

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 6, 2023
7:00 P.M.
DRAFT**

The Durham City Council met in the Council Chambers at 101 City Hall Plaza and via zoom at the above time and date with the following members present: Mayor Pro Tempore Middleton Mark-Anthony Middleton and Council Members Javiera Caballero, DeDreana Freeman, Monique Holsey- Hyman, Jillian Johnson and Leonardo Williams. Absent: None.

Also Present: City Manager Wanda Page, City Attorney Kim Rehberg, City Clerk Diana Schreiber and Deputy City Clerk Ashley Wyatt.

[CALL TO ORDER]

Mayor O'Neal called the meeting to order and welcomed those in attendance.

[CEREMONIAL ITEMS]

Mayor O'Neal along with Council Members Freeman, Holsey-Hyman, and Williams recognized the North Carolina Central University Football team for their accomplishments.

Council Member Holsey-Hyman read into the record the Honor Month Proclamation.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Holsey-Hyman described her recent visit to a local elementary school, described her outreach and highlighted achievements made at NCCU.

Council Member Johnson recognized the Heart Team of the Community Safety Department and advocated for more funding; she also recognized Black History Month.

Council Member Williams spoke to police accountability and recognized how Chief CJ Davis and the Memphis Department handled a recent police brutality matter and spoke to having a new intern starting work in his office.

Mayor Pro Tempore Middleton echoed the celebration of NCCU and their accomplishments. He expressed a need to focus on policies that were specific to Durham and requested a presentation on how the Durham Police Department handles certain situations.

Council Member Freeman echoed the call for the Police Department to come and make a presentation on their statistics and wished all a Happy Black History Month.

Council Member Caballero wished everyone a Happy Black History Month.

Mayor O’Neal expressed her support for the Durham Police Department.

[PRIORITY ITEMS]

City Manager Page advised that Item 9 was referred back to the Administration and Item 13 had additional information added.

City Attorney Rehberg and City Clerk Schreiber did not have any priority items.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (ITEM 1/ PR #15973)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, to approve the City Council minutes for the following meetings: November 21, 2022 Regular Meeting, November 22, 2022 Work Session, December 5, 2022 Regular Meeting and December 8, 2022 Work Session, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

SUBJECT: DECEMBER 2022 BID REPORT (ITEM 2/ PR #15965)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, to receive a report on the bids that were acted upon by the City Manager in December 2022, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

1. **Bid:** Vehicles

Purpose of Bid: Provides the Fleet Management Department with seven (7) 2023 Toyota Camry LE sedan, 4-door, 2.5L 4-CYL gasoline engine, 8-speed transmission, model #2532, as per manufacturer specifications, and all weather floor mats.

Comments: Multiple quotes.

Opened: 11/22/2022

Bidders:

Vendor	Qty	Price	Total Cost
Triangle Motor Sales Durham, NC	7	\$ 26,950.00	\$ 188,650.00
Fred Anderson Toyota	7	\$ 28,733.00	\$ 201,131.00

Award Based on:

Low Bid

Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	22	17	5
Professional	31	26	5
Technical	0	0	0
Clerical	22	11	11
Labor	127	99	28
Total	202	153	49

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	15	1	1	0	0
Professional	9	11	4	2	0
Technical	0	0	0	0	0
Clerical	7	0	3	1	0
Labor	52	19	22	6	0
Total	83	31	30	9	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	3	2	0	0	0
Professional	2	3	0	0	0
Technical	0	0	0	0	0
Clerical	11	0	0	0	0
Labor	5	14	7	1	1
Total	21	19	7	1	1

2. **Bid:** Software Equipment

Purpose of Bid: Provides the Police Department with ONESolution software.

Comments: Price is in accordance with City of Durham Sole Source guidelines NC 143-129 (e) (6).

Opened: 11/23/2022

Bidders:

Vendor	Qty	Price	Total Cost
Ramundsen Superior Lake Mary, FL	1	\$ 167,776.75	\$ 167,776.75

Award Based on:

Low Bid

Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	22	18	4
Professional	139	103	36
Technical	0	0	0
Clerical	6	3	3
Labor	0	0	0
Total	167	124	43

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	14	3	1	0	0
Professional	74	5	14	10	0
Technical	0	0	0	0	0
Clerical	1	1	1	0	0
Labor	0	0	0	0	0
Total	89	9	16	10	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	3	1	0	0	0
Professional	18	7	0	10	1
Technical	0	0	0	0	0
Clerical	0	1	2	0	0
Labor	0	0	0	0	0
Total	21	9	2	10	1

3. **Bid:** Equipment

Purpose of Bid: Provides the Water Management Department with 10" FLG plug VLV with gear & HW13" lay length, 18" FLG plug VLV with gear & HW21.5" lay length, and 16" FLG plug VLV with gear & HW 17.75" lay length.

Comments: Multiple quotes

Opened: 11/18/2022

Bidders:

Vendor	Qty	Price	Total Cost
Core & Main LP Saint Louis, MO	1	\$ 86,054.81	\$ 86,054.81
DeZURIK Matthews, NC	1	\$ 93,190.00	\$ 93,190.00
Charles R. Underwood, Inc Sanford, NC	1	\$ 86,955.25	\$ 86,955.25

Award Based on:

Low Bid

Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	1	0	1
Professional	3	2	1
Technical	0	0	0
Clerical	0	0	0
Labor	6	5	1
Total	10	7	3

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	0	0	0	0	0
Professional	2	0	0	0	0
Technical	0	0	0	0	0
Clerical	0	0	0	0	0
Labor	3	2	0	0	0
Total	5	2	0	0	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	1	0	0	0	0
Professional	1	0	0	0	0
Technical	0	0	0	0	0
Clerical	0	0	0	0	0
Labor	1	0	0	0	0
Total	3	0	0	0	0

4. **Bid:** Vehicles

Purpose of Bid: Provides the Fleet Management Department with one (1) 2023 Toyota Tacoma 4X2 SR5 double cab, 3.5L V6 gasoline engine, 6-speed transmission, model #7146 as per manufacturer specifications to include all weather floor mats.

Comments: Multiple quotes.

Opened: 11/21/2022

Bidders:

Vendor	Qty	Price	Total Cost
Triangle Motor Sales Durham, NC	1	\$ 34,801.00	\$ 34,801.00
Fred Anderson Toyota	1	\$ 42,428.00	\$ 42,428.00

Award Based on: Low Bid Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	22	17	5
Professional	31	26	5
Technical	0	0	0
Clerical	22	11	11
Labor	127	99	28
Total	202	153	49

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	15	1	1	0	0
Professional	9	11	4	2	0
Technical	0	0	0	0	0
Clerical	7	0	3	1	0
Labor	52	19	22	6	0
Total	83	31	30	9	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	3	2	0	0	0
Professional	2	3	0	0	0
Technical	0	0	0	0	0
Clerical	11	0	0	0	0
Labor	5	14	7	1	1
Total	21	19	7	1	1

5. Bid: Equipment

Purpose of Bid: Provides the General Services Department with reinforced door Installation.

Comments: Multiple quotes

Opened: 11/18/2022

Bidders:

Vendor	Qty	Price	Total Cost
Pinam Construction Inc Durham, NC	1	\$ 13,016.25	\$ 13,016.25
Jacobs Glass Company Durham, NC	1	\$ 16,190.70	\$ 16,190.70

Award Based on: Low Bid Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	6	4	2
Professional	6	2	4
Technical	0	0	0
Clerical	6	3	3
Labor	16	11	5
Total	34	20	14

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	3	1	0	0	0
Professional	1	0	1	0	0
Technical	0	0	0	0	0
Clerical	3	0	0	0	0
Labor	0	0	11	0	0
Total	7	1	12	0	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	1	0	1	0	0
Professional	1	0	3	0	0
Technical	0	0	0	0	0
Clerical	3	0	0	0	0
Labor	1	0	4	0	0
Total	6	0	8	0	0

6. **Bid:** Equipment

Purpose of Bid: Provides the Water Management Department with item 30004T-2400 30004T-2400-DI muffin monster renew.

Comments: Price is in accordance with City of Durham Sole Source guidelines NC 143-129 (e) (6)

Opened: 10/27/2022

Bidders:

Vendor	Qty	Price	Total Cost
JWC Environmental Inc Santa Ana, CA	1	\$ 15,123.00	\$ 15,123.00

Award Based on:

Low Bid

Other (See Comments)

Workforce Statistics

TOTAL WORKFORCE			
Employment Category	Employees	Males	Females
Project Mgr.	0	0	0
Professional	39	29	10
Technical	0	0	0
Clerical	29	16	13
Labor	36	36	0
Total	104	81	23

UBE/SLBE REQUIREMENTS – MALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	0	0	0	0	0
Professional	16	2	6	5	0
Technical	0	0	0	0	0
Clerical	5	0	10	1	0
Labor	0	0	32	4	0
Total	21	2	48	10	0

UBE/SLBE REQUIREMENTS – FEMALES					
Employment Category	White	Black	Hispanic	Asian or Pacific Islander	Indian or Alaska Native
Project Mgr.	0	0	0	0	0
Professional	1	1	3	5	0
Technical	0	0	0	0	0
Clerical	4	1	7	1	0
Labor	0	0	0	0	0
Total	5	2	10	6	0

SUBJECT: LEASE WITH THE FIRST BAPTIST CHURCH OF DURHAM (NORTH CAROLINA) INCORPORATED AT THE CLEVELAND STREET PARKING LOT #38 FOR CITY OF DURHAM EMPLOYEE PARKING (ITEM 3/ PR #15966)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, to authorize the City Manager to execute a Lease Agreement with The First Baptist Church of Durham (North Carolina) Incorporated for an amount not to exceed \$165,000, for 13 parcels to be used collectively as a parking lot for City employees;

To authorize the City Manager to execute one-year lease extensions with The First Baptist Church of Durham (North Carolina) Incorporated for Years 2, 3, and 4 in amounts not to exceed \$169,950, \$175,048, and \$180,300 respectively; and

To authorize the City Manager to execute subsequent documents permitted by or required by the Lease Agreement, including any amendments, or related documents, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

SUBJECT: CONTRACT ST-327C PAVEMENT MANAGEMENT SERVICES 2023 (ITEM 4/ PR #15960)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, to authorize the City Manager to execute a professional services contract ST-327C Pavement Management Services 2023 with Summit Design and Engineering Services, PLLC in the amount not to exceed \$648,140, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

SUBJECT: FIRST AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF DURHAM AND RUBICON (ITEM 5/ PR #15971)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, Global, LLC for In-Vehicle Technology for Solid Waste Collection Vehicles to authorize the City Manager to execute the First Amendment to the Contract Between the City of Durham and Rubicon Global, LLC for In-Vehicle Technology for Solid Waste Collection Vehicles for an amount not to exceed \$580,182;

To establish a contingency fund in the amount of \$59,629, which is approximately 10% of the not-to-exceed amount; and To authorize the City Manager to negotiate and execute additional amendments to the contract between Rubicon Global, LLC, provided that the total cost of the contract, including all amendments, does not exceed \$639,811, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro

Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

SUBJECT: AWARD OF A CONSTRUCTION CONTRACT TO PIPELINE CONTRACTORS, INC. FOR THE OLD CHAPEL HILL ROAD AT NEW HOPE CREEK WATER LINE REPLACEMENT PROJECT (ITEM 6/ PR #15941)

MOTION by Council Member Holsey-Hyman, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with Pipeline Contractors, Inc., in an amount not to exceed \$1,129,313 for the Old Chapel Hill Road at New Hope Creek Water Line Replacement project;

To establish a contingency fund for the contract in the amount not to exceed \$113,687; and

To authorize the City Manager to negotiate and execute change orders for the contract provided that the total contract cost does not exceed \$1,243,000, was approved at 7:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONSOLIDATED ANNEXATION - MOCKINGBIRD LANE AND SHERRON ROAD (ITEM 10/ PR #15964)

Andrew Lester, Senior Planner, stated for the record that all Planning Department hearing items had been advertised and noticed in accordance with state and local law, and an affidavit of the notice was on file in the Planning Department and provided the following staff report:

A request for a utility extension agreement, voluntary annexation and initial zoning map change had been received from Pam Porter, of TMTLA Associates. The request was for seven parcels of land totaling 21.16 acres and located at 1408 Sherron Road, 1564 and 1524 Pasture Lane, and 1417, 1411, 1419, and 1421 Mockingbird Lane. The annexation petition was for a contiguous expansion of the primary corporate limits. The applicant was proposing to annex the properties to connect to City services and facilitate the construction of up to 125 townhouse units.

The current zoning was Residential Rural and Residential Suburban – 20. The applicant proposed to change this designation to Planned Development Residential – 5.908, to allow for the construction of up to 125 townhouse units. The request received a recommendation of approval from the Planning Commission on July 12, 2022, by a vote of 10 to 1. The case was heard and continued at December 5th 2022 City Council Meeting upon the applicant’s request.

The properties were currently designated Low-Medium Density Residential on the Future Land Use Map. The proposed Planned Development Residential – 5.908 zoning was consistent with the designated use shown on the Future Land Use Map. If the proposed zoning was approved, there will be no change to the Future Land Use Map designation of Low-Medium Density Residential.

Council Member Johnson opened the public hearing and called for any speakers to the item.

Pam Porter, a representative for the applicant, spoke in support of the item and addressed potential donut holes and other design commitments. The applicant proffered 22,000 dollars to Durham Public Schools as well as blasting commitments.

Pam Andrews, a resident of Durham, spoke in opposition of the item and expressed her concern for environmental issues with the creek as the basis for her position.

Donna Stainback, a resident of Durham, spoke in opposition of the item. She cited blasting and environmental concerns as the basis for her position.

Pam Williams, a resident of Durham, stated that she was not opposed to the development, but had concerns about its impact to the environment and requested additional commitments by the developer before moving forward.

Tina Pearson, a resident of Durham, spoke in opposition of the item and expressed concerns for the mass grading and blasting.

Thomas Freeman, a resident of Durham, spoke in opposition of the item and called for the preservation for the environment around the creek in the area.

Rebecca Freeman, a resident of Durham, spoke to the infrastructure and the impact that the development would have on the community.

Jerry Ray, a resident of Durham, spoke in opposition of the item and referenced the limited ability of the city's emergency services to respond to the area.

Ms. Porter responded to some of the comments made by the residents regarding erosion, density, and storm water controls and traffic.

Council Member Johnson closed the public hearing.

Council Member Holsey-Hyman inquired about the resident that spoke to limited emergency services.

Bo Ferguson, Deputy City Manager, stated that without more context of the information being provided by the public, he could not give a more direct answer; and t stated that while EMS may not be able to respond, the Fire Department was always first on call.

Council Member Freeman asked about expanding the buffers on the property.

Ms. Porter stated that they would not be able to commit to expanding the buffers at the stage in the project where they were.

Council Member Freeman asked if the develop could widen the notification area for blasting.

Ms. Porter stated that it could be considered, but they did not yet know if blasting would even be needed for the project.

Council Member Caballero expressed her support for the item.

Council Member Williams cautioned residents about vocalizing information about the emergency services as a whole without more concrete information.

Mayor Pro Tempore Middleton echoed the sentiments regarding the conversation on the emergency services and asked for the price points on the proposed units.

Ms. Porter advised that they were projecting the mid \$200k's to low 300k's.

Council Member Holsey-Hyman asked for clarification on the amount of the proffers.

Ms. Porter advised that \$64,000 was being provided to the Affordable Housing Fund and then \$22,000 to Durham Public Schools.

Council Member Williams recognized that there was a water quality issue, but noted that it was since its inception.

Don O'Toole Deputy City Attorney stated that the City of Durham was the most regulated city in the state regarding storm water controls.

Mayor O'Neal referenced a letter that she received from the southern environmental law center regarding environmental concerns in association with development and expressed that she would not be supporting the item.

Mayor Pro Tempore Middleton expressed his support for the item.

Council Member Freeman expressed a desire to know how the City of Durham compared nationally as far as storm water controls were concerned.

MOTION by Council Member Williams, seconded by Council Member Caballero, to adopt an ordinance annexing 'Mockingbird Lane and Sherron Road' into the City of Durham effective March 31, 2023; and

to authorize the City Manager to enter into a utility extension agreement with Hopper Communities, Inc, was approved at 9:49 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: Mayor O’Neal and Council Member Freeman. Absent: None

ORDINANCE #16074

MOTION by Council Member Williams, seconded by Council Member Caballero, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural (RR) and Residential Suburban - 20 (RS-20), Falls/Jordan District B (F/J-B), County Jurisdiction and establishing the same as Planned Development Residential - 5.908 (PDR 5.908), Falls/Jordan District B (F/J-B), City Jurisdiction, was approved at 9:50 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton and Council Members Caballero, Holsey-Hyman, Johnson, and Williams. Noes: Mayor O’Neal and Council Member Freeman None. Absent: None

ORDINANCE #16075

MOTION by Council Member Williams, seconded by Council Member Caballero, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 9:51 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100032, Mockingbird Lane and Sherron Road

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2100032, Mockingbird Lane and Sherron Road, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘Z2100032, Mockingbird Lane and Sherron Road’ along with additional agenda information provided to the City Council and information provided at the public hearing; and

That the proposed zoning map change designation is consistent with the Future Land Use Designation as provided on the Future Land Use Map of the Comprehensive Plan in Attachment C; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2100032, Mockingbird Lane and Sherron Road' along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

**SUBJECT: CONSOLIDATED ANNEXATION - NATIONAL HERITAGE ACADEMIES
OAK GROVE CHARTER (ITEM 11/ PR #15967)**

Grace Smith, Assistant Director of Planning, stated for the record that all Planning Department hearing items had been advertised and noticed in accordance with state and local law, and an affidavit of the notice was on file in the Planning Department and provided the following staff report:

A request for a utility extension agreement and voluntary annexation had been received from Bob Dunston, of Charter Development Company, LLC for two parcels of land totaling 12.37 acres located at 2201 East Geer Street and 2523 East Club Boulevard. The annexation petition (Case BDG2000007) was for a non-contiguous expansion of the existing corporate limits; however, it was adjacent to an existing satellite annexation. There was an associated site plan under review for the site proposing a new one-story, 42,316 square foot K-8 Public Charter School that will serve 772 students. An application for a Minor Special Use Permit has been submitted and was also under review.

While the site was an expansion of an existing satellite, it was filling the gap towards the main City limits. The proposal met the applicable North Carolina General Statute requirements for satellite annexations. Insofar as possible, City policy was to avoid gaps in the corporate boundary as they may increase costs and impacts associated with service delivery.

City and County operational departments had reviewed the request and had not identified any significant, negative service delivery costs or impacts. The applicant had submitted an application for a utility extension agreement for approval by City Council. The Public Works and Water Management departments performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water and sanitary sewer mains have capacity to serve the project.

The Budget and Management Services Department performed a fiscal impact analysis, which determined that the proposed annexation would become revenue positive at build-out.

Mayor Pro Tempore Middleton opened the public hearing and called for any speakers to the item. He also announced that DPS asked the Council to table the item so that they could collaborate; however, he advised that the hearing would still move forward.

Nil Ghosh, Attorney and representative for the applicant, spoke in favor of the item, provided background, and called for Council support.

Seeing no additional speakers, Mayor Pro Tempore Middleton closed the public hearing.

Council Member Williams asked about the distance to the school that was already nearby.

Mr. Ghosh stated that the existing school was close, but he did not know how close specifically.

MOTION by Mayor O’Neal, seconded by Council Member Holsey-Hyman, to adopt an ordinance annexing 'National Heritage Academies (NHA) Oak Charter School' into the City of Durham effective March 31, 2023; and to authorize the City Manager to enter into a utility extension agreement with Charter Development Company, L.L.C, was approved at 10:00 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Holsey-Hyman, and Williams. Noes: Council Members Caballero, Freeman, and Johnson. Absent: None

ORDINANCE #16076

MOTION by Mayor O’Neal, seconded by Council Member Holsey-Hyman, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-20 (RS-20), Commercial Neighborhood (CN), Rural Residential (RR), Falls/Jordan District B (F/J-B), Major Transportation Corridor I-85 (MTC I-85), County Jurisdiction, and establishing the same as Residential Suburban-20 (RS-20), Commercial Neighborhood (CN), Rural Residential (RR), Falls/Jordan District B (F/J-B), Major Transportation Corridor I-85 (MTC I-85), City Jurisdiction, was approved at 10:01 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Holsey-Hyman, and Williams. Noes: Council Members Caballero, Freeman, and Johnson. Absent: None

ORDINANCE #16077

MOTION by Mayor O’Neal, seconded by Council Member Holsey-Hyman, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 10:02 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson, and Williams. Noes: None. Absent: None

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2000011A, NHA Oak Grove Charter

Whereas the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2000011A, NHA Oak Grove Charter, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2000011A, Oak Grove Charter' along with additional agenda information provided to the City Council and information provided at the public hearing; and

Although the proposed zoning map change designation is inconsistent with the Future Land Use designation as provided on the Future Land Use Map (FLUM) of the Comprehensive Plan in Attachment C, the zoning change will amend the FLUM to a designation consistent with the proposed zoning change and other land use designations in the vicinity of the subject area. The properties are currently designated Commercial on the Future Land Use Map (FLUM) (Attachment C). The existing Commercial Neighborhood (CN) part of parcel 169174 is consistent with the designated use on shown on the FLUM. The Residential Rural (RR) and the Residential Suburban – 20 (RS-20) areas on parcels 169714 and 169719 are not consistent with the designated use shown on the FLUM. If the proposed zoning is approved, staff requests that the aforementioned parcels change their FLUM designation to Commercial, Very Low Density Residential, and Low Density Residential.

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2000011A, NHA Oak Grove Charter' along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT -
DEVELOPMENT PLAN REVISIONS (ITEM 12/ PR #15969)**

Andrew Lester, Senior Planner, stated for the record that all Planning Department hearing items had been advertised and noticed in accordance with state and local law, and an affidavit of the notice was on file in the Planning Department and provided the following staff report:

TC2200002 – Development Plan Revisions, was a Unified Development Ordinance Text Amendment, initiated by Planning staff, that was a revision to the requirements for development plans, as found in Section 3.5.7 of the UDO. The purpose of the amendment was to revise the requirements within the UDO for Zoning Map Changes with a Development Plan to provide more transparency in the process to the community and governing bodies, shorten the length of the process to more closely align with neighboring jurisdictions, and make the process more accessible to local or small-scale developers.

Development Plans presently fall into two categories: graphic and text-only. The current graphic development plan requirements were intended to depict commitments that exceed the ordinance in both text and graphic form. The intent of this text amendment clarified what should be shown on a graphic development plan, only that which was exceeding ordinance requirements. The text-only development plans were currently intended to allow an applicant to commit to use limitations through written form. The primary intent of this text amendment is to allow applicants to proffer additional commitments when using a textual development plan based on community concerns and feedback other than just use limitations.

The draft proposal was discussed at the February 2022 and October 2022 Joint City-County Planning Committee (JCCPC) meetings. At the October 5, 2022, JCCPC meeting, the committee unanimously recommended staff move forward with the UDO Text Amendment to the Planning Commission with only a minor edit. Staff then brought this amendment to the Durham Planning Commissions' November 15, 2022, meeting. A public hearing was held, and a discussion around the implications of the textual development plan were discussed. Staff committed to load testing the amendment, and providing that information to the Planning Commission prior to the 12/13 meeting. At the December 13, 2022, the Planning Commission meeting, the DPC recommended approval by a vote of 12-0. At the County Commissioners January 23, 2023 public hearing, they recommended approval by a vote of 5-0.

Council Member Johnson opened the public hearing and called for any speakers to the item.

Seeing no speakers, Council Member Johnson closed the public hearing.

MOTION by Council Member Caballero, seconded by Council Member Holsey-Hyman, to adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 3, Zoning Map Change; Section 5, Development Plan effective

March 1, 2023, was approved at 10:07 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Holsey-Hyman, Johnson, and Williams. Noes: Council Member Freeman. Absent: None

ORDINANCE #16078

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Holsey-Hyman, to adopt the appropriate consistency statement as required per NCGS - 160D-605, was approved at 10:08 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Holsey-Hyman, Johnson, and Williams. Noes: Council Member Freeman. Absent: None

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING TC2200002, Development Plan Revisions

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 TC2200002, Development Plan Revisions, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘TC2200002, Development Plan’ along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘TC2200002, Development Plan Revisions’ along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

SUBJECT: CONSOLIDATED ANNEXATION - MICA RIDGE (ITEM 13/ PR #15972)

Andrew Lester, Senior Planner, stated for the record that all Planning Department hearing items had been advertised and noticed in accordance with state and local law, and an affidavit of the notice was on file in the Planning Department and provided the following staff report:

A request for a utility extension agreement, voluntary annexation and initial zoning has been received from Laura Holloman, of McAdams, for 17 parcels of land totaling 89.76 acres and located at 1251, 1305, 1367, 1417, and 1421 South Miami Boulevard, 1314, 1516, 1602, 1652, and 1802 South Mineral Springs Road, 212 Yates Road, and 102, 112, 126, 154, 234, and 302 Beall Street. This annexation petition is for a contiguous expansion of the primary corporate limits. The applicant is proposing to annex the properties to connect to City services and facilitate the construction of up to 420 single-family detached and townhouse dwelling units.

The current zoning is Residential Suburban – 20 and Commercial General. The applicant proposes to change this designation to Planned Development Residential - 4.680, to allow for the construction of up to 420 single-family and townhouse dwelling units. This request, Case Z2100028, received a recommendation of denial from the Planning Commission on September 13, 2022, by a vote of 11-0. Since the Planning Commission’s public hearing on September 13, 2022, the applicant has proffered the following changes to the application: a one-time contribution to Durham Public Schools in the amount of \$20,000; a one-time contribution to the Durham Dedicated Housing Fund in the amount of \$120,000; and a minimum of three percent of “income restricted dwelling units” at 80% AMI for a 30-year period. Staff would like to inform Council, that the applicant has added project boundary buffers along S Mineral Springs Road and Yates Drive that are 20-feet wide with 0.4 opacity.

The properties are currently designated Low-Medium Density Residential, Medium Density Residential, and Commercial on the Future Land Use Map. The proposed Planned Development Residential – 4.680 zoning is consistent with the designated Future Land Use of Low-Medium Density Residential but inconsistent with the designated Future Land Use of Medium Density Residential and Commercial. If the proposed zoning is approved, staff recommends a change to the FLUM to designate the property as Low-Medium Density Residential.

Council Member Caballero opened the public hearing and called for any speakers to the item.

Nil Ghosh, a representative for the applicant, spoke on behalf of the project and proffered 57,500 dollars to Durham Public Schools and 120,000 dollars to Affordable Housing.

Jacob Freeman, resident of Raleigh, expressed concerns for pollution near the creek in the area.

Tammy Soweia, a resident of Durham, spoke in opposition of the item due to environmental concerns and the ability for emergency services to service the area.

Donna Stainback, a resident of Durham, spoke in opposition of the item. She cited that the project was too large to only have one phase of development at one time.

Pam Williams, a resident of Durham, spoke in opposition of the item and stated that she had environmental concerns.

Pam Andrews, a resident of Durham, stated that she was an advocate for water conditions and based her opposition on the item due to toxins moving into the water due to development.

Tina Pearson, a resident of Durham, spoke in opposition of the item due to environmental concerns.

Thomas Freeman, a resident of Durham, spoke in opposition of the item and cited environmental concerns as the basis of his position.

Dawn Capps, a resident of Durham, spoke in opposition of the item and spoke to traffic congestion in the area as the basis of her position.

Wanda Allen, a resident of Durham, spoke in opposition of the item due to the cost of cleaning the lake and its impact on the tax payers.

Mr. Ghosh responded to some statements regarding traffic and advised that a TIA had been completed already,

Seeing no additional speakers, Council Member Caballero closed the public hearing.

Council Member Holsey-Hyman confirmed that there would be 3% of the 420 homes designated to Affordable Housing units.

Mr. Ghosh responded that was correct.

Council Member Holsey-Hyman stated that she was not in favor of the item.

Mayor Pro Tempore Middleton asked if anything had changed throughout the lifespan of the project regarding the home types.

Mr. Ghosh responded that it had not.

Council Members Johnson, William, and Caballero expressed their support for the item.

MOTION by Council Member Williams, seconded by Mayor Pro Tempore Middleton, to adopt an ordinance annexing 'Mica Ridge' into the City of Durham effective March 31,

2023; and to authorize the City Manager to enter into a utility extension agreement with Lennar Carolinas, LLC, was approved at 11:35 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton and Council Members Caballero, and Williams. Noes: Mayor O’Neal and Council Members Freeman and Holsey-Hyman. Absent: None

ORDINANCE #16079

MOTION by Council Member Williams, seconded by Council Member Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban - 20 (RS-20) and Commercial General (CG), Falls/Jordan District B (F/J-B), County Jurisdiction and establishing the same as Planned Development Residential - 4.680 (PDR - 4.680), Falls/Jordan District B (F/J-B), City Jurisdiction, was approved at 11:36 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton and Council Members Caballero, and Williams. Noes: Mayor O’Neal and Council Members Freeman and Holsey-Hyman. Absent: None

ORDINANCE #16080

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Williams, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 11:37 p.m. by the following vote: Ayes: Mayo O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman Johnson, and Williams. Noes: Council Member Holsey-Hyman. Absent: None

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100028, Mica Ridge

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2100028, Mica Ridge, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and

'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2100028, Mica Ridge' along with additional agenda information provided to the City Council and information provided at the public hearing; and

Although the proposed zoning map change designation is inconsistent with the Future Land Use designation as provided on the Future Land Use Map (FLUM) of the Comprehensive Plan in Attachment C, the zoning change will amend the FLUM to a designation consistent with the proposed zoning change and other land use designations in the vicinity of the subject area; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2100028, Mica Ridge' along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

[ADJOURNMENT]

Seeing no additional business to come before Council, the meeting was adjourned at 11:38 p.m.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk