

**DURHAM, NORTH CAROLINA
MONDAY, JANUARY 31, 2005
7:00 P.M.**

The Durham City Council and the Durham County Board of Commissioners held a joint meeting on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Durham County Board of Commissioners in attendance: Chair Reckhow, Vice Chair Heron and Commissioners Cheek, Cousin and Page. Absent: None.

Also in attendance: City Manager Patrick Baker; Assistant City Attorney Karen Sindelar; County Attorney Chuck Kitchen; City/County Planning Director Frank Duke; City Clerk D. Ann Gray and Deputy City Clerk Linda E. Bratcher.

SUBJECT: DURHAM COMPREHENSIVE PLAN – FINAL DRAFT

To hold a public hearing to receive citizens' comments on the Durham Comprehensive Plan – Final Draft; and

To adopt a resolution approving the Durham Comprehensive Plan.

Mayor Bell called the joint meeting to order.

Mayor Bell and Chair Reckhow thanked the Comprehensive Plan Steering Committee; the Durham Planning Commission and the Joint City/County Planning Committee for their work on the proposed Comprehensive Plan.

City/County Planning Director Frank Duke made comments on the process for the plan.

Ron Gregory, Chair for the Steering Committee, stated they developed the first draft of the Durham Comprehensive Plan, recommended that the City Council and Board of Commissioners adopt the plan.

Senior Planner Keith Luck provided an overview [powerpoint presentation] highlighting the contents of the Durham Comprehensive Plan.

Mayor Bell opened the public hearing. He stated individuals will be given two minutes to speak.

Deborah Giles, representing the Durham Planning Commission, asked that the Durham Comprehensive Plan be approved with modifications as follows:

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Item 5: Chapter 1 – Administrative. Clarify that in the event of a conflict between the Future Land Use Maps and Written Policies, the Written policies should take precedence over maps.

Item 7: No change in the current UGA boundary during adoption of the Comp. Plan until a careful review of each of the changes to the UGA boundary is made by the appropriate elected body in a separate process.

Item 11: 2.2.3f, Suburban Transit Support Areas. Language regarding the Compact Neighborhood Tier and Suburban Transit Support Areas seem confusing and should be resolved by combining them into a “Transit Support Area.”

Item 14: Through the UDO, encroachment by multi-family housing into single-family neighborhoods in the Urban Tier should be prevented. RU-5 seems to have more protection than RU-3.

Item 19: 7.1.2, Water Quality. Use the 30 year storm for sedimentation and erosion control standards.

Item 21: 7.16a, The Inventory. Include a map of the Durham County Inventory of Important Natural Areas.

Item 24: 8.1.2d, Transportation Facilities Plan. Include trails in the Transportation Facilities Plan.

Item 26: 8.1.4, Bicycle and Pedestrian Transportation. Require all development, site and subdivision plans to include a designated pedestrian, bicycle and trail system.

Item 28: 8.16f, External Connectivity. Discourage connectivity through and between residential communities unless standards of public safety and/or service cannot be met without such connection.

Item 30: 9.2.2, Wastewater Collection. Discourage the use of sewer pump stations.

Item 32: 9.4.4, Stormwater From New Development. Use a standard based on the 30 year storm for stormwater from new development.

Item 37: Include a map of the Parks & Recreation Master Plan (envisioned as more comprehensive than the map now included).

Item 38: 11.1, Adequacy of School Facilities. Provide density credits for large developments who dedicate school sites where the need exists.

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Item 41: Chapter 14, Libraries. Provide density credits for dedicated library sites where the needs exists.

Item 43: Provide an additional appendix listing all studies included in the Durham Comprehensive Plan that will require funding at any point in the future.

Vice Chair Heron raised a question concerning Item 19: Water Quality (Use the 30 year storm for sedimentation and erosion control standards).

City/County Planning Director Frank Duke noted this item was not a problem by the Planning Department it was a problem with the County's Sedimentation and Erosion Department. He stated sedimentation erosion control is a delegated responsibility from the state and the current ordinance meets the state standards and modifying would mean that the S&E provisions would have to be revised as they review the UDO which would be a significant delay. The staff is recommending that this issue remain as it is now which reflects the standards of the County's S&E division.

Vice Chair Heron recommended that this issue be reviewed at a later time.

Bob Jentsch, a member of the Planning Commission, asked the governing bodies to be cautious and aware of the possible outcome of adopting (as written) the following three policies in the final draft of the Durham Comprehensive Plan.

Page 1-6 Policy 1.1.2a. Responsibility. The Director of the City-County Planning Department shall be responsible for interpreting the provisions of the Durham Comprehensive Plan.

Page 2-3 Policy 2.2.1a. Future Land Use Map. Use the Future Land Use Map of the Durham Comprehensive Plan to guide the location and character of development.

Page 2-3 and 4 Policy 2.2.2a. Residential Densities. Through the UDO, establish and maintain densities of Residential development consistent with Table2-1, Summary of Residential Densities.

David Neill, representing Regency Plaza Shopping Center, noted the proposed Comprehensive Plan currently does not envision the Regency Plaza site as a transit-focused, mixed use residential opportunity. He requested the Suburban Transit area be enlarged to encompass the entire parcel.

Nick Tennyson, representing the Home Builders Association for Durham & Orange Counties, asked that governing bodies 1) Please read the appendices. There is a section that helps make clear just how much planning we have done. You will adopt 17 plans by reference and you should at least know what they are. You will repeal

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17 plans. When you consider future planning issues, you should be aware of which plans are being replaced. 2) Some will ask you to make decisions on parts of the city and county based on their neighborhood's current uses and status. You do not have that luxury. You must plan for the future of this urbanized area and evaluate whether you mean it when you what to have housing near employment, development at the greatest distance from watersheds, and a mix of higher priced housing to help the community accommodate the fullest range of residents possible. 3) The people who have worked on this plan have been diligent and they are invested in their work as anyone who has labored for two years must be. You need to consider strongly the recommendation of the advisory panels which have generated the draft document, but you do not need to consider the case closed. Those whose property is most directly and drastically affected by the adoption of this plan deserve a fully, impartial hearing.

Jim Anderson, representing Crossland Planning, noted how the proposed plan affected their option on land along Erwin Road. He stated the plan shows the land as open space and does not reflect all of the potential uses for the land. He made comments on keeping half of the 42 acres open space and still provide for a greenway connection through the land to the future New Hope Greenway. He noted these items have been volunteered and recorded on their siteplan. He stated they were not requesting an official change this evening only that the comprehensive plan is not in complete agreement with current zoning and approved siteplan on the property.

Jim Keith, a resident of Andrews Chapel Road, made comments on his property being ruled high density which is located near Brier Creek. He noted part of his property was located in Durham and Wake Counties totaling 78 acres. Mr. Keith noted everything was high density except one parcel which is 20 acres and low density. He spoke in support of the 20 acres being high density.

Michael Palmer, representing Duke University Community Relations, stated Duke would like to avoid confusion by having its non-campus lands identified by a new category other than the current general open space category. (Campus property is already labeled institutional). There should be an indication what Duke owns is private property, whether it be designated as Duke private institutional/green space or some other new category. If necessary, we could distinguish between Duke Forest land and other Duke non-campus lands. We want to avoid labeling as "Duke Forest" land owned by Duke but not classified as "Duke Forest;" for example, the New Hope Creek tract under contract to Crossland always has been officially designated by Duke since 1988 to be "surplus endowment land" and not part of Duke Forest. Examples of other property which might fall in this new category is the N. C. State Forest in northern Durham.

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Cathy Shepherd, a resident at 3804 W. Cornwallis Road, spoke on behalf of those in the Arrowhead Neighborhood who oppose being added to the rural tier. Ms. Shepherd provided ten reasons to vote no on the tiering of Arrowhead as follows:

- 1. No area in Durham within the UGA has ever been removed from it.**
- 2. Though technically the Comp Plan Steering Committee was given jurisdiction over the UGA, there was never any intention to remove Arrowhead as part of a Smart Growth Policy. A group of people lobbied for it.**
- 3. The Planning Commissions by a vote of 13-0 opposed the rural tiering based on the fact that rural tiering Arrowhead was too significant a change to be ratified without a public hearing.**
- 4. This area has been developed as R-20 for its entire history.**
- 5. There are two developments moving in Arrowhead now which will not be affected by a rural tiering. They are vested at R-20. Therefore, this would be differential treatment of property owners within the same neighborhood.**
- 6. It will devalue people's property.**
- 7. Most people in the neighborhood don't understand the Comp Plan, the UDO, or the ramifications to their property of rural tiering.**
- 8. It's unethical to use the tier to control other people's assets. If Arrowhead is rural tiered, it will have the same effect as if the elected officials had given the savings accounts of one group of neighbors to another.**
- 9. The fact that the neighborhood still has farmland is because there are landowners who care about conserving. If this area is rural tiered against their will, it will send a red flag to other conservers and potential conservers to start selling now before their neighbors, with the help of their elected officials disenfranchise them.**
- 10. There has been no legal notification of a change that in many ways has a much more drastic effect on people's property than a rezoning.**

Ms. Shepherd asked support for the true conservationists in Arrowhead and a vote of no to the rural tier.

Mark Waller, a resident of Kerley Road, opposed the rural tier for Arrowhead as proposed in the comprehensive plan.

John Chin, a resident of Farrington Road, expressed concern with lack of notification on the process, made comments on the proposed TTA station located in low medium density and only 35% is high density. Mr. Chin asked that this be revised in order to have more people walking to the station rather than using cars.

Rosemary Waldorf, representing Bryan Properties, requested that the new Land Use Map for Durham reflect a change in location of a commercial node in Treyburn. She stated the current Land Use Map designates a commercial node at

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the intersection of Saw Mill Creek Parkway and Vintage Hill Parkway. She requested that the new land Use Map designate this area as residential, and that the commercial node be relocated to the northwest corner of the intersection of Saw Mill Creek Parkway and Snow Hill Road.

Patrick Byker, representing ALMO Properties who owns property on the east side of Page Road, slightly north of Chin Page Road and KHTS, LLC who owns property on the northeast corner of Guess Road/Latta Road intersection, Mr. Byker stated ALMO is requesting a change from medium density residential, 6-12 units per acre, down to the low-medium density residential designation (4 – 8 units per acre). He noted they are asking for a reduction in density because their client wishes to compete with Brier Creek. He noted Brier Creek has a density of only 2.5 units per acre. He noted the reasons for supporting this change from medium density to low-medium. Mr. Byker noted KHTS, LLC has assembled six parcels on the northeast corner of Guess Road/Latta Road intersection, and four of these parcels are shown on the future Land Use Map in the Lebanon Township Small Area Plan as a “Neighborhood Service Area”. Considering these six parcels as a whole would allow for this area to develop in a well thought out manner, instead of in a piecemeal, hodge-podge manner, parcel by parcel with no continuity. He noted the site is located within the city’s UGA and it makes sense to strategically place commercial uses, such as sit-down restaurants and a grocery store, in this overwhelmingly residential area to reduce traffic burdens and protect the environment. Construction on Guess Road was recently completed and use of our client’s site as a neighborhood shopping area will reduce area traffic that must presently drive down Guess Road to get to Horton Road or use neighborhood streets to access other commercial areas. Last, residential development right on the corner of 5 lane Guess Road makes little sense, and so we ask that you all consider slightly expanding the commercial designation in the comprehensive plan to include these few parcels north of Latta and east of Guess Road.

Attorney Craig Sanders, representing Triple Crown Farms who owns property south of Neal Middle School off Hwy. 98, Mr. Sanders noted his client is requesting that the Future Land Use Designation in the Comprehensive Plan for three parcels be changed to low density residential which is designated as 4 units an acre or less. He noted the site is within the city’s UGA and is adjacent to the Ravenstone Subdivision, which has a residential density of 2.35 units per acre. He noted the city is extending sanitary sewer to within 1000 feet of the site. The city is also planning a pump station east of the Ravenstone neighborhood at Lick Creek. Designating the site as low density residential will allow paying customers to “tap” into the sewer system.

Fen Adcock, representing Durham Regional Association of Realtors, noted that the fifth amendment of the U. S. Constitution states that private property shall not be taken for public use without just compensation. He stated they would like to see a

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greater effort by both the city and county educating the citizens on how the comprehensive plan and the unified development ordinance will impact land use in Durham County, not only in a general way but for them to understand how it will impact them individually. He asked the elected officials to make their decisions based on protecting the private property rights of the citizens of Durham County.

Julia Spencer, a resident of Nelson Street, asked the elected officials not to pass the final draft of the Durham Comprehensive Plan tonight. She noted the plan as presented needs a lot more work. Durham's largest problem right now is abandoned housing. The reason why Durham has abandoned housing is that current zoning and plans make it a risky investment for a young couple to move into otherwise good and affordable single-family housing. Ms. Spencer noted she wrote Mr. Duke about how young people cannot invest in housing in the older parts of the city because of the 1950's style zoning they have now which is R-3.

Bill Anderson, representing the North Pointe Shopping Center area, made comments on the amount of the industrial designation in the Future Land Use Plan. He stated it was considerably more than you will see demand for. He made comments on the amount of industrial and warehouse space available in RTP.

Gus Godwin, a resident of Barbee Road, spoke in support of the plan as proposed.

Attorney Rick Prentis, representing Erwin Square, noted the plan presently calls for office development in the Erwin Square area and with the compact neighborhood overlay there would also be allowable use of residential and retail. He asked that the Erwin Square area be preserved for mixed-use development as it currently exists.

O'Neil Hicks, a resident of Hamlin Road and owner of property located in the Triangle Township, Ms. Hicks stated the property's current zoning is industrial and noted they needed the Comprehensive Plan to designate this property's future use as residential to be compatible with the neighboring tract to the east. Ms. Hicks asked the elected officials to consider this request.

John Thompson, representing his family (50 acre tract known as Neal Farm) – Mr. Thompson noted the Future Land Use Map associated with the 50 acre tract designates this land as low density residential. He noted the property was designated and zoned high density residential in the early 1960's. Mr. Thompson asked why not change the Future Land Map to match the long term zoning of the property which is high density residential.

Larry Vinson, representing the State Employees Credit Union, made comments on adding facilities in the Durham area and they have focused on an area at the intersection of Guess Road at Prison Farm Road and have discovered a conflict with

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the city's long range plan. Mr. Vincent stated they will be coming before the Council at a later time requesting a rezoning of the property to O & I to accommodate the proposed credit union.

John Gunter, a resident of Bill Poole Road, requested that the Arrowhead District not be removed from the urban growth area. He noted the following benefits will be provided: 1) allow the extension of city water and sewer throughout the area; 2) allow for better fire protection and access of water in the area; 3) environmentally friendly by eliminating the possible contamination from septic systems reducing harmful affects from streams in the area; 4) existing homeowners and residents will have access to water and sewer if their current system fails; 5) increase the customer base in city water and sewer systems; 6) allow also for future development.

Charles Griffin noted he was in support of the plan. He noted he represented the Estate of the late Clarence R. Griffin (property along East Geer Street; Junction Road; Carol Road). Mr. Griffin noted there was three different land uses for the parcels and needed clarification and assistance from the staff. He asked that someone from the Planning staff contact him to see what could be done under the current ordinance and also under the proposed.

Phil Lawless, a resident in American Village, stated they have worked frequently with the various planning committees and voiced their opinion on developing compatible uses of the undeveloped land in their neighborhood specifically the Neal Farms Tract. He noted the farm is embedded in a lot of single family residential neighborhoods. He stated the current designation in the comprehensive plan is the correct one to use.

A letter was provided to the elected officials from Olivia Singleton. Ms. Singleton, a resident of Arthur Lane, urged the elected officials to adopt the designation of the Neal Farms Tract (currently, Constitution Road terminates at its southern line) in the proposed Comprehensive Plan as single family residential. She noted this is the exact designation that is adopted in the Small Area Plan for West/Northwest Durham. She noted the current zoning permits multi-family use.

Rich Lee, of Durham Affordable Housing Coalition, made comments on the housing element of the plan and the lack of specificity. He noted measurable goals/objectives/timelines needed to be outlined. He recommended the Results Based Accountability Group help develop some of the goals to be incorporated into the comprehensive plan.

John Schelp, representing the Old West Durham Neighborhood Association, spoke in support of the new policy in 7.2.2b for the South Ellerbee Creek natural area. Also, he noted they strongly opposed medium high density category for their residential core. He asked that their area be made consistent with the others

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adjacent to compact development areas. He requested medium density residential or the color orange like the other neighborhoods.

Pat Carstensen, a resident of Newton Drive, noted one of the strong points in the plan is it starts to move toward greater density [how do we actually achieve a greater density]. Ms. Carstensen stated the officials needed to make certain they are investing the time, money and staff development in terms of having processes and where greater density works.

Jeff Hunter stated in goal 2.3 of Chapter 2, we applaud the inclusion of the conservation by design approach to subdivision with density and impervious surface incentives for such designs in the rural tier. Item 4 of the Summary of Issues in Chapter 9 asks the question “What other approaches to water conservation could Durham implement to reduce water demand?” In my experience, lawn and garden irrigation represents, by far, the single largest consumption of residential water. Individual homes and communities can be designed to capture storm water for reuse such that no drinking water is required for irrigation. The Comprehensive Plan should provide for significant density and impervious surface credits for those homeowners and developers who commit to furnishing 100% of their irrigation needs from storm water captured on their property. In our largest watersheds, I believe that homeowners and communities who commit to such proactive measures should be allowed a density of 2 units per acres with an impervious surface of 24 percent.

Nancye Bryan, a resident of Dover Road, spoke on Element 3 (Housing). She stated she was pleased to see the top consideration was affordability. Also, she stated she was pleased to see special needs housing on the list but would like to underscore the comments by Rich Lee – the need to come up with some specific numerical goals to make certain we are moving ahead.

Dave Gould, a resident of W. Cornwallis Road, made comments on petitions signed in December and January by over 100 of his neighbors in support of placing Arrowhead in a rural tier in order to protect the area from suburban development. Mr. Gould stated the pink areas of the map show support of a rural tier designation. Together these people own 371 acres in the Arrowhead area. You have heard that a majority of landowners or a majority of the acres owned support suburban tier. Neither is true. He stated 7 families owning 348 acres have gone on record as supporting suburban tier. By contrast, 52% of the owners of parcels greater than 3 acres support rural tier. That’s 30 families. Are there also people in the area who own parcels less than 3 acres? Yes, and their opinions matter too, because this decision affects their roads, their schools, and their environment. Moreover, many families own more than one lot, indicative of their desire to live on a larger piece of land. These landowners overwhelmingly support rural tier. Please respect the request of most Arrowhead neighbors and pass the Comprehensive plan as written.

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Duke Williams, a resident of Kerley Road, spoke in support of the rural tier designation for Arrowhead. He wanted to make certain that he was not misrepresented on the map shown by David Gould showing his three parcels of land which total about 20 acres as being opposed to the rural tier.

David Goodman, a resident of Tyndrum, Drive, spoke in support of the rural tier designation in the Arrowhead area.

Happy Sayre-McCord, a resident of Cornwallis Road, stated there is no place in this plan that gets all of us what we want. My neighborhood wants rural density development, consistent with the housing already there, and it wants to make sure anyone who wants to, can develop their land at low density. To get the rural density, we have to go the rural tier (3 acre lots) because there's no district in the suburban tier that provides for more than an acre, but without city utilities, development is dependent on finding perk sites, but with city services, we are vulnerable to housing densities much higher than we are comfortable with. Ms. Sayre-McCord urged the passage of the plan as it is written for the protection of the Arrowhead neighborhood.

Stuart McCracken, a resident of W. Cornwallis Road, asked the Council to approve the plan as proposed with rural tier for Arrowhead.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, raised concern with the economic development component of the proposed plan and the lack of minority firms being located in the inner city. She stated in reviewing the economic component in the plan it does not address "how do we strengthen the African American community" with economic development dollars.

Ron Horvath, a resident of Old Trail Drive, spoke in support of the new UDO but stated the problem is that he cannot utilize the new UDO until the comprehensive plan is passed. He stated the Council will see him real soon after the adoption of the plan because there is a lot of small areas where things have changed. Mr. Horvath asked the officials to please keep an open mind because what they pass tonight is not written in stone, it is flexible and you have to allow some change.

Tom Hankins a partnership in an ownership of a 15 acre tract at 1443 Ellis Road which is boarded on the southside by Ellis Road and the northside by the Durham Freeway. He noted currently on the future land use plan they are shown as low density residential; however, the parcel immediately to the east is planned for office and the parcel next to that is commercial. Also, he noted to the left is also low density residential. Mr. Hankins suggested and asked the officials to consider

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changing their land use to a higher or medium high density in order for them to have multi-family land – perhaps townhomes or apartments.

Deb Christie a resident of Stoneridge Circle, urged the officials to approve the Comprehensive Plan. She stated it is time and it is ready. She noted Frank Duke and his staff have done a wonderful job. Also, she spoke in support of Arrowhead and the rural tier.

Wendy Jacobs, a resident of Stoneridge, spoke in support of the rural tier for the Arrowhead neighborhood. Also, she supported the open space and recreation designation for the Duke tract along Erwin and Pickett Roads.

Mayor Bell asked if there is anyone who has not had an opportunity to speak and would like to speak. No one else asked to be heard. The Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive citizens' comments on the Durham Comprehensive Plan was approved at 9:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

MOTION by Vice Chair Heron seconded by Commissioner Cousin to receive citizens' comments on the Durham Comprehensive Plan was approved at 9:15 p.m. by the following vote: Ayes: Chair Reckhow, Vice Chair Heron and Commissioners Cheek, Cousin and Page. Noes: None. Absent: None.

Chair Reckhow stated staff is going to need some direction and all of the public comments need to be reviewed/considered by the staff. Chair Reckhow made comments on an opinion from West Durham neighborhood – interest in having a new policy added to help ensure the protection of the open space on Green Street.

City/County Planning Director Frank Duke noted one of the things that currently exists in the zoning ordinance that is not referenced in the plan is an acknowledgement that property that is designated in any officially acknowledged plan as open space or parts – should be protected through either dedication or reservation. Mr. Duke noted he did send Mr. Schelp language for a new policy that would be added to the conservation element to make that provision and staff recommends that be included in the plan.

Chair Reckhow stated she would like to see that added. As it relates to comments made by the West Durham neighborhood, Chair Reckhow stated in reviewing the land use map she also noted there were some inconsistencies and it would be reasonable to designate from high medium residential to medium north of

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Hillsborough Road. Chair Reckhow noted clearly in Arrowhead there are conflicting opinions and one possible route - to maybe gain greater acceptance is to reduce the lot size requirements in Arrowhead since it isn't in critical watershed from 3 acres to 2 acres.

A motion was made by Chair Reckhow regarding the Old West Durham neighborhood to add policy 7.2.2b – Requirement Areas Designated as Open Space and officially by the governing body be protected through means such as dedication or reservation and that we re-designate the area that has been identified in Old West Durham from high medium to medium density. This motion was seconded by Council Member Catotti.

Commissioner Page suggested that the staff be allowed to review the citizens' comments. He noted he was not prepared to vote on any motions until staff had a chance to respond.

Council Member Stith spoke in support of the staff reviewing the comments and providing a response to the concerns before action is taken. He stated he was not comfortable piecemealing motions and recommended a comprehensive response from the administration.

Mayor Bell noted if there are areas that the elected officials can find some comfort on, he would suggest that they move on them. He noted there has been a lot of public input. He stated nothing tonight prevents the staff from commenting on the motion if they can answer it.

Council Member Catotti stated she would be prepared to vote this evening. Ms. Catotti suggested that direction be provided to staff to obtain additional information and schedule another joint meeting on February 21st or February 28th.

Council Member Best asked who owned the property at Green Street between Ninth Street and Carolina Avenue [currently designated as office use –changing to recreation and open space use]. Also, he stated if we are going to designate it to recreation/open space who is going to compensate that property owner for changing the designation.

Chair Reckhow noted that was not her motion. She stated it would not change the designation of the property at all.

City/County Planning Director Frank Duke stated the policy being requested by Mr. Schelp - he originally did propose changing that land use designation but instead of that approach I recommended doing this policy approach that mirrors provisions that already exist in the zoning ordinance which do provide for in the design of a land you look at dedication or reservation of that space that is designated

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as open space – if the entire parcel was designated as open space and some other officially adopted or approved plan then the governing body with the authority should implement that plan which would have a fixed period of time in which to impose a reservation on that property – which then gives the ability to acquire that property. He noted it is a provision in the ordinance for both the city and the county currently and it is not reflected in the plan and Mr. Schelp is suggesting that ordinance provision be reflected in the comprehensive plan. Mr. Duke noted he concurred with this suggestion since the zoning ordinance should be implementing the plan.

Commissioner Cheek stated he was not prepared to make piecemeal changes to the comprehensive plan. He noted if changes need to be made there are procedures in place to do that. He stated the mission tonight is to vote the plan as presented up or down. Commissioner Cheek stated it would be unfair not to consider all the changes this evening. Also, Mr. Cheek stated if the elected officials wanted to send the plan back and ask for more study on the changes that have been requested he would not oppose that. Also he stated he had some significant questions about how the decisions were reached on the changes to the UGA which need to be settled before moving with that aspect of the plan.

A substitute motion was made by Council Member Clement to refer the Comprehensive Plan back to the Planning Department to consider the comments by the citizens and to schedule a joint meeting on February 28, 2005 at 4:00 p.m. at which time the staff will present an amended plan. This motion was seconded by Council Member Stith.

City/County Planning Director Frank Duke stated he could give a professional recommendation on all of issues raised this evening with the exception of Arrowhead. He stated he needed direction as to whether the elected officials are looking for Arrowhead to be something in suburban or something in rural and noted that Chair Reckhow and Council Member Catotti said they are looking at something different from what is there in the plan tonight – some kind of a compromise.

Commissioner Page stated he hoped the staff would come back with some kind of suggestion/compromise for Arrowhead.

Council Member Brown stated he would support referring the plan back to the Planning Department to review the citizens' comments. He stated when the plan comes back on February 28th, it needs to be voted up or down after input from staff has been received along with their recommendations. Also, Mr. Brown stated we do not need another public hearing.

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The Mayor reminded the elected officials that the public hearing has been closed.

Council Member Clement asked who is responsible for the implementation of this plan. Mr. Clement stated he would hope that the staff would come back with recommendations as to how the plan should be implemented but the elected bodies will be ultimately responsible for how those interpretations will be implemented.

City/County Planning Director Frank Duke noted the plan is implemented through ordinance as well as by specific actions that will be taken by various city/county or city and county agencies. He noted those implementations issues that were the responsibility - to be dealt with by city and county agencies for an action - a new plan of study – he stated the elected officials will decide how those are done - the priorities assigned to those through the budget process. He stated as it relates to how things are interpreted through the ordinance, the elected officials will have the ultimate say in adopting those ordinances. As for the routine interpretation, this is something that will need to be deferred to staff unless the elected officials want to stay in constant session five days a week.

SUBSTITUTE MOTION by Council Member Clement seconded by Council Member Stith to refer the Comprehensive Plan to the Planning Department to consider the comments by the citizens with recommendations to be provided [an amended plan] at a joint meeting scheduled on Monday, February 28, 2005 at 4:00 p.m. was approved at 9:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBSTITUTE MOTION by Commissioner Cheek seconded by Vice Chair Heron to refer the Comprehensive Plan to the Planning Department to consider the comments by the citizens with recommendations to be provided [an amended plan] at a joint meeting scheduled on Monday, February 28, 2005 at 4:00 p.m. was approved at 9:47 p.m. by the following vote: Ayes: Chair Reckhow, Vice Chair Heron and Commissioners Cheek, Cousin and Page. Noes: None. Absent: None.

The following directives were given to staff by the elected officials:

Council Member Catotti stated Arrowhead is a challenge and a compromise may be in order. Council Member Catotti directed staff to explore and develop a compromise to allow Arrowhead to remain in the rural tier and that designation would restrict densities in these areas to no more than one unit per three acres (except in Conservation Subdivisions, where the density may be one unit per acre), while permitting rural tier development not in a watershed protection overlay to occur at densities of up to one unit per two acres. In addition, that we make appropriate modifications to the city's water and sewer policy and the UGA policy

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to allow for utility extension outside in the UGA and watershed area as long the proposed parcel meets some certain criteria (which would include that it not be in the watershed and be in agreement with the Comprehensive Plan).

Council Member Catotti stated she believes the compromise addresses two concerns – assures large lot sizes but possible water and sewer extension.

Council Member Catotti noted what we can ask staff to do, along with legal counsel, to look at options – maintaining Arrowhead in a suburban tier, Arrowhead in a rural tier and the third compromise which was stated. Then the individual boards could look and decide what they prefer.

Vice Chair Heron stated in the suburban tier it opens it up for a much higher density. Vice Chair Heron noted she would like to add that water and sewer be available if there were a health problem or the land would not perk and could not be developed without the utilities.

Council Member Best stated he would meet with the Planning Director to raise his concerns relative to the plan.

City/County Planning Director Frank Duke stated he would be happy to meet with any members of Council or the Board of Commissioners regarding the plan.

Council Member Clement suggested that both sides in Arrowhead, along with the Planning Director, come up with a resolution.

City/County Planning Director Frank Duke stated if the elected officials wanted the administration to go back and have more public meetings he would need a minimum of 90 days. He noted there is not enough time to go out and resolve the issue raised by February 28th. He stated he has met with the residents and spoke with the residents on multiple occasions.

Chair Reckhow asked that the staff review the housing element and strengthen it to see what additional measurable goals/outcomes can be added. Also, Chair Reckhow stated she would hope that preserving the character of the Arrowhead area be a guiding principle as options are considered.

Commissioner Cheek spoke in support of Council Member Catotti's recommendation for the Arrowhead area. He asked that the professional staff come in with an analysis of the three and make possible recommendations to which makes sense in terms of the plan. Commissioner Cheek noted the plan is for planning for land uses, not just today, next month or next year, but for the future. He stated he did not want to look at this as being something that is so narrow that all we are

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trying to do is satisfy this neighborhood or some other neighborhood about land use today.

Commissioner Page spoke in support of Council Member Catotti's recommendation. He also noted that Council Member Clement's suggestion is also valid regarding meeting with the groups. Commissioner Page stated he would like to hear on February 28th perhaps that the community reached this consensus and hoped that Mr. Duke can make an attempt to do that if at all possible.

Mayor Pro Tempore Cole-McFadden stated she understood the concerns with Arrowhead; however, she noted they have worked on this plan a long long time and Mr. Duke has met and met. Mayor Pro Tempore Cole-McFadden stated she would like to see the economic development portion of the plan strengthen.

Vice Chair Heron expressed concern with erosion of neighborhoods noted by Julia Spencer.

City/County Planning Director Frank Duke noted the issue raised by Ms. Spencer is unable to be addressed through the plan. He stated her issue has to be addressed through the zoning ordinance and her comments dealt with R-3 zoning and R-3 does not exist in the plan. He noted Ms. Spencer has indicated her neighborhood was zoned R-3 and R-3 allows by right multiplexes; a triplex; a duplex - and its allows that conversion of single family lots and this cannot be changed through the plan. This has to be changed through the revisions to the zoning ordinance and the UDO which cannot begin to move forward until after the plan is acted on.

Vice Chair Heron expressed concern with the elderly residents in that area wanting to remain in their homes but being forced out because someone wants to put up a whole multi-unit building and basically they have to move.

Mayor Bell stated he understood some elected officials will be meeting with Mr. Duke one on one; however, he needed to know if there were any additional directions/input the elected officials wanted to have on record this evening for the staff as they prepare for the meeting on February 28th.

Vice Chair Heron requested staff to address as many of the issues noted by the citizens this evening and provide a resolution or justification for leaving it like it is.

Council Member Catotti asked if there was any provision to accept additional input.

City/County Planning Director Frank Duke stated his staff will begin work on tomorrow morning and if the staff is to provide information to the elected officials a week in advance of February 28th, they cannot keep taking public input. He stated

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if they continue to get public input, he will have to come back and ask for more time. He stated he was not opposed to taking more input nor going back to the communities again, but if this is the recommendation, the February 28th date needs to be reconsidered.

Council Member Brown stated this is the plan the community has provided and it is the future. He recognized all the work of the staff and volunteers. He stated they received good comments this evening/excellent input and feedback and felt there was no need for additional public meetings. Council Member Brown stated he is hopeful that the plan will be approved on February 28th with some amendments and then the officials can move forward to the next stage which is the UDO.

Mayor Bell thanked all the citizens for their comments and the efforts of the staff, along with his colleagues for the work that has been done on this plan.

There being no further business to come before the joint governing bodies, the meeting was adjourned at 10:09 p.m.

Note: The Durham City Council and Durham County Board of Commissioners will meet on Monday, February 28, 2005 at 4:00 p.m. in the Council Chambers at City Hall to consider the Durham Comprehensive Plan.

**D. Ann Gray, CMC
City Clerk**