

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 7, 2022
7:00 P.M.**

The Durham City Council met in a regular session virtually via Zoom with the following members present: Mayor Elaine O’Neal, Mayor Pro Tempore Mark-Anthony Middleton and Council Members Javiera Caballero, DeDreana Freeman, Jillian Johnson, Charlie Reece 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.

Mayor Elaine O’Neal called the meeting to order, welcomed everyone in attendance, and called for a moment of silent meditation.

[CEREMONIAL ITEMS]

Council Member Freeman read into the record the Bonita Best Day Proclamation and presented it to Ms. Bonita Best.

Council Member Johnson read into the record the Proclamation Honoring the late André Leon Talley and presented the Proclamation to family members.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Caballero commemorated the life of a resident who passed away at the end of January due to COVID-19 and spoke to the increased need of the American Rescue Plan Act Recovery Funds.

Council Member Williams spoke about a gathering that took place with small business owners to discuss operating small businesses safely during the COVID-19 pandemic.

Mayor Pro Tempore Middleton recognized Black History Month; read the lyrics from ‘Lift Every Voice and Sing’, colloquially known as the Negro National Anthem; spoke to a police shooting in Minneapolis, Minnesota that occurred during a no-knock warrant; asked what the City’s policy was regarding no-knock warrants; and called for more efforts in curbing gun violence following a shooting in the Bentwood Community.

Council Member Reece spoke to the current positivity case count of the COVID-19 Omicron variant and what metrics could be evaluated in deciding how and when to return to in-person Council Meetings.

Mayor O’Neal highlighted her time at a recent conference in Washington, DC; echoed the concerns surrounding COVID-19; and called attention to gun violence across the country that often was related to the lack of affordable housing.

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

City Manager Page noted that Agenda Item 2 had additional information requested by Council.

City Attorney Rehberg and City Clerk Schreiber had no priority items.

[CONSENT AGENDA]

SUBJECT: ITEM 1: APPROVAL OF CITY COUNCIL MINUTES (PR# 15182)

MOTION by Council Member Freeman, seconded by Council Member Reece, to approve the City Council minutes for the following meetings: December 6, 2021 City Council Meeting; December 9, 2021 Work Session; December 20, 2021 City Council Meeting and December 21, 2021 Work Session, was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

SUBJECT: ITEM 2: INTERLOCAL AGREEMENT (ILA) WITH DURHAM COUNTY TO SUPPORT THE COUNTY’S COMMUNITY INTERVENTION AND SUPPORT SERVICES DEPARTMENT (PR# 15193)

MOTION by Council Member Freeman, seconded by Council Member Reece, to resolve that the City Manager be authorized to execute an Interlocal Agreement to convey funds not to exceed \$50,000 to Durham County to support the Community Intervention and Support Services Department, was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

SUBJECT: ITEM 4: CONTRACT WITH COMMUNITY HOME TRUST, INC., TO SERVE AS DOWN PAYMENT ASSISTANCE PROGRAM ADMINISTRATOR (PR# 15139)

MOTION by Council Member Freeman, seconded by Council Member Reece, to authorize the City Manager to execute a contract with Community Home Trust, Inc. in the amount of \$450,000, funded with Dedicated Housing Funds, to serve as the Down Payment Assistance Program Administrator, was approved at 7:28 p.m. by the following

vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

SUBJECT: ITEM 5: STATE CONTACT PURCHASE – TWO (2) TANDEM AXLE DUMP TRUCKS (PR# 15188)

MOTION by Council Member Freeman, seconded by Council Member Reece, to authorize the City Manager to execute a contract with Transource, Inc., for the purchase of two (2) tandem axle dump trucks in the amount of \$442,010.80, was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

SUBJECT: ITEM 6: MANDATORY WEEKLY COVID -19 TESTING CONTRACT AMENDMENT (PR# 15192)

MOTION by Council Member Freeman, seconded by Council Member Reece, to authorize the City Manager to amend the contract with CVS Health for weekly onsite COVID-19 testing through June 2022 for an additional amount not to exceed \$1,209,600; and To authorize the City Manager to negotiate any additional changes so long as the testing contract total amount does not exceed \$2,049,040, was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

SUBJECT: ITEM 7: WELCOMING AMERICA GRANT FUND TO FOSTER BELONGING (PR# 15187)

MOTION by Council Member Freeman, seconded by Council Member Reece, to authorize the City Manager to execute the Grant Agreement from Welcoming America in the amount of Forty Thousand Dollars (\$40,000); and to adopt the Grant Budget Ordinance for Welcoming America Fund to Foster Belonging, was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

ORDINANCE #15904

SUBJECT: ITEM 8: 2021 CONNECT AND PROTECT: LAW ENFORCEMENT BEHAVIORAL HEALTH RESPONSES PROGRAM GRANT PROJECT ORDINANCE (PR# 15165)

MOTION by Council Member Freeman, seconded by Council Member Reece, to authorize the City Manager to accept the 2021 Connect and Protect: Law Enforcement Behavioral Responses Program grant by executing the grant documents; and

To adopt the 2021 Connect and Protect: Law Enforcement Behavioral Responses Program Grant Project Ordinance in the amount of \$848,337 was approved at 7:28 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

ORDINANCE #15905

[GENERAL BUSINESS AGENDA]

SUBJECT: ITEM 3: 2022 UNITED WAY OF THE GREATER TRIANGLE GRANT BUDGET ORIDANCE (PR# 15180)

Lara Khalil, Youth Initiatives Manager, introduced the item to Council.

Adil Ortiz, a resident of Durham, spoke to the source of the funding for the grant; raised concerns regarding misinformation she believed was being spread about the program; and called for the community to work together.

Council Member Freeman thanked Ms. Khalil and her team for their work on the item and offered her support. She also thanked Ms. Ortiz for being a community activist for many years.

Mayor Pro Tempore Middleton stated that he was confident in the stewards of the funding and believed that they were going to manage those funds in accordance with the city values.

Council Member Johnson asked who the additional partners were in the program.

Ms. Khalil listed the following: Charles Hamilton Houston Foundation, Communities in Partnership, Durham Beyond Policing, Earth, Sea, and Land Collective, Foro de Padres, Spirit House, Village of Wisdom. WE ARE, EPIC, Duke, and Student U.

Council Member Johnson asked if any of the partners had ongoing campaigns around education.

Ms. Khalil stated that she did not know.

Council Member Johnson asked if staff knew what the interest of the Walton Family Foundation was as it related to the item.

Ms. Kahlil stated that she could not speak to the interests of the foundation; however, the funding opportunity aligned with work that was already being done in Durham.

Council Member Johnson asked if staff had any concerns about the grant source and if there was an internal evaluation process on accepting grants when they are proposed.

Ms. Khalil stated that they evaluated what the grantor was requiring or if there were strings attached. She also noted that the proposed funds were for general operating costs.

Council Member Johnson expressed concerns around why the grantor was interested in contributing to the City of Durham; however, she was supportive of the mission and the organizations that would be receiving the funds.

Council Member expressed concerns regarding the grant source, but was supportive of the item and its use within the community.

Council Member Williams acknowledged the concerns of his colleagues. He also called for additional funding as long as there were no strings attached.

Council Member Freeman noted that the original funding went to the United Way of the Greater Triangle and that the United Way would be dispersing the funds.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Middleton, to authorize the City Manager to execute the Community Impact Funding Agreement with United Way of the Greater Triangle; and

To adopt the 2022 United Way of the Greater Triangle Grant Budget Ordinance, in the amount of \$15,000, was approved at 7:52 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

ORDINANCE #15906

[GENERAL BUSINESS AHENDA – PUBLIC HEARINGS]

SUBJECT: ITEM 11: CONSOLIDATED ANNEXATION NC 55 AND HOPSON (PR# 15190)

Michael Stock, Senior Planner, stated for the record that the City-County Planning Department hearing item had been advertised and noticed in accordance with state and local law and that affidavits of the notices were on file in the Planning Department and provide the following staff report:

The consolidated annexation and rezoning request was continued from the January 3, 2022 Council meeting in order for the applicant to revise their application regarding the four parcels they requested to be rezoned to IL. Those parcels were zoned RR and CN, and the applicant was proposing IL with a text-only development plan (IL(D)) which was to prohibit the list of uses found on the last page of the zoning map change application. The other six parcels being considered for annexation were zoned IL and had been requested to remain IL zoning.

Mayor O'Neal opened the public hearing and asked for any speakers to the item.

Patrick Byker, a representative for the applicant, spoke in favor of the item and asked for Council's support. He highlighted the 1,000-foot buffer and the updated list of prohibited uses.

Martha Berry, a resident of Wake County, whose property was adjacent to the proposed development expressed concerns about lights, construction noise, traffic concerns, and the buffer. She also advocated for a park and walking trails in the area.

Mr. Byker stated that Ms. Berry was 1,000 feet away from the nearest structure which complied with Unified Development Ordinance.

Seeing no additional speakers, Mayor O'Neal declared the public hearing closed.

Council Member Reece asked if the developer was required to maintain the buffer that they previously referenced.

Mr. Stock stated that it was not a commitment since they submitted a text-only development plan.

Mayor Pro Tempore Middleton expressed his support for the item and recognized that the applicant had updated the list of restricted uses as requested by Council at the January 3rd meeting.

Council Member Freeman asked if conversations were had with neighboring counties, due to the size of the property.

Mr. Stock stated that no conversations with neighboring counties took place since the entire property was located within Durham County.

Council Member Freeman expressed concern that conversations were not being had since water, noise and light had no barriers. She reinforced the need to be good neighbors to the Wake and Chatham Counties.

Council Member Reece asked if there was more to the property than what was indicated on the aerial photo before Council.

Mr. Stock stated that there were several parcels shown between two maps. Some parcels were included in the Annexation Petition and the others only required a direct translation of the zoning.

Council Member Reece asked what was to happen with the clay pit.

Mr. Byker deferred to his colleague Andy Smith who stated that the clay pit was filled in.

Council Member Caballero asked if the restricted uses applied to the entirety of the property or the parcels indicated on the aerial map.

Mr. Stock stated that the restricted uses were only in regard to the parcels on the aerial map.

Council Member Caballero asked for clarification on where the restricted uses would apply.

Mr. Stock advised that the parcels that were only getting the direct translation would not have the restricted uses applied.

Council Member Freeman stated that she would not be able to support the item and called for more open space coordination with neighboring entities.

Mr. Smith stated that they had no intention of developing any of the items that had restricted uses on the direct only translation parcels; however, there was no legal way for them to include that in the application.

Council Member Reece stated that he would not be able to support the item and cited the lack of information surrounding what was going to be built on that piece of land as the basis for his position.

Council Member Williams asked for more clarification regarding Council Member Reece's concerns.

Mr. Byker responded that there was no mechanism to limit uses under the translational zoning requirements.

Mayor Pro Tempore Middleton appreciated the robust conversation on the item and noted that the asks made of the developer at the last meeting had been met.

Council Member Williams echoed the comments made by Mayor Pro Tempore Middleton.

Mayor O'Neal noted the lack of specificity was a concern for her.

Mr. Byker responded that a full development plan would only have additional environmental factors addressed and no more information in regard to the restricted uses.

Council Member Johnson stated that she did not have concerns about the project itself, but more about the process.

Council Member Caballero expressed concerns about the item; however, she stated she would support the item due to its location and the dense amount of information that the staff provided.

Mayor O'Neal thanked the staff and her colleagues for the insightful conversation as they helped her to understand more about the process.

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Johnson, to adopt an Ordinance annexing 'NC 55 and Hopson' into the city of Durham effective March 31, 2022; and

To authorize the City Manager to enter into a utility extension agreement with Scannell Properties #539, LLC, was approved at 8:52 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Johnson, and Williams. Noes: Council Members Freeman and Reece. Absent: None.

ORDINANCE #15907

MOTION by Council Member Williams, seconded by Mayor Pro Tempore Middleton, to adopt an Ordinance amending the Unified Development Ordinance by taking property out of Industrial Light (IL); Falls/Jordan District B (F/J-B) (County Jurisdiction) and establishing the same as Industrial Light (IL); Falls/Jordan District B (F/J-B) (City Jurisdiction), was approved at 8:54 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Johnson, and Williams. Noes: Council Members Freeman and Reece. Absent: None.

ORDINANCE #15908

MOTION by Council Member Williams, seconded by Council Member Johnson, to adopt an Ordinance amending the Unified Development Ordinance by taking property out of Residential Rural (RR) and Commercial Neighborhood (CN); Falls/Jordan District B (F/J-B) (County Jurisdiction) and establishing the same as Industrial Light with a text-only development plan (IL(D)); Falls/Jordan District B (F/J-B) (City Jurisdiction), was approved at 8:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Johnson, and Williams. Noes: Council Members Freeman and Reece. Absent: None.

ORDINANCE #15909

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Williams, to adopt an Ordinance amending the Unified Development Ordinance by taking property out of Residential Rural (RR); Falls/Jordan District B (F/J-B) (County Jurisdiction) and establishing the same as Industrial Light with a text-only development plan (IL(D)); Falls/Jordan District B (F/J-B) (City Jurisdiction), was approved at 8:56 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Johnson, and Williams. Noes: Council Members Freeman and Reece. Absent: None.

ORDINANCE #15910

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Caballero, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 8:57 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100009 and Z2100040A, NC55 and Hopson

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:

For Z2100009:

That final action regarding zoning map change Z2100009, NC55 and Hopson 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 and Attachment 13, 'Community Goals and Objectives'; regarding the subject 'Z2100009, NC55 and Hopson' 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 5, 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, the applicant's responses to the Community Goals and Objectives in Attachment 13; regarding the subject 'Z2100009, NC55 and Hopson' 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.

For Z2100009:

That final action regarding zoning map change Z2100009, NC55 and Hopson 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 and Attachment 13, 'Community Goals and Objectives'; regarding the subject 'Z2100009, NC55 and Hopson' 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 5, 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, the applicant's responses to the Community Goals and Objectives in Attachment 13; regarding the subject 'Z2100009, NC55 and Hopson' 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.

For Z2100040A:

That final action is based upon review of consistency with the Durham Comprehensive Plan and any other officially adopted plan that is applicable;

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

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

SUBJECT: ITEM 12: CONSOLIDATED ANNEXATION - 3602 WESTMINSTER AVENUE (PR# 15183)

Michael Stock, Senior Planner, stated for the record that the City-County Planning Department public hearing item had been advertised and noticed in accordance with state and local law and that affidavits of the notices were on file in the Planning Department and provide the following staff report:

The request was for a utility extension agreement, voluntary annexation and initial zoning map change for one parcel of land totaling 4.79 acres located at 3602 Westminister Avenue. The annexation petition was for a contiguous expansion of the existing corporate limits. The applicant was seeking annexation into the City limits to access City water and sewer services for the construction of their single-family residence.

The associated initial zoning request for the annexation petition was a direct translational zoning from Residential Rural (RR) under County jurisdiction to the same under City jurisdiction.

City staff had analyzed the potential impacts of the proposed development and reached the following two conclusions: 1) the proposed development of the property was found to be revenue positive based upon a cost-benefit analysis conducted by the City's Budget and Management Services Department and 2) City and County operational

departments had reviewed the request and had not identified significant, negative service delivery costs or impacts.

Mayor O'Neal opened the public hearing and called for any speakers to the item.

Seeing no additional speakers, Mayor O'Neal declared the public hearing closed.

Mayor Pro Tempore Middleton stated that he did not have any concerns with the item and intended to support it.

Council Member Reece echoed the comments made by Mayor Pro Tempore Middleton.

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt an Ordinance annexing '3602 Westminster Avenue' into the city of Durham effective March 31, 2022, and to authorize the City Manager to enter into a Utility Extension Agreement with Joseph Francisco Mena Suarez, was approved at 9:20 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

ORDINANCE #15911

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt an Ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural (RR)/Falls/Jordan Lake Watershed Protection District-B (F/J-B), County Jurisdiction and establishing the same as Residential Rural (RR)/ Falls/Jordan Lake Watershed Protection District-B (F/J-B), City Jurisdiction, was approved at 9:22 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

ORDINANCE #15912

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 9:22 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, Reece, and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100023A, 3602 Westminster

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to NCGS 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 NCGS 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 Z2000023A, 3602 Westminster is based upon review of consistency with the Durham Comprehensive Plan and any other officially adopted plan that is applicable;

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

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

SUBJECT: ITEM 13: ZONING MAP CHANGE – BULL CITY TOWNHOMES (PR# 15186)

Michael Stock, Senior Planner, stated for the record that the City-County Planning Department hearing item had been advertised and noticed in accordance with state and local law and that affidavits of the notices were on file in the Planning Department and provide the following staff report:

Mark Bullock of Ramarama, Inc. proposed to change the zoning designation of two parcels of land totaling 12.25 acres located at 1343 Ellis and 1326 Clinton Roads. The current zoning was Rural Residential (RR). The applicant proposed to change the designation to Residential Suburban- Multifamily with a development plan (RS-M(D)). The proposal was to allow for a maximum of 147 townhomes, and in addition to building design commitments, will connect Lynley Road and Carywood Drive with a public street and improve Lynley to current street standards. The properties were currently designated Low Density Residential on the Future Land Use Map (FLUM). The proposed RS-M(D) zoning was inconsistent with the designated Future Land Use. If the proposed zoning was approved staff recommended a change to the FLUM to designate the property as Medium Density Residential. The Planning Commission heard thie

request at its September 14, 2021, and failed to recommend approval with a vote of 0-13.

Mayor O'Neal opened the public hearing and asked for speakers to the item.

James Osler, resident of Durham, spoke in opposition of the item and cited the immense amount of development taking place in that part of the city, increased traffic, and the drainage of a pond nearby that has caused negative environmental impacts.

Steve Daveris, resident of Durham, stated that while he was in favor of development, it needed to be done in a respectable way and asked Council not to support the item.

Arnie Johnson, resident of Durham, spoke in opposition of the item and expressed concerns regarding the increased development. He cited a recent traffic incident where a speeding driver knocked down his mailbox to demonstrate the existing traffic issues.

Gabe Corillo, resident of Durham, stated that the traffic in the area was dangerous and that 147 additional townhomes would make that safety hazard worse.

Charles Hanson, resident of Durham, stated that increased construction trucks in the area would cause more damage to the roads and due to an incoming Publix grocery store, there would be even more traffic.

Mark Bullock and Cliff of Credel Engineering, representatives of the applicant, spoke in favor of the item and highlighted the following: the proposed density was consistent with the area, the townhomes were going to be affordable, the pond referenced previously was manmade and no longer served a usable purpose, and that Ellis Road was maintained by North Carolina Department of Transportation.

Joseph Williams, resident of Durham, stated that the area had a lot of traffic; expressed concerns due to the increased crime Durham was experiencing; and felt that additional residents in more townhomes was going to be detrimental to seniors.

Phillip Lawson, resident of Durham, recognized the need to have more housing, but cited the proposal was too dense for the area.

Seeing no additional speakers, Mayor O'Neal declared the public hearing closed.

Council Member Johnson asked what roads the access point to the development was going to be on.

Mr. Stock responded that the access was to be on Carry Wood Drive and Lynnly Road.

Council Member Johnson asked if there was a traffic impact analysis.

Mr. Stock stated that the project was too small to require a traffic impact analysis.

Council Member Johnson asked if the applicant had considered proffers toward the Durham Affordable Housing Fund or Durham Public Schools.

Mr. Bullock noted that the applicant had not made any proffers, but was willing to make the standard proffer of \$500 per additional student that the proposal was going to add to DPS.

Council Member Johnson asked for more details regarding the community engagement that took place.

Mr. Bullock responded that the community engagement meeting took place virtually via zoom and that many of the opponents that were present at the council meeting were at that meeting as well. He also stated that 300 notices were mailed to the required property owners.

Council Member Johnson asked if the developer made changes to the proposal as a result of the community meeting.

Mr. Bullock confirmed that they changed language regarding the density from a set 147 units to 'up to' 147 units. However, until a builder and development plan were a part of the project he was unable to confirm exactly how many units would be built.

Council Member Johnson expressed concerns regarding the lack of specificity of the project.

Mr. Stock noted that staff was unaware that there was no clear number of units being proposed and that if the number dropped below 80% of the density of the development plan was then the property had to be rezoned.

Mayor Pro Tempore Middleton asked about the traffic impacts without requiring a Traffic Impact Analysis.

Bill Judge, Assistant Director of Transportation, advised that a basic capacity analysis of the daily volume of Ellis Road was conducted, which was the nearest major road.

Mayor Pro Tempore Middleton asked for clarification on one of the comments in the staff report regarding non-compliance with the Comprehensive Transportation Plan.

Mr. Stock stated that a bike lane improvement on Ellis Road had not been addressed.

Mayor Pro Tempore Middleton asked if the FLUM would need to be updated.

Mr. Stock advised that the FLUM would need to be updated if the item had been approved.

Mayor Pro Tempore Middleton asked what the average price point was going to be for the proposed development.

Mr. Bullock stated that he was looking to be priced around \$300,000.

Mayor Pro Tempore Middleton asked if a community meeting was held.

Mr. Bullock stated that they had a virtual zoom meeting for the community.

Mayor Pro Tempore Middleton asked if there was a timeline as to when a confirmed number of units would be known.

Mr. Bullock stated that because his company would not be the company developing the land, he had no timeline.

Mayor Pro Tempore Middleton echoed the concerns made by Council Member Johnson regarding the lack of specificity and community engagement. He suggested that the applicant may benefit from additional time to add some more details.

Council Member Caballero asked if there were any proffers regarding sidewalks and road improvements.

Mr. Bullock stated that he was amenable to those improvements.

Council Member Freeman made the distinction between affordable housing and an affordable price and that she wanted to ensure that the profit of such a development had a benefit to the city. She expressed concerns regarding the lack of specificity and community engagement; echoed the call for the applicant to take more time to enhance their proposal; and asked staff what a delay would look like.

Mr. Stock suggested that the public hearing be closed and the item referred back to the Planning Department as keeping the hearing open would offer limited time for review.

Mr. Bullock provided a timeline of how long it had taken the item to reach Council since 2018 and that he had dealt with several staff members over the course of that time.

Council Member Johnson advocated for a delay based on not knowing the amount of units to be developed.

Council Member Reece expressed encouragement for what the project had the potential to be, but highlighted that the many staff changes that Mr. Bullock mentioned

was a direct reflection of limited staff resources in the Planning Department. He advocated for more staff resources in order to assist local developers to create the best possible project and to present it before Council.

Mr. Bullock stated that he was amenable to doing further community engagement, as long as it did not require him to start the project from the beginning.

Council Member Caballero thanked staff and the applicant for their work and echoed the comments made by Council Member Reece regarding staff capacity. She expressed words of encouragement and appreciation due to the applicant being a local developer from Durham.

Mr. Stock suggested a 60-day continuance of the item.

Mayor Pro Tempore Middleton supported the request for a continuance and spoke to black wealth through homeownership.

Council Member Freeman made the distinction between a continuance to a date certain and referring an item back to the Department. She also offered assistance in participating in the community engagement.

Mayor O'Neal asked staff to also explain the distinction between a continuance to a date certain and referring an item back to the Department.

Mr. Stock stated that a continuance would have left the public hearing open to a specific meeting date which could have created specific barriers if a certain component was not met or reviewed by the date needed to be on the agenda for that meeting and that a continuance would go back to the Department and be re-advertised for whenever they brought the item back after the review or any changes.

Sara Young, Director of the Planning Department, clarified that referring the item back to the Department did not mean that the item was starting from the beginning of the entire process.

Council Member Williams expressed his support for any requests made by the Planning Department so that the process could improve for future developments.

The item was referred back to the Planning Department.

[ADJOURNMENT- 11:16 PM]

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk