

MEMORANDUM

TO: The Mayor and Members of the Chapel Hill Town Council

FROM: Moriah Ridge, LLC

DATE: April 19, 2023

SUBJECT: Request by Moriah Ridge, LLC for the Town of Chapel Hill to collaborate with the City of Durham to Amend Existing Consent Judgment.

- A. Nature of Request: Moriah Ridge, LLC (“Applicant”) is 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. The Applicant wishes to annex property which it owns or controls by contract which is 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 and single-family housing (“Mt. Moriah Road Development”). The only available water and sewer utilities that can serve the Property are owned and operated by Durham within its City limits. An exhibit showing the Property in question is attached hereto as Exhibit B.
- B. The Proposed Development: A preliminary concept plan showing the Mt. Moriah Road Development is attached hereto as Exhibit C. The Mt. Moriah Road Development will consist of a mix of single-family homes, apartments, and townhomes.
- C. The Water and Sewer Issues: The Property is located outside of the area covered by the Water and Sewer Management Planning and Boundary Agreement (“WSMBPA”) between the Town of Chapel Hill and the Orange Water and Sewer Authority (“OWASA”). OWASA has confirmed that it cannot serve the Property with water or sewer because of its location on the north side of I-40. A letter from OWASA to this effect is attached hereto as Exhibit D. Therefore, the Property cannot be annexed by Chapel Hill because it cannot be served by Chapel Hill with water and sewer. On the other hand, the Property is very well situated to be served by existing Durham water and sewer, which is located just across the street. An illustration showing the location of City of Durham utilities in relation to the Property is attached hereto as Exhibit C. The City of Durham is not willing to extend services outside its city limits to this Property so that it can be annexed by Chapel Hill because it would have to amend its own ordinances which prohibit it from extending water and sewer to property outside its limits, except under certain limited circumstances, none of which exist here. Therefore, the only viable option for getting water and sewer to this Property is to annex it into the City of Durham.
- D. The Consent Judgment. 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. A copy of the Consent Judgment is attached hereto as Exhibit E. 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. A proposed amended Consent Judgment is attached hereto as Exhibit F. This 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.

- E. The Attitude of the City of Durham. The staff and members of the Durham City Council are aware of the proposed Mt. Moriah Road Development and Durham has indicated its willingness to amend the Consent Judgment if Chapel Hill is willing to do the same. A memorandum from the City of Durham to this effect is attached hereto as Exhibit G. Although the City of Durham cannot make a commitment to annex and zone the Property in a manner which will permit the construction of the Mt. Moriah Road Development on the Property until the Consent Judgment has been amended and Applicant has applied for annexation and rezoning from Durham, Exhibit G indicates that Durham looks with favor upon the proposed project.
- F. Benefits of the Project to the Town of Chapel Hill. The proposed Mt. Moriah Road Development will benefit Chapel Hill several ways. First, the Town owns a 17.6 acre 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 (see paragraph above). 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 for affordable housing, or for other purposes in the discretion of the Town Council. The Applicant also will donate a portion of the Property which is identified as tax parcel PIN 9890740792 which is not needed for the project to have access to Erwin Road, to the Town. An illustration showing where the parcel which will be donated is located is attached hereto as Exhibit C. The Mt. Moriah Road Development also will advance Chapel Hill's residential housing policies. The multifamily portion of the project shall incorporate affordable housing as defined by the Durham Unified Development Ordinance. 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, consistent with Chapel Hill's residential development policies. Additionally, a series of connected open space areas shall be incorporated into the project 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. The open space areas shall include recreational amenities for the community and shall be accessible to future residents of the Town Tract.
- G. Conclusion. For the reasons stated above, Applicant respectfully asks that the Town Council approves its Request. A proposed resolution of approval directing the Town Attorney to work with the City of Durham to amend the Consent Judgment is attached hereto as Exhibit I.