Westfall, Coalition for Affordable Housing and Transit and Durham Community Land Trust, appreciated the developer willingness to include affordable housing into the development; however, expressed concerned about the scale of affordability; supported the consideration of asking for more affordable units at the site; and supported affordable housing in Phase I rather than Phase II.

DeDreana Freeman, resident, was excited about affordable housing being included in the plan; preferred such housing be included in Phase I rather than Phase II; supported additional affordable units at the site above the 20 units proffered; noted the city's affordable housing guidelines were in process along with compact neighborhood design; stated that rushing the process could hurt. She stated she was not opposed to the development, but was opposed to the timing.

Becky Winders, member of CAHT, appreciated the developer including affordable housing; expressed concerns regarding developing the neighborhood to the compact district standards created for Ninth Street and Downtown, and noted that the standards might not be appropriate for the suburban location Leigh Village; expressed concern with how the affordable housing goal would be met in the area; and suggested separate approvals for Phase I and II.

Lorisa Seibel, member of CAHT, presented a video on individuals who required affordable housing; and asked persons in the audience to rise who supported affordable housing.

Jim Svara, member of CAHT, appreciated the developer response to affordable housing in the development plan; reminded Council that the elements of the affordable housing goal was 15% of the units in all station areas for families with income at 60% AMI; referenced the developer complying with design district standards not yet in place; and expressed concern that the developer had not voluntarily embraced the housing goal of the City; encouraged the developer to embrace affordable housing not only in Phase 2, but also in Phase 1; and encouraged everyone to work together to provide assistance in providing affordable housing units.

Jay Goldstein, homeowner, reminded Council that the Planning Commission had denied the project; and encouraged Council to delay a decision on the project until the rest of the recommendations were done by the Planning Commission.

#### Rebuttal by the Applicant

Ken Spaulding, attorney representing the applicant, stated the developer had followed protocol from the Planning Commission to the Council; and that changes were based on input provided at the Planning Commission's public hearing; stated there was currently no city program for affordable housing; and stated that the project was the first proposal offering affordable housing in their rezoning; noted they have been working to achieve something the City could look to; and reminded Council that the developer was not receiving any incentive for the inclusion of affordable housing.

Mayor Bell asked if Council had questions on the item.

Mayor Pro Tempore Cole-McFadden inquired about having affordable housing in Phase I.

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Ms. Anderson responded stating that by including affordable housing in the second residential phase, they would be creating a win-win situation for both the City and the firm; provided the rationale for not including such in Phase I; stated that her company had never developed in a city without an adopted affordable housing program and that by including affordable housing in Phase II, it would give the city time to adopt an affordable housing program; informed Council that her construction lender and financial partner urged compliance with the rules and regulations of adopted city programs and policies; reiterated it was important for her firm to receive annual certification and without a program the city could not deliver on that; and stated it was very important for her firm to operate within the rules and regulations. Ms. Anderson stated if a program was not in place by the time they reach Phase II, because they are adding the affordable units as a text commitment to the rezoning, they would still be required to provide the units.

Mayor Pro Tempore Cole-McFadden inquired about other cities the developer had placed affordable housing.

Ms. Anderson stated they had built affordable housing units in Boston, Ellicott City, Maryland, San Diego, Los Angeles, San Francisco, Del Ray Beach, The Greater Baltimore/Maryland area; Denver, Washington, DC area and Dallas.

Mayor Pro Tempore Cole-McFadden restated that in the event the city did not have a program in place by Phase II the units would still be included; and asked the developer why affordable housing could not be provided now in the first phase.

Ms. Anderson stated that they would like the city to work with them cooperatively; allowing the city to get the program in place and providing them with an annual certification letter. Ms. Anderson stated she did not think it was possible for the city staff to provide an annual certification letter of compliance without an outlined program in place.

Mayor Pro Tempore Cole-McFadden asked about the rationale for not including ninety affordable units.

Ms. Anderson responded that the city's affordable housing goal of 15% of all units at 60% AMI was not financially feasible in the City of Durham presently; explained that on a \$45 million deal there was a \$4.5 to 5 million financial gap, that could not be met by the private developer alone; and, if the city created an affordable program that provided some public funding, then the gap could be bridged. She stated with \$1.7 million in roadway improvements being committed; they were unable to include additional units.

Council Member Johnson expressed appreciation that the developer added affordable housing to the plan; addressed the issue of approving construction plans that did not include significant amounts of affordable housing; agreed that it was important to have an affordable housing program in place so that developers could take advantage of city resources; spoke in favor of waiting until an affordable housing program was in place prior to approving a rezoning in the area near the transit station; due the housing consultant hired by the city, stated she expected the affordable housing plan to be ready much sooner; asked Mr. Medlin if the design district standards for Leigh Village would differ significantly from the Downtown or Ninth Street; and asked if the city committed resources, how quickly could they be brought online.

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City/County Planning Director Steve Medlin clarified that the area in question was currently in the suburban transit area; as a site in the suburban transit area, the developer had the option of developing under the design standards that would involve essentially, bringing buildings closer to the street and creating a build-to rather than set-back from right-of-way; however, at this point, the design standards differed between Downtown and Ninth Street standards, but would be somewhat consistent with those in the Ninth Street area. In terms of timeline, he stated staff was going to propose, although currently un-vetted with city administration, elevating three design districts in the work program to move forward as of July 1, 2016, to include Patterson Place, Leigh Village and one additional one; and added that it would take approximately three and one-half years to get the design district in place; potentially in the Leigh Village area.

Council Member Johnson recognized the lengthy delay; and responded the proposal contained essential desired elements but requested that Council wait to approve the project until the affordable housing program was in place.

Council Member Moffitt addressed Mr. Medlin regarding the by right development currently available on the property.

Mr. Medlin responded the current zoning was RS-20/single family residential district with approximately two units per acre, along with a portion to the south, zoned OI with a development plan.

Council Member Moffitt inquired if the developer owned the property; and asked Mr. Medlin about the long-range vision in area.

Mr. Medlin stated because the area was in the suburban transit area the development of RS density it would not be consistent with the long range vision for what they would like to see in the area; the density would be substantially low and not supportive of light rail system or the intensity/density they would like to see in the area.

Council Member Moffitt acknowledged the applicant had proffered a number of committed elements along with the development plan and zoning, inquired if the rezoning failed, and it is development by right; which committed elements would be included in the by right development.

Mr. Medlin responded that none of the elements would be included in the by right development; that included no affordable housing or roadway improvements.

Council Member Moffitt stated that the consultant, Karen Lado of Enterprise Community Partners Inc., had presented the point that where affordable housing was created, it created a funding gap because the income stream from market rate rents could not cover costs of developing the project; stated that every time you add an affordable unit to the project, the deficit had to be covered by increases in higher rents of the remaining units in the project; stated that public investment was required to provide financial incentives to encourage develop Downtown; and using that same approach to accomplish what they want to see in other areas of the city; according to the consultant, the funding gap needed to be closed by public investment and with such, would allow the city to move closer to its 15% goal; and referenced his concern about the rezoning case should it fail.

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Mayor Bell expressed support for the affordable housing in the community; stated that to date, the city had not yet come up with a tool to encourage affordable housing at the rate they would like to see; and reminded Council that the 15% was a goal; stated that the developer had the right to develop the project at RS-20 without any type of improvements; understanding such, the city needed to compromise or use city money to fill the financial gap for adding affordable housing units; and urged the Council to be realistic and pragmatic when speaking about goals and desires for affordable housing in the community.

Council Member Reece referenced Mr. Medlin's comments regarding development by right on the property, and asked if the property was developed as currently zoned, would it not be consistent with the city's future plans in the area.

Mr. Medlin replied that is correct.

At the request of Council Member Reece, Mr. Medlin spoke about the percentage of the area within the transit zone occupied by the project in question; which was less than 5%; and stated the residential component of the mixed use development was just a little over 3.5%.

Council Member Reece was supportive of the comments by Council Member Johnson regarding affordable housing for the community; and he understood the financial implications with the kind of commitment which the city's goal placed in front of developers. He stated in viewing the project, he balanced the financial issue with the incredible work the development team had placed in their proposal; and no other private developer had placed affordable units on the table. Council Member Reece referenced Planning Commissioner Miller's comments pertaining to embarking on the process of how to figure what the City wanted the design districts around the light rail stops to look like; and stated to approve a project with this many residential units not that close to the stop needed more time for consideration.

At the request of Council Member Davis, the developer summarized the proposed roadway improvements; totaling \$1.7 million.

Mayor Bell acknowledged the 15% was not a policy but rather a resolution that was approved by the Council; and stated unless the Council was prepared to have a tool, he encouraged them to be pragmatic in trying to propose requirements on developers.

Mayor Pro Tempore Cole-McFadden asked the City Attorney if the Council could require affordable housing as a part of the zoning case.

City Attorney Baker stated in the absence of the City not having a toolbox; no incentives; not bringing anything to the table; he did not think the city had the legal authority to require 15% or else.

City Manager Bonfield interjected that the affordable housing plan was being processed through the Community Development Department and expected a preliminary assessment to be provided in the month of March; and that Phase II would include implementation guidelines.

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Deputy City Manager Chadwell confirmed the first report would be preliminary which would offer Council the opportunity to provide guidance to enter into the implementation phase which at this time was scheduled for another six to nine months, depending on the amount of work involved with the reaction of Phase I.

Council Member Moffitt noted that Mr. Svava pointed out that there was no protected affordable housing in the area presently; and asked Ms. Anderson if she was ready to proceed with the financing of Phase I and Phase II; and if she would consider reviewing the financing in Phase II looking at how public investment might increase the amount of affordable housing that could be offered.

Ms. Anderson responded that her company was ready with financing for Phases I and II; stated the text commitment referenced earlier stated that they would not be prohibited from participating in the city's future incentives; and stated they needed to go forward with Phase I to keep control of the land; however, they have time on Phase II.

Council Member Moffitt stated funding for the rail system was going to hinge in part on what was developed around the rail system; noted that developing a station in an empty area was not as attractive in the process versus developing in a populated area; indicated that the more supply realized lowers the market rate; and added that he was not willing to contemplate halting development near the proposed rail stations for one to three years.

Council Member Schewel stated that Council could not require 15% affordable housing units anywhere; it was a goal of the City; referenced obstacles that prevented the City from achieving the goal; stated Council was dependent on the goodwill of developers and/or the city's public resources; appreciated the proffer from the developer on affordable housing; acknowledged the developer had followed the process; emphasized the city needed density around the transit stations; inquired if Council should take the chance that the underlying land owner – looking forward three years from now when there is a compact neighborhood district and wanting to develop densely in the area - he asked would a developer with a prime piece of land in that situation be willing to wait until that time, or proceed with single family homes in the area. He stated that one thing single family homeowners bring with them was opposition to density next to them; he again appreciated the developer's offer of the affordable housing; and stated for the future if council could wait until the design district was ready; and stated if the land owner would rather hold on for a large dense development, which he felt was worth pursuing.

Mayor Bell appreciated Council's comments; explained that he chaired the TTA Board and understood that ridership was essential and required density; stated that affordable housing was needed and the proposed project provided for such density; indicated he did not think a tool would be developed without providing public dollars; asked if staff had had the opportunity to review the proffered text amendment; acknowledged that the tract was a small part of a larger tract; which provided an opportunity to have density assured at the site; stated it provided for an opportunity to have a level of affordable housing; and stated he would like to see it higher; but at this point in time he was comfortable with what was being proposed. Also, he stated he would support a delay if there were some colleagues that felt more could be received.

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Mr. Medlin responded that the text amendment proffered by the applicant had been reviewed by the staff for enforceability; which was appropriate.

Council Member Schewel requested clarification regarding a possible delay; and the reason.

Mayor Bell noted that the consultant was expected to provide a report on affordable housing; a delay would allow her to provide comments on what is being proposed; what the council would like to see as the goal. He noted the consultant should be able to provide a roadmap on affordable housing.

City Manager Bonfield suggested the motion to continue the public hearing to a date certain as opposed to specifying a delay; and suggested the first council meeting in April.

Ms. Anderson weighed in on the topic of deferral; stated her company had submitted its best offer; however, there was a limit to the underlying land contract; and requested Council vote or provide direction as to what the applicant should do.

Mayor Bell recognized Ms. Seibel for comments.

Lorisa Seibel, representing CAHT, supported a delay in order to hear the Enterprise report on the affordable housing plan draft on March 10, 2016; and addressed other affordable housing options.

City Manager Bonfield recommended the public hearing be continued to the March 21, 2016 City Council Meeting.

Council Member Moffitt understood the desire to get more information; but realizing on March 21, Council would be facing the same decision, was this project better than the current zoning by right; and stated he would be voting against the motion to continue the public hearing.

**MOTION** by Council Member Reece, seconded by Mayor Pro Tempore Cole-McFadden, to continue the public hearing on Zoning Map Change Farrington Mixed Use to the March 21, 2016 City Council Meeting was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Reece and Schewel. Noes: Council Member Moffitt. Absent: None.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT,  
OMNIBUS CHANGES 9 (TC1500001)**

Michael Stock, City-County Planning Planner, stated that Text amendment TC1500001 proposed technical revisions and minor policy changes to various provisions of the *Unified Development Ordinance* (UDO). The amendments are grouped into five categories consisting of Amendments necessary to reflect a change to the name of the State Division of Water Quality; Amendments to Section 2.5, Historic Preservation Commission, to remove duplicative standards with the rules of procedure or inter-local agreement as similarly done with the Board of Adjustment and Planning Commission, and Sec. 3.16, Historic District or Landmark Designation, to revise the district initiation process and remove unnecessary plan requirements; Amendments identified as necessary

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corrections, clarifications, re-organization, or other changes to more accurately comply with the intent of the regulations or codify interpretations of regulations; Amendments that reflect minor policy changes and are not solely technical in nature; and Additional changes to the standards for wireless communication facilities (WCFs) (paragraph 5.3.3N) as discussed through the adoption process of text amendment TC1200013.

Mr. Stock added that the Planning Commission recommended approval at its November meeting, 10-1; and the Board of Commissioners would consider the text amendment at its March 14<sup>th</sup> meeting; indicated the revisions to the set of amendments were made subsequent to the Planning Commission meeting, and were discussed within the report. Two changes in particular were made as a result of discussions by Council at its January 21<sup>st</sup> Work Session and the Board of Commissioners Work Session on February 1<sup>st</sup>. The revisions to the initiation of a local historic district in Section 3.16 was revised to not only clarify the text itself, but to remove the 25% petition minimum. Additionally, staff referenced text proposed by the Coalition for Affordable Housing and Transit by modifying the intent and purpose of the UDO in Sec. 1.2, by adding intent statements regarding encouragement of affordable housing and promotion of equity and socio-economic diversity. Staff added text emphasizing that these were intents of the UDO, not actual regulations.

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

Susan Miller was called upon to speak, but was not present at the meeting.

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

Council Member Moffitt stated he had served as liaison to the Bicycle and Pedestrian Advisory Committee and their requests were reasonable and had not been adopted, and stated he would be voting against the item.

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 1, General; Article 2, Review Authority; Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 7, Design Standards; Article 8, Environmental Protection; Article 9, Landscaping and Buffering; Article 10, Parking and Loading; Article 11, Sign Standards; Article 12, Infrastructure and Public Improvements; Article 14, Nonconformities; Article 15, Enforcement; and Article 16, Definitions was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Reece and Schewel. Noes: Council Member Moffitt. Absent: None.

**ORDINANCE #14896**

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Moffitt, to adopt the appropriate consistency statement as required per NCGS § 160A-383 was approved at 9:39 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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UNIFIED DEVELOPMENT ORDINANCE  
TEXT AMENDMENT CONSISTENCY STATEMENT  
BY THE DURHAM CITY COUNCIL  
REGARDING TC1500001, OMNIBUS CHANGES 9

WHEREAS the Durham City Council, upon acting on a text amendment to the *Unified Development Ordinance* and pursuant to NCGS § 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 on a text amendment to the *Unified Development Ordinance* and pursuant to NCGS § 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 text amendment TC1500001, Omnibus Changes 9, 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 “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated February 15, 2016, regarding the subject “*Unified Development Ordinance* Text Amendment Omnibus Changes 9 (TC1500001),” 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. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the City of Durham as supported in the “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated February 15, 2016, regarding the subject “*Unified Development Ordinance* Text Amendment Omnibus Changes 9 (TC1500001),” along with additional agenda information provided to the City Council and information provided at the public hearing.

Therefore, the amendment is reasonable and in the public interest.

**SUBJECT: ORDINANCE REVISING AND ESTABLISHING CERTAIN FEES FOR UNDERGROUND UTILITY INSTALLATIONS**

City Manager Bonfield stated that following the work session discussion, a myriad of materials were provided to Council and staff from the utility companies pertaining to projection of inspection fees/costs; indicated that staff had reconfirmed assumptions and calculations; explained there was a difference in opinion between the city and utilities; advised Council that discussions were continuing; and suggested continuing the public hearing to the March 7<sup>th</sup> Council meeting and would have a recommendation at that time.

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Mayor Bell opened the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to continue the public hearing to the March 7<sup>th</sup> Council meeting was approved at 9:42 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.

**[ITEM PULLED FROM THE CONSENT AGENDA]**

**SUBJECT: CONTRACT FOR THE PURCHASE OF BODY WORN CAMERAS FOR THE POLICE DEPARTMENT – VIEVU, LLC**

To authorize the City Manager to execute a contract in an amount not to exceed \$336,738.00 with VieVu LLC for the purchase of body worn cameras and related VieVu software and services.

Deputy Chief Anthony Marsh presented the proposed final draft of body camera policy for the Durham Police Department; and stated the policy struck a balance between the public, officers and Council.

City Manager Bonfield interjected that for the record, the item before Council was the authorization to execute a contract in the amount not to exceed \$366,738.00 with VieVu LLC for the purchase of body worn cameras and related VieVu software & services.

Mayor Bell stated there were speakers to the item.

Chris Tiffany, resident, addressed the issues of accessibility to camera information with special mention to use of force incidents; spoke to face plant searches, use of police audio, and the need for presumption; stated the videos were public information unless there was good reason otherwise; stated paramilitary forces reported to the public, not the other way around; and encouraged voting no until the policy was more open.

Rafiq Zaidi, resident, spoke to the issue of body cameras' information access under the public records law; addressed an information request that he submitted to Deputy Chief; requested a response regarding his questions about body cameras; and stated he would take the matter to District Court for the failure to respond to his request for public information.

Jade Brooks, representing New Ground as part of the FADE Coalition, noted that her organization had requested Council to vote 'no' on the item; stated that community organizers did not ask for body cameras; addressed building a culture of trust; questioned how to build trust when the Police Chief could revise footage at will; stated the number of written consent searches were decreasing while the number of probable cause searches were increasing; and requested Council vote 'no' until the body camera policy could be one that reflected a culture of accountability.

David Hall, Attorney representing FADE Coalition, read letter "*Then and Now: a 4-Year Assessment of the Durham Police Department by the FADE Coalition*" and referenced article, *Despite Holder's Forfeiture Reform, Cops Still Have a License to Steal*; and supported a police culture that served and protected rather than criminalizing and harassing communities.

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Leslie Nydick, Attorney representing the People's Alliance Pact, stated that the decision on the policy should be postponed until more thorough public input, along with the County Attorney, had been allowed on the language of the final draft.

Gregory Williams spoke in opposition to the motion to fund the body camera program until an adequate review process existed to make the footage being gathered by cameras available to the public; stated cameras represented tools for the public to surveil police rather than police of the public; urged Council to vote against the motion or until there was a policy to help the community watch police rather than the police watching the community; and spoke out about alleged murders by the Sheriff Department at the county jail.

Marcus Morrow, a security consultant, encouraged a policy be in place for clear guidance prior to the purchase of body cameras; and it seemed that there was currently no policy in place to define when, where and how to use the equipment and what was going to be done with the footage.

Susanna Birdsong, policy counsel for ACLU of North Carolina, spoke to the requiring strong policies to guide use of body cameras, to ensure accountability and protect privacy; highlighted areas of concern in the draft policy relevant to officer discipline, footage retention and access to recordings to those recorded; and stated she appreciated new language about elected release but stated the roles of Council and Manager needed clarification.

Mayor Bell recognized Council for their comments.

Council Member Reece spoke to the contributions of those in the audience along with Deputy Chief Marsh in finding a balance of the issue in the policy; stated the issue was of deep concern to the Durham residents; believed deployment of body cameras could significantly reduce incidents of officers' the use of force in communities disproportionately impacted by violence; and until Council could come together to find a better solution, the consideration of the contract should be delayed.

Council Member Schewel appreciated the comments by citizens; and the work of the Deputy Chief Marsh; outlined his concerns and urged the council to take two more weeks before approving the contract to purchase body cameras. He noted the delay would enable more discussion on the content of the general order and to get a decent estimate on the potential range of costs associated with the camera purchase moving forward.

Council Member Johnson stated she appreciated the work the police department had provided to come up with a better policy; however, she stated more work was needed. She stated the Council was not just voting on a contract, we're voting on how these cameras will be deployed in the community.

Council Member Moffitt thanked all involved; stated the general order would be more widely read than other policies produced by the police department; and stated the order needed to be written for the general public as well.

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Mayor Bell supported moving forward with the purchase of the body cameras; and noted that Deputy Chief Marsh had stated on several occasions that the cameras would not be placed into operation until the general order was accepted. The Mayor stated at some point in time the Council needed to make a decision. He stated that Council was entering an area under the purview of the City Manager and Police Department in that it was not Council's role to write general orders; and recommended that a committee be established consisting of Council Members Johnson, Reece and Schewel; working on a revised general order with their recommendation to be presented to the City Manager in three weeks.

Mayor Pro Tempore Cole-McFadden stated she was troubled by the lack of trust between the community and the police department; thanked all for coming; stated she was not certain how policy could rebuild trust; and emphasized that the community had to trust the City Manager, the Chief and those in the command structure to change the culture.

**MOTION** by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to delay the item to the March 7<sup>th</sup> Council Meeting and to form a committee consisting of Council Members Johnson, Reece and Schewel to draft recommendations for the General Order to present to the City Manager for his review was approved at 10:39 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.

Council Member Davis raised concern pertaining to a statement made by a speaker in regard to the Sheriff Department allegedly murdering inmates in the county jail; and stated he did not know if there was any proof to the allegation.

There being no further business to come before the City Council, the meeting was adjourned at 10:40 p.m.

Diana Schreiber, CMC  
Deputy Clerk

D. Ann Gray, MMC  
City Clerk