

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

Tuesday, May 26, 1998

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman MaryAnn E. Black and Commissioners William V. Bell, Joe W.
Bowser, Becky M. Heron, and Ellen W. Reckhow

Absent: None

Presider: Chairman Black

Opening of Regular Session

Chairman Black called the Regular Session to order with the Pledge of Allegiance.

Agenda Adjustments

No adjustments were made to the agenda.

Minutes

Commissioner Heron moved, seconded by Commissioner
Bowser, to approve the April 13, 1998 Regular Session
Minutes of the Board as corrected.

The motion carried unanimously.

Commissioner Heron moved, seconded by Vice-Chairman
Reckhow, to approve the April 13, 1998 Closed Session
Minutes of the Board as submitted.

The motion carried unanimously.

May 26, 1998

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the April 27, 1998 Regular Session Minutes of the Board as corrected.

The motion carried unanimously.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the May 4, 1998 Worksession Minutes of the Board as submitted.

The motion carried unanimously.

Resolution—Smart Start

Vice-Chairman Reckhow, incoming chairman for the Smart Start program, was asked by Chairman Black to read the following resolution into the record:

RESOLUTION

WHEREAS, investing in the future of our youngest children is a crucial responsibility of this community; and

WHEREAS, the early years of a child's life are now widely regarded by scientists and child development specialists alike as the most important for future success in school and in life; and

WHEREAS, the continued quality of life and economic growth of this county is dependent upon the development of its future work force and upon the support of its current work force to find affordable, quality child care; and

WHEREAS, the pioneering, early childhood initiative called Smart Start has enabled Durham County for the past three years, through Durham's Partnership for Children, to build upon an infrastructure of early childhood resources that focus on improving the quality of child care, enhancing preventive child health services, and supporting parents in their child-rearing responsibilities; and

WHEREAS, Governor James Hunt has made a budget request to the NC General Assembly to expand the Smart Start initiative into 45 more counties; and

WHEREAS, Governor Hunt's budgetary request for the next fiscal year, beginning July 1, 1998, designates an additional \$1.6 million to come to Durham's Partnership for Children to support the ever-increasing needs to serve more children in Durham County:

May 26, 1998

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby call upon the NC General Assembly and the Durham County legislative delegation to the General Assembly to actively support the Governor's budget request to expand the Smart Start initiative to all NC counties and to increase the annual allocation to Smart Start in Durham County that will benefit the present and future generations of young children and their families in this community.

This the 26th day of May, 1998.

/s/ Five Commissioners
Durham County Commissioners

Vice-Chairman Reckhow requested the resolution be transmitted to the Durham County Legislative Delegation.

The Commissioners were urged to attend a breakfast meeting on Friday, May 29, 1998, at Scarborough Nursery in recognition of "Stand for Children Day." This resolution would be presented to the local delegation at the meeting.

Resolution—Foster Parent Month

Daniel C. Hudgins, Social Services Director, introduced Helen Berry, Supervisor of Child Placement Services, to recognize foster parents and staff present at the meeting.

Ms. Berry reminded the Commissioners of the banquet at the Durham Hilton on Thursday, May 28, 1998, to honor foster parents.

Cindy Ennis, President of the Foster Parent Association, and Secretary-Treasurer Gloria Jones accepted the following resolution that was read into the record by Chairman Black:

May 26, 1998

RESOLUTION

WHEREAS, in Durham, North Carolina, the lives of hundreds of children and families are disrupted annually by crises or conflicts in their homes; and

WHEREAS, foster parents respond to the needs of these families by providing love, care, and guidance until the children return to their own families or move to other permanent homes; and

WHEREAS, foster families are an invaluable resource and perform an extraordinary community service by working in partnership with agencies and parents to nurture children and to provide an opportunity for their healthy growth and development; and

WHEREAS, we should honor these men and women for providing love, attention, and support to these children and their families in need:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim May 1998 as

FOSTER PARENT MONTH

in Durham, North Carolina and urge our citizens to recognize the important service these people provide our children.

This the 26th day of May, 1998.

/s/ Five Commissioners
Durham County Commissioners

Resolution Honoring Former Governor and Senator Terry Sanford

A resolution honoring the life of former Governor, Senator, and Duke University president Terry Sanford was prepared by staff. Terry Sanford is remembered for numerous outstanding contributions to the Durham community.

Chairman Black read the following resolution into the record:

RESOLUTION

WHEREAS, Terry Sanford came from humble beginnings in Scotland County, North Carolina and went on to become one of this state's most highly respected and accomplished leaders; and

May 26, 1998

WHEREAS, he attended the University of North Carolina at Chapel Hill, gaining an interest in public policy and politics, and thus began a journey which would lead him to become a tireless advocate for positive economic development, improved education, and opportunities for all citizens; and

WHEREAS, he was elected governor of North Carolina in 1960, and during his tenure founded the community college system, created the N. C. School of the Arts in Winston-Salem, founded the Governor's School, a summer enrichment program for gifted high school students, and was recognized nationally for his commitment to education and the arts; and

WHEREAS, he became president of Duke University in 1970 where his major accomplishments included the creation of the Institute of Policy Sciences and Public Affairs, now known as the Sanford Institute, doubling the capacity of Duke University Medical Center, and the construction of the Fuqua School of Business; and

WHEREAS, though he left the presidency of Duke University in 1985, he continued to promote positive economic development in Durham, notably working with his son in the establishment of the Treyburn industrial and residential development in northern Durham County; and

WHEREAS, not content to rest on his laurels at the age of 69, Terry Sanford ran for a seat in the U. S. Senate and was elected in 1986, serving with distinction for six years:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby resolve to pay tribute to

TERRY SANFORD

a compassionate, creative, and visionary leader who gave his talents to improve the lives of all North Carolinians. We call upon all citizens of Durham County to remember the extraordinary contributions he made in this community, particularly while serving as president of Duke University.

This the 26th day of May, 1998.

/s/ Five Commissioners
Durham County Commissioners

Recognition—Sergeant Mike Williams

Chairman Black recognized Sergeant Mike Williams of the Durham County Office of the Sheriff for assisting with a medical emergency at Riverside High School.

May 26, 1998

Consent Agenda

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the following consent agenda item:

*(a) FY 1997-98 Budget Ordinance Amendment No. 98BCC000039—Other Human Services--Youth Coordinating Board (approve as submitted).

The motion carried unanimously.

The document related to this item follows:

Consent Agenda 5(a). FY 1997-98 Budget Ordinance Amendment No. 98BCC000039—Other Human Services—Youth Coordinating Board (approve as submitted).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
1997-98 Budget Ordinance
Amendment Number 98BCC000039

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the 1997-98 budget ordinance is hereby amended to reflect budget adjustments for the Youth Coordinating Board.

May 26, 1998

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Intgov'l	\$176,166,689	\$47,178		\$176,213,867
<u>Expenditures</u>				
Human Svcs	\$208,406,499	\$117,944		\$208,524,443
Nondeprt'l	\$ 15,959,954		(\$70,766)	\$ 15,889,188

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

This the 26th day of May, 1998.

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

Deputy County Manager Michael Palmer was requested to prepare a report for the Commissioners relative to the Youth Coordinating Board.

Public Hearing: Revision of Durham County's Animal Control Ordinance

On July 1997, an Ordinance Review Committee (ORC) was appointed by the County Manager and charged with identifying all outstanding issues with the existing Durham County Animal Control Ordinance, the need for additions and deletions, and with the drafting of a proposed revision to the ordinance for BOCC review and consideration. The ORC comprises representatives from Animal Control, the Animal Protection Society, the Animal Control Advisory Committee (ACAC), the County Attorney's Office, and the District Attorney's Office. Since its first meeting on August 12, 1997, the committee has worked very diligently incorporating all members' issues and concerns into the proposed revised ordinance. On March 11, 1998, at a special called meeting, the ACAC received and reviewed the ordinance, and on April 20, 1998, unanimously approved the proposed ordinance.

On Monday, May 4, 1998, during a regularly scheduled BOCC worksession, the ACAC and ORC presented the proposed ordinance and answered questions.

On Monday, May 11, 1998, the BOCC scheduled a public hearing for Tuesday, May 26, 1998, for the general public to comment on the proposed ordinance. Copies of the ordinance were made available for review and comment by the public on May 11, 1998, at all Durham County Libraries, the Clerk to the Board's Office, the Animal Control Office on Broad Street, the Animal Shelter on Club Boulevard, and the General Services Department at 310 South Dillard Street.

May 26, 1998

Resource persons for this item are Michael Turner, Director of General Services, and Simone Alston, Assistant County Attorney. Members from ORC and ACAC were available to receive public comment and answer questions for the BOCC.

County Manager's Recommendation: Receive public comment and approve the proposed revisions to the Durham County Animal Control Ordinance subject to the incorporation of specific changes as directed by the Board.

The public hearing will be held at the June 8, 1998 Regular Session.

Public Hearing for Approval of Standard Reimbursable Utility Contract For Extension of County Sewer to Service the Page Park Apartment Complex

The Utility Division requested approval of the County's Standard Reimbursable Utility Contract for the oversizing of the Page Park outfall, lift station, and force main. Dominion Construction Services Inc. is building the system to serve the Page Park Apartment Complex at Page Road and the Southern Parkway. Oversizing of the system will allow sewer service to approximately 120 additional acres in the Little Briar Creek drainage basin. The total reimbursable amount is \$91,295.13. The Sewer Connection Application shows that the reimbursement will be taken out of the Line Frontage Fees due for the project.

Chuck Hill, Division Head, Environmental Engineering Office, was present to discuss a recommendation to the Board.

County Manager's Recommendation: The County Manager recommended that the Board authorize execution of the above reimbursable utility contract for oversizing the sewer system at the Page Park Apartment complex.

Andy Lambeth, Project Coordinator, presented the agenda item to the Commissioners.

The Commissioners asked several questions and made comments about the proposal.

Mr. Lambeth and County Manager Thompson responded to the questions and comments.

Chairman Black opened the public hearing that was properly advertised.

As no one asked to speak, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to authorize execution of the reimbursable utility contract for oversizing the sewer system at the Page Park Apartment complex.

May 26, 1998

The motion carried unanimously.

Public Hearing to Consider an Amendment to the Zoning Ordinance Regarding Standards for the Display of Flags (TC72-98)

Adopt Zoning Ordinance Amendment TC72-98 regarding the display of flags.

Bonnie Estes, Planning Manager, presented the zoning ordinance amendment to the Commissioners for their consideration and approval.

Commissioner Bowser said he was against local governments adopting ordinances or laws to regulate the United States flag which should be completely exempt from county jurisdiction. Federal Statutes should regulate how the flags are flown.

Commissioner Heron commented that the flag should be treated with the honor it deserves. The Commissioners have adopted the congressional standards for flag protocol.

The Commissioners asked several questions about the zoning ordinance amendment.

Chairman Black opened the public hearing that was properly advertised.

Julius Bartell, 2013 Patterson Road, urged the Commissioners to allow citizens to fly the flag providing it does not interfere with anybody or any business.

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

County Attorney Chuck Kitchen suggested the ordinance be written in a manner which supports community aesthetics. An additional "Whereas" could be added to support aesthetics.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the ordinance amendment with the change suggested by the County Attorney.

The motion carried unanimously.

The ordinance amendment follows:

TC 72-98 adopted by BOCC 5/26/98

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO PROVIDE STANDARDS FOR FLAG POLES AND THE DISPLAY OF FLAGS

May 26, 1998

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance concerning flagpoles and the display of the United States flag and flags of other political jurisdictions; and

WHEREAS, the zoning ordinance contains standards for the display of flags of the United States and other political jurisdictions; and

WHEREAS, a group of interested citizens including officers of the American Legion Department of North Carolina suggested policies regarding the proper way to display the United States flag; and

WHEREAS, Title 36, U.S.C., Chapter 10 [the Flag Code] as amended by P.L. 344, 94th Congress, approved July 7, 1976, states among other things, that the United States flag should be well maintained and never be used for advertising purposes in any manner whatsoever; and

WHEREAS, certain types of flag displays result in the flag receiving disrespectful treatment, not in conformance with the Flag Code regarding the display of the United States flag; and

WHEREAS, there have been displays of the United States flag in Durham City and County not in conformance with congressional protocol, including instances where the flag is flown at night without lighting, or in inclement weather, or in a tattered condition, or the halyards are broken, or the flag size is not proportional to the flagpole height; and

WHEREAS, certain displays of the flag could have created the perception that the flag was used for advertising purposes; and

WHEREAS, the citizens of Durham requested that the United States flag and the flags of other political jurisdictions be treated with the honor they deserve; and

WHEREAS, the zoning ordinance seeks to establish standards which balance the desire for patriotic flag displays with concerns for safety and aesthetics; and

WHEREAS, the standards of the zoning ordinance will help mitigate situations where flag displays would negatively affect aesthetics; and

WHEREAS, the potential for the placement of an unlimited number of overly large flags at many businesses may contribute to visual clutter which may reduce property values of nearby businesses; and

WHEREAS, the potential for the display of the United States flag or the flags of other political jurisdictions in unlimited numbers and unlimited sizes in neighborhoods may show

May 26, 1998

lack of sensitivity to neighborhood appearances, may not meet neighborhood objectives, and may negatively affect property values; and

WHEREAS, Durham City and County wish to create an environment that supports good design and community aesthetics; and

WHEREAS, these proposed zoning standards bring respect and honor to the display of the United States flag and the flags of other political jurisdictions; and

WHEREAS, the elected officials of Durham City and County encourage the proper display of the United States flag in a patriotic manner as a symbol of our nation; and

WHEREAS, it is the intent of this ordinance to encourage the patriotic display of the United States flag and the flags of other political jurisdictions in a manner which supports community aesthetics, consistent with congressional protocol, on flag poles which are sized to protect the health, safety, and welfare of the citizens:

NOW THEREFORE, BE IT ORDAINED THAT:

SECTION 1

That Section 8 [Performance Standards] of the Zoning Ordinance be amended to add the following Subsection:

Standards for flagpoles and flags:

1. The term flag in this subsection shall mean the flag of the United States or a political jurisdiction. All other flags shall conform to the standards found in the Sign section [Section 12] of the zoning ordinance. The flags referenced in this subsection shall be flown in conformance with adopted Congressional protocol. References to flagpole height in this subsection refer to vertical flagpoles. References to the number of flagpoles and flags refer to both vertical flagpoles and mast arm flagpoles [for example, staffs extending at an angle from a building].
2. Flagpoles in nonresidential zoning districts shall not exceed the allowed height of the zoning district or 75 feet whichever is less. Flagpoles in residential districts shall not exceed 25 feet unless a special use permit is granted by the Board of Adjustment. No fee shall be required for this particular special use permit request.
3. The maximum dimensions of any flag shall be proportional to the flagpole height, in accordance with congressional protocol. The specific standards for vertical poles are as follows:

Pole Height [ft]	Maximum Flag Size [ft]
20	4x6
25	4x6
30	4x8
35	5x8
40	6x10

May 26, 1998

50	8x12
60	10x15
70	12x18

For flag sizes or vertical flagpole heights not found on this chart, the following standard shall be used: the hoist side of the flag shall not exceed 20% of the vertical height of the flagpole.

4. Each property shall be allowed a maximum of 3 flag poles unless a special use permit is granted by the Board of Adjustment.
5. A maximum of 2 flags shall be allowed per flagpole.
6. A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the pole.
7. The flag and flagpoles shall be maintained in good repair. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.
8. There shall be no maximum flag size on North Carolina and United States holidays.

May 26, 1998

SECTION 2

That Section 12 [Signs] be amended to delete references to flags of the United States and other political jurisdictions.

SECTION 3

That the ordinance be renumbered to accommodate this change.

SECTION 4

That this ordinance be effective upon adoption.

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

Public Hearing to Consider an Amendment to the Zoning Ordinance Regarding Landmark Signs (TC74-98)

To adopt Zoning Ordinance Amendment TC74-98 regarding landmark signs.

Bonnie Estes, City-County Planning Department, presented the amendment to the zoning ordinance regarding landmark signs.

The Commissioners asked questions about the ordinance to which Ms. Estes responded.

Vice-Chairman Reckhow suggested that in Section 2 12.8.13 Landmark Signs, subsection 2(a), that September 30 be inserted for the City and County.

Chairman Black opened the public hearing that was properly advertised.

As no one asked to speak, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Bell, to approve the amendment to the zoning ordinance regarding landmark signs.

The motion carried unanimously.

The ordinance amendment follows:

TC74-98 adopted by BOCC 5/26/98

May 26, 1998

AN AMENDMENT TO THE SIGN SECTION OF THE DURHAM ZONING
ORDINANCE TO ESTABLISH PROVISIONS FOR LANDMARK SIGNS

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance; and

WHEREAS, Durham City and Durham County sought to improve community appearance by adopting sign regulations; and

WHEREAS, these sign regulations set limits on the size and locations of certain signs; and

WHEREAS, there are some signs which serve as visual reminders of the historic and cultural heritage of the City and County; and

WHEREAS, the designation of such signs as landmark signs with provisions to allow for their preservation would preserve community landmarks:

NOW THEREFORE, BE IT ORDAINED THAT THE DURHAM ZONING
ORDINANCE BE AMENDED TO PROVIDE FOR LANDMARK SIGNS:

SECTION 1

That Section 2 [Definitions] be amended to add the following definition:

Landmark Signs: Signs which have received an official designation because they serve as visible reminders of the historic or cultural heritage of Durham, or serve as community landmarks, or are unique in character, or which display craftsmanship and/or materials no longer in common use. Landmark signs may be free standing, mounted on structures, placed in windows, or painted on walls.

SECTION 2

That Section 12.8 of the zoning ordinance [Signs allowed with sign permits] be amended to add a new section to read as follows:

“12.8.13 Landmark Signs

1. Signs which have been officially designated as Landmark Signs and which retain those dimensional, locational, and lighting standards that the sign possessed when it received such a designation shall enjoy the following privileges:
 - a. may remain on roofs or exceed height limits found elsewhere in this Section.
 - b. may exceed dimensional limits found elsewhere in this Section.
 - c. may reference a product or business which is not related to the existing business on the property.

May 26, 1998

- d. shall not, if the sign is not related to an existing business, have the sign area deducted from the square footage of sign area granted by other standards of this Section.
 - e. may remain in a right of way unless it becomes a hazard to traffic.
 - f. may retain its original lighting patterns and materials.
2. The following procedure shall be used to designate signs as Landmark Signs. No sign shall be considered a Landmark Sign unless it has received that designation through this process.
 - a. The application for a landmark sign shall only be accepted for a limited time. Applications shall be accepted until September 30, 1998 for signs within the Durham Corporate Limits and until September 30, 1999 for signs located in Durham County and outside the Durham Corporate Limits. No applications for a Landmark Sign designation shall be accepted after the closing date. Nonconforming signs not receiving the Landmark designation shall be removed and new signs shall conform to the requirements of the zoning ordinance.
 - b. Applications for Landmark Signs shall be made on forms available at the Planning Department. The applicant shall include documentation showing that the sign is at least 25 years old. The application shall also include specific information about the appearance of the sign in the form of renderings, photographs, models, or some other means sufficient to show the nature of the sign. The application shall also include information which describes how the sign meets the criteria listed below which shall be used to designate landmark signs.
 - c. The applications shall be considered by the Historic Preservation Commission. The Commission shall review the application and may designate the sign as a Landmark Sign, deny the designation, or request additional information in order to make a decision. A sign which is denied a designation shall be considered a nonconforming sign which must be removed.
 - d. If the sign is designated as a Landmark Sign, a copy of the application shall be submitted to the Inspections Department. After designation, the applicant shall have 60 days to bring any signs which pose a hazard into a structurally safe condition. Failure to assure that the signs are safe and do not pose a hazard shall result in loss of the Landmark Sign designation. The Inspections Department shall issue a sign permit for the sign if the sign is found to be structurally safe. Landmark Signs shall conform to all other provisions of this Section not in conflict with the privileges of the landmark designation.
3. The Historic Preservation Commission may establish a schedule to review applications for Landmark Sign designations. To qualify as a Landmark Sign, the sign shall meet all of the following criteria:
 - a. be at least 25 years old.
 - b. be recognized as important to the culture or history of the jurisdiction, or possess unique characteristics, or incorporate materials or craftsmanship not commonly found in newer signs.

May 26, 1998

- c. bear a close resemblance to its appearance when it was installed.
 - d. be structurally safe and well maintained.
4. The following regulations apply to signs which have been designated as Landmark Signs:
- a. The voluntary removal of a Landmark Sign by an owner is allowed.
 - b. Landmark Signs must be maintained. Failure to maintain the sign may result in removal of the sign. The owner of the sign shall be charged with the cost of removal.
 - c. Alterations to a Landmark Sign shall not be allowed without the issuance of a Certificate of Appropriateness by the Historic Preservation Commission using the same criteria used in Section 5.6.6 [Certificates of Appropriateness].
 - d. The sign shall meet all other requirements of the Sign Section of the zoning ordinance not in conflict with the privileges granted Landmark Signs.

SECTION 3

That the Zoning Ordinance be renumbered to accommodate this change.

SECTION 4

That this ordinance become effective upon adoption.

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

Public Hearing --C&M of Durham Inc. (Rezoning Case P98-5)

C&M of Durham Inc. presented to the Board of County Commissioners a request to rezone a 2.14-acre site at the southeast corner of Camellia Street and Crystal Lake Road. (Tax Map 715, Block 1, Lots 18 and 18E) Request: R-20 (Residential 20 District) to RM-12 (Residential Multifamily District). The Community Growth Map of the Durham 2020 Comprehensive Plan shows that the requested site is located within the Urban Corridor B: Fulton St./Hillandale Rd./Guess Rd., which connects Duke University and Medical Center with northwest Durham. The Future Land Use Map in Durham 2005 Comprehensive Plan shows the site as suitable for residential use at less than 6 units per acre, but adjacent to higher density uses. Staff recommended approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on April 14, 1998, and voted 7-0 to recommend approval.

Harold E. Smith, Senior Planner, Durham City-County Planning Department, was present to answer any questions of staff regarding the request.

Dick Hails, Planning Manager, Durham City/County Planning Department, presented the request and the staff report.

May 26, 1998

The Commissioners asked several questions and made comments about the rezoning request.

Planning Director Paul Norby and Mr. Hales responded to the questions and comments.

Vice-Chairman Reckhow asked Planning staff to check the school generation rates for this rezoning request.

Commissioner Heron requested additional information on the impervious surface percentages and the stormwater control plans.

Chairman Black opened the public hearing that was properly advertised.

Mr. Rick Prentis, attorney for the applicant, 122 East Parrish Street, discussed the rezoning request on behalf of his client. He also commented on the remarks the Commissioners made relative to the school population numbers, stream buffers, watershed concerns, and traffic. He urged the Commissioners to approve the rezoning request for the last 24 units.

James E. Upchurch, 3690 Guess Road, developer, asked why the Commissioners are hearing this request when City Council approved the Moose Lodge across the road from the proposed site. He also commented on the traffic concerns.

Chairman Black asked Mr. Norby to answer the question about jurisdiction concerns.

Mr. Norby informed Mr. Upchurch that the Moose Lodge property had been annexed by the City. The property we are discussing is an island that has not been annexed by the City. It is outside the City limits. The 2.14 acres is in the County's jurisdiction.

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

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the rezoning request to rezone 2.14 acres for C & M of Durham Inc. (rezoning case P85-5).

The motion carried unanimously.

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

Major Site Plan Approval for Aldersgate United Methodist Church

Aldersgate United Methodist Church requested the approval of a Major Site Plan to allow for the addition of a 28,300-square-foot family life center (multi-purpose facility) and related site

May 26, 1998

improvements to the existing 9,758-square-foot sanctuary and existing site development. The site is located at 1714 Bivins Road, on the northeast corner of Bivins Road and Umstead Road (Tax Map 822-14-6)

Helen Youngblood, Senior Planner, presented this item to the Commissioners and explained the staff report.

The Commissioners asked several questions about the major site plan relative to the Umstead Road entrance, tree protection, and parking spaces.

Mr. Douglas Griffin, Architect, 3200 Croasdaile Drive, Suite 505, responded to the question regarding parking spaces.

Chairman Black referred the item back to the Commissioners for disposition.

Commissioner Heron moved, seconded by Commissioner Bell, to approve the major site plan for Aldersgate United Methodist Church.

The motion carried unanimously.

(Tax Map number 822-14-6: recorded in Ordinance Book _____, page _____.)

Major Site Plan Approval For Distribution Warehouses at Technology Park

J.F. McKinney and Associates LTD requested the approval of a Major Site Plan to allow for the construction of three, 200,000-square-foot warehouse buildings with amenity areas on 45.887 acres, zoned I-1. The site is located at the southwest corner of Alexander Drive/Southern Parkway and Page Road, west of the Durham County/Wake County line, and south of US Highway 70. (Tax Map 580-1-1C,10)

Alice Wilson, Associate Planner, presented the case by reviewing the staff report for the Commissioners.

The Commissioners asked questions about the proposal to which Ms. Wilson responded.

Randy King, Engineer Consultant with Arcadis Geraghty & Miller, 2301 Rexwoods Drive, Raleigh, spoke to the number of parking spaces and type of uses for the project.

Commissioner Heron asked a question about buffer requirements.

Ms. Wilson responded.

Commissioner Bell expressed concern about the buffer reduction from 80 to 40 feet.

May 26, 1998

Mr. King responded to Commissioner Bell.

Commissioner Bell said he would vote against the project due to the buffer and tree protection concerns.

After considerable discussion, the Commissioners took the following action:

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to send the major site plan back to the Planning Department for additional work on the parking and buffer concerns.

The motion carried unanimously.

(This major site plan would be brought back to the Commissioners for consideration.)

Major Site Plan Approval For Trinity School

John R. McAdams requested approval of a Major Site Plan to allow for the construction of a 131,350-square-foot private school on 22 acres, zoned R-20. The site is located on the west side of Cambridge Road (a.k.a. state road 1303) at the intersection of Cambridge and Pickett Road. (Tax Map 456 and 457, block 1, lot 10 [partial], and 7.16.26, a portion of which lies within Orange County)

Helen Youngblood, Senior Planner, reviewed the staff report for the Commissioners.

The Commissioners asked Ms. Youngblood several questions about the proposal to which she responded.

John R. McAdams, representing the John R. McAdams Company Inc., designer and applicant for Trinity School, spoke about the New Hope Creek Corridor.

Vice-Chairman Reckhow requested that the names of the owners be placed on future applications.

Ms. Audrey Booth, 750 Weaver Dairy Road, Chapel Hill, spoke about the flood plain in Orange County. The land that the Triangle Land Conservancy is concerned with is in Orange County.

County Attorney Chuck Kitchen cautioned the Commissioners about asking traffic questions since a quasi-judicial hearing on traffic is scheduled for the June 8, 1998 Regular Session. No information should be received about traffic at tonight's meeting.

May 26, 1998

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to defer the major site plan approval for Trinity School until the June 8, 1998 Regular Session.

The motion carried unanimously.

Response to Letter From E. Norris Tolson, Secretary of the Department of Transportation

Chairman Black requested that the Board of Commissioners consider a response to the letter from E. Norris Tolson, Secretary of the Department of Transportation, concerning Eno Drive. The proposed Eno Drive project has been allocated the sum of \$135,780,000 by the State.

Chairman Black said this agenda item is not open for public comment.

The following is a verbatim of the remarks made concerning a response to the letter from E. Norris Tolson, Secretary of the Department of Transportation:

VERBATIM

May 26, 1998
BOCC Regular Session

Response to Letter From E. Norris Tolson--
Secretary of the Department of Transportation

Black: Okay, the last item we have before you, well no, we have two items to go, Commissioners. One is the item that I placed on the agenda, and this is not for public comment. I did have someone call—or fax me a letter asking me to read the letter into the public record. But this is really not a time for having comments, except from the Commissioners. And I, as your know, received a letter from Secretary Tolson dated May 12, 1998. I sent a copy of that letter to all of the Commissioners. It's a letter that came to myself and Mayor Tennyson.

Secretary Tolson was asking that we respond within 30 days to his letter, and I certainly did not want to send a response back to him without first of all getting some input from this Board. I had some thoughts about what we needed to ask—one of them having to do with the length of time that he is going to give the joint City-County Committee to work on the project that you want to work on. So I wanted to include that in the letter. I also wanted to again state that we do not want to lose any of that funding that's due for Durham County. And then, wanted to reaffirm that this Board is on record as having voted to go with the section from Highway 70 to Highway 85.

May 26, 1998

Heron: That was a 3 to 2 vote.

Black: And I don't mind saying that that was a 3 to 2 vote. But it is on record as having been voted upon by this Board. Those were the items I thought about and wanted to have the Commissioners to share with me your other thoughts about what should go into that letter and then I will get with the County Attorney and we'll craft a letter.

Commissioner Reckhow, did I see your hand?

Reckhow: Well, are you seeking input in terms of time frame?

Black: Time frame? Yes.

Reckhow: I guess—I've talked to Becky a little bit about this. Not in the past day or two but, I guess I'll just put out I'd like to see us aim to get something done in three months with the idea that the absolute outside date would be six months. But, if we set a goal—we may not meet it—but set a goal of having it done in three months and try to do it. You know, maybe set meetings every other week for the next three months and see how much work we can get done.

Black: Okay, okay.

Reckhow: How does that sound, Becky?

Heron: Yeah, I think we can certainly strive for that. But, I think you've got to remember too that I tried to put a meeting together for this week and City Council is tied up all week in budget hearings. So, you know, we've lost another week, and I think that all of us are going to be somewhat limited in our time frame—what with the meetings we've already scheduled plus the budget. But we can certainly set some goals and, as you know, I sent you a copy of a memo that I faxed to Secretary Tolson stating that we were going attempt to do what he asked us to do and have this “community come together with one voice” to quote Secretary Tolson. And that I also sent him a copy of the minutes of our joint City-County Planning where we set up the committee and what we wanted our goals to be. So, you know, I'm ready to push as hard as I can. But, like I said, I've lost a week trying to get folks together. And we're going to be setting up our schedules for budget (Chairman Black: Tonight.) ourselves. So, I think we're going to have to see when we can meet and how often we can meet and we also have some people who are not as flexible as some of us—that have to meet it lunch time or have to meet at a certain time because of their jobs. So, that was going to be the purpose of the next meeting—to set up a time frame and to see when folks could meet and to try to set up a schedule of meetings as we can get them all together again.

Reckhow: That would helpful. If we can get the next few months scheduled so I can write them in on my calendar, that would reserve the date.

May 26, 1998

Black: Commissioner Bell, any comments?

Bell: My comment is pretty much the same as when you came back with the resolution. I think it's a pretty ambitious task. I definitely think you ought to set a time frame. And I guess I had some other problem, Ellen, with three months to six months. Because, surely it would be six months. I just think that's entirely too long and I would like to see something in the realm of three to four months at the most. And if you're not making any progress, I think these boards ought to be—at least I like to be made aware of—the progress you make or the lack of progress. And maybe we can make some decisions early on. But I just think six months is too long.

Heron: As you know, we have asked the Environmental Affairs Board to look at the environmental implications of what the state has laid out and what some of the alternatives are. And I've got to get back with Dave Kirkpatrick and find out how they are doing. And I will do that this week.

Bell: I mean, so May is gone. We're talking about June, July, August, possibly September. If you're talking about six months, that's the end of the year.

Heron: Well, one thing . . .

Bell: Let me tell you another point about it and—this is political, and you might not see it's political. You might want to deal with the facts. But see, I don't want something happening and in September, October, November election time where people are making decisions not what's necessarily in the best interests, but what they feel is going to appeal to the voters. I just think we ought to be up front and say, "Here's where we are," and I really think we ought to be able to get to this thing in three or four months' time frame. And, you know, let the chips fall where they may once you've made the decision.

(A few sentences were missed here while changing to the next side of the audiotape.)

Black: . . . five percent of the trust fund revenues for the planning, designing, construction of seven urban loops, this means the funds programmed for the Eno Drive Loop cannot be used for any transportation projects except one of the urban loops designed in the trust fund statute. So, I just bring that to your attention.

Heron: I think the only thing that would change there would be for legislation to change. And he had said to me and to ___ that if we came up with a plan that needed some legislation, that he would work with us if it was in the scope of the Department of Transportation. And I think that we have that also in the fax that he sent to me that I sent to each of you.

May 26, 1998

Black: Okay, he also addresses the issue of air quality in here for Durham, so I'm just referring you back to that letter. If you have other—

Heron: Yeah, we've got an air quality—Wesley can speak to that, I guess—but we've got to do a new air quality, haven't we, Wesley? And to quote him, "as long as there's potential for building a loop for Durham County, the funds will remain intact." And "we will use as much of the available funding as permitted by law to do other projects for Durham County." But, of course, you know there's some wiggle room left.

Black: Right. Okay then, I'm going to move—Commissioner Bell, I'm sorry.

Bell: And again, I admire you all for being willing to step out and do this. I don't want to do it. Okay. I don't want to do it. But, just let me suggest something I guess I'd feel more comfortable with. I really would think that working with the staff and your committee, someone ought be able to lay out almost like a pert(?) chart—in terms of where we want to be at the end of three months. And what steps are we going to take to get there.

Heron: We've got a rough draft of that already.

Bell: Okay, well, I guess—and my reason for suggesting that this Board as a minimum ought to be kept informed—if it looks like you know, in meeting those targets, we need to make some decisions and understand why. So, without having any type of schedule or any type of plan, I just feel uncomfortable saying let the thing run after six months.

Black: I'm going to ask Secretary Tolson--

Heron: Well, frankly I don't want to meet longer than six months, either.

Black: Commissioner Reckhow--

Reckhow: Well, you know, maybe the best thing to do is to set a concrete goal. I mean, maybe we should set a goal that we're going to be done by September 1. That would be about three months from now.

Heron: I'm not willing to do that—for this Board to set that—because we've got six people on this committee that we want to work with. And I'd like to take this to the committee and talk to them about it.

Reckhow: Well, we could convey that the Board of County Commissioners hopes that they can get the work done in three months.

Heron: We can do that. We can do that.

May 26, 1998

Black: Okay, so I will do that.

Reckhow: I guess the other question would be—and I need to ask the Chairman the intent of her saying this in the letter—are you, because of the fact that the Board voted 3 to 2 on the eastern portion, are you expecting that we take that as a given and look at alternatives north of (I-)85?

Black: Well, since the Board was on record as having supported that portion, that I was thinking that that was already given, that you would then look at the northern part of the county, because there has been some discussion about going further north, of course having to look at the Environmental Impact Studies, getting an Environmental Impact Study, but moving it further out north and all of the other things that you want to do. But I do want to restate, because we are on record, as having supported that portion. It doesn't mean that the other part gets built because we supported that portion.

Reckhow: Well, I mean, I'll carry that back to the committee. As Becky says, it's a

Heron: Well, you won't have to, Ellen. I chair the committee. I'll be glad to take it.

Reckhow: All right.

Black: Okay. Well, it will go back. Well, thanks for some direction, Commissioners. Now, the next item is—we need to get some dates to David, so David can put a calendar together for our meetings for the budget. . . .

Schedule of Budget Worksessions for Fiscal Year 1998-99

Commissioner Bell moved, seconded by Commissioner Heron, to excuse Commissioner Bowser from the June 1, 1998 Worksession.

The motion carried unanimously.

After considerable discussion, the Commissioners agreed on the following budget worksessions:

JUNE 1998

<u>June 1</u>	Nonprofits	9:00 a.m. - 12:00 noon
<u>June 8</u>	Regular Session	7:00 p.m.
<u>June 11</u>	Public Hearing	7:00 p.m.

May 26, 1998

<u>June 15</u>	Budget Worksession	11:00 a.m. - 5:00 p.m.
<u>June 17</u>	Budget Worksession	9:00 a.m. - until
<u>June 19</u>	Budget Worksession (if needed)	9:00 a.m. - 12:00 noon
<u>June 22</u>	Regular Session	7:00 p.m.

Duke—Durham Regional Affiliation

County Attorney Chuck Kitchen said the Board of County Commissioners must meet to consider the term sheet and documents.

The Commissioners concurred to meet Friday, June 5, 1998 at 10:30 a.m. to review the term sheet and documents.

Adjournment

Chairman Black adjourned the meeting at approximately 9:30 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

GEU:VCS