



## ZONING MAP CHANGE REPORT

Meeting Date: September 10, 2024

### A. Executive Summary

Tim Sivers, of Qunity, proposes to change the zoning designation of three parcels of land totaling 3.768 acres, and located 6005, 6017, and 6023 Leesville Road. The current zoning is Residential Rural (RR). The applicant proposes to change this designation to Planned Development Residential 3.768 (PDR 3.768) with a textual development plan to allow up to 20 townhouse units with accessory uses.

The properties are currently designated Mixed Residential Neighborhood (MRN) on the Place Type Map (PTM) (Attachment C). The proposed Planned Development Residential 3.768 zoning is consistent with the designated Place Type. There is an associated annexation petition associated with this case, case BDG240004.

### B. Application Summary

Application Information			
Case Number	Z2400007	Submittal Date	February 20, 2024
Case Name	Tri-Creek		
Proposal	20 townhouse units		
Applicant Contact	Tim Sivers, <a href="mailto:tsivers@qunity.com">tsivers@qunity.com</a>		
Staff Contact	Sarah Long, <a href="mailto:sarah.long@durhamnc.gov">sarah.long@durhamnc.gov</a>		
Site Information			
Location	6005, 6017, and 6023 Leesville Road	Legacy Cases	None
Site Acreage	5.801 acres	Existing Use	Single-family residential
REID(s)	<a href="#">193303</a> , <a href="#">193304</a> , <a href="#">193306</a>		
Request			
Designation	Existing	Proposed	
Jurisdiction	County	City	
Development Tier	Suburban	No change	
Place Type Map	Mixed Residential Neighborhood	No Change	
Zoning District(s)	Residential Rural (RR)	Planned Development Residential 3.768 (PDR 3.768)	
Zoning Overlay(s)	Falls/ Jordan District B (F/J-B)	No Change	
Urban Growth Boundary	Within UGB	No Change	
Allowable Use(s)	All uses allowed in Residential Rural <a href="#">RR District</a>	Townhouses	

### C. Environmental Summary

Environmental Data	
River Basin	The site is within the Neuse River Basin.
Watershed Overlay	The site is within the Falls/Jordan District B (F/J-B) watershed overlay.
<a href="#">NC Natural Heritage Inventory</a>	The NCNHI does not identify any unique, endangered, or sensitive species or vegetation on the site.

	<p>*Disclaimer: An NHI inventory has not been conducted on this site. The lack of designation on the NHI dataset does not necessarily mean there are no unique, endangered, or sensitive species or vegetation on the site, but rather, a survey has not been completed in relation to the subject site.</p>		
<a href="#"><b>Wildlife Corridor</b></a>	The site is not within a wildlife corridor.		
<b>UDO Compliance</b>	<b>Does Not Apply</b>	<b>Meets UDO</b>	<b>Exceeds UDO</b>
<b>Impervious Surface</b>			The maximum impervious surface allowed is 70%. The development plan commits a maximum of 50% impervious surface.
<b>Regulated Floodplain</b>	None on site		
<b>Steep Slopes</b> <a href="#"><b>UDO Section 8.8</b></a>	None on site		
<b>Stream Buffers</b>		At time of site plan, the project will be subject to <a href="#"><u>UDO Section 8.5</u></a>	
<b>Stream Buffer or Floodplain Intrusion</b>		No floodplain is on site. Any stream buffer intrusion would be indicated at the site plan stage and be regulated by <a href="#"><u>UDO Sections 8.5</u></a> .	
<b>Project Boundary Buffers</b>	This proposal does not require project boundary buffers.		
<b>Wetlands</b>		The textual development plan states a ten-foot-wide buffer will be provided for any jurisdictional wetland on site.	
<b>Open Space</b>			The minimum required amount of open space is 17%. The plan commits to 25% (1.450 acres) open space, which is in excess of UDO requirements. One-third of the open space will be required to be active recreational open space as defined by the UDO.
<b>Tree Coverage</b> <a href="#"><b>UDO Section 8.3.1</b></a>		The plan commits to 20% (1.160 acres) tree preservation.	

#### D. Housing and Income Impact Summary

Proposed Housing Conditions Information	
<b>Number of Units</b>	20
<b>Density of Units</b>	3.748 units/acre
<b>Number/Percent Units Affordable (AMI)</b>	0
<b>Unit Types (UDO Category)</b>	Townhouse
<b>Unit Design (Commitments in Excess of UDO)</b>	No townhouse can be constructed with a front exterior elevation (front façade) or color palette that is identical to the home on either side of it.

	The townhouse unit building height shall not exceed 45 feet.		
<b>Does the proposal add to or subtract from the housing supply?</b>	This proposal adds up to 20 townhouse units to the inventory of market-rate housing available in Durham.		
<b>Median Sale Prices</b>			
<a href="#"><u>City of Durham</u></a>	\$393,000 (as of January 2024)	<b>Proposed Sale Price or Valuation:</b>	N/A
<b>Median Rental Rates</b>			
<a href="#"><u>City of Durham</u></a>	\$1,555 (as of January 2024)	<b>Proposed Rental Rate:</b>	N/A
<b>Median Household Income</b>			
<a href="#"><u>Census Tract (Site)</u></a>	\$105,465		
City Overall	\$78,105	County Overall	\$80,089

2024 HUD Adjusted Income Limits – Durham-Chapel Hill, NC								
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Extremely Low Income (30% AMI)	\$22,250	\$25,400	\$28,600	\$31,750	\$36,850	\$41,960	\$47,340	\$52,720
Very Low Income (50% AMI)	\$37,100	\$42,400	\$47,700	\$52,950	\$57,200	\$61,450	\$65,700	\$69,900
Durham Affordability Standard (60% AMI)	\$44,520	\$50,880	\$57,240	\$63,540	\$68,640	\$73,740	\$78,840	\$83,880
Low Income (80% AMI)	\$59,300	\$67,800	\$76,250	\$84,700	\$91,500	\$98,300	\$105,050	\$111,850

## E. Social and Built Infrastructure Summary

Current Conditions						
Intensity of Current Zoning	Planning staff has estimated that the most intense use under the current zoning designation would be eight single family lots.					
<b>Potential Impacts</b>						
<b>Durham Public Schools</b>						
Schools Potentially Impacted	Durham Public Schools serving the area include Spring Valley Elementary, Neal Middle, and Southern School of Energy and Sustainability High.					
Number of Projected Students		Elementary School Students	Middle School Students			
Potential Students Generated – Current Zoning		3	1			
Potential Students Generated – Proposed Zoning		6	2			

<b>Potential Impact of Proposed Zoning</b>	+3	+1	+1
<b>Durham County Per Pupil Costs</b>	<p>\$5,374 per pupil for annual operating costs \$100,000 per pupil estimated capital costs for new construction</p>		
<b>School Capacity</b>			
<b>Percent of Existing Capacity</b>	117.85%	110.25%	86.30%
<b>Infrastructure Impacts</b>			
<b>Water Connection and Capacity</b>	The proposed project site is within the 61 5' pressure zone and the development will require one waterline connection. The water main shall be extended from the Everton development on the North.		
<b>Sewer Connection and Capacity</b>	The proposed project site is within the SRLS sewer basin and will be subject to the SRLS fee. Capacity is formally reserved at the Southeast Regional Liff Station when a sewer extension permit is approved by Public Works. The project shall extend a gravity sewer from the Everton development on the North.		
<b>Operational Impact Analysis</b>	See attachment G		
<b>Cost Benefit Analysis</b>	See attachment H		

## F. Transportation Impact Summary

<b>Current Conditions</b>			
<b>Intensity of Current Zoning</b>	Transportation staff has estimated that the most intense use under the current Residential Rural (RR) zoning designation for transportation-related impacts would be 5 single-family dwelling units.		
<b>Transportation Impacts</b>			
<b>Infrastructure Impacts</b>	Leesville Road is the major road impacted by the proposed zoning change. There are no scheduled City of Durham or NCDOT roadway improvement projects in the area		
<b>Transit Service</b>	Transit service is not currently provided within one-quarter mile of the site.		
<b>Existing Roadway Characteristics</b>			
<b>Affected Roadway</b>	Leesville Road		
<b>Type of Roadway</b>	Two-lane undivided city/county class I arterial without left-turn lanes		
<b>Current Roadway Capacity (LOS D) (AADT)</b>	14,200		
<b>Latest Traffic Volume (AADT)</b>	5,200		
<b>Traffic Generation</b>			
	<b>Traffic Generated by Present Designation (average 24 hour)</b>	<b>Traffic Generated by Proposed Designation (average 24 hour)</b>	<b>Potential Impact of Proposed Designation</b>

Number of Trips	87	123	+36
<b>Assumptions</b>	Existing Zoning - Residential Rural (RR): 8 Proposed Zoning - Planned Development Residential 3.768 (PDR 3.768): 20 townhouse units		
<b>Sources</b>	ITE Trip Generation Manual, 11th Edition		
<b>Improvements</b>			
<b>Roadway Improvements</b>	Traffic signals with steel poles and mast arms will be installed at the intersections of Leesville Road and Doc Nichols Road and Carpenter Pond Road and Olive Branch Road.		
<b>Site Access Points and Stub Outs</b>	Access #1 Leesville Road (per approved case Z2100027): The site will have one ingress lane, two egress lanes and an adequate internal protective stem. There will be an exclusive eastbound left-turn lane on Leesville Road with adequate storage and appropriate tapers. There will be an exclusive westbound right-turn lane on Leesville Road with adequate storage and appropriate tapers. Access #2 Fendol Farm Parkway and Tamarisk Lane (per approved case Z2100027): The access site will be an extension of Tamarisk Lane with one ingress lane and one egress lane.		
<b>Right-Of-Way Dedication or Reservation</b>	The project proposed 10-feet of additional right-of-way for the frontage of the site along Leesville Road. The final right-of-way dedication to be determined at site plan.		
<b>Sidewalks</b>	A five-foot concrete trail connection from the development will be provided to Leesville Road.		
<b>Bicycle Lanes</b>	The project proposed a 10-foot shared path for the full frontage of the site along the north side of Leesville Road to accommodate bicycles and pedestrians.		

## G. Equity and Engagement Summary

Neighborhood Meeting Information					
<b>Required Meeting Date &amp; Additional Meeting(s)</b>	January 4, 2024	<b>Number of Attendees</b>	23		
Equity: Potential Displacement					
<b>Potential Displacement Risk (<a href="#">Source</a>)</b>	Tax Value Increase in Area  22.1 (Census Block Group) 26.6 (County)	Evictions in Area  1 per square mile (Census Tract) 21 per square mile (County)	Cost-Burdened Renters  42.4 (Census Tract) 49.5 (County)		
Demographics					
<a href="#">(Source)</a>	Census Tract	<b>County</b>			
<b>People of Color</b>	26.2%	57.4%			
<b>Median Age</b>	59.4%	35.7%			
Equity: Geography					
<b>Is the area identified as "Disadvantaged" by the <a href="#">Climate and Economic Justice Screening Tool</a>?</b>	This area is not identified as "disadvantaged" by the Climate and Economic Justice Screening Tool.				
<b>Is this in a formerly redlined area, as found in the <a href="#">Durham redline map</a>?</b>	The proposal is not within a formerly redlined area as seen in the redlined map.				
<b>Is this area in an opportunity area as</b>	This area is not located in one of the priority areas identified by the Green Infrastructure Program.				

identified in the <a href="#">Green Infrastructure Program</a> ?	
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## H. Adjacent and Surrounding Development

Active Cases		
Active Site Plans (Within a half mile)	D2300106 Leesville Road Assemblage: Addition of lift station and force main D2000288 Leesville Road Assemblage 344 townhome units and 10 open space lots D2200397 Leesville Road Assemblage Amendment: Road widening to previously approved site plan D2000288	
Active Zoning Map Changes (Within a half mile)	None	
Active Annexations (Within a half mile)	None	
Proximity to Amenities		
	Distance from Site	Amenity
Proximity to Grocery/Food	1.7 miles	Harris Teeter, Restaurants
Proximity to Retail/Commercial	2.3 miles	Alexander Place
Proximity to a Park/Public Space	4.4 miles 4.2 miles	Brier Creek Park Bethesda Park
Proximity to Healthcare	2.3	Wake Med Brier Creek
Proximity to a School	4.4 miles	Spring Valley Elementary School
Proximity to a Transit Stop	1.8 miles	TW Alexander at ACC (WakeMed Emergency)

## I. Historic Resources Impact Summary

Current Conditions	
Structures	DH3510: Built circa 1945-1955. A one-story front-gable, minimal traditional residence sheathed in vinyl siding w/ an asphalt shingle roof.  DH3511: Built circ 1925-1940. A one-and-a-half story Craftsman with gable-front bungalow with asbestos siding and asphalt shingle roof.
Status of Structure	DH3510: Ineligible, the building has not retained the significance in its current state DH3511: Ineligible
Attachments	
Resources	<a href="#">Historic Preservation Office Interactive Web Link</a>
Historic Preservation Office Study File	DH3510: No study has been performed on the structure DH3511: No information available

## J. Compliance with the UDO and Adopted Plans

Unified Development Ordinance (UDO) Compliance
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<b>District intent Statement</b>	The intent statement is not used for regulatory purposes but provides insight as to the general purpose and goals of the district. The following is the intent of the district pursuant to Sec 4.4.1:  The PDR District is established to allow for design flexibility in residential development. The district is intended to encourage efficient use of the land and public services and to promote high quality design that will provide a variety of dwelling types as well as adequate support services and open space for the residents of the development. The district regulations are intended to allow innovative development that is integrated with proposed adjacent uses and compatible with existing patterns of development. Pursuant to NCGS 160D-102, any of the following: a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. b. The excavation, grading, filling, clearing, or alteration of land. c. The subdivision of land as defined in G.S. 160D-802. d. The initiation or substantial change in the use of land or the intensity of use of land.
<b>UDO Compliance</b>	The zoning map change request has been reviewed by staff and determined to be compliant with UDO requirements.

## K. Commitments in Excess of the UDO

Commitments Exceeding the UDO Requirements at Time of This Report
In order to promote variation in home appearance, no building can be constructed with a front exterior elevation (front facade) or color palette that is identical to the building on either side of it.
All buildings shall be located a minimum of 20 feet from the perimeter site boundary line and/or 10 feet from tree coverage area and environmentally regulated areas.
Prior to the issuance of the first building permit, dedicate 10-feet of additional right-of-way for the frontage of the site along Leesville Road. Final right-of-way dedication to be determined at site plan.
Prior to the issuance of a certificate of occupancy, construct a 10-foot shared path for the full frontage of the site along the north side of Leesville Road to accommodate bicycles and pedestrians
A five (5) foot concrete trail connection from the development will be provided to Leesville Road.
The site shall be limited to no more than fifty percent impervious surface
Prior to the issuance of a certificate of compliance, provide a one-time contribution of \$5,000 to Durham Public Schools.
Prior to the issuance of a certificate of compliance, provide a one-time contribution of \$20,000 to the City of Durham Dedicated Housing Fund.
All new trees planted shall be native as that term is used in the Durham Landscape Manual.

## L. Comprehensive Plan Policies

Comprehensive Plan Policy Consistency		
<b>Generally consistent with the following number of applicable policies of the Comprehensive Plan</b>	Consistent by Exceeding UDO	12
	Consistent by Meeting UDO	8
	Policy Not Met	4
	Policy Not Applicable	9
<b>Comprehensive Plan Policy Consistency Analysis</b>	Attachment F	

## M. Place Type Consistency

Existing Place Type	
Place Type Designation	
Elements of a Place Type	
<b>Housing and Land Use Characteristics</b>  The proposal introduces townhouses, which is a new housing type in an area that is predominantly single-family. The acreage, which is just less than six, does not require more than one housing type.	<b>Mobility</b>  The development plan commits to a 10' shared path along Leesville Road and a minimum of one bicycle/pedestrian connection to that shared path. UDO requirements for bicycle and pedestrian facilities within the site will be required at the site plan stage.
<b>Green Space</b>  The application provides for a minimum of 25% open space, which is above UDO requirements. Buildings shall be farther from environmentally sensitive areas on the site than is required by the UDO.	<b>Service Provision</b>  Water and sewer service will be provided. There is no transit service near the site.
<b>Place Type Policy Analysis</b>	See Attachment F

## N. Case Timeline Summary

Timeline of Activity on the Case	
<b>Date of Presubmittal Meeting</b>	November 9, 2023
<b>Date of Required Neighborhood Meeting</b>	January 4, 2024
<b>Date Application Submitted (and Deemed Complete by Staff)</b>	February 20, 2024
<b>Date All Comments Addressed</b>	June 22, 2024
<b>Date of Planning Commission Public Hearing</b>	September 10, 2024
<b>Date of City Council or BOCC Public Hearing</b>	TBD

## O. Advisory Body Recommendations

Bicycle and Pedestrian Advisory Commission (BPAC)	
<b>Bicycle Pedestrian Advisory Commission (BPAC) Comments</b>	<p>The Durham Bicycle and Pedestrian Advisory Commission (BPAC) has reviewed the project and believes the project would better serve the needs of the community, adopted plans, Vision Zero goals and the goals of the Durham Comprehensive Plan if the following items are included:</p> <ol style="list-style-type: none"> <li>1. Construct a 12 foot paved multi use path (MUP) with a yellow thermo paint dashed centerline and a 10-foot buffer from the road, with trees planted in the buffer along the project frontage with Leesville Road. <ul style="list-style-type: none"> <li>o The project proposes a 10 foot multi-use path, and will consider a 10 foot buffer at the site plan stage</li> </ul> </li> <li>2. Provide direct bike/pedestrian access to the MUP from the development. <ul style="list-style-type: none"> <li>o The applicant states that this request is met through text commitment 5: "Prior to the issuance of the first building permit, dedicate 10-feet of additional right-of-way</li> </ul> </li> </ol>

	<p>for the frontage of the site along Leesville Road. Final right-of-way dedication to be determined at site plan."</p> <p>3. Leave a ROW for connection to any future development to the north and/or east.</p> <ul style="list-style-type: none"> <li>○ The applicant states that the areas bordering the north and east of this property have been developed as a part of the Everton development (Approved Case #D2200310). As no future development will take place, no ROW connections are needed.</li> </ul> <p>Relevant Comprehensive Plan policies:</p> <p>CP Policy 53- Fill Gaps in Sidewalk, Bicycle &amp; Transit Infrastructure</p> <p>CP Policy70- Ensure new development is connected to adjacent neighborhoods</p>
<b>Planning Commission</b>	
<b>Planning Commission Vote</b>	TBD

## P. Conclusion

The proposal would allow the development of 20 townhouse units. The site for the proposed apartment units is Southeast Durham and is located near Brier Creek. The annexation request would fill a current donut hole in the city limits. The project is similar to the adjacent recently approved development to the north, and provides additional townhouse units on the north side of Leesville Road; single-family development already exists to the south and further to the west.

The site does contain two historic buildings, DH3510 and DH3511. However, neither building has architectural significance, and both have been reviewed and determined ineligible for historic registration.

This proposal is consistent with 20 of 24 applicable policies of the Comprehensive Plan, as found in Attachment F – Comprehensive Plan Consistency. The proposal is generally consistent with the Place Type Map designation of Mixed Residential Neighborhood (MRN).

## Q. Notification

Staff certifies that newspaper advertisements, letters to property owners, and the posting of the property have been carried out in accordance with paragraph 3.2.5 of the UDO. In addition, email notice was provided per the Durham Planning Public Notification Service.

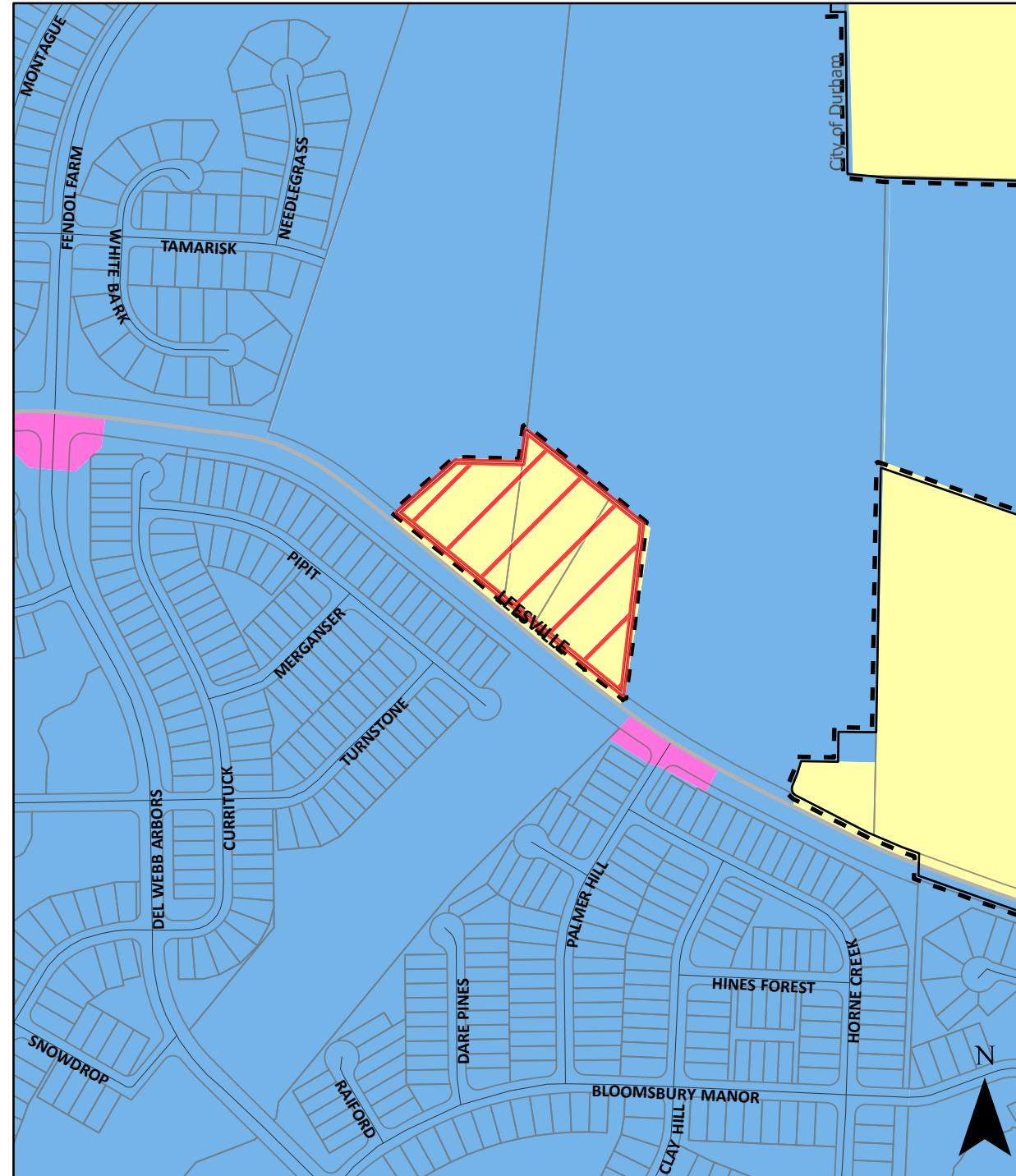
## R. Attachments

- Attachment A – Zoning Context Map
- Attachment B – Aerial Map
- Attachment C – Place Type Map
- Attachment D – Annexation Map
- Attachment E – Textual Development Plan
- Attachment F – Comprehensive Plan Consistency Review
- Attachment G - Operational Impact Analysis
- Attachment H – Cost Benefit Analysis
- Attachment I – Utility Extension Agreement

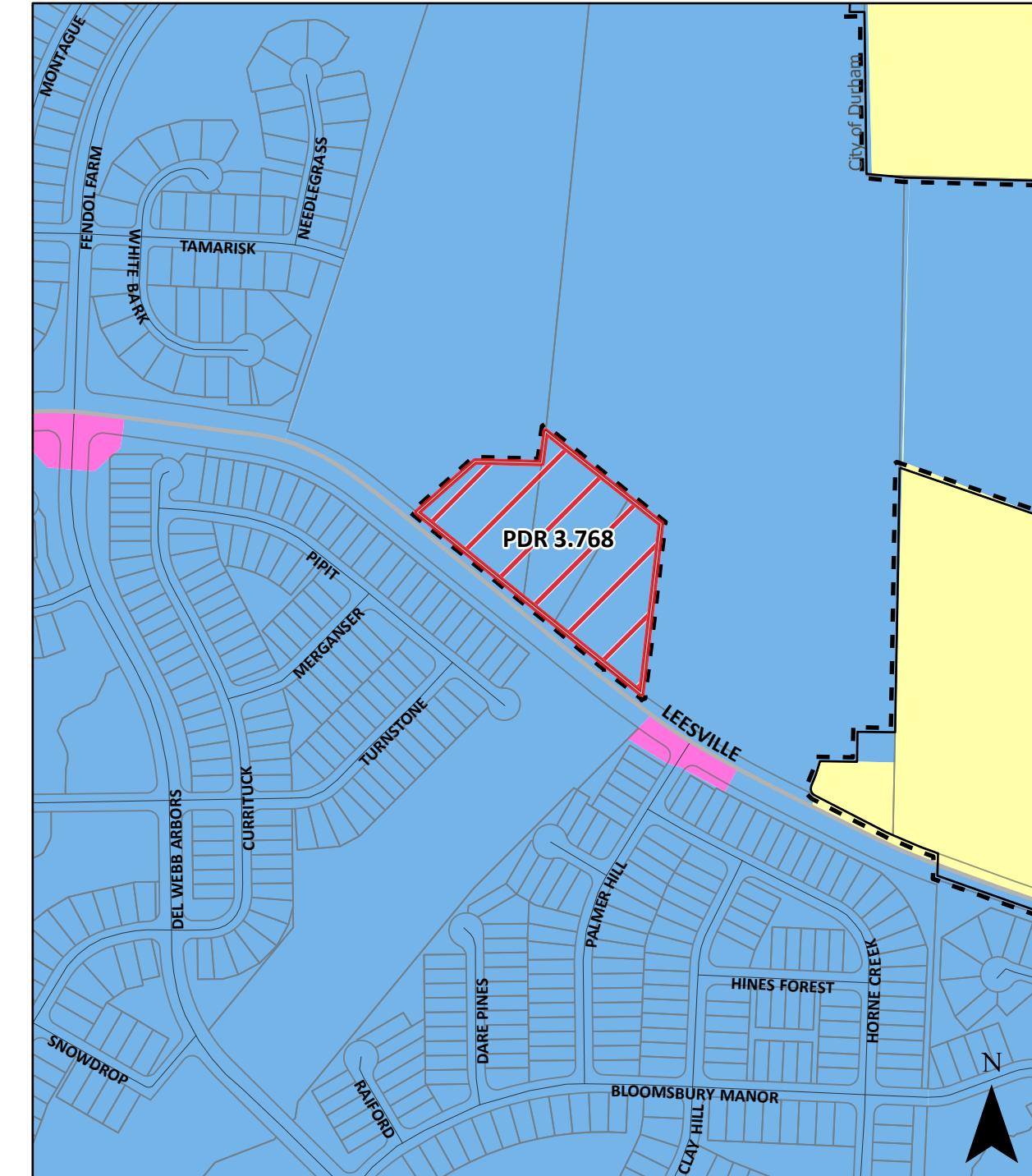
# Attachment A: Zoning Context Map

## Z2400007 and BDG2400004 - Tri-Creek

Existing: Residential Rural (RR)

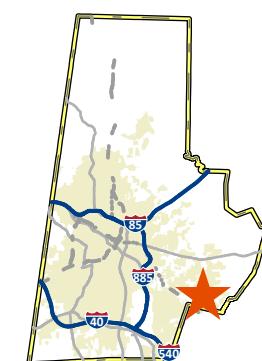


Proposed: Planned Development Residential 3.768(PDR 3.768)



Legend:

-  Z2400007
-  City of Durham
- Layer
-  Durham County Boundary
-  Parcels
- Zoning Districts
-  PDR (2 - 4 du/ac)
-  RR
-  OI



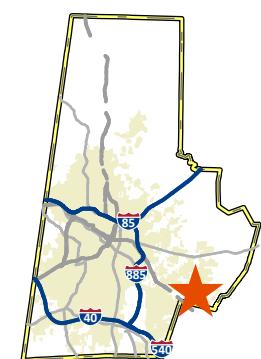
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Durham City-County Planning Department  
August 13, 2024

# Attachment B: Aerial Map

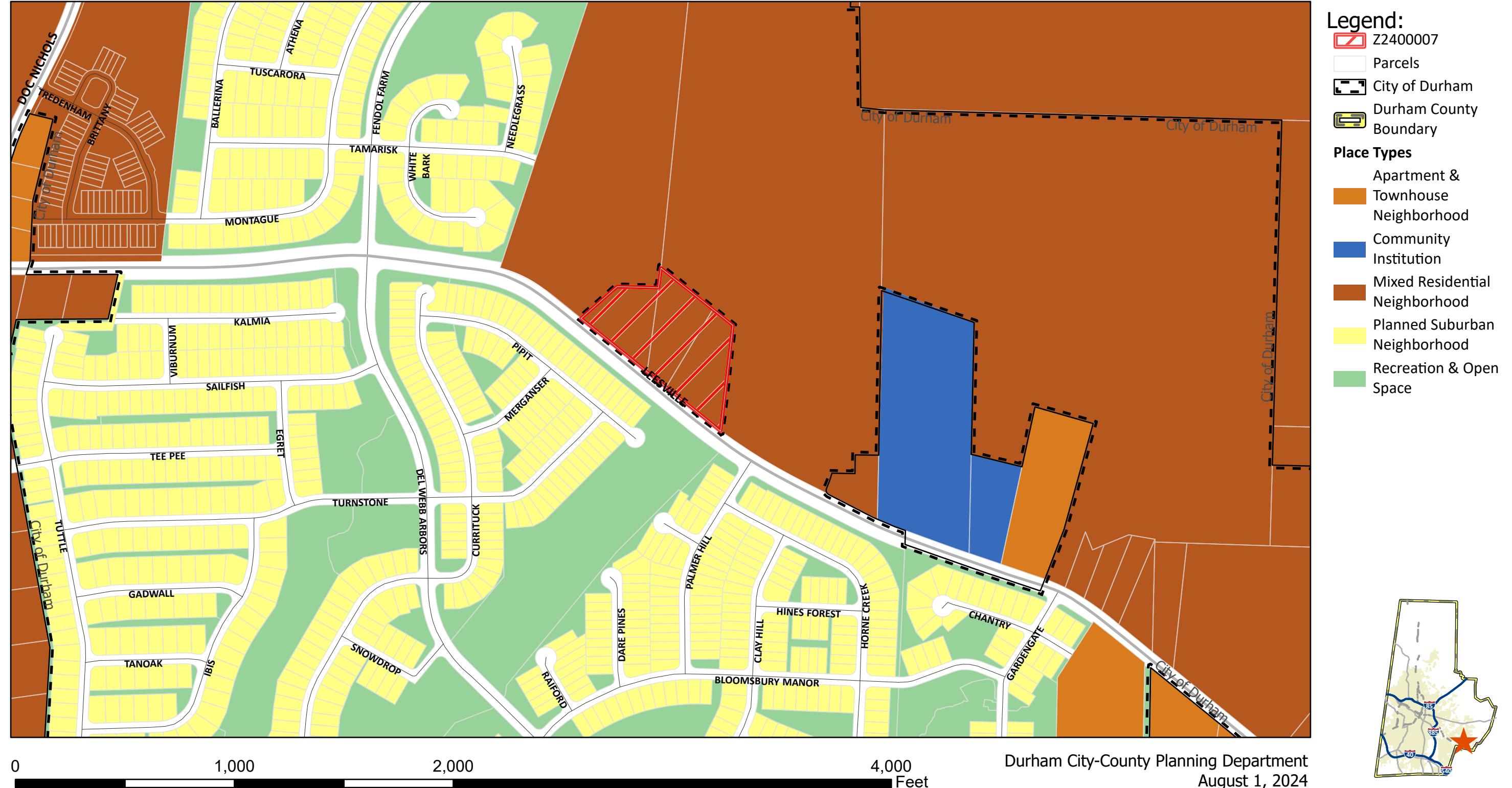
Z2400007 and BDG2400004 - Tri-Creek



# Attachment C: Place Type Map

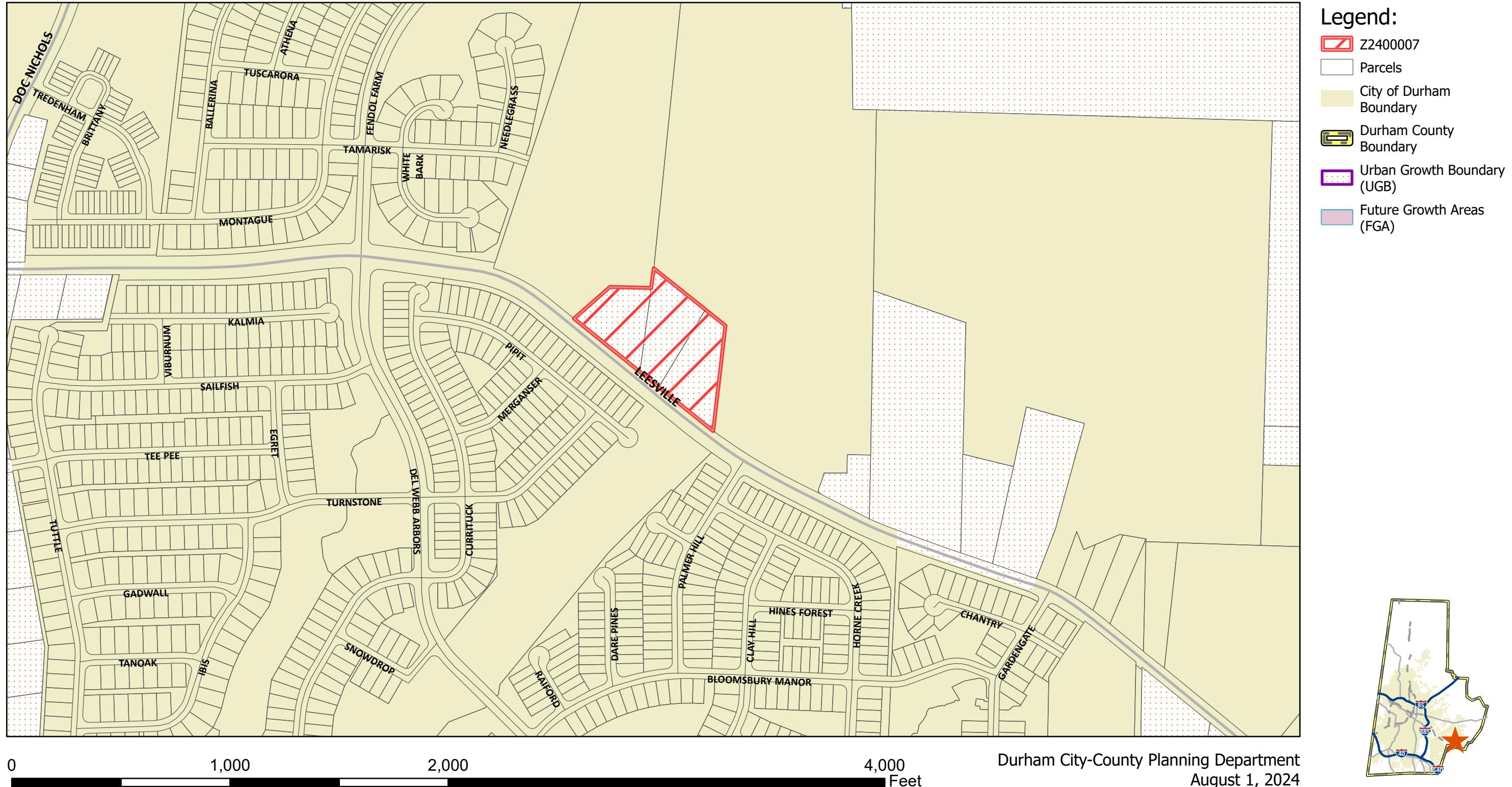
Z2400007 and BDG2400004 - Tri-Creek

Place Type: Mixed Residential Neighborhood



# Attachment D: Annexation Map

Z2400007 and BDG2400004 - Tri-Creek



## **Textual Development Plan**

1. The proposed development shall include a maximum of 20 townhouse residential units and permitted accessory uses.
2. In order to promote variation in home appearance, no building can be constructed with a front exterior elevation (front façade) or color palette that is identical to the building on either side of it.
3. The townhouse unit building height shall not exceed 45 feet.
4. All buildings shall be located a minimum of 20 feet from the perimeter site boundary line and/or 10 feet from tree coverage area and environmentally regulated areas.
5. Prior to the issuance of the first building permit, dedicate 10-feet of additional right-of-way for the frontage of the site along Leesville Road. Final right-of-way dedication to be determined at site plan.
6. Prior to the issuance of a certificate of occupancy, construct a 10' shared path for the full frontage of the site along the north side of Leesville Road to accommodate bicycles and pedestrians.
7. A five (5) foot concrete trail connection from the development will be provided to Leesville Road.
8. Mass grading shall not be permitted.
9. The site shall be limited to no more than fifty percent impervious surface.
10. Prior to the issuance of a certificate of compliance, provide a one-time contribution of \$5,000 to Durham Public Schools.
11. Prior to the issuance of a certificate of compliance, provide a one-time contribution of \$20,000 to the City of Durham Dedicated Housing Fund.
12. All new trees planted shall be native as that term is used in the Durham Landscape Manual.

### **Prior to the Issuance of a Certificate of Occupancy:**

#### Leesville Road and Doc Nichols Road

13. Install a traffic signal with steel poles and mast arms.

#### Carpenter Pond Road and Olive Branch Road

14. Install a traffic signal with steel poles and mast arms.

Leesville Road (SR 1906) at Access #1 (Per Approved Case #Z2100027)

15. Construct Site Access #1 with one ingress lane, two egress lanes and adequate internal protective stem.
16. Construct an exclusive eastbound left-turn lane on Leesville Road at Site Access #1 with adequate storage and appropriate tapers.
17. Construct an exclusive westbound right-turn lane on Leesville Road at Site Access #1 with adequate storage and appropriate tapers.

Fendol Farm Parkway and Tamarisk Lane/Access #2 (Per Approved Case #Z2100027)

18. Construct Site Access #2 as an extension of Tamarisk Lane with one ingress lane and one egress lane.

**DENSITY CALCULATIONS**

GROSS TRACT AREA -	5.801 AC
AREA OF RIGHT-OF-WAY DEDICATED -	0.492 AC
85% OF STEEP SLOPES OUTSIDE STREAM BUFFER -	0.000 AC
50% OF FLOODWAY FRINGE -	0.000 AC
NET DEVELOPABLE RESIDENTIAL AREA -	5.309 AC
MAXIMUM DENSITY ALLOWED	3.768 DU/AC
PROPOSED RESIDENTIAL UNITS – 5.309 AC X 3.768 DU/AC=	20 UNITS



## COMPREHENSIVE PLAN CONSISTENCY REVIEW

Comprehensive Plan Development Applicable Policies		
Applicable Policy	Consistent	How consistent
<b>Policy 32:</b> Preserve and protect historic resources in the design of new developments and neighborhoods and design them to respect Durham's unique identity and reflect the nearby historical context. Promote new developments that are compatible with the architectural elements of significant historic resources.	<b>Not applicable as the historic structures are ineligible and have not retained their historic character</b>	
<b>Policy 33:</b> Discourage development patterns, such as exclusively single-family neighborhoods, that segregate and concentrate high-wealth communities.	<b>Consistent by meeting UDO standards</b>	<b>Proposal is for townhouses in an area that is a mix of housing types.</b>
<b>Policy 37:</b> Design new developments to prioritize pedestrians in ways compatible with existing neighborhoods, such as by placing buildings close to the street, oriented toward sidewalks, green spaces, or community areas where people gather; locating vehicle access and parking to the side or rear of buildings and lots; maintaining connected streets and frequent intersections; and designing buildings to engage with the street through stoops, porches, or other welcoming entranceways.	<b>Consistent by exceeding UDO standards</b>	<b>The proposal commits to providing an additional bicycle and pedestrian connection to Leesville Road.</b>
<b>Policy 39:</b> Preserve and create natural areas, open spaces, community gardens, and trees within new housing developments or redevelopments—particularly for affordable housing—to improve the physical and mental health of residents.	<b>Consistent by meeting UDO standards</b>	<b>UDO requirements of tree save and open space will be met at the site plan stage.</b>

<p><b>Policy 40:</b> Affordable housing should be included in new development proposals. Encourage and incentivize housing that meets the needs of Durham residents in terms of cost, unit size, housing type, ADA accessibility, and location. Tenures for housing affordability should run, where feasible, with the land in perpetuity. When this is not possible, affordability tenures should last for a minimum of 30 years and have an associated deed restriction.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p><b>The development plan commits to a \$20,000 donation to the Durham Dedicated Housing Fund.</b></p>
<p><b>Policy 48:</b> Encourage, incentivize, and require a variety of housing types in new developments that allow for a mix of age groups, and discourage developer commitments that isolate seniors by restricting housing based on age.</p>	<p><b>Policy not met</b></p>	<p><b>The proposal does not commit to including a variety of unit sizes, bedroom configurations, accessible units, or units with “universal design” elements.</b></p>
<p><b>Policy 49:</b> Work towards healthier housing and lower utility costs for residents by using green building techniques and technologies (such as solar panels, passive solar design, low VOC materials), particularly in affordable housing units. Use durable, environmentally sustainable materials in publicly and privately funded affordable housing to create healthier homes.</p>	<p><b>Policy not met</b></p>	<p><b>The proposal does not provide commitments for green building techniques or technologies.</b></p>
<p><b>Policy 50:</b> Encourage the location of new residential development such that homes are within a safe ten-minute walking distance (approximately one-half mile) of public parkland.</p>	<p><b>Policy not met</b></p>	<p><b>The development is not sited within 1/2 mile of public parkland.</b></p>
<p><b>Policy 52:</b> Encourage the preservation of existing mobile home parks. Provide a re-housing plan for residents when mobile home parks are redeveloped, prioritizing locations near existing parks or with similar access to amenities.</p>	<p><b>Not applicable as the site is not currently a mobile home park</b></p>	
<p><b>Policy 55:</b> Fill in gaps in the existing sidewalk, bicycle, and transit infrastructure to create an accessible, safe, and direct transportation network for all residents. Focus on improving residents' access to needed resources, including healthcare services, grocery stores, employment areas, and schools.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p><b>A ten-foot shared use path will be provided along the north side of Leesville Road. A bicycle and pedestrian connection to that path from the townhouses is committed.</b></p>

<b>Policy 57:</b> Encourage new developments to fill in gaps or upgrade transportation infrastructure by building or dedicating rights-of-way within and adjacent to the project site.	<b>Consistent by meeting UDO standards</b>	A ten-foot shared use path will be provided along the north side of Leesville Road.
<b>Policy 63:</b> Improve ADA accessibility at crosswalks, sidewalks, and bus stops for all people, regardless of ability or age. Improve pedestrian infrastructure, including street crossings, intersections, signals, wayfinding, and sidewalks prioritizing the safety of people with disabilities, senior citizens, students, and families with young children.	<b>Consistent by meeting UDO standards</b>	UDO requirements will be met at the site plan stage.
<b>Policy 70:</b> Reduce the amount of land used for automobile travel and parking and encourage pedestrian- and transit-friendly design. Discourage conversion of land into uses primarily or exclusively supportive of automobiles, such as gas stations and car washes.	<b>Consistent by exceeding UDO standards</b>	This residential development will provide a bicycle and pedestrian connection to Leesville Road.
<b>Policy 72:</b> Ensure new development is connected to adjacent neighborhoods and commercial areas with walking and biking infrastructure. This can include building, improving, or dedicating right-of-way for sidewalks, and constructing bicycle paths, greenways, off-street bicycle and pedestrian connections, bus stop infrastructure, and collector streets, as called for in locally adopted transportation plans.	<b>Consistent by exceeding UDO standards</b>	UDO stub out and connectivity requirements will be met at the site plan stage. This residential development will provide a bicycle and pedestrian connection to Leesville Road.
<b>Policy 79:</b> Protect Durham's most sensitive natural areas (including floodplains, wetlands, wildlife habitats, hillsides, drinking water sources, critical watersheds, and natural heritage areas) from the impacts of development.	<b>Consistent by meeting UDO standards</b>	UDO requirements around protection and preventing encroachments will be met at the site plan stage.
<b>Policy 81:</b> Locate open space in new development so that it protects the most environmentally sensitive portions of the site and creates large and contiguous habitat areas, rather than narrow and disconnected strips of open space	<b>Consistent by exceeding UDO standards</b>	The proposal commits to structures being at least ten feet from tree coverage and environmentally sensitive areas.

<p><b>Policy 83:</b> Existing habitat areas and wildlife movement corridors should be left largely undisturbed to remain in their natural, vegetated state and to avoid fragmentation and disruption. These areas include Wildlife Habitat Areas or Natural Corridors in adopted open space plans or identified NC Natural Heritage Areas. Some disturbance may be allowed for road crossings, utilities, and stormwater infrastructure, if minimized. Staff will recommend against proposed structures or parking in these areas</p>	<p><b>Not applicable as there are no wildlife corridors on the site</b></p>	
<p><b>Policy 84:</b> Discourage development that contributes to a loss of biodiversity, particularly through disruptive clear-cutting and mass grading. Mass grading should be discouraged for new residential projects. When mass grading of new development sites is proposed, it should occur in phases rather than across the entire area at once, to reduce on-site stormwater runoff and erosion, and to retain tree cover between the phases of construction.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p><b>The development plan commits to not mass grading the site.</b></p>
<p><b>Policy 85:</b> New developments should include tree coverage beyond that required by development regulations. Tree canopy should be distributed throughout new developments to maintain a consistent mature tree canopy wherever possible.</p>	<p><b>Policy not met</b></p>	<p><b>The proposal does not include commitments to tree coverage beyond what is required by the UDO.</b></p>
<p><b>Policy 94:</b> Increase Durham's urban tree canopy, prioritizing neighborhoods and communities with comparably less canopy. Prioritize native trees in replanting efforts.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p><b>The development plan commits to only planting native trees as defined in the Durham Landscape Manual.</b></p>
<p><b>Policy 95:</b> Strongly discourage new development in floodplains. For existing development in floodplains, support and encourage retrofits to increase flood resilience.</p>	<p><b>Not applicable as there are no floodplains on this site</b></p>	

<p><b>Policy 96:</b> Implement strategies to reduce the heat island effect and its impact on residents. Ensure that new developments mitigate the urban heat island effect in areas currently experiencing it. Encourage new developments that minimize impervious surfaces and include green infrastructure, reflective materials, and plentiful tree canopy.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p>The proposal commits to a maximum of 50 percent impervious surface, which is more stringent than the UDO maximum allowance of 70 percent.</p>
<p><b>Policy 101:</b> Encourage new development that incorporates native plants, wildlife habitats, natural landscaping, and that discourages invasive exotic species.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p>The proposal commits to planting only native species per the Durham Landscape Manual.</p>
<p><b>Policy 104:</b> In new development, dedicate parks, recreation facilities, and other amenities for public use rather than as private space.</p>	<p><b>Not applicable as there are no parks or recreation facilities proposed on site</b></p>	
<p><b>Policy 105:</b> New developments should build or dedicate right-of-way for trails and greenways as per adopted trails and greenway plans. The trails and greenways system should link residential areas, schools, parks, institutions, shopping centers, and other greenway corridors.</p>	<p><b>Not applicable as there are no identified trails or greenways on site</b></p>	
<p><b>Policy 108:</b> Encourage green infrastructure, such as native trees and vegetation, protected green spaces, green roofs and walls, bioswales, rain gardens, and permeable pavement. Green infrastructure should be prioritized in low-income and BIPOC communities if desired by those communities.</p>	<p><b>Consistent by exceeding UDO standards</b></p>	<p>Proposal commits to only planting native trees per the Durham Landscape Manual.</p>
<p><b>Policy 111:</b> Encourage innovative stormwater management practices that will preserve and enhance water quality and will not increase the quantity of water discharged downstream of new developments. Encourage innovative stormwater management practices that will prepare our community and its infrastructure for increasingly heavy precipitation events.</p>	<p><b>Consistent by meeting UDO standards</b></p>	<p>The proposal will meet UDO stormwater requirements at the site plan stage.</p>
<p><b>Policy 114:</b> Encourage reuse of existing buildings, infrastructure, and construction materials, rather than their new creation from scratch. (Ensure that existing infrastructure is adequate for infill development, upgrade if not).</p>	<p><b>Not applicable as there are not sufficient materials on site</b></p>	

<b>Policy 145:</b> Co-locate childcare facilities within or adjacent to employment centers, education and medical institutions, and community and civic places.	<b>Not applicable as this is a residential proposal</b>	
<b>Policy 152:</b> Coordinate school planning and land use planning to proactively prepare for increased student growth from new development. When a proposed residential development causes any school level (ex: elementary, middle, and high school) within a region to be over-capacity, Durham Public Schools, the Durham City-County Planning Department, and the development team should consider mitigation measures for the school system (ex: land dedication, payments in-lieu-of improvements, or other proffers). Coordinate with Durham Public Schools to calculate what mitigation is necessary based on the best available estimates.	<b>Consistent by exceeding UDO standards</b>	<b>The proposal commits a one-time \$5,000 donation to Durham Public Schools.</b>
<b>Policy 155:</b> When a proffer of land dedication for school sites is made, review of acreage and feasibility should be assessed in coordination with Durham Public Schools and Durham City-County Planning.	<b>Not applicable as there is no land dedicated to Durham Public Schools</b>	

Place Type Policies		
Policy	Consistent	How Consistent
<b>Policy 174</b> Housing types should be mixed throughout Mixed Residential Neighborhood Place Types and not isolated in discrete parts of the development.	<b>Consistent</b>	<b>Provides a housing type (townhouses) in an area that is already a mix of housing types; continues the desired pattern of a mixture of housing types in this area.</b>
<b>Policy 175</b> Mixed Residential Neighborhoods smaller than 20 developable acres should increase the mix of housing types in the immediate vicinity. Mixed Residential Neighborhood Place Types generally between 20 and 50 developable acres should include a mix of at least two housing types. Mixed Residential Place Types generally more than 50 developable acres should include a mix of three or more place types. All Mixed Residential Neighborhoods should include housing at a variety of price points and sizes.	<b>Consistent</b>	<b>Only one housing type is provided, though due to the acreage being less than twenty it is consistent with this policy. In addition, the proposal introduces townhouses into an area that is predominantly single-family residential.</b>

**Cost-Benefit Impact Overview:** BDG240004 – Tri-Creek

The estimated General Fund revenues generated from this annexation at buildout in FY 26-27 are \$76,540. The estimated General Fund expenditures associated with providing City services at buildout are \$12,869. The estimated cumulative General Fund net gain to the City at buildout is \$61,901. These calculations do not include Impact Fee revenues, as these support Capital Improvement Projects. A cost-benefit analysis is attached that provides cost and revenue projections through FY2032-33. The chart below contains additional details regarding departmental revenue and expense projections.

Department/Type	Revenues	Expenses
Fire	No revenues are anticipated.	<p><b>A. Capital Expenses</b>  The following capital expenses will be required to support the annexation petition over a 10-year period, post-construction: Cumulative FY 24 through FY 33: The following cumulative capital expenses will be required to support the annexation petition over a 10-year period, post-construction: \$7,541.</p> <p><b>B. Equipment &amp; Operational Expenses</b>  The following equipment-related costs and purchases will be required to support the annexation petition over a 10-year period, post-construction: Cumulative FY 24 through FY 33: The following cumulative equipment and operational-related costs and purchases will be required to support the annexation petition over a 10-year period, post-construction: \$2,982.</p> <p><b>C. Personnel Expenses</b>  The following personnel costs will be required to support the annexation petition over a 10-year period, post-construction: Cumulative FY 24 through FY 33: The following cumulative personnel costs</p>

		will be required to support the annexation petition over a 10-year period, post-construction: \$10,412.
Planning	The department anticipates receiving \$13,961 in development review fees for this requested annexation.	No additional expenses are anticipated.
Police	No additional revenues are anticipated.	<p><b>A. Capital Expenses</b> The following cumulative capital expenses will be required to support the annexation petition over a 10-year period, post-construction: \$0.00.</p> <p><b>B. Equipment &amp; Operational Expenses</b> The following cumulative equipment and operational-related costs and purchases will be required to support the annexation petition over a 10-year period, post-construction: \$0.00.</p> <p><b>C. Personnel Expenses</b> The following cumulative personnel costs will be required to support the annexation petition over a 10-year period, post-construction: \$62,537.</p>
Public Works	The department expects increased fees and reimbursements in proportion to the linear feet of streets added to the system. One-time Inspections and development review fees that apply to the build only are not included. Additional revenues over the analysis period are estimated at \$77.	While there is not expected to be any direct repaving or other long-term rebuild on these streets in the short term, there may be routine utility cuts, patching, etc., required depending on when these streets are accepted and their condition at that point. There will also be winter weather costs, could be potholes, etc., as with any other street. Total proportional costs at the current level of services over the analysis period total \$5,838, including CIP.

Solid Waste	<p>The following revenues will be collected with this annexation petition: \$3,150.</p>	<p><b>A. Capital Expenses</b> The following cumulative capital expenses will be required to support the annexation petition over a 10-year period, post-construction: \$3,712 - debt service for a portion of additional vehicles required.</p> <p><b>B. Equipment &amp; Operational Expenses</b> The following cumulative equipment and operational-related costs and purchases will be required to support the annexation petition over a 10-year period, post-construction: \$2,790 roll-out carts \$15,877 - incremental costs of vehicle fuel and maintenance costs; garbage disposal costs; and recycling and yard waste processing costs.</p> <p><b>C. Personnel Expenses</b> The following cumulative personnel costs will be required to support the annexation petition over a 10-year period, post-construction: \$3,771 - a portion of additional crews required.</p>
Transportation	<p>The City anticipates collecting approximately \$238 in Paratransit revenues and \$105 in Powell bill revenues over the 10-year analysis period.</p>	<p>The City anticipates total costs associated with the project over the 10-year analysis period as follows: \$2,408 for street lighting, \$182 for signs, \$0 for street markings, and \$3,096 for Paratransit service.</p>

**COST-BENEFIT ANALYSIS**  
**BDG240004 – Tri Creek**

<b>PROJECTED ANNEXATION TAX REVENUES</b>										
<b>GENERAL FUND REVENUES</b>	<b>FY2023-24</b>	<b>FY2024-25</b>	<b>FY2025-26</b>	<b>FY2026-27</b>	<b>FY2027-28</b>	<b>FY2028-29</b>	<b>FY2029-30</b>	<b>FY2030-31</b>	<b>FY2031-32</b>	<b>FY2032-33</b>
Personal & Real Property Tax	\$ 2,507	\$ 2,582	\$ 2,660	\$ 44,393	\$ 45,725	\$ 47,096	\$ 48,509	\$ 49,965	\$ 51,464	\$ 53,007
Sales Tax	-	-	-	16,000	16,157	16,315	16,475	16,637	16,800	16,965
Beer & Wine Tax	-	-	-	206	208	210	212	214	216	218
Gas Tax	-	-	-	871	879	888	897	905	914	923
Utility Franchise Tax	-	-	-	600	606	611	617	624	630	636
<b>TOTAL TAX REVENUES</b>	<b>2,507</b>	<b>2,582</b>	<b>2,660</b>	<b>62,069</b>	<b>63,574</b>	<b>65,121</b>	<b>66,711</b>	<b>68,344</b>	<b>70,024</b>	<b>71,749</b>
<b>PROJECTED ANNUAL DEPARTMENTAL REVENUES</b>										
Fire	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Planning	-	-	-	13,961	-	-	-	-	-	-
Public Works	-	-	-	10	11	11	11	11	11	12
Solid Waste	-	-	-	450	450	450	450	450	450	450
Transportation	-	-	-	49	49	49	49	49	49	49
<b>TOTAL ANNUAL REVENUES</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>14,470</b>	<b>510</b>	<b>510</b>	<b>510</b>	<b>510</b>	<b>511</b>	<b>511</b>
<b>TOTAL GENERAL FUND REVENUES</b>	<b>2,507</b>	<b>2,582</b>	<b>2,660</b>	<b>76,540</b>	<b>64,084</b>	<b>65,631</b>	<b>67,221</b>	<b>68,855</b>	<b>70,534</b>	<b>72,260</b>
<b>TOTAL REVENUES RECEIVED</b>	<b>2,507</b>	<b>2,582</b>	<b>2,660</b>	<b>76,540</b>	<b>64,084</b>	<b>65,631</b>	<b>67,221</b>	<b>68,855</b>	<b>70,534</b>	<b>72,260</b>
<b>PROJECTED ONGOING DEPARTMENTAL EXPENDITURES</b>										
<b>GENERAL FUND EXPENDITURES</b>	<b>FY2023-24</b>	<b>FY2024-25</b>	<b>FY2025-26</b>	<b>FY2026-27</b>	<b>FY2027-28</b>	<b>FY2028-29</b>	<b>FY2029-30</b>	<b>FY2030-31</b>	<b>FY2031-32</b>	<b>FY2032-33</b>
Fire	-	-	-	1,534	1,611	1,692	1,776	1,865	1,958	2,056
Police	3,173	3,173	3,173	7,574	7,574	7,574	7,574	7,574	7,574	7,574
Public Works	-	-	-	743	771	801	831	863	897	932
Solid Waste	-	-	-	2,550	2,631	2,715	2,801	2,891	2,983	3,078
Transportation	-	-	-	468	468	468	1,070	1,070	1,070	1,070
<b>TOTAL ONGOING EXPENDITURES</b>	<b>3,173</b>	<b>3,173</b>	<b>3,173</b>	<b>12,869</b>	<b>13,055</b>	<b>13,249</b>	<b>14,053</b>	<b>14,264</b>	<b>14,483</b>	<b>14,711</b>
<b>GAIN/(LOSS) GENERAL FUND ONGOING EXPENSES</b>	<b>(666)</b>	<b>(591)</b>	<b>(513)</b>	<b>63,670</b>	<b>51,029</b>	<b>52,382</b>	<b>53,168</b>	<b>54,591</b>	<b>56,051</b>	<b>57,549</b>
Tax Rate Equivalent (in cents) for General Fund Net	(0.00)	(0.00)	(0.00)	0.02	0.01	0.01	0.01	0.01	0.01	0.01
<b>Cumulative GAIN/(LOSS)</b>	<b>(666)</b>	<b>(1,257)</b>	<b>(1,770)</b>	<b>61,901</b>	<b>112,929</b>	<b>165,311</b>	<b>218,478</b>	<b>273,069</b>	<b>329,121</b>	<b>386,670</b>
<b>PROJECTED CAPITAL AND ONE-TIME EXPENDITURES</b>										
Police	-	-	-	-	-	-	-	-	-	-
Fire	-	-	-	902	-	-	-	-	-	-
Public Works	-	-	-	-	-	-	-	-	-	-
Solid Waste	-	-	-	3,320	530	530	530	530	530	530
Transportation	-	-	-	-	-	-	-	-	-	-
Planning	-	-	-	-	-	-	-	-	-	-
<b>TOTAL CAPITAL AND ONE-TIME EXPENDITURES</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>4,222</b>	<b>530</b>	<b>530</b>	<b>530</b>	<b>530</b>	<b>530</b>	<b>530</b>
<b>TOTAL GENERAL FUND EXPENDITURES</b>	<b>3,173</b>	<b>3,173</b>	<b>3,173</b>	<b>17,091</b>	<b>13,586</b>	<b>13,780</b>	<b>14,583</b>	<b>14,794</b>	<b>15,013</b>	<b>15,241</b>
<b>GAIN/(LOSS) GENERAL FUND WITH CAP/ONE-TIME</b>	<b>(666)</b>	<b>(591)</b>	<b>(513)</b>	<b>59,448</b>	<b>50,498</b>	<b>51,851</b>	<b>52,637</b>	<b>54,061</b>	<b>55,521</b>	<b>57,019</b>
Tax Rate Equivalent (in cents) for General Fund Net	(0.00)	(0.00)	(0.00)	0.01	0.01	0.01	0.01	0.01	0.01	0.01
<b>Cumulative GAIN/(LOSS)</b>	<b>(666)</b>	<b>(1,257)</b>	<b>(1,770)</b>	<b>57,679</b>	<b>112,399</b>	<b>164,780</b>	<b>217,948</b>	<b>272,539</b>	<b>328,591</b>	<b>386,140</b>
<b>PROJECTED CAPITAL IMPROVEMENT PROJECTS (CIP)</b>										
Pro-rated costs of capital projects	-	-	-	7,749	217	226	236	246	257	268
<b>TOTAL CAPITAL IMPROVEMENT PROJECTS</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>7,749</b>	<b>217</b>	<b>226</b>	<b>236</b>	<b>246</b>	<b>257</b>	<b>268</b>
<b>GAIN/(LOSS) WITH CIP (ALL COSTS)</b>	<b>(666)</b>	<b>(591)</b>	<b>(513)</b>	<b>51,700</b>	<b>50,282</b>	<b>51,625</b>	<b>52,401</b>	<b>53,815</b>	<b>55,264</b>	<b>56,751</b>
Tax Rate Equivalent (in cents) for CIP only	(0.00)	(0.00)	(0.00)	0.01	0.01	0.01	0.01	0.01	0.01	0.01
<b>Cumulative GAIN/(LOSS)</b>	<b>\$ (666)</b>	<b>\$ (1,257)</b>	<b>\$ (1,770)</b>	<b>\$ 49,930</b>	<b>\$ 112,182</b>	<b>\$ 164,554</b>	<b>\$ 217,712</b>	<b>\$ 272,293</b>	<b>\$ 328,334</b>	<b>\$ 385,872</b>

**NOTES:**

1. Property tax values are as of:

7/1/2023

2. Assume one and one-half vehicles per household @

per vehicle

6. One penny on the current tax rate =

4,128,791

3. Property tax rate, Beer and Wine Tax, Gas Tax and Utility Franchise Tax are FY24 Actuals.

4. FY2024 Property tax rate for the City =

\$ 0.005577

7. Assumed annual PS &amp; operational increase

2.00%

5. Assumed tax growth per year =

3.00%

## **UTILITY EXTENSION AGREEMENT FOR WATER, SEWER, AND STORMWATER SERVICES**

**THIS UTILITY EXTENSION AGREEMENT** (hereafter "Contract"), is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **Marsh & Partners, LLC**, a limited liability company (hereafter "Developer") and the **CITY OF DURHAM**, a North Carolina municipal corporation (hereafter the "City");

**WHEREAS**, the Developer proposes to extend water and sewer to serve **Tri-Creek**, a residential development with a maximum of 20 townhome units, located at 6017 Leesville Road, further described as Real Estate Identification (REID) 193303, 193304, and 193306 ("the Property").

**WHEREAS**, the Developer requires water and sewer lines that will connect to the City's water and sewer systems in order to enable construction of the above described development or such other development as may be approved by the Durham City Council; and

**WHEREAS**, the Property is outside the City limits and Developer has submitted a petition for annexation of the Property to the City;

**WHEREAS**, the City is not obligated to offer utility service to property outside its corporate limits and requires, among other things, that such properties enter into a utility extension agreement and be annexed into the City, unless annexation is excused by the City Council;

**WHEREAS**, unless annexation has been excused by the City Council, the City's obligations under this Contract are effective upon the effective date of City annexation of the property;

**WHEREAS**, under City ordinance, Developer is required to pay all costs associated with this Contract, in particular the costs associated with the design, materials, and installation of water, sewer, and stormwater infrastructure, required street infrastructure, and other related costs; and

**WHEREAS**, at its meeting held \_\_\_\_\_, 20\_\_\_\_, the City Council authorized this Contract in accordance with the terms set forth below;

**NOW THEREFORE**, in consideration of ten dollars and other valuable consideration, the receipt of which is hereby acknowledged, the Developer and the City, and their heirs, successors, and assigns agree:

1. **Included Appendices.** Appendix A (Annexation) and Appendix B (Project Specific Provisions) are a part of this Contract.

2. **Effective Date.** If Appendix A (Annexation) has been included in this Contract, the City's obligations under this Contract are effective upon the effective date of City annexation. This Contract creates no obligation for the City to annex the Property or to proceed with the annexation of the Property on any particular timetable, which decisions shall be in the discretion of the City Council. In the event the Property is not annexed, this Contract shall be null and void unless the City Council approves a Contract modification to allow extension of utility services without annexation. If Appendix A (Annexation) is not part of this Contract, the obligations of this Contract shall become effective upon execution by the parties.

3. **Definitions and Rules of Interpretation.** In this Contract, the following terms, whether capitalized or not, shall have the meanings set forth below, unless it is clear in the Contract that the context requires otherwise. In addition, the rules of interpretation set forth below shall apply.

"City" means the City of Durham.

"City Requirements" mean all ordinances, policies, standards, and specifications prescribed by the City applicable to the development activity, work, or construction undertaken pursuant to this Contract. Such Requirements may include, but are not limited to, the Unified Development Ordinance, the City Code, and standards for processing of and construction of infrastructure many of which are contained in the City's Reference Guide for Development maintained by the City Department of Public Works.

"Developer" is the owner of the Property or the entity which has contracted to purchase the various parcels composing the Property thereby becoming the owner of the Property, and is the entity identified in the first paragraph of this Contract. "Developer" includes successors in interest and assigns.

"Improvements" means all infrastructure required by the City that allows water and sewer to be delivered to or from the Property and integrated into the City's utility system, and all infrastructure, which may include natural features, that allows stormwater from the Property to be managed in accordance with City Requirements. It includes, but is not limited to, lines, mains, outfalls, water and sewer connections to the street mains including meter box and meter yoke, water meters to the extent required under City Requirements, all construction and repair to streets and rights of way within which water, sewer, or stormwater infrastructure is located, pump stations, water towers, water booster stations, and all natural and constructed stormwater infrastructure that carries or treats stormwater, or mitigates the impact of stormwater. It may include, if allowed under City Requirements, natural features and improvements located on individual lots to the extent they are part of the planned stormwater system or contribute to meeting water quality requirements.

"Person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities.

"Project" means the development approved by the Durham City Council for the Property through a zoning action, and any committed elements that, if also approved, would establish additional conditions for such zoning.

"Property" means the land located at REID 193303, 193304, and 193306.

"Water and/or sewer" refer to the particular utilities being installed by Developer, which may include water only or sewer only, or both, as generally described in Appendix B and as ultimately determined through City review of site plans and construction drawings.

The following rules of interpretation apply: (1) The singular includes the plural, and the plural the singular; (2) The word "shall" is mandatory.

**4. Developer's Obligation.** The Developer shall bear the total cost and expense of all the obligations and duties created by this Contract unless otherwise explicitly stated in this Contract. Those obligations and duties are, generally, to create all Improvements as may be required by the City in accordance with this Contract and with City Requirements. Such Improvements include but are not limited to: i) all Improvements within the Project; ii) all Improvements connecting to water, sewer, or stormwater infrastructure outside the Project, whether existing or planned; iii) modifications to any existing water, sewer, or stormwater infrastructure outside the Project that facilitate provision of utility service to the Project, or compliance with City Requirements, or integration of the Improvements with the surrounding existing or planned water, sewer, or stormwater system; and iv) new streets or alterations to existing streets or rights of way within which the Improvements are located. The Developer's obligations also include all costs, including but not limited to legal costs, of acquiring all fees or easements within which the Improvements will be located.

**5. Improvements.** A general description of the Improvements to be constructed to serve the Project is set forth in Appendix B. The final determination of the number, scope, size, materials, and location of required Improvements shall be as determined in the discretion of the City with jurisdiction over the utility service provided and shall be made in connection with site plan and construction drawing approval.

**6. Street work.** Streets within the Project shall be constructed in accordance with City Requirements, which include payments for installation of particular types of streets.

**7. City Requirements.** Design, construction, materials, sizing, other specifications, permitting, inspections, testing, documentation and furnishing of as-built drawings, and acceptance of completed infrastructure shall be in accordance with City Requirements. Design and construction shall be by professionals licensed in the state of North Carolina to do the relevant work. City approval of the design of the Improvements shall be required prior to construction, as set forth in City Requirements. If Developer is connecting to the County sewer system, the City may require Developer to furnish the contract providing for such connection.

8. **Contracts.** Developer shall ensure that its contracts for design and construction of the Improvements do not shorten or limit any otherwise applicable warranties or statutes of limitation. In addition, Developer shall ensure that such contracts contain an assignment clause that allows assignment of any warranties regarding the constructed Improvements to the City. For certain Improvements, the City may require that Developer's contracts identify the City as a 3<sup>rd</sup> party beneficiary, or may require prior consultation regarding contractors for the project. If such requirements are applicable to this Project, it shall be shown in Appendix B, or the City will notify Developer in a timely manner of such requirements prior to the Developer's contracting for Improvements.

9. **Compliance; Permits.** All activity undertaken pursuant to this Contract shall be in compliance with federal and state law and regulations and City Requirements. Developer shall obtain all permits and approvals required to do the work authorized under this Contract.

10. **Conflicts.** In the event of conflict between this Contract and any law, state or federal regulation, or City Requirements, the stricter of the applicable provisions shall control.

11. **Testing.** Developer shall pay for any testing deemed necessary to determine that the Improvements, and their environmental impact, comply with federal or state law and regulations, or City Requirements.

12. **Dedication to City.** With the exception of Improvements that are designated in Appendix B or in site plan approvals as private, upon completion of the Improvements in accordance with City Requirements, the Developer shall dedicate to the City, in the manner specified by the City, the Improvements located within public streets, and all outfalls, pump stations, water booster stations, and water towers. In addition, any property in which the Improvements are located shall be dedicated if it has not already been dedicated. Upon acceptance of the dedicated Improvements by City Council, the City shall thereafter be responsible for maintenance. The determination as to whether the Improvements comply with City Requirements shall be made by the Director of Public Works or designee in his or her sole discretion. The City may require, among other things, certified as-built plans for the Improvements; a release of liens from contractors and subcontractors; additional plats or deeds for property containing the Improvements; releases of any mortgage or security interests in such property; and any other information the City deems to be necessary to accept the constructed Improvements.

13. **Warranty/Repair.** Developer warrants that the Improvements shall be constructed in accordance with City Requirements and other applicable professional standards, fit for the purpose for which they were constructed, and free from defects for a one year period which shall run from the time of acceptance by the City. Developer shall be responsible for repairs needed during the one year period. Upon request by the City, Developer will assign any warranty rights it has under its contracts to the City.

14. **City Extensions.** Developer agrees that in accordance with City Requirements, the City may make extensions from or connections to water, sewer, and stormwater improvements that Developer has dedicated to the City. City Requirements provide for reimbursements to be made

to the Developer for such connections/extensions in certain circumstances. If such are available under this Contract, they are described in Appendix B.

**15. Assignments/Reimbursements.** Developer shall notify the City in writing of any assignment of the obligations under this Contract and/or change in the entity to receive reimbursements under this Contract, in the event that future reimbursements are provided for in Appendix B or pursuant to City Requirements. An assignment by Developer of the obligations under this Contract does not limit the obligations of successor owners of the property unless i) the assignee owns a substantial part of the property; and ii) there is a written modification of this Contract approved by the parties to replace the Developer with the assignee to the exclusion of other owners. If reimbursements are provided for under this Contract, they shall be made to the original Developer or to a successor in interest who has been identified in writing as entitled to the reimbursements. In the absence of a party that legally exists that has been identified as entitled to the reimbursements, the City shall hold the reimbursements for three years from the various dates they are received. After the three year period, the reimbursements shall be forfeited to the City. The City may, but is not required to, provide notice of potential reimbursements to successors in interest to the original Developer. In the event of dispute between owners claiming an interest in the reimbursements, the City shall hold the reimbursements until legal resolution, if a lawsuit has been filed. If legal action is not filed within three years, the reimbursements shall be forfeited to the City. Identification of new owners entitled to reimbursements shall be in a manner which in form and substance meets the City's directives.

**16. No obligations.** This Contract does not create any express or implied obligation that the City: i) reserve or create water or wastewater treatment capacity; ii) approve a permit or connection, which shall be granted only upon compliance with all requirements of law, including City Requirements; iii) offer utility services to any user within the Project; iv) provide a particular quantity, quality, or pressure for the water serving the Project; v) waive or not charge fees that are otherwise applicable pursuant to City Requirements; or vi) approve annexation of the Property or a particular zoning of the Property.

**17. No vesting.** Developer agrees that no vested rights exist that would impact the City's consideration of its proposed development, and that no vested rights shall be claimed for the proposed development until and unless annexation and zoning are approved, if they are approved, and such further development approvals are given as would, under the law, create a claim regarding vested rights.

**18. Contract a Covenant that Runs with Land.** The obligations and entitlements of this Contract are covenants that run with the Property, and are binding on all heirs, assigns, successors in interest, and other subsequent owners. Within 30 days of the latter of either Contract execution or the Developer becoming the owner of the Property, Developer shall record this Contract, and shall furnish the City a copy of the recorded document and a statement from an attorney licensed to practice law in North Carolina, in form and substance acceptable to the City, that the Contract has been recorded, and that the obligations of the Contract are binding upon all subsequent owners of the Property. No development approvals shall be issued by the City in the absence of recordation and certification as described above.

19. **Notice.**

(a) *Mode and Designated Recipients.* All notices and other communications given under this Contract shall be written, and made by personal delivery, fax, Federal Express, or United States mail, addressed as follows. The parties are also requested to send a copy by email.

To the City:

Public Works Director  
Department of Public Works  
City of Durham  
101 City Hall Plaza  
Durham, NC 27701-3329  
Fax: (919) 560-4316  
Email: [Marvin.Williams@durhamnc.gov](mailto:Marvin.Williams@durhamnc.gov)

With copy to:

City Attorney's Office  
City of Durham  
101 City Hall Plaza  
Durham, NC 27701

To the Developer:

Marsh & Partners, LLC  
Attention: Matthew A. Marsh  
4080 Barrett Dr.  
Raleigh, NC 27609  
Phone: 919-913-8788  
Email: [mmarsh@marsh-partners.com](mailto:mmarsh@marsh-partners.com)

(b) *Change of Address.* Notice of a change of address, fax number, or person to receive notice shall be provided to the other party in writing through one of the means described above.

(c) *Time of Receipt.* A notice or other communication is effective upon delivery to the other party if it is personally delivered or sent by fax. Notice sent by mail or Federal Express is effective upon the second work day after the date it was sent, as evidenced by a postmark or similar indicia, or upon actual delivery.

20. **No Third Party Rights.** This Contract is intended for the benefit of the City and Developer and not for any other Person, and no such Persons shall enjoy any right, benefit, or entitlement under this Contract.

21. **Nondiscrimination Policy; EEO.** The City of Durham opposes discrimination on the basis of race and sex and urges Developer to provide a fair opportunity for minorities and women

to participate in its work force and to contract with Developer. During the performance of this Contract Developer agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

**22. Governmental Authority Retained.** Nothing contained in this Contract shall be deemed or construed to in any way stop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions, or shall limit the City's discretion in the exercise of such powers and functions.

**23. Remedies; Breach.** The parties shall have all remedies allowed by law to enforce this Contract. Substantial breach of this Contract shall result in the Contract becoming void, at the election of the nonbreaching party. Prior to voiding the Contract, the party alleging a substantial breach shall give notice to the other party and shall afford an opportunity to cure of at least 60 days. In addition, in the event of breach by Developer, the City may withhold any permit or approval related to development, construction, or occupancy in the Project. Enumeration of these remedies is not exclusive.

**24. Services Dependent on Improvements.** The City's furnishing of water and/or sewer service to the Property is dependent upon completion of the Improvements. In the event Developer does not complete the Improvements, Developer and its successors in interest shall have no entitlement to receive water and/or sewer service. Entitlement to water and/or sewer service is dependent upon: annexation (if required); city zoning; completion of and conformance with this Contract; construction of the Improvements by Developer or its successors in interest; water and/or sewer capacity at the time of completion; and compliance with all other lawful requirements.

**25. Termination.** Developer's failure to initiate substantial construction activity within five years of execution of this Contract, and continue said construction expeditiously toward completion, with adequate forces, and in good faith may result in termination of this Contract, at the election of the City. The City's Public Works Director shall determine if such failure exists, and shall notify Developer in writing. Developer shall have at least 90 days to initiate or increase construction activity. Final notice of termination shall be given by the City Manager or a Deputy City Manager.

**26. Waiver.** No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this Contract, or constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

**27. Contract not Severable.** In the event any substantive provision of this Contract is declared unenforceable the Contract shall become void. This paragraph, however, does not prohibit the parties from agreeing to eliminate or modify the unenforceable provision or enter into a new agreement.

**28. Modifications.** Substantial modifications of the Contract shall be approved by the City Council. Minor modifications, modifications of Appendix B regarding Improvements, and

substitution of an assignee owner of a substantial portion of the Property for the original Developer may be approved by the City Manager or deputy or assistant City Manager without Council approval. Without exclusion as to other minor modifications, a modification to the Project which both reduces the overall density of and utility demand within the Project or which would not be considered to be a significant deviation under the standards set forth in Section 3.5 of the Unified Development Ordinance is a "minor modification" under this Paragraph. A modification of this Contract is not valid unless it is signed by both parties and is otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless it is signed by the City Manager or a deputy or assistant City Manager.

29. **Recordation of Status of Agreement.** The City shall cooperate with the Developer in executing any form to be filed by the Developer in the event that the Contract is voided, terminated or superseded, or its requirements are fully satisfied.

30. **Entire Agreement.** This Contract contains the entire agreement between the parties pertaining to the subject matter of this Contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Contract.

31. **Choice of Law and Forum; Process Agent.** This Contract shall be deemed made in Durham County, North Carolina. This Contract shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Contract shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to federal court. This limitation, however, shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this subsection. Developer shall maintain a registered agent in North Carolina with the office of the N. C. Secretary of State.

32. **Indemnification.**

(a) **In general.** The terms of subsection (c) (Standard Indemnification Provision) below shall apply to the Contractor, subject to subsections (d) through (k), where applicable.

(b) **Definitions.** These definitions apply to this Section unless otherwise stated.

Contractor – Each party to this contract except the City of Durham.

Construction agreement -- any promise or agreement in, or in connection with, a contract or agreement relative to the design, planning, construction, alteration, repair, or maintenance of a building, structure, highway, road, appurtenance, or appliance, including moving, demolition, and excavating connected therewith.

Defend –In this Section except in subsection (c), defend means to pay for or furnish counsel at the expense of the Contractor to defend any of the Indemnitees against claims alleged or brought against any of the Indemnitees by a third party alleged or brought in any court or other tribunal, including forms of alternative dispute resolution required by law or contract, before the court or tribunal has reached a final determination of fault.

Derivative parties -- with respect to a party, any of that party's subcontractors, agents, employees, or other persons or entities for which the party may be liable or responsible as a result of any statutory, tort, or contractual duty.

Design professional -- a person or entity who is licensed under and provides professional services regulated by Chapters 83A, 89A, 89C, 89E, or 89F of the N. C. General Statutes.

Design professional agreement -- any promise or agreement in, or in connection with, a contract or agreement with a design professional to provide design professional services.

Design professional services -- a service or work performed by a design professional for which licensure is required under Chapters 83A, 89A, 89C, 89E, or 89F of the N. C. General Statutes.

Fault -- a breach of contract; negligent, reckless, or intentional act or omission constituting a tort under applicable statutes or common law; or violations of applicable statutes or regulations.

Indemnitees -- City and its officers, officials, independent contractors, agents, and employees, excluding the Contractor.

Subcontractor -- any person or entity, of any tier, providing labor or material through the Contractor for use on the project at issue in the applicable construction agreement or design professional agreement.

(c) Standard Indemnification Provision. (i) The Contractor shall defend, indemnify, and hold harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this contract as a result of acts or omissions of the Contractor or its derivative parties. In performing its duties under this subsection "c," the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City. (ii) "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses. Included without limitation within "Charges" are (1) interest and reasonable attorney's fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this contract. By appropriate litigation, each Indemnitee, severally, shall have the right to enforce this section (titled "Indemnification") directly against the Contractor, but not against the City of Durham.

(d) Restriction regarding Indemnitees' Negligence. This contract shall not require the Contractor to indemnify or hold harmless Indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of Indemnitees.

(e) Restriction regarding Fault in Construction Agreements and Design Professional Agreements. If this contract is a construction agreement or design professional agreement, nothing in this contract requires the Contractor to indemnify or hold harmless Indemnitees or any other person or entity against losses, damages, or expenses unless the fault of the Contractor or its derivative parties is a proximate cause of the loss, damage, or expense indemnified.

(f) Restriction regarding Negligence of Design Professionals. Nothing in this contract requires the Contractor, provided that it is a design professional, to defend Indemnitees or any other person or entity against liability or claims for damages, or expenses, including attorney's fees, proximately caused or allegedly caused by the professional negligence, in whole or in part, of the Contractor, the City, or their derivative parties, whether the claim is alleged or brought in tort or contract.

(g) Liability When at Fault. The parties intend that nothing in this contract shall be construed to exclude from any indemnity or hold harmless provisions enforceable under subsection (d) (Restriction regarding Indemnitees' Negligence) and subsection (e) (Restriction regarding Fault in Construction Agreements and Design Professional Agreements) any attorneys' fees, litigation or arbitration expenses, or court costs actually incurred by the City to defend against third party claims alleged in any court, tribunal, or alternative dispute resolution procedure required of the City by law or by contract, if the fault of the Contractor or its derivative parties is a proximate cause of the attorney's fees, litigation or arbitration expenses, or court costs to be indemnified. Every provision in this contract that violates the parties' intent expressed in the preceding sentence shall be construed and revised to the extent that it is lawful in order to make the provision conform with such intent.

(h) Insurance Contracts and Bonds. This Section does not affect an insurance contract, workers' compensation, or any other agreement issued by an insurer; and this Section does not apply to lien or bond claims asserted under Chapter 44A of the N.C. General Statutes.

(i) Other Provisions. Every provision in this contract that violates subsection (d) (Restriction regarding Indemnitees' Negligence), subsection (e) (Restriction regarding Fault in Construction Agreements and Design Professional Agreements), or subsection (f) (Restriction Regarding Negligence of Design Professionals) shall be construed and revised to the extent that it is lawful in order to make the provision conform with those subsections.

(j) Survival. This Section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.

(k) Compliance with Law. This Section shall be applied to the maximum extent allowed by law but it shall be construed and limited as necessary to comply with N.C.G.S. § 22B-1. This Section is not to be construed in favor or against any party as the drafter. The preceding sentence is not intended to imply or direct how the remainder of this Section or of this contract is to be construed.

33. **E-Verify Requirements.** (a) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129 – (i) the Developer represents and covenants that its contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor's subcontractors," and "comply" as used in this subsection (a) shall have the meanings intended by NCGS 143-129(j); and (iii) the City is relying on this subsection (a) in entering into this contract. (b) If this contract is subject to NCGS 143-133.3, the contractor and subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

34. **Iran Divestment Act Certification.** Developer certifies that, if it submitted a successful bid for this contract, then as of the date it submitted the bid, the Developer was not identified on the Iran List. If it did not submit a bid for this contract, the Developer certifies that as of the date that this contract is entered into, the Developer is not identified on the Iran List. It is a material breach of contract for Developer to be identified on the Iran List during the term of this contract or to utilize on this contract any contractor or subcontractor that is identified on the Iran List. In this Iran Divestment Act Certification section -- "Developer" means the person entering into this contract with the City of Durham; and "Iran List" means the Final Divestment List – Iran, the

Parent and Subsidiary Guidance List – Iran, and all other lists issued from time to time by the N.C. State Treasurer to comply with G. S. 147-86.58 of the N.C. Iran Divestment Act.

*[Signatures continue on the following page]*

**IN TESTIMONY WHEREOF**, the parties hereto have executed this Contract as of the dates shown below.

## Marsh & Partners, LLC

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: Manager

State of \_\_\_\_\_

## Acknowledgment by Limited Liability Company

County of \_\_\_\_\_

(Type or print state and county where notarial act

( $\gamma$ -ray was performed)

I, \_\_\_\_\_ (Type or print name of notary public), a notary public, certify that \_\_\_\_\_ (Type or print name of individual who signed) personally (1) appeared before me this day, (2) stated that he or she is a manager of **Marsh & Partners, LLC**, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_, and that if he or she is a manager of the company automatically by reason of being a member of the company, the operating agreement does not change that status, (3) acknowledged that the foregoing contract with the City of Durham carries on the company's business in the usual way, and (4) acknowledged the due execution, under seal, of the contract on behalf of the company. This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
  
*(Handwritten signature of Notary Public)*

My commission expires:

## Notary Public

ATTEST:

CITY OF DURHAM

By: \_\_\_\_\_

preaudit certificate, if applicable \_\_\_\_\_

## APPENDIX A -ANNEXATION PROVISIONS

1. The Developer shall ensure that all actions are taken to ensure that the Property may be legally annexed by the City. Developer shall ensure that the annexation petition it has submitted and all supporting documents and certifications required by the City are updated as required in the discretion of the City and remain valid until the City Council gives final approval or disapproval to the annexation. Prior to the effective date of annexation, if the City determines to annex the Property, Developer shall not seek any development approvals from any governing unit other than the City of Durham. Such approvals include, but are not limited to, zoning (if it has not already been granted by the County for the Property), and in addition site plans, preliminary plats, final plats, building permits, or construction drawings for properties or buildings contained within the Property, except where another governmental entity has jurisdiction. Applications for approval of a sedimentation and erosion control permits, and other State and Federal permits, may be made, but if granted, no activity shall be conducted pursuant to any such approval.
2. A valid annexation petition shall consist of a petition signed by all owners of and within the Property that meets the requirements of State law for petitioned annexation for contiguous or noncontiguous areas, whichever is applicable. Necessary supporting documents shall include a certificate of title for the Property, current as of the date of submittal to the City, a metes and bounds description of the Property, a map of the Property that corresponds to the metes and bounds description of the Property, and any other information specifically requested by the City.
3. The City may terminate this Contract, and/or refuse to provide such service to any part of the Property, and/or void or deny permits to construct water and/or sewer lines to any part of the Property if the Developer does not comply with the annexation provisions of this Contract.
4. In the event the Property includes lots that have already been developed, or have already received building permits, Developer shall pay to the City the equivalent of the City's capital facility fees for such lots, calculated as of the date of execution of this Contract, unless the proposed development for the Project to be approved by City Council eliminates the already existing development from the Property. Such payment shall be made to the Department of Inspections prior to the approval of the first additional building permit requested within the Property, and prior to issuance of permits for construction of water and/or sewer lines within the Property.

## APPENDIX B -PROJECT SPECIFIC PROVISIONS

1. Water service shall be provided as described in the Summary Utility Development Statement issued by the Department of Water Management dated April 16, 2024 (Exhibit 1). Water lines shall meet all City Requirements, including but not limited to size, design standards, loop feed requirements (with two waterline feeds constructed and operational prior to the subdivision of the Property into 100 or more residential lots), fire flow requirements, and system needs. There shall be no City participation in the cost. The Developer shall extend water lines through the Project to its boundaries as directed by the City to allow for future extension.
2. Sewer service shall be provided as described in the Summary Utility Development Statement issued by the Department of Water Management dated April 16, 2024 (Exhibit 1). All sewer Improvements, including size, location, and service area shall meet City Requirements. There shall be no City participation in the cost. The Developer shall extend sewer and easements through the Project to its boundaries as directed by the City to allow for future extensions. The Developer shall acquire all offsite sewer easements.
3. The Property is located within the Service Area for the Southeast Regional Lift Station established on May 18, 2015 pursuant to Durham Code section 70-50. The Developer shall pay the following Service Area Fees which Developer acknowledges serve to reimburse the City for services furnished by the City in designing and constructing the Southeast Regional Lift Station which is being constructed in part to serve the Development:

Single Family Residence	\$ 6,608.65/unit
Multi-Family and Non-Residential	\$ 18.36/Gallon of Average Daily Flow

This Service Area Fee shall increase 5% annually effective July 1 of each year. Payment of Service Area Fees shall be made at the time the sewer collection lines are permitted for construction. Payment of the Service Area Fee does not guarantee that said infrastructure shall be available by any particular date.

4. The City will make refunds to the Developer for connections made by subsequent property owners to City water, and/or sewer lines constructed by the Developer in a street, if any, in accordance with City Requirements. These refunds will be made to the Developer for a period of ten (10) years after the completion of the water and/or sewer line. After ten (10) years have expired, charges received for connecting to the water and/or sewer lines will not be refunded to the Developer. These refunds will be in an amount equal to the frontage charge collected, not to exceed one-half the average cost to the Developer per linear foot of pipeline installed.
5. The Developer shall pay frontage charges at the prevailing rate to the City for any street frontages within or adjacent to the Project where the Developer does not install a City water or sewer line. These frontage charges shall be paid to the City prior to the time that the Project's water or sewer lines are constructed (Section 70-17 of the City of Durham Code of Ordinances). Developer acknowledges that frontage charges are paid to the City as payment for the City's past investment in water and sewer line infrastructure that will serve the Project and also anticipated future maintenance and upgrades to this water and sewer line infrastructure.

6. The Developer shall pay water and/or sewer capital facility fees at the current rate as set by City Council for all new water and/or sewer connections to the City's water and/or sewer system. If the Project did not require the subdivision of land, the capital facility fees shall be paid to the City at the time water meters and/or sewer service connections are paid for. If the Project required the subdivision of land, then the capital facility fees shall be paid for prior to the issuance of a building permit for the Project. These requirements are consistent with N.C.G.S. §162A-213. Developer shall pay the City for the installation of water and/or sewer service laterals installed by the City (Durham City Code of Ordinances § 70-50). Developer acknowledges that these fees and charges are reimbursement to the City for services provided to the Project by the City and for the City's past investment in the City's water and wastewater treatment facilities and also anticipated future maintenance and upgrades to these facilities.

7. The Developer shall construct necessary Improvements to manage stormwater quantity, rate of runoff, and stormwater quality in accordance with City Requirements in effect at the time of site plan submission for each portion of the Project. Prior to submission of the first site plan within the Property, the Developer shall submit a stormwater plan that covers the entire Project and that addresses storm water quantity and quality as required under City Requirements and that proposes appropriate phasing of Improvements as part of such Plan. No site plan shall be issued until such stormwater plan is approved. In addition to compliance with City Requirements in effect at the time of site plan submission, the Developer shall ensure that any stormwater mitigation or offsite credits proposed as part of its stormwater plan is achieved within Durham County, or outside Durham County if none are available in Durham County, and meets any additional requirements regarding location that may exist in City ordinance at the time.

**EXHIBIT 1****CITY OF DURHAM – SUMMARY UTILITY DEVELOPMENT STATEMENT**

Department of Water Management  
 1600 Mist Lake Drive | Durham, NC 27704  
 919.560.4381 | F 919.560.4479  
[www.durhamnc.gov](http://www.durhamnc.gov)

Date: 4/16/24**PROJECT INFORMATION SUMMARY**Project Name: Tri-Creek (Z2400007/BDG2400004)Parcel ID(s) (not PINs): 193303, 193304, 193306

Project Description/Type, per RGD Section 5.0, and Unit Count:

Townhomes; 20 units (2,000 gpm required fire flow)

**UTILITIES STATEMENT**

Per discussion with the applicant and review of the attached Utility Impact Analysis Questionnaire, the City of Durham Department of Water Management has determined the following utilities will be required to serve the proposed project:

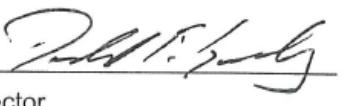
**GENERAL:** The applicant may increase the proposed development by 4 units without triggering a new Summary Utility Development Statement.

**WATER:** The proposed project site is within the 615' pressure zone and the development will require one waterline connection. The water main shall be extended from the Everton development on the North (see exhibit). All public water mains must be constructed within public ROW. Public waterlines under private streets or common areas are not permitted.

**SEWER:** The proposed project site is within the SRLS sewer basin and will be subject to the SRLS fee. Capacity is formally reserved at the Southeast Regional Lift Station when a sewer extension permit is approved by Public Works. The project shall extend a gravity sewer from the Everton development on the North (see exhibit). All public sewer mains must be constructed within public ROW. Public sewer lines under private streets or common areas are not permitted.

**ADDITIONAL REQUIREMENTS**

- Review and approval of a Lift Station PER is required before any lift station drawings will be reviewed
- Flow calculations are required for water meters 3-inch or greater
- Applicant is responsible for performing fire flow analyses to ensure that the required fire flow can be provided to each proposed hydrant
- Utility Extension Agreement required
- Reimbursement Agreement required

Signed: Title: Director

