

**THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA**

Monday, January 28, 2002

7:00 P.M. Regular Session

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

Opening of Regular Session

Chairman Black called the meeting to order with the Pledge of Allegiance.

Agenda Adjustments

Chairman Black added an item regarding The Durham Center Area Board (following approval of the minutes).

County Attorney Chuck Kitchen added a budget ordinance amendment (consent agenda item No. 5[h]).

Vice-Chairman Reckhow and Commissioner Bowser added an item regarding I-85 and the Roxboro Road interchange (item No. 13).

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the December 3, 2001 Worksession Minutes of the Board as submitted.

The motion carried unanimously.

Set Meeting Date

Chairman Black stated that many mental health department issues are emerging because the State is changing the mental health system, which is a major item for all of North Carolina. The County Commissioners, The Durham Center Area Board, and staff need to meet to discuss and write the business plan. Many difficult issues must be addressed including budget issues and protecting the vulnerable people of Durham County who suffer from disabilities and/or mental illness.

County Attorney Chuck Kitchen said that the State has not prepared all the plans but Durham County can address what has been drawn up and determine where the gaps are.

A decision was made to hold the joint meeting on Monday, February 25, 2002 at 4:00 p.m. in the Commissions' Chambers (prior to the BOCC Regular Session beginning at 7:00 p.m.) The focus of the meeting will be public mental health, developmental disabilities, and substance abuse system reforms and their implications on the County, The Durham Center, consumers, and the community.

Chairman Black directed that staff write a letter as soon as possible to Mr. Harold Batiste, Chairman, The Durham Center Area Board, informing him of the joint meeting.

Chairman Black reported that The Durham Center Area Board made a decision to delay hiring an executive director but may do so subsequent to the joint meeting. An interim director will be appointed.

Recognition of Special Efforts of Durham County Departments during Snow Event

Various employees of Durham County were recognized for their extraordinary work during the January 3 snowstorm and in the days that followed. Over 300 employees left the comfort and safety of their own homes and families to provide critical services and much-needed assistance to Durham County residents.

County Manager's Recommendation: Receive the report and extend congratulations to all Durham County employees who performed beyond the call of duty during the snow event.

Consent Agenda

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the following consent agenda items:

- * (a) Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report);

- * (b) NCDOT Community Transportation Grant Approval Request (approve the resolution authorizing Durham County Cooperative Extension Center to submit the FY 2002-2003 Community Transportation Program Grant to the North Carolina Department of Transportation; Board of County Commissioners commit \$29,795 for inclusion in the County's FY 2002-2003 budget to meet local match requirements);
- * (c) Offer to Purchase County Property (0 Kenmore Road) (pursue the upset bid process at this time; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
- (d) Final Offer to Purchase County Property (0 Alben Street) (approve the offer of \$2,622.50 submitted by Mr. William McMillan and prepare a nonwarranty deed for the Chairman's signature; this action is consistent with the Board's policy of recovering the County's investment and returns the property to the tax rolls);
- (e) Application to the Public School Building Capital Fund—Durham Public Schools (the County Manager recommends approval of this project application to the Public School Building Capital Fund);
- * (f) Budget Amendment No. 02BCC000045—The Durham Center—to recognize additional state allocations (approve in the amount of \$393,644 as requested);
- (g) Appoint New Member to the Board of Equalization and Review (appoint Mr. Fred Stell to complete the term for Mr. Charles Smith on the 2001 Board of Equalization and Review); and
- * (h) Capital Projects Amendment No. 02CPA000011 (approve the amendment to transfer capital issuance costs [\$3,100] to the Judicial Building Annex Project Fund and close out the bond projects).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 5(a). Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of December 2001.

Releases & Refunds for 2001 Taxes:

Real	\$1,144,981.50
Personal	\$ 32,899.99
Registered Vehicles	\$ 48,326.01
Vehicle Fees	\$ 630.00
Solid Waste	\$ 900.00
Total for 2001 Taxes and Fees	\$1,227,737.50

Prior Years (1997-2000) releases and refunds for December 2001 are in the amount of \$9,392.37.

Total Current Year and Prior Year Releases and Refunds: \$1,237,129.87

Consent Agenda 5(b). NCDOT Community Transportation Grant Approval Request (approve the resolution authorizing Durham County Cooperative Extension Center to submit the FY 2002-2003 Community Transportation Program Grant to the North Carolina Department of Transportation; Board of County Commissioners commit \$29,795 for inclusion in the County's FY 2002-2003 budget to meet local match requirements).

The resolution follows:

RESOLUTION

Applicant Seeking Permission to Apply for CTP Funding,
Enter Into Agreement with the North Carolina Department of Transportation
and to Provide the Necessary Assurances

Whereas, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

Whereas, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

Whereas, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design,

service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

Whereas, Durham County Government hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relate to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.:

NOW, THEREFORE, BE IT RESOLVED that Chairman MaryAnn E. Black of the Durham County Board of Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

Consent Agenda 5(c). Offer to Purchase County Property (0 Kenmore Road) (pursue the upset bid process at this time; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in the City of Durham, Durham County, North Carolina and properly described as follows:

Parcel ID #301-03-008
PIN 0823-14-44-4614
0 Kenmore Road

WHEREAS, Mr. Brian Ruff has made an offer to the County to purchase the above property for \$2,925 and has made a bid deposit in the amount of \$147.00, which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;

4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on January 28, 2002.

/s/ Garry E. Umstead
Clerk, Board of Commissioners

Consent Agenda 5(f) Budget Amendment No. 02BCC000045—The Durham Center—to recognize additional state allocations (approve in the amount of \$393,644 as requested).

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000045

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Mental Health Department.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$275,843,411	\$393,644		\$276,237,055
<u>Revenues</u>				
Intergovernmental	\$230,269,425	\$393,644		\$230,663,069

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 28th day of January, 2002.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda 5(h). Capital Projects Amendment No. 02CPA000011 and Budget Ordinance Amendment No. 02BCC000046 (approve the amendment to transfer capital issuance costs [\$3,100] to the Judicial Building Annex Project Fund and close out the bond projects).

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Capital Projects Ordinance
Amendment No. 02CPA000011

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Judicial Building Annex.

JUDICIAL BUILDING

<u>ANNEX</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Judicial Building Annex</u>	\$2,608,605	\$3,100		\$2,611,705

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 28th day of January, 2002.

(Capital Projects Ordinance Amendment recorded in Ordinance Book _____, page _____.)

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000046

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Debt Service Fund and Enterprise Debt Service Fund.

DEBT SERVICE FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Nondepartmental	\$25,797,868	\$2,460		\$25,800,328

Revenues

Other Revenues	\$25,797,868	\$2,460	\$25,800,328
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ENTERPRISE DEBT SERVICE FUND

Expenditures

Nondepartmental	\$ 979,522	\$ 640	\$ 980,162
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Revenues

Other Revenues	\$ 979,522	\$ 640	\$ 980,162
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 28th day of January, 2002.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Public Hearing on Occupancy Tax

The public hearing was held on the imposition of an additional one-percent occupancy tax. The public hearing was advertised as required by law. The Resolution would impose the additional tax. In addition, the other two occupancy taxes (two percent and three percent) must be reenacted along with the additional one-percent tax. This additional tax, along with the original occupancy taxes, would be effective March 1, 2002.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Hold the public hearing and pass the resolution if the Board decides to impose the additional one-percent occupancy tax.

County Attorney Chuck Kitchen provided an overview of the enabling legislation which would allow the County to levy an additional one-percent on the hotel/motel occupancy tax.

Laura S. Gill, Acting Property and Facilities Management Director, City of Durham, presented different growth rate scenarios and the effect on the revenue projections, which were prepared with the assistance of the Durham Convention and Visitors Bureau.

Chairman Black opened the public hearing that was properly advertised.

The following citizens spoke in favor of the one-percent occupancy tax:

Barker French, 1005 Monmouth Avenue, Durham, 27701 represented the Durham Arts Council.

Evonne Coleman, 2710 Wedgedale Avenue, Durham, 27703 spoke on behalf of the Durham Convention and Visitors Bureau Board of Directors.

Bill Kalkhof, 39 Westridge Drive, Durham, 27713 represented Downtown Durham Inc.

As no one else asked to speak at the public hearing, Chairman Black closed the hearing and referred the item to the Commissioners for consideration.

Commissioner Bowser expressed concern that construction of the Performing Arts Theatre by the City of Durham may cause a potential tax increase for Durham citizens to help pay for the debt service that will incur. He decided to vote for this increase with reluctance.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to pass the resolution to impose the additional one-percent occupancy tax.

The motion carried unanimously.

The resolution follows:

RESOLUTION LEVYING ROOM OCCUPANCY TAX IN DURHAM COUNTY

Whereas, the Board of County Commissioners of Durham County did, by resolution adopted on July 28, 1986, levy a room occupancy tax in Durham County pursuant to the authority granted by Chapter 969 Session Laws of North Carolina; and

Whereas, the Board of County Commissioners of Durham County did, by resolution adopted on August 12, 1991, increase the total room occupancy tax in Durham County from three percent (3%) to five percent (5%) and otherwise altered the method of distribution of the revenue so collected, pursuant to the authority granted by Chapter 665 Session Laws of North Carolina; and

Whereas, the General Assembly on December 5, 2001, enacted Chapter 480 Session Laws of North Carolina, which amended section 3 of Chapter 969 of the 1985 Session Laws, repealed Chapter 665 of the 1991 Session Laws, consolidated Durham County's occupancy tax provisions and authorized the Board of County Commissioners of Durham County to levy an additional one percent (1%) room occupancy tax; and

Whereas, it is the intent of Session Laws 2001-480 and this Resolution that the room occupancy taxes levied by the Board of Commissioners of Durham County on July 28, 1986 and August 12, 1991 (the current three percent (3%) and the current additional two

percent (2%) occupancy taxes) shall continue without interruption until March 1, 2002, so that all rights and liabilities that have accrued are preserved and may be enforced; and

Whereas, the Board of County Commissioners has determined that it is reasonable and necessary to adopt, levy, and implement an increase in the amount of the room occupancy tax within Durham County from the existing five percent (5%) to six percent (6%) pursuant to Session Laws 2001-480; and

Whereas, a Public Hearing on the question of increasing the tax was scheduled for January 28, 2002, notice of which was properly given as required through advertisement in the Durham Herald-Sun; and

Whereas, the Public Hearing as scheduled and noticed has been held and concluded:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH RESOLVE:

- Section 1. Three Percent (3%) Tax. There is hereby levied a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. § 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.
- Section 2. Additional Two Percent (2%) Tax. In addition to the tax levied under section 1 above, there hereby is levied a room occupancy tax of two percent (2%) of the gross receipts derived from the rental of accommodations taxable under section 1, above.
- Section 3. Additional One Percent (1%) Tax. Pursuant to the authority granted by Session Laws 2001-480, and in addition to the taxes levied under sections 1 and 2 above, there is hereby levied a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. § 105-164.4(a)(3).
- Section 4. The use of proceeds from the room occupancy taxes levied herein shall be in accordance with the provisions of Session Laws 2001-480. The collection and administration of the occupancy taxes shall be in accordance with the provisions of G.S. § 153A-155.

Section 5. The room occupancy taxes levied herein, shall become effective March 1, 2002.

Public Hearing—Mark Galifianakis, Applicant (Rezoning Case P01-38)

The Board of County Commissioners was presented with a request to rezone 135.8 acres north of Chin Page Road, east of Silicon Drive (no public street frontage), PIN 0748-04-94-2121 (Tax Map 581, Block 2, Lot 21).

Request: RD (Rural District) to I-2 (Light Industrial District). The proposal is in general conformance with the small area plan. Light Industrial District provides for a wide range of light manufacturing, warehousing, and wholesaling activities as well as offices and some support services. Standards of this district are designed to minimize impacts on the environment and to assure compatibility with the surrounding area. It is the intent of this district to offer sites for those industries whose operations, exposure, location, or traffic have minimal impact on adjacent properties. Some permitted uses are: hospitals, kennels, clinics, warehouses, night clubs, storage freight terminals, labs, industries, offices, transportation terminals, transmission towers, hotels, and recycling centers.

The request is to rezone the site from RD to I-2 without a Development Plan. Access to a public or private street must be obtained. According to the draft road plan for the area, eventually the site will have access possibly on the north and the east, and the developer may be required to construct some portion of these streets.

While the zone proposed is consistent with the Triangle Township Plan and is the same zone that nearly surrounds the site, the environmental, access, and street plan issues make it difficult to support this proposal without a Development Plan. While most issues may be addressed through the approval of the site plan, without a Development Plan for the entire site, there is no assurance that coordinated development will occur.

Traffic impact will depend on the types of uses and the intensity of development that occurs at the site in the future. Without a Development Plan, no estimate of traffic can be made.

An apparent problem is that this parcel has only an access easement, and the width of the easement is inadequate for the type of street that will be required to access development on a parcel of this size. Street access will need to be resolved before development can occur.

The Wake-Durham Collector Street Plan is a road plan for the area east of Research Triangle Park. It has been prepared over the past several months by the Durham-Wake Work Group made up of Raleigh and Durham City Council members and Wake and Durham County Commissioners, with the assistance of Transportation staff. This is a plan for a network of collector streets and for Briar Creek Parkway that will probably be added to the Thoroughfare Plan. Raleigh City Council has adopted the plan and the

Durham Transportation Advisory Council (TAC) has endorsed it. Durham City Council and County Commissioners are expected to review and take action on this plan in the future.

This plan shows the proposed Briar Creek Parkway extending along a portion of the northern boundary and another proposed street running along the eastern boundary of the rezoning site. These proposed streets would provide this site with needed public street access, and the developer will almost certainly be required to construct some portion. Mainly developers will build these roads as development occurs in the area.

Public street access and addressing these street plans are issues that need to be addressed by a Development Plan.

Staff recommended denial based on the need for a Development Plan that addresses access, the draft road plan for the area, environmental issues related to the stream crossing the property, and integrated rather than piecemeal development of this large parcel.

The Zoning Committee of the Durham Planning Commission conducted a public hearing on December 11, 2001 and voted 7-0 to recommend denial.

The public hearing for this request was advertised on January 11 and January 18, 2002 in the Durham Herald-Sun.

Resource Person(s): Nazeeh Abdul-Hakeem, Acting Planning Supervisor; Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and deny the rezoning application, if appropriate, based upon public comment.

Chairman Black opened the public hearing that was properly advertised.

Mark Galifianakis, real estate broker representing the property owners, addressed the following issues presented by staff as reasons for denial: access, integrated development of the area, road plan, and environmental issues.

The following property owners spoke in support of the rezoning:

Doris Ferrell Pelezo, 3526 Clearwater Drive, Fayetteville, NC 28311

Mildred Ferrell, 7501 Fairlawn Drive, Apt. 104, Raleigh NC

Edna Earl Ferrell, 3415 Barron Berkley Way, Raleigh, NC

Amy Bonifield, attorney, Nick Galifianakis and Assoc., 301 W. Main, Ste. 200, Durham, NC 27701, reviewed the case from a legal perspective and discussed the equal protection law.

As no one else asked to speak at the public hearing, Chairman Black closed the hearing and referred the item to the Commissioners for consideration.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow and Commissioner Cousin, to approve Rezoning Case P01-38.

The motion carried unanimously.

(Legal description recorded in Ordinance Book _____, page _____.)

Public Hearing—RDSK, LLC, Applicant (Rezoning Case P01-44)

RDSK, LLC presented to the Board of County Commissioners a request to rezone 57.64 acres on the south side of the intersection of NC 98 and Sherron Road; 16 parcels identified as: 0860-01-19-0146, 0860-01-19-5874, 0860-01-19-0955, 0860-01-09-5743, 0860-01-09-4512, 0861-03-10-6292, 0861-03-10-5204, 0861-03-10-6119, 0861-03-10-0086, 0861-03-00-8412, 0861-03-00-9256, 0861-03-00-8100, and 0861-03-10-3321 (partial), 0861-03-19-6550 (partial), 0861-03-10-2245 (partial); 0861-03-00-3231 (partial); corresponding to Tax Map 665 Block 1, Lots 3 (partial), 6 through 9, 11 (partial), 14 (partial), 16, 17 & 18; and Block 2, Lots 38, 39, 40, 41 51, (partial), & 70.

Request: RD, R-20 & NC to NC, NC(D), SC(D), GC(D) & R-10, F/J-B. The proposal is in general conformance with the small area plan and 2020 Plan. However, it adds commercial in locations not supported by the small area plan.

The shopping center, which will be located behind an existing convenience store and a single-family house, will have one access from each road and two pedestrian connections to the proposed residential subdivision. It will consist mainly of a grocery store (which can be expanded in the future), space for small shops, and five outparcels for drive-through restaurants and other retail. A driveway connection is provided to adjacent residential property fronting on Sherron Road, which is designated for commercial use in the small area plan.

The proposed single-family subdivision is adjacent large lot rural development. Access will be from Sherron Road and a road stub out to Hillview Drive, which is an unopened street in the Shaw Hills Subdivision. Eventually, the proposed subdivision will provide direct access to Sherron Road for residents of Shaw Hills. Proposed lots abutting existing development along Sherron Road are up to twice the minimum size to be more compatible. A large open space and tree-save area will buffer the new subdivision from adjacent development to the north along NC 98.

The portion of the project west of Sherron Road contains the GC(D) and the NC(D) districts. In the GC district, which is at the corner of the intersection and along NC 98, a 14,500-square-foot drug store with a drive-through is proposed. The NC(D) district runs south of the GC district along Sherron Road and will have two buildings—one with 15,400 square feet of retail and the other with 7,200 square feet of office. The office building will be at the southern end of the site and a road stub out to adjacent property will separate the office and retail uses. The amount of space proposed in this part of the project exceeds the 30,000-square-foot limit permitted in NC. Thus, a combination of GC and NC is proposed with GC along NC 98, across the road from an existing GC district. NC along Sherron Road would be more compatible with an existing NC district across the road and adjacent residential uses.

In general, commercial use and a neighborhood shopping center in this location are supported by the small area plan. However, the proposed project has too much commercial along Sherron Road and the plan calls for the drug store and grocery store to be on the same quadrant of the intersection. In addition, the plan proposes high-density residential adjacent to the commercial, instead of low density proposed in the project. Some points to consider are:

- The small area plan supports commercial and a neighborhood shopping center at this location, but does not support a grocery store and drug store on different corners of the intersection.
- The small area plan supports high-density residential, but low-density residential on the southern part of the site is more compatible with existing residential uses.
- The project will make significant roadway improvements that will promote better traffic conditions at the intersection and in the general area.
- The project has no functional and physical connects to existing commercial, but proposes a driveway connection to adjacent property for future commercial use.

Staff does not support the added commercial and therefore, recommended denial. Staff supports a better design and layout of the shopping center that incorporates the freestanding drug store as called for in the small area plan. By incorporating the freestanding drug store, smaller uses on outparcels can be moved to the drugstore location and NC zoning can be used instead of GC, which provides for a larger range of higher-impact commercial uses. The residential area should contain some high density with large buffers and another access point to Sherron Road.

The Zoning Committee of the Durham Planning Commission conducted a public hearing on November 13, 2001 and voted 7-0 to recommend denial. The plan amendment supports the land uses proposed in the rezoning request.

The public hearing for this request was advertised on January 11 and 18, 2002 in the Durham Herald-Sun.

Resource Person(s): Nazeeh Abdul-Hakeem, Acting Planning Supervisor, and Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing, receive public comment and, if appropriate, deny the rezoning request. The Planning Commission voted to deny approval 7 to 0.

Commissioner Heron had problems with the staff report saying that high density residential is proposed adjacent to commercial instead of low density. She also had a problem with the amount of commercial which straddles Sherron Road. The plan could be much better; however, she wished to see the development take place.

Vice-Chairman Reckhow asked if the residential area would be mass graded.

Mr. Abdul-Hakeem responded that the applicant did not indicate mass grading of the residential area. It was limited to the commercial development.

Vice-Chairman Reckhow said the required tree survey showed an area with a number of large oaks. Would the trees be preserved? She also commented that the Open Space and Trails Commission had recommendations for sidewalks. Vice-Chairman Reckhow could not tell from the plan if sidewalks are shown on all the streets.

Mr. Abdul-Hakeem replied that sidewalks are shown along the residential streets on one side and are required along the thoroughfares.

Vice-Chairman Reckhow was concerned about pedestrian connections to the open space and wondered about putting those connections between Lots 71 and 72 and then near Lots 27 and 28 so a trail/loop could go through the natural area and around the detention pond. Why is the zoning of GC(D) needed for the outparcel where the drugstore is supposed to go? Why not NC(D) zoning? She was concerned about the shopping center plan; it doesn't seem that well organized. She wondered why there are so many drive-up restaurants, especially the one that is very near the residential section. She asked if staff had concerns about the organization of the site plan and how the retail is laid out. She wanted to know about the preservation of the trees in the residential area and wanted a commitment from the applicant that the trees would not be wiped out.

Mr. Abdul-Hakeem said the area must be zoned GC(D) because the applicant is proposing a higher number of square feet than is allowed in NC(D).

Vice-Chairman Reckhow commented that when the zoning ordinance is updated, increasing the square footage in NC(D) should be considered.

Ronald Horvath, 16 Consultant Place, Suite 201, Durham 27707, developer addressed the issues presented by the Commissioners concerning this rezoning. Concerning tree preservation, he informed that the lots will be cleared just enough to get the street and

infrastructure in; the lots will be individually graded. He promised to bring the site plan back to the Board which will show the tree plan and which ones are being preserved. The annexation will be done after site plan approval. The buildings are not all drive-up restaurants. The one building next to the residential on the corner is anticipated to be a bank—more of an office-type facility. If not now, in the future the area on the west side of Sherron Rd. will be rezoned commercial. The commercial zone has been limited to the driveway that leads in to the residential development. The other building below it is office. The purpose of it being situated as such is that there is a single-family lot just south of that point. We are trying to transition from neighborhood commercial, down to office, down to single-family residential. Only two drive-up restaurants are being shown on the northeast corner of the site. It's not as much building as it appears. We are trying to give a sense of continuity to the southwest and southeast quadrant. That's why we are showing development on both sides. In addition, we probably have one million dollars worth of off-site improvements—between the road, water line, and sewer line. We decided to bring a collective, unified design. We do not see this development as an impact on schools; we may add two or three students to the entire school system. We worked with the neighbors very hard on this request by meeting with 100 to 150 people on four different occasions, and we have about a 90 percent support from the neighborhood.

Chairman Black opened the public hearing that was properly advertised.

Anna M. Eakes, 5218 Wake Forest Hwy., Durham, was opposed to the rezoning.

The following citizens spoke in support of the rezoning request:

Hugh Schrowang, 514 N. Waters Edge Drive, Durham, NC 27703

Sue Harris, 245 Bandoek Dr., Durham, NC 27703

Ray Corns, 241 Bandoek Drive, Durham, NC 27703

Robert Larson, 513 N. Waters Edge Drive, Durham, NC 27703

George Ray Jr., 512 Wake Forest Hwy., Durham, NC 27703

Bill Patrick, 427 Olive Branch Road, Durham, NC 27703

As no one else asked to speak at the public hearing, Chairman Black closed the hearing and referred the item to the Commissioners for consideration.

Vice-Chairman Reckhow suggested that in the future the Planning Department amend the school charts to show the capacity to be created with passage of the bond referendum. An addition to Oak Grove was approved with the bond which will cause an increased capacity at the school. The Planning Department should get the school additions from the school system, determine the increased capacity, and add those numbers to their charts. Then the Board will have up-to-date information.

Vice-Chairman Reckhow was impressed by the homework done by the developer and the amount of community support. She asked that Mr. Horvath follow up on his commitment

to bring the site plan back and preserve as many trees as possible in the residential portion.

Several Commissioners felt that more commercial uses were needed including a large grocery store to support the growing residential population in that part of the county.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that the rezoning request be approved with a note that a pedestrian trail (bark type, mulch trail) will be made available through the open spaces.

The motion carried unanimously.

(Legal description recorded in Ordinance Book _____, page _____.)

Public Hearing on the Community Development Block Grant—2002 Scattered Site Housing

At the November 5, 2001 Worksession, staff informed the Board of an opportunity for Durham County to apply for \$400,000 in grant funds for the purpose of rehabilitating low-income housing through the 2002 Scattered Site Housing Program. The primary objective of the Community Development Block Grant Scattered Site Housing Program is to improve the housing conditions of very low-income households with incomes at or below 50 percent of area median income. Eligible counties receive these funds every three years on a noncompetitive basis. The funds can only be used in the unincorporated areas of the County. As lead agents, counties will receive funds by submitting a detailed plan describing how funds will be distributed to meet housing priorities. The application deadline for receiving funds from the State Department of Commerce—Division of Community Assistance is February 28, 2002. The Commissioners instructed staff to move forward in the application process at the November 5, 2001 Worksession.

A Request for Proposals was published in the newspapers on Sunday, December 9, 2001. Proposals were solicited until January 10, 2002 for the purpose of hiring a consulting firm to administer the Scattered Site Housing Program. Two proposals were received. The Board is requested in an associated agenda action to award a contract for consulting services. Under the North Carolina Community Development Block Grant Program Regulations, two public hearings must be held to comply with the Citizen Participation requirements.

Staff was requesting that this first public hearing be held for the purpose of receiving citizen comments on the County's intentions of receiving these grants and awarding a contract to one of the consulting firms for purpose of administering the Scattered Site Housing Program in Durham County.

Resource Person(s): Wendell M. Davis, Deputy County Manager

County Manager's Recommendation: The Manager recommends that the Board hold the first of two public hearings on the 2002 CDBG Scattered Site Housing Program, receive public comment, and hold the second public hearing at the February 11 Board meeting.

Vice-Chairman Reckhow opened the public hearing that was properly advertised.

As no one signed to speak at this public hearing, Vice-Chairman Reckhow closed the public hearing and referred the item back to the Commissioners.

The second public hearing will be held at the Commissioners' next Regular Session on Monday, February 11, 2002.

Awarding of Consulting Contract for the Preparation of the Application for the CDBG—2002 Scattered Site Housing Program

The Board was requested to award a contract to Benchmark LLC for consulting services for the preparation of the County's 2002 Community Development Block Grant Scattered Site Housing Program. A Request for Proposals was published in the newspapers on Sunday, December 9, 2001, and proposals were solicited through January 10, 2002 for the purpose of hiring a consulting firm to prepare the application and administer the program. The County received proposals from Holland Consulting Planners Inc. with a bid of \$53,310 and from Benchmark LLC with a bid amount of \$49,937. The State Division of Community Assistance allocates \$3,500 for the preparation of the application. Benchmark agreed not to charge the County \$3,500 for preparing the Scattered Site Housing Program application.

During the November 5, 2001 Worksession, staff informed the Board of the availability of \$400,000 in grant funds for the purpose of rehabilitating low-income housing from the Department of Commerce—Division of Community Assistance. The primary objective of the Community Development Block Grant Scattered Site Housing Program is to improve the housing conditions of very low-income households with incomes at or below 50 percent of area median income.

Eligible counties receive these funds every three years on a noncompetitive basis. The funds can only be used in the unincorporated areas of the County. As lead agent, the County will receive the funds by submitting a detailed plan describing how the funds will be distributed to meet housing priorities. The application deadline for receiving funds from the State Department of Commerce—Division of Community Assistance is February 28, 2002. Once the contract is awarded, the consulting firm of Benchmark LLC will be responsible for preparing the County's application for the funds as well as the administration of the program.

Resource Person(s): Wendell M. Davis, Deputy County Manager
Heidi Duer, Assistant to the County Manager
Glen Whisler, County Engineer
Delphine Powell, Compliance Officer
Yolanda Moore-Gaddy, MWBE Coordinator
Karen Wimbush, Purchasing Director

County Manager's Recommendation: The Manager's recommendation is that the Board award a contract to Benchmark LLC for purposes of preparing the application and later administering the 2002 Community Development Block Grant Scattered Site Housing Program. Once the application is complete, the state is scheduled to award grants by June 2002. At this time, the County will award the administrative portion of the contract to Benchmark LLC.

Commissioner Heron asked that this program be monitored very closely.

Commissioner Cousin moved, seconded by Vice-Chairman Reckhow, approval of this agenda item.

The motion carried unanimously.

Durham County Tax Department Extended Hours

The Tax Department proposed a four-day workweek for the staff and extended office hours. The Department proposes to begin on February 4, 2002, opening one hour earlier and remaining open one hour later each day. The new office hours would be 7:30 a.m. to 6:00 p.m. 5 days per week.

By extending the hours, the department would allow the general public additional time to take care of tax-related business. Attorneys, real estate agents, appraisers, and other professionals would also have additional hours to access the office and obtain information. And, with staff going to a four-day workweek, the department is assisting in the compliance of the travel reduction plan. The staff will be traveling at non-peak times and one less day per week.

The proposed schedule follows:

Group A
Group B
Group C

Off Monday
Works
Tuesday
8:30 AM – 5:00 PM
Wednesday - Friday

7:30 AM – 6:30 PM
Off Friday
Works
Thursday
8:30 AM – 5:00 PM
Monday-Wednesday
7:30 AM – 6:30 PM

Works Monday – Friday
8:30 AM – 5:00 PM

Groups A & B will alternate Mondays and Fridays allowing them to have a four-day weekend every other weekend. All groups will continue to work 37.5 hours per week. This proposed schedule would also allow staff the opportunity to cross-train in different areas of the office.

Resource Person(s): W. Steven Crysel, Tax Administrator

County Manager's Recommendation: The Manager's recommendation is that the Tax Department be allowed to extend its office hours and to allow some staff members to change to a four-day workweek.

Vice-Chairman Reckhow commended the Tax Department for this excellent proposal which allows the Tax Office to be open earlier in the morning and later in the day to afford the citizens more customer hours. Also, travel on the roads will be reduced, especially during peak hours, which is positive for the Transportation Demand Management plan. Vice-Chairman Reckhow asked that this four-day workweek be monitored and considered for other appropriate departments, if successful. She recommended that staff publicize the Tax Department's schedule to inform Durham County citizens of the extended hours.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve that the Tax Department extend its office hours and allow 23 staff members to change to a four-day workweek.

The motion carried unanimously.

I-85 and Roxboro Road Interchange

Vice-Chairman Reckhow recommended that County Manager Ruffin be directed to draft a letter for Chairman Black's signature to the secretary of the NC Department of Transportation expressing concern about widening Roxboro Road south of I-85 and its impact on the Duke Park neighborhood and vegetation in the Duke Park area.

Commissioner Bowser and Vice-Chairman Reckhow added that Ty Cox (Division Five representative on the State Board of Transportation), John Nance (Division Engineer, North Carolina Department of Transportation), and the City Transportation Department should be sent a copy of the letter.

Commissioner Bowser informed the Board that several City Council members would meet with the secretary of the NC Department of Transportation to discuss concerns raised over the widening of Roxboro Road. He suggested that the Board of County Commissioners send a representative to this meeting.

Chairman Black asked County Manager Ruffin to contact the City to determine the meeting date and time and to inform the Commissioners.

March 4 Worksession Rescheduled

Several Board members were to be out of town on March 4, 2002; therefore, the Worksession was rescheduled to March 6, 2002.

Excused Absence

Chairman Black requested that she be excused from the February 4, 2002 Worksession and asked that Vice-Chairman Reckhow serve as Chairman of the Board in her absence.

Adjournment

Chairman Black adjourned the meeting.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board