

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 20, 2023
7:00 P.M.
IN-PERSON & VIRTUAL**

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 O’Neal, 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 and City Clerk Diana Schreiber.

[CALL TO ORDER]

Mayor O’Neal called the meeting to order and welcomed those in attendance in the Chamber and virtually.

[MOMENT OF SILENT MEDITATION]

Mayor O’Neal conducted the moment of silence.

[PLEDGE OF ALLEGIANCE TO THE FLAG]

Council Member Freeman led the Pledge of Allegiance to the Flag.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Freeman acknowledged the NC State Legislature was moving forward with Medicaid Expansion and encouraged all to reach out to them; and congratulated the new Superior Court Judge Shamiaka Rhinehart.

Council welcomed the numerous attendees in the Chamber.

Council Member Holsey-Hyman highlighted it was Women’s Health Month; announced she was selected to be honored for the Timeless Ceremony Award for Women Leadership given by the Lt. Governor.

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

City Manager Page announced one priority item:

Item 17) Consolidated Annexation – Wesley Downs. Attachment F was updated.

The City Attorney and City Clerk had no priority items.

Mayor O'Neal read the items on the Consent Agenda.

MOTION by Council Member Freeman, seconded by Council Member Williams, to approve the Consent Agenda was approved at 7:10 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.

[CONSENT AGENDA]

**SUBJECT: DURHAM CULTURAL ADVISORY BOARD – APPOINTMENT
(ITEM 1/ PR 16070)**

MOTION by Council Member Freeman, seconded by Council Member Williams, to appoint Margaret E. McNab to the Durham Cultural Advisory Board with the term to expire on June 30, 2023 was approved at 7:10 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.

SUBJECT: HOUSING APPEALS BOARD – APPOINTMENT (ITEM 3/ PR 16072)

MOTION by Council Member Freeman, seconded by Council Member Williams, to appoint Malika Langley to the Housing Appeals Board representing the category of an At-Large - Alternate Member with the term to expire on June 30, 2024 was approved at 7:10 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.

**SUBJECT: DURHAM WORKERS' RIGHTS COMMISSION – APPOINTMENTS
(ITEM 4/ PR 16073)**

MOTION by Council Member Freeman, seconded by Council Member Williams, to appoint Idreese Foxworth, Krista T. Kenney, Laura Serratos, and Danae Willis to the Durham Workers' Rights Commission representing the category of Diverse Backgrounds. The terms will expire on April 30, 2025 was approved at 7:10 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.

**SUBJECT: DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION –
APPOINTMENT (ITEM 5/ PR 16074)**

MOTION by Council Member Freeman, seconded by Council Member Williams, to appoint Jalen R. Baker to the Durham Bicycle & Pedestrian Advisory Commission representing a North Carolina Central University Liaison with the term to expire on August 31, 2025 was approved at 7:10 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.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (ITEM 6/ PR 16078)

MOTION by Council Member Freeman, seconded by Council Member Williams, to approve the City Council minutes for the following meetings: December 19, 2022 Regular Meeting, December 20, 2022 Work Session, January 3, 2023 Regular Meeting, January 5, 2023 Work Session, January 17, 2023 Regular Meeting, January 19, 2023 Work Session, February 6, 2023 Regular Meeting and February 9, 2023 Work Session was approved at 7:10 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.

SUBJECT: ORDINANCE TO SET FILING FEES FOR CANDIDATES TO MUNICIPAL OFFICE IN THE CITY OF DURHAM (ITEM 7/ PR 16092)

MOTION by Council Member Freeman, seconded by Council Member Williams, to adopt the proposed Ordinance to Set Filing Fees for Candidates to Municipal Office in the City of Durham was approved at 7:10 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.

ORDINANCE #16120

SUBJECT: RESOLUTION TO AUTHORIZE SECOND OPIOID SETTLEMENT AND THE SUPPLEMENTAL AGREEMENT FOR ADDITIONAL FUNDS (ITEM 8/ PR 16098)

MOTION by Council Member Freeman, seconded by Council Member Williams, to adopt the resolution authorizing the City Manager and/or the City Manager's designee to execute the Supplemental Agreement for Additional Funds from Additional Settlements of Opioid Litigation was approved at 7:10 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.

RESOLUTION #10283

SUBJECT: AMERICAN RESCUE PLAN ACT (ARPA) PROJECT - COMMUNITY-ROOTED APPROACHES TO PUBLIC HEALTH (ITEM 9/ PR 16068)

MOTION by Council Member Freeman, seconded by Council Member Williams, to authorize the City Manager to execute an ARPA subrecipient grant agreement with Communities in Partnership in an amount not to exceed \$1,000,000 to enhance

ongoing programmatic support and resources was approved at 7:10 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.

SUBJECT: CHANGE ORDER #9 TO THE CONSTRUCTION MANAGER AT RISK CONTRACT WITH SKANSKA USA BUILDING INC. FOR THE MERRICK MOORE PARK (FORMALLY HOOVER ROAD PARK) PROJECT (ITEM 10/ PR 15927)

MOTION by Council Member Freeman, seconded by Council Member Williams, to authorize the City Manager to execute Change Order #9 to the construction contract for the Merrick Moore Park project with Skanska USA Building Inc. in the amount of \$110,977.81, for a total contract amount not to exceed \$8,925,833.10 was approved at 7:10 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.

SUBJECT: GRANT ADMINISTRATION AGREEMENT AND GRANT PROJECT ORDINANCE FOR REINTEGRATION OF EX-OFFENDERS, FIRST STEP ACT INITIATIVE (PROWD GRANT) FUNDS (ITEM 11/ PR 16085)

MOTION by Council Member Freeman, seconded by Council Member Williams, to authorize the City Manager to accept the PROWD Grant funds issued to the Durham Workforce Development Board; and

To authorize the City Manager to execute the Grant Administration Agreement on the Board’s behalf; and

To adopt the City of Durham Workforce Innovation and Opportunity Act (WIOA) First Step Act Initiative (PROWD Grant) Through the Reintegration of Ex-Offenders Program Grant Project Ordinance in the amount of \$1,740,321 was approved at 7:10 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.

ORDINANCE #16113

SUBJECT: DRAINAGE STRUCTURE ACCESS AND STABILIZATION (SD-2023-01) (ITEM 12/ PR 16076)

MOTION by Council Member Freeman, seconded by Council Member Williams, to authorize the City Manager to execute Contract SD-2023-01, Drainage Structure Access and Stabilization, with White Oak Construction Corp. of N.C. in the amount of \$373,969;

To establish a contingency fund in the amount of \$56,095; and

To authorize the City Manager to negotiate change orders for Contract SD-2023-01 provided that the total contract cost does not exceed \$430,064 was approved at 7:10 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.

SUBJECT: PROFESSIONAL SERVICES CONTRACT AWARD TO HAZEN AND SAWYER, P.C. FOR FACILITIES ELECTRICAL STUDY (ITEM 13/ PR 15985)

MOTION by Council Member Freeman, seconded by Council Member Williams, to authorize the City Manager to execute a contract with Hazen and Sawyer, P.C. for professional engineering services for the Facilities Electrical Improvements Project in the amount not to exceed the cost of \$536,000;

To establish a contingency fund for the contract in the amount of \$53,600; and

To authorize the City Manager to negotiate and execute amendments to the contract provided the cost of all amendments together with the original contract amount does not exceed \$589,600 was adopted at 7:10 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.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: PUBLIC HEARING ON THE FISCAL YEAR 2023-24 BUDGET AND FY 2024-2029 CAPITAL IMPROVEMENT PLAN (CIP) (ITEM 16/ PR 16084)

Mayor Pro Tempore Middleton presided over Item 16, to conduct a public hearing to receive comments on the development of the FY 2023-24 Budget and the FY2024-29 Capital Improvement Plan (CIP).

John Allore, Director of Budget and Management, introduced the item.

Mayor Pro Tempore Middleton opened the public hearing and stated there were speakers to the item.

Kyle Barber, Durham resident, spoke in support of expanding and fully funding of the HEART team and spoke to his anxieties associated with being a young black male when calling for Police during emergencies.

Paul Harvin, Durham resident, spoke in support of Vision Zero Coordinator, sidewalks and roadway safety; and explained he had been hit by a vehicle while riding his

bicycle.

Allison Simpson, Durham resident and widow of Matthew Simpson, explained her husband had been killed while riding his bicycle at West Ellerbe Creek and Guess Road, and asked Council to support the Vision Zero program.

Anne Lazarides, Durham Resident, acknowledged Ms. Simpson's loss; spoke to budgeting for Capital Improvement Plan; and urged upgrades to ensure biker and pedestrian safety consisting of protected space for these persons.

Claire Shelnutt, Durham resident, spoke to the passing of her sister, her mental health struggles and the need for expanding the HEART Program of non-armed emergency responders.

Erik Landfried, Durham resident, co-chair advocacy committee with Bike Durham, acknowledged there had been many bicyclists killed by vehicles while crossing roadways; and voiced support for the Vision Zero program and expanding the HEART program.

John Tallmadge, Durham resident and Executive Director of Bike Durham, urged Council to support the Vision Zero agenda and the hiring of a Vision Zero Coordinator; and encouraged funding for sidewalk repairs, protective bike lanes and traffic calming measures.

Caroline Fry, Durham resident, supported expanding the HEART program with full funding at 24/7; and spoke in support of unarmed response instead of armed PD officers.

Brooks Emanuel, Durham resident, spoke in support of full funding expansion HEART program; and explained his anxiety over calling the Police Department with their armed officers, often amounting to a person feeling like they have no one to call.

Olivia Linn, Durham resident, urged Council fully fund the HEART program and explained the anxiety within the LGBTQ+ community during mental health crises when requesting emergency support.

Leah Whitehead, Durham resident, asked Council to fully fund the HEART team; work in homeless services and explained a situation that occurred with a friend who was suffering from a mental health crises interacted with armed responders; and stated the HEART Team was important for queer and trans families.

Eric Rubinstein, Durham resident, explained he utilizes bicycles for transport to work, school and other activities; and requested Council support the Vision Zero Coordinator position and HEART program.

Elliot Berger, Durham resident, small business owner, urged Council to fully fund the HEART program to avoid calling the Police on homelessness concerns.

Sam Hoeffler, Durham resident, spoke as an anti-poverty advocate and urged Council

to fully fund the HEART Team.

AJ Williams, Durham resident, urged full support of the HEART Team with 24/7 city wide care; spoke to his mental health struggles and explained his anxiety of calling 911 where armed responders could misread the situation.

Regina Mays, Durham resident, urged support of the HEART Team with 24/7 support; explained HEART staff be trained to support callers; and spoke as a mother of a son with mental health struggles.

Areli Barrera Grodski, small business owner, spoke in support of the struggles of her team who were feeling unsafe dealing with a community member in mental health crises; and urge the expansion of the HEART Program to include her business locations in Durham.

Ansel Dow, Durham resident, asked for full funding Heart program; spoke to the anxiety involved in dialing 911 to support a neighbor experiencing a mental health crisis; and supported the HEART Team's ability to peacefully resolve instances without armed responders.

Member of Bike Durham explained he was injured while bicycle riding; urged support for Vision Zero Coordinator and for the HEART Team expansion.

Mayor Pro Tempore Middleton asked if there were other speakers. There not being any other speakers, he declared the public hearing closed. The item was a public hearing only. No vote was taken.

Council acknowledged the speakers and appreciated their comments.

**SUBJECT: CONSOLIDATED ANNEXATION - WESLEY DOWNS
(ITEM 17/ PR 16075)**

Council Member Williams presided over Item 17.

Damiere Powell, Planner with the City-County Planning Department, made the staff report by stating the item was a request for a utility extension agreement, voluntary annexation and initial zoning map change has been received from Laura Holloman, of McAdams, for eight parcels of land totaling 61.119 acres and located at 312, 325, 344, 401, 409, 415 and 417 Broach Road, and 4420 Holder Road. This annexation petition (Case BDG2100006) is not contiguous to the primary corporate limits. However, the request is for an expansion of a satellite area that would serve to fill in between that satellite and the primary corporate limits. The applicant is proposing to annex the properties to connect to City services.

The current zoning is Residential Rural (RR). For the initial City zoning of this site if annexation is approved, the applicant proposes to change this designation to Planned Development Residential 4.166 (PDR 4.166), to allow for the construction of up to 229 dwelling units consisting of a maximum of 115 single-family units and a minimum of

100 townhouse units. This request, Case Z2100012, received a recommendation of denial from the Planning Commission on June 14, 2022, with a vote of 11-0.

The properties are currently designated Low-Medium Density Residential on the Future Land Use Map (FLUM) (Attachment C). The proposed PDR 4.166 zoning is consistent with the designated Future Land Use. If the proposed zoning is approved, there will be no change to the Future Land Use Map designation of Low-Medium Residential.

Council Member Williams opened the public hearing and stated there were speakers to the item.

Proponent

Nil Ghosh, Attorney representing the applicant, Lennar Homes, introduced his team; stated the applicant was applying for the PDR Zoning District, introduced his team; stated the applicant was applying for the PDR zoning district, the total assemblage was a little more than 60 ACRES; consisting of 229 units with 100 TH, site plan showed 124 Townhomes, 102 Single Family homes; mentioned the case was filed two years ago; and added environmental commitments:

1. Site designed to handle peak flow rate of the 100-year storm,
2. Double row silt fencing along regulatory water buffers
3. Flocculants would be incorporated into the erosion control
4. Increasing temporary stormwater controls by 150%, designed so that they dewater in a minimum of 4 days.

Lennar Home have taken these to heart. Also committed: 5 additional feet asphalt with bike lanes. DOT prefers 10-foot-wide multi use path. The applicant updated the condition to reflect the 10-foot-wide multi-use path; and noted that Condition 10 was being removed related to recombining a certain portion of land with an adjacent cemetery parcel. Lennar was giving the parcel over to the church. The project had the following included: traffic signal, intersection improvements and an intersection improvement at the site access point. The project will Reserve a 125-foot right-of-way for Northern Durham Parkway and provide 125-foot-wide easement for the planned greenway. In addition, commitments to the affordable housing inventory consisted of 3% of the final unit count (7 homes) as affordable at the 80% AMI level for 30 years; all townhomes were limited to no more than 1600 square feet, no interior townhome lot could be over 24 feet wide and all was surface parking, no garages. The price point was expected in the \$290,000s and could be delivered within twelve months.

Opponents

James Chavis, Durham resident, addressed concerns about gentrification, impacting original Durhamites on fixed incomes and who would have to, once annexed, pay city

and county taxes.

Pam Williams, Durham resident, expressed concerns about growth; urged finding a developer who was more dedicated to tree preservation and street scape improvements; and stated infrastructure did not support the increase in traffic, congestion, blasting and firetrucks would not be able to service the area.

Tammie Sawaya, Durham resident, urged support for stream restoration, noted erosion was impacting current residents especially following heavy rain events.

Donna Stainback, Durham resident, spoke to the soil type, impervious surfaces, open space, tree preservation, 61 acres, and encouraged Council to limit phase construction to less than 50 acres. She also stated that blasting was damaging wells and when there was blasting, no assistance was provided by the contractors.

Pam Andrews, Durham resident, requested Council wait until the two text amendments were passed before deciding on future developments.

Tina Motley Pearson, Durham resident, voiced the fact that the density was too high for Triassic basin soils due to the blasting issue; indicated that a person's well cave-in due to blasting and that the blasting company refused; and noted there were many persons who were distressed by the development in SE Durham; and Lennar could afford to be environmentally conscious.

Rebuttal

Mr. Ghosh, responded to comments, spoke to pending soil and erosion text amendments by noting the provisions of the UDO did not apply to the site plan; if the developer had to wait for the site grading and tree preservation, would commit to dropping to 45% impervious as a commitment on the zoning and committed to 25% open space on the site plan, with 20% tree save. He stated that Lennar could start building in twelve months and deliver in the \$290,000 range.

Council Member Williams closed the public hearing.

There were no comments by Council.

Attorney Ghosh confirmed the following proffers:

Three related to soil and erosion control;

Multi use path;

Removal of condition #10;

Committed to 45% impervious surface; and

25% open space.

MOTION by Council Member Caballero, seconded by Council Member Johnson, to adopt an ordinance annexing 'Wesley Downs' 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 adopted at 8:27 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton, Council Members Caballero, Johnson, Williams. Noes: Mayor O'Neal, Council Members Freeman and Holsey-Hyman.

ORDINANCE #16114

MOTION Mayor Pro Tempore Middleton, seconded by Council Member Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural (RR), Falls/Jordan District - B (F/J-B), County Jurisdiction and establishing the Planned Development Residential 4.166 (PDR 4.166), Falls/Jordan District - B (F/J-B), City Jurisdiction was adopted at 8:28 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton, Council Members Caballero, Johnson, Williams. Noes: Mayor O'Neal, Council Members Freeman and Holsey-Hyman.

ORDINANCE #16115

MOTION Mayor Pro Tempore Middleton, seconded by Council Member Johnson, to adopt a Consistency Statement as required by NCGS 160D-60 was adopted at 8:28 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.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100012, Wesley Downs

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 Z2100012, Wesley Downs, 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 ‘Z2100012, Wesley Downs’ 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 ‘Z2100012, Wesley Downs’ 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 - SHADY GROVE ASSEMBLAGE
(ITEM 18/ PR 16079)**

Council Member Williams preside over Item 18.

Damiere Powell, Planner with the City-County Planning Department, made the staff report by stating the item was a request for a utility extension agreement, voluntary annexation and initial zoning map change has been received from Edens Investments for six parcels of land totaling 78.124 acres and located at 2901 and 2704 Shady Grove Road, 4001 and 4031 Carpenter Pond Road, and 2801 Olive Branch Road. This annexation petition is not contiguous to the primary corporate limits.

The current zoning is Residential Rural (RR) with the Falls/Jordan District Watershed Protection Overlay. The site is also partially within the A60 Airport Overlay. For the initial City zoning of this site if annexation is approved, the applicant proposes to change this designation to Planned Development Residential 5.632 (PDR 5.632), to allow for the construction of up to 440 single-family detached and townhouse units. This request, Case Z2100016, received a recommendation of approval from the Planning Commission on January 10, 2023, with a vote of 9-3.

The properties are currently designated Low Density Residential (4 DU/Acre or less) on the Future Land Use Map (FLUM) (Attachment C). The proposed Planned Development Residential 5.632 (PDR 5.632) zoning is inconsistent with the designated use shown on the FLUM. If the proposed zoning is approved, there will be a change to the Future Land Use Map designation to Low-Medium Density Residential (4 - 8

DU/Acre).

Council Member Williams inquired if there were any questions/comments by Council.

Mayor Pro Tempore Middleton inquired about the impact if the item was continued.

Alexander Cahill, Planning Manager, responded that he would defer to the applicant; and mentioned that this case was one of the last ones from 2021.

Council Member Williams opened the public hearing.

Proponent

Jarrold Edens of Edens Investments, representing the applicant, noted the project consisted of 78-acre site near Brier Creek with 100-year detention; proposed a maximum of 440 units, a mix of single family homes (maximum 120 SFH) and town homes (up to 320 THs); incorporated a parkway type design with wider right-of-way with ten foot multi use paths on each side of parkway; there would be three to four townhome products; five percent of the rental units would be designated affordable and five percent of the single family lots would consist of six completed padded lots; the site would have additional buffers on the perimeter with fencing situated favorably; as part of the utility extension agreement, the developer had agreed to extend the Shady Grove Baptist church water and sewer and access; committed to asymmetrical widening and a five-acre public park developed by the developer and dedicated to the city for on-going maintenance. He also addressed neighboring arteries and their vehicular capacity.

Opponents

Rebecca Freeman, Durham resident, expressed concerns about density being dissimilar to current neighborhoods and an increase of traffic levels with backups.

Donna Stainback, Durham resident, spoke to environmental concerns related to mass grading, excessive run-off and the need for greater tree conservation; and urged a proffer of 50-acre maximum during grading.

Pamela Andrews, Durham resident, urged a grading maximum of 50 acres per phase; mentioned Lick Creek's macro-invertebrate (animals that lack a spine and are large enough to be seen with the naked eye ex. aquatic insects, crayfish, snails, clams, worms, etc) study and noted that sediment was choking off life; and supported the new UDO standards.

Pam Williams, spoke in opposition to the density and proposed a lower one; and supported a rural feel instead of one where houses were lining roadways; and requested a thirty-foot perimeter buffer along roadways.

Thomas Freeman, Durham resident, spoke to the unintended consequences of growth

and spoke to how taxes would increase in the area forcing many residents to sell.

James Chavis, Durham resident, spoke to the complicated nature of development that included traffic and tax increases; and noted that this was not helping but rather hurting.

Tina Motley-Pearson, Durham resident, spoke in opposition to the project's impervious surface percentage, the need for mass grading with potential blasting. She also looked forward to improvements in the City's UDO/Development Code related to erosion control.

David Johnson, Durham resident, spoke in opposition to the project; mentioned the area was a popular destination for bicycling and asked if there had been any accommodation made for bicycling; spoke to concerns about blasting damages on private wells; and urged smart planning for growth.

Council Member Williams closed the public hearing and asked his colleagues for their comments.

Council Member Holsey-Hyman asked about community outreach and the blasting possibilities.

Mr. Edens conducted community outreach and sent correspondence with notes and sketches to area residents; related to blasting, noted that a geo-technical engineer drilled multiple holes to test, out of 17 holes, there was no bedrock evident in the samples.

Council Member Freeman inquired about the park being in addition to the open space requirement.

Mr. Edens noted the community would have a separate open space percentage independent of the park allowance.

MOTION by Council Member Johnson, seconded by Council Member Caballero, to adopt an ordinance annexing 'Shady Grove Assemblage' into the City of Durham effective March 31, 2023; and to authorize the City Manager to enter into a utility extension agreement with Edens Investments, Inc. was adopted at 9:06 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton, Council Members Caballero, Johnson, Williams. Noes: Mayor O'Neal, Council Members Freeman, Holsey-Hyman.

ORDINANCE #16116

MOTION by Council Member Johnson, seconded by Mayor Pro Tempore Middleton, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural (RR), Falls/Jordan District-B (F/J-B) and A60 Airport

Overlays (A60), County Jurisdiction and establishing the same as Planned Development Residential 5.632 (PDR 5.632), Falls/Jordan District-B (F/J-B) and A60 Airport Overlays (A60), City Jurisdiction was adopted at 9:06 p.m. by the following vote: Ayes: Mayor Pro Tempore Middleton, Council Members Caballero, Johnson, Williams. Noes: Mayor O’Neal, Council Members Freeman, Holsey-Hyman.

ORDINANCE #16117

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Johnson, to adopt a Consistency Statement as required by NCGS 160D-605 was adopted at 9:07 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton, Council Members Caballero, Freeman, Johnson, Williams. Noes: Council Member Holsey-Hyman.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100016, SHADY GROVE ASSEMBLAGE

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 Z2100016, Shady Grove Assemblage, 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 ‘Z2100016, Shady Grove Assemblage’ 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 'Z2100016, Shady Grove Assemblage' 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.

Mayor O'Neal announced a break at 9:07 p.m.; the meeting resumed at 9:20 p.m. Mayor O'Neal introduced Item 19.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT-
SIMPLIFYING CODES FOR AFFORDABLE DEVELOPMENT
(ITEM 19/ PR 16077)**

Sara Young, Director of City-County Planning, made the staff report by stating the text amendment, case TC2200001, Simplifying Codes for Affordable Development (SCAD) is a privately-initiated text amendment that proposes to amend various provisions of the Unified Development Ordinance in order to incentivize affordable housing and to allow additional flexibility in siting and design, predominantly targeted at developing infill housing and small-scale commercial opportunities. The applicant team is here to present these amendments tonight.

The Planning Commission recommended denial on December 13, 2022 by a vote of 6-6. In addition to the Planning Commission comments, the unanimously supported report from their subcommittee has also been included in your agenda materials. This item has not yet been scheduled for consideration by the Board of County Commissioners. Pending the outcome tonight, staff will schedule the appropriate next available date for their public hearing on these amendments. A modification of the effective date may be required to maintain a unified ordinance.

Following the staff report, Mayor O'Neal declared the public hearing open and acknowledged the number of interested persons in the Chamber and on-line. She spoke to a request she had made to make the public hearing a 'stand-alone' one at its own meeting. In addition, she noted the complexity of the technical item and had asked staff to accommodate the recommendation to assist Council in understanding the document;

Director Young spoke to upcoming viable dates and recommended the postponing of the item to May 1, 2023 Regular meeting of Council. She also noted that the item would be referred back to staff, re-advertised and then would work with Council and the applicant to achieve clarity.

Following the recommendation, Council discussed the timeline for Item 19 with the

potential delay versus hearing the item at the meeting.

MOTION by Council Member Freeman, seconded by Council Member Holsey-Hyman, to move Item 19 forward with the May 1, 2023 date as recommended by Planning Director Sara Young was adopted at 9:38 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Freeman and Holsey-Hyman. Noes: Council Members Caballero, Johnson and Williams.

Due to the postponement, the public hearing would remain open until May 1, 2023; no votes were taken on the following two motions.

No vote taken on Motion #1: To adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to 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 12, Infrastructure and Public Improvements; Article 13, Additional Requirements for Subdivisions; Article 14, Nonconformities; Article 16, Design Districts; and Article 17, Definitions effective April 1, 2023; and

No vote taken on Motion #2: To adopt the appropriate consistency statement as required per NCGS - 160D-605.

**SUBJECT: DEVELOPMENT AGREEMENT - NOVEL UNIVERSITY HILL
(ITEM 20/ PR 16081)**

Council Member Freeman presided over Item 20.

Alexander Cahill, Senior Manager, Durham City-County Planning, made the staff report that consisted of the following: A request for the City of Durham to enter into a statutory development agreement has been received from Dan Gualtieri, of Crescent Communities, to allow for an increase in the allowed density on the project site in exchange for the gap financing of 66 affordable units off-site as part of the Carver Street Assemblage project. The applicant proposes to construct a maximum of 291 additional units above the allowed density of 109 units, for a total of 400 units. The proposed benefits to the City include gap financing for 66 units of the Carver Street Assemblage project, the donation of eight undeveloped parcels to Habitat for Humanity of Durham, LLC, a \$50,000 donation to GoDurham/GoTriangle for a new bus shelter, and construction of new sidewalks that link the bus stop to the development.

The current zoning is Commercial Neighborhood (CN) and Commercial General (CG). The applicant intends to develop the property under the current zoning districts. The proposed properties are currently designated Design District, Compact Neighborhood on the Future Land Use Map. The Development Agreement would not change the current zoning or future land use map designation.

Pursuant to North Carolina General statute, a municipality may enter into a development agreement with an entity for the development of property through adoption of an ordinance by the governing body. Statutory development agreements are intended to provide for community benefits within developments that are difficult to accommodate within traditional zoning processes. Staff from CAO, CDD, Transportation, and Planning have reviewed the proposal and offered several suggestions, most all of which the applicant incorporated into their draft development agreement.

This development agreement request was heard by the Planning Commission on January 10, 2023. The Planning Commission recommended approval by a vote of 12-0. Since the Planning Commission's public hearing, the applicant revised the development agreement, adding a provision to ensure the parcels of land being donated to Habitat for Humanity of Durham will be annexed at a future date, with the responsibility of KB Carver Developer. There was also a provision added that if KB Carver, LLC obtains gap financing from a source other than Crescent Acquisitions, LLC, then Crescent Acquisitions, LLC will still be obligated to pay the City of Durham \$2,600,000 to be used for affordable housing.

Council Member Freeman opened the public hearing and stated there were speakers to the item:

Proponents

Patrick Byker, Attorney from Morningstar Law firm representing the applicant, Crescent Acquisitions, Charlotte; introduced his team; noted this was the second development agreement between private developers in Durham; emphasized there was strong community engagement; that highlighted boosting pedestrian infrastructure, would provide missing gap financing for 66 shovel-ready units in the Carver Street Assemblage thus putting the property back into productive use; and requested Council's approval.

Rick Adams, Durham resident, spoke to the high quality development and requested Council to approve the project.

There were no opponents to the project.

Council Member Freeman closed the public hearing.

Council spoke in support of the item.

MOTION by Council Member Williams, seconded by Council Member Caballero, to adopt an ordinance amending the Unified Development Ordinance by taking property out of Commercial Neighborhood (CN) and Commercial General (CG) and establishing the same as Commercial Neighborhood (CN) and Commercial General (CG) with a Statutory Development Agreement; and adopting an ordinance approving a Statutory

Development Agreement with Crescent Acquisitions, LLC and KB Carver Developer, LLC and an associated utility extension agreement with Crescent Acquisitions, LLC; and authorizing the City Manager to execute both the development agreement and the utility extension agreement was approved at 9:48 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton, Council Members Caballero, Freeman, Holsey-Hyman, Johnson, Williams. Noes: None.

ORDINANCE #16118

MOTION by Council Member Williams, seconded by Council Member Johnson, to adopt a Consistency Statement as required by NCGS 160D-605 at 9:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton, Council Members Caballero, Freeman, Johnson, Williams. Noes: Council Member Holsey-Hyman.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2100048, Novel University Hill

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 Z2100048, Novel University Hill. 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 ‘Z2100048, Novel University Hill’ 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 'Z2100048, Novel University Hill' 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: PUBLIC HEARING ON AND APPROVAL OF THE HOME-AMERICAN RESCUE PLAN (ARP) ALLOCATION PLAN (ITEM 21/PR 16080)

Council Member Johnson presided over the next two agenda items, Item 21 and 22.

Colin Davis, Manager of the Department of Community Development's Homeless System, stated the purpose of this Public Hearing is to receive citizen comments regarding the proposed HOME-ARP Allocation Plan. HOME-ARP funds were appropriated in March 2021 by Congress to address the need for homelessness assistance and supportive services. Congress appropriated \$5 billion in ARP funds to be administered through the HOME Investment Partnerships Program (HOME) to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations.

The program described for the use of the \$5 billion in ARP funds is the HOME-American Rescue Plan or "HOME-ARP."

The City of Durham is eligible to receive \$4,346,151 of HOME-ARP funds after the HOME-ARP Allocation Plan is submitted and approved by the U.S. Department of Housing and Urban Development (HUD). One of the requirements is for a Public Hearing to be held to solicit comments on the Plan.

The Draft of the HOME-ARP Allocation Plan is available for public review February 23, 2023 through March 25, 2023 on the Community Development Department's webpage located on the City of Durham website. Notice of this meeting was properly advertised in the *Herald Sun* and *Que Pasa* Newspapers, distributed via the department's general Listserve, as well as posted on the Community Development Department's webpage and the City of Durham website.

The City Council is being asked to approve the final Draft of the HOME-ARP Allocation Plan tonight to ensure the Allocation Plan is submitted to HUD by March 31, 2023. In closing a summary of comments from this Public Hearing and written comments received from citizens will be included with the submission of the HOME-ARP Allocation Plan to the U.S. Department of Housing and Urban Development.

Council Member Johnson announced there were speakers in response to the Public Hearing on March 20, 2023 to receive citizen comments on the Draft HOME-ARP

Allocation Plan as it relates to the use and prioritization of \$4,346,151 of HOME-ARP funds.

The following persons spoke to the item:

Lorisa Seibel, Durham resident at 2410 Par Place, noted the funds would be used to build affordable housing in the future and encouraged Council to use of funds for eviction diversion for lowest income residents paying more than 50% of their income for rent.

James Svara, Durham resident, proposed to use ARP funds for excessively low-income renters with the guaranteed income approach; the renters would benefit with a check up to \$600/month to offset their rent expenditures. This approach would solve the issue with landlords by sending the funding directly to tenants. The amount of \$150,000 would support a non-profit organization to be responsible for administering the program and being capable of distributing the funds along with providing financial counseling. The Center for Home Ownership and Economic Development Corporation, a HUD approved counseling agency, was interested in managing the program and advising the recipients. The City and County were being requested to use a portion of the General ARPA funds for this guaranteed income program.

Council Member Johnson declared the public hearing closed and asked Council for their remarks.

Being no remarks, Council Member Johnson called for a vote.

MOTION by Council Member Williams, seconded by Council Member Freeman, to approve the Draft HOME-ARP Allocation Plan for submission to the U.S. Department of Housing and Urban Development (HUD);

To authorize the City Manager to execute all administrative requirements and contractual documents necessary for implementation of the HOME Investment Partnerships Program-American Rescue Plan (HOME-ARP) Allocation Plan to include all program agreements and related documents; and

To adopt the City of Durham/U.S. Department of Housing and Urban Development the HOME Investment Partnerships Program (HOME)-American Rescue Plan (ARP) Allocation Plan project ordinance in the amount of \$4,346,151 was adopted at 9:59 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton, Council Members Caballero, Freeman, Holsey-Hyman, Johnson, Williams. Noes: None.

ORDINANCE #16119

**SUBJECT: FY 2023-2024 ANNUAL ACTION PLAN “NEEDS” PUBLIC HEARING
(ITEM 22/ PR 16083)**

Council Member Johnson presided over the item and deferred to staff for presentation of the "Needs" Public Hearing for the FY 2023-2024 Annual Action Plan related to community development needs in Durham.

Terry Porter-Holmes, Assistant Director in the Community Development Department, made the staff report by stating the purpose of the Public Hearing was to receive citizen comments on community development needs in Durham neighborhoods as it related to the use and receipt of Community Development Block Grant (CDBG), Home Investment Partnerships Program (HOME), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA) funds. This Public Hearing is a requirement for the preparation and submission of the City's 2023-2024 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD).

Notice of this meeting was properly advertised in the *Herald Sun* and *Que Pasa* Newspapers, distributed via the department's general Listserve, as well as, posted on the Community Development Department's webpage and the City of Durham website. As a recipient of CDBG, HOME, ESG, and HOPWA funds, the City is required to hold at least two public hearings prior to the submission of its Annual Action Plan. The first meeting must be held early in the developmental stage of the Plan. The department anticipates the second public hearing will be held in April or May of 2023. In addition, the City is required to publish a copy of its Draft Annual Action Plan for citizen comments for at least 30 days prior to its submission. The City's Annual Action Plan must be submitted to HUD by May 15, 2023, or as applicable.

On February 27, 2023, HUD announced its FY 2023 Community Planning and Development Formula Program Allocations. The City expects to receive \$2,038,871 in CDBG, \$1,317,035 in HOME, \$182,563 in ESG, and \$1,066,328 in HOPWA funds.

In closing, a summary of comments from this Public Hearing and written comments received from citizens during the development of the Annual Action Plan will be incorporated into the final 2023-2024 Annual Action Plan.

Council Member Johnson opened the public hearing.

Being no speakers to the item, Council Member Johnson declared the public hearing closed.

Since the item was a public hearing only, no vote was taken.

[ADJOURNMENT]

Seeing no additional business to come before Council, Mayor O'Neal adjourned the meeting at 10:04 p.m.

Diana Schreiber, MPA, CMC
City Clerk