

A RESOLUTION DIRECTING THE TOWN MANAGER AND/OR TOWN ATTORNEY TO COLLABORATE WITH THE CITY OF DURHAM TO AMEND EXISTING CONSENT JUDGMENT (2023-04-26/R-8).

WHEREAS, on April 12, 2022 Moriah Ridge, LLC ("Applicant") submitted a petition to the Town requesting that the Town collaborate with the City of Durham to amend the consent judgment between the two municipalities which limits the power of Chapel Hill to annex property located in Durham County and limits the power of Durham to annex property located in Orange County; and

WHEREAS, the Applicant wishes to petition for annexation of property it owns or controls by contract located on Mt. Moriah Road in Orange County (the "Property") into the City of Durham so that it can be developed for a mix of townhomes, apartments and single-family housing ("Mt. Moriah Road Development"); and

WHEREAS, a preliminary concept plan showing the Mt. Moriah Road Development consists of a mix of single- family homes, apartments, and townhomes; and

WHEREAS, the only available water and sewer utilities that can serve the Property are owned and operated by Durham within its City limits; and

WHEREAS, the Property is located outside the Primary Service Area for the Orange Water and Sewer Authority ("OWASA") as established by the Water and Sewer Management Planning and Boundary Agreement ("WASMPBA") between the Town of Chapel Hill, OWASA, Orange County, Town of Carrboro, and Town of Hillsborough. OWASA has confirmed that it cannot serve the Property with water or sewer because of its location on the north side of I-40. Therefore, the only viable option for getting water and sewer to this Property so that it can be developed is to annex it into the City of Durham; and

WHEREAS, there is a Consent Judgment between Chapel Hill and Durham that was entered in 1986 and later modified in 1994 in which both Cities agreed that there would be no further annexation by either City into their respective counties except by mutual agreement; and

WHEREAS, the mutual agreement necessary to make the Mt. Moriah Road Development possible must come in the form of an amendment to the existing Consent Judgment. This second amended Consent Judgment will establish a new annexation boundary but preserve the underlying agreement that neither City will annex into the other's county in the future without mutual agreement; and

WHEREAS, the City of Durham is aware of the proposed Mt. Moriah Road Development and has indicated its willingness to amend the Consent Judgment if the Town of Chapel Hill is willing to do the same; and

WHEREAS, the Town of Chapel Hill owns a tract of land adjacent to the Property (the "Town Tract") which presently cannot be developed because it also does not have access to water and sewer. The Town Tract is shown on Exhibit C attached hereto. The Mt. Moriah Road Development will bring Durham City water and gravity sewer service to the Town Tract so that it can be developed in the discretion of the Town Council; and

WHEREAS, the Applicant will donate to the Town a portion of the Property which is identified

as tax parcel PIN 9890740792 which is not needed for its project to have access to Erwin Road; and

WHEREAS, the Mt. Moriah Road Development will incorporate affordable housing as defined by the Durham Unified Development Ordinance; and

WHEREAS, for sale townhomes, single-family homes, and apartments will be incorporated into the project, which will contain a diverse mix of housing types, styles, and price points; and

WHEREAS, a series of planned, connected open space areas shall be incorporated into the Mt. Moriah Road Development that connect to the New Hope Creek Corridor public lands to the south, Mt. Moriah Road to the east, and Erwin Road via the Town Tract to the west. These connections shall include walking and biking trails that internally connect the neighborhoods to open space and adjacent properties and shall include recreational amenities for the community which shall be accessible to future residents of the Town Tract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council directs the Town Manager and/or Town Attorney to collaborate with the City of Durham to amend the Consent Judgment in the manner described in this resolution and to otherwise meet the intent of the Town, to permit the City of Durham to annex the properties so that it may be developed in accordance with this resolution.

This the 26th day of April, 2023.