

**CITY OF GRAHAM  
REGULAR SESSION  
TUESDAY, AUGUST 2, 2011  
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m., on Tuesday, August 2, 2011 in the Council Chambers of the Municipal Building located at 201 South Main Street.

**Council Members Present:**

Mayor Jerry Peterman  
Council Member Jim Albright  
Council Member Victor Euliss  
Council Member Chip Turner

**Also Present:**

Chris Rollins, City Manager  
Frankie Maness, Assistant City Manager  
Aaron Holland, Planner  
Kimberly Harris, City Clerk  
Keith Whited, City Attorney

**Present Via Telephone Conference:**

Mayor Pro Tem Jimmy Linens

**Absent:**

None

Mayor Peterman called the meeting to order at 7:00 p.m. and explained that Mayor Pro Tem Linens would be attending the meeting via telephone conference. Telephone conference is in accordance with North Carolina General Statute 143-318.10.

Council Member Albright led the City Council in the Pledge of Allegiance and gave the invocation.

Fire Chief Johnny Andrews introduced local artist Talitha Mills who presented framed artwork to Fire Chief Johnny Andrews in honor of Fire Fighter Larry Brooks.

Fire fighter Larry Brooks thanked Mrs. Mills for this honor and stated that he truly enjoys the fellowship in the Fire Department and serving the City.

**Proclamation: Graham and Gibsonville Youth Baseball League Mite Boys Conference Tournament Champions: Cardinals –**

Mayor Peterman presented Head Coach Chuck Talley, Assistant Coach Kelly Wilson, and Assistant Coach Duane Andrews and the Colonial Hardware Cardinals baseball players with the following Proclamation:

**Proclamation**

## **Honoring 2011 Metro League Mite Championship Baseball Team**

**WHEREAS**, the Colonial Hardware Cardinals Boys Mite Baseball Team were a team of boys who came together and started their season with high expectations; and

**WHEREAS**, having won all of their regular season games therefore becoming the number one tournament seed; and

**WHEREAS**, the Cardinals won their two Tournament games and were crowned 2011 Metro League Mite Champions; and

**WHEREAS**, on August 6, 2011 at the Burlington Royals baseball game on Graham Day, the Cardinals will be recognized and honored prior to first pitch.

**WHEREAS**, we recognize the following team members and coaches with great pride:

**Alexander Alarcon  
Troy "Tank" Anthony  
Alex Bullis  
Brayden Park  
TJ Stanfield  
Chaz Wilson**


**Hunter Andrews  
Mycai Brooks  
Devin Covington  
Seth Saunders  
Carson Talley  
Tanner Stutts**

**Chuck Talley, Head Coach**

**Kelly Wilson, Assistant Coach  
Duane Andrews, Assistant Coach**

**NOW, THEREFORE, I**, Jerry Peterman, Mayor of the City of Graham, on behalf of the City Council and citizens of Graham, do hereby proclaim congratulations for the significant accomplishments achieved by the Colonial Hardware Cardinals Boys Mite Baseball Team for the pride and recognition they have brought to themselves and the community.

This the 2<sup>nd</sup> Day of August, 2011.

  
 Jerry Peterman, Mayor

**CONSENT AGENDA:****July 2011 Tax Releases and Refunds -****CITY OF GRAHAM  
RELEASE ACCOUNTS**

AUGUST

<u>ACCT #</u>	<u>YEAR</u>	<u>RECEIPT</u>	<u>NAME</u>	<u>RE/PP</u>	<u>REASON FOR RELEASE</u>	<u>RELEASED</u>
24598	2011	7206	SPEARS, GREGORY A & ETAL	RE	CODED WRONG BY ALAMANCE COUNTY	112.18
438480	2011	3956	ISAACS, REVOCABLE LIVING TRUST	RE	CODED WRONG BY ALAMANCE COUNTY	514.38
459203	2011	6055	PITNEY BOWES INC	PP	AMENDED RETURN BY ALAMANCE COUNTY	9.69
579715	2011	1586	CHRISCO, TERRY LYNN	PP	SOLD BOAT	2.64
579715	2011	1587	CHRISCO, TERRY LYNN	PP	SOLD BOAT (MOTOR)	1.30
600545	2011	7785	TRAILHEAD CHURCH	RE	EXEMPT PROPERTY	4,113.89

*TOTAL RELEASES 4,754.08***CITY OF GRAHAM  
REFUNDS**

AUGUST

<u>ACCT #</u>	<u>YEAR</u>	<u>RECEIPT</u>	<u>NAME</u>	<u>RE/PP</u>	<u>REASON FOR REFUND</u>	<u>AMOUNT REFUNDED</u>
24598	2009	7243	SPEARS, GREGORY A & ETAL	RE	CODED WRONG BY ALAMANCE COUNTY	111.19
24598	2010	7294	SPEARS, GREGORY A & ETAL	RE	CODED WRONG BY ALAMANCE COUNTY	111.19
438480	2009	3977	ISAACS, REVOCABLE LIVING TRUST	RE	CODED WRONG BY ALAMANCE COUNTY	520.23
438480	2010	3999	ISAACS, REVOCABLE LIVING TRUST	RE	CODED WRONG BY ALAMANCE COUNTY	520.23

*TOTAL REFUNDS 1,262.84***Approval of Minutes - July 5, 2011 Regular Session****Approve Recommendation by The Graham Sports Hall of Fame Committee and the Graham Recreation and Parks Commission to Appoint Jim Melvin and Bill Joye to Serve on the Graham Sports Hall of Fame -**

Request to appoint Jim Melvin and Bill Joye to serve a six year term effective July 1, 2011 and ending June 30, 2017.

Upon Motion by Council Member Euliss, second by Council Member Turner, the Council voted unanimously to approve the Consent Agenda.

### **Recommendations from the Planning and Zoning Board:**

At 7:17 p.m. Mayor Peterman recessed regular session to reconvene the Quasi-Judicial Public Hearing Request of Vasant Sejpal (Owner) Special Use Permit for Property Located at 1229 S. Main Street for a Unified Business Development.

City Attorney Whited explained that in a quasi-judicial hearing for a special use permit, the petitioner must provide evidence to be allowed to vary from a zoning ordinance. A Quasi-Judicial Hearing is considered a court proceeding; therefore, any information offered during the hearing is considered evidence. Each speaker, for and against, including staff, will be administered an oath prior to giving testimony at the hearing.

### **Reconvene Quasi-Judicial Public Hearing Request of Vasant Sejpal (Owner) Special Use Permit for Property Located at 1229 S. Main Street for a Unified Business Development. Property shown on Alamance County Tax Map 6- 13-115 (GPIN#8883257252).**

Council Members should not have ex parte conversation with individuals related to the case. Council Members were invited to advise if anyone had contacted them about this item scheduled for a Quasi-Judicial hearing. None were forthcoming.

City Attorney Whited swore in City Manager Rollins, Assistant City Manager Maness, City Planner Holland and Mike Garrison.

Assistant Manager Frankie Maness presented to the Council the following findings of fact proposed by the Planning Department:

Vasant D. Sejpal is requesting a Special Use Permit for a Unified Business Development located at 1229 S. Main Street. The property is approximately 2.8 acres and contains two structures. According to the application packet, Mr. Sejpal requests to utilize both structures as separate businesses. Currently, a church occupies one structure and the other is vacant. A Special Use Permit is required for multiple businesses on one lot.

The property is located inside the Graham City Limits and municipal water and sanitary sewer service are both available. The surrounding properties are zoned B-2 (General Business) and R-12 (Residential, medium density).

### **Findings of Fact**

- 1) Vasant D. Sejpal applied for a Special Use Permit for a Unified Business Development on May 25, 2011, for a property located at 1229 S. Main Street, also identified as Alamance County Tax Map 8883257252 (Old Tax Map ID: 6-13-115).
- 2) The property is approximately 2.8 acres and is located inside the Graham City Limits and municipal water and sanitary sewer services are available.

- 3) According to the application packet, Mr. Sejpal requests to utilize both structures on the property as separate businesses.
- 4) Currently, a church occupies one structure and the other is vacant. A Special Use Permit is required for multiple businesses on one lot.
- 5) The surrounding properties are zoned B-2 (General Business) and R-12 (Residential, medium density).
- 6) According to the *City of Graham Growth Management Plan: 2000-2020*, the parcel is located in the Neighborhood & Suburban Residential Recommended Land Development Type and is located in the South Planning District.
- 7) The City of Graham staff **recommends approval** for the Special Use Permit Request by Vasant D. Sejpal for a Unified Business Development located at 1229 S. Main Street for the following reasons:
  - The *GMP* recommends commercial development in the district in village and neighborhood centers to serve the residents of South Graham.

The Staff recommends the following **conditions** as part of the approval of this Special Use Permit request:

1. Existing illegal signage must be removed and all other signage shall meet the requirements in Article X. SIGNS and Section 10.442 Signage in the *City of Graham Development Ordinances*
- 8) The City of Graham Planning Board recommended approval 6-1 on June 21, 2011 for the Special Use Permit request.

### **Conformity to the Growth Management Plan (GMP):**

**Planning District** South Planning District (GMP, p.52):

#### **Recommended Land Development Type:**

The parcel is located in an area designated as both Neighborhood & Suburban Residential (GMP, p.43).

#### ➤ Neighborhood Residential

- Residential areas of the city that are the most dense and closest in proximity to commercial areas and major thoroughfares.
- The goal of this district is to create a “sense of place” and a pedestrian friendly atmosphere at a higher density.

#### ➤ Suburban Residential

- A district that provides for the development of conventional subdivisions at medium to low densities.
- These areas are usually located outside the commercial areas of the City and are serviced by water and sewer.
- Future developments should look to provide sidewalks and connectivity between adjacent properties.

#### **Goals to Guide Us into the Future (GMP, p. 34):**

- Encourage the utilization of existing facilities that can be used for multiple purposes.
- Continue to promote the single-family home.
- Encourage the reuse and revitalization of unused or underutilized structures and properties.

#### **Development Toolkit Checklist (GMP, after p.47):**

- Neighborhood Residential
  - Location Requirements: Major Thoroughfare
  - Uses: Single Family Residential, Townhouses
  - General Characteristics: Open Space, Parks included within Development, Pedestrian Oriented, Automobile Oriented, Sidewalks, Street Trees, Landscaping
  - Size of Development: Three and greater dwelling units/acre (medium to high density)
  - Infrastructure: Water, Sewer, Street Connectivity, Underground Utilities
- Suburban Residential
  - Uses: Single Family Residential
  - General Characteristics: Open Space, Parks included within Development, Pedestrian Oriented, Automobile Oriented, Sidewalks, Street Trees, Landscaping
  - Size of Development: One to three dwelling units/acre (low to medium density)
  - Infrastructure: Water (optional), Sewer (optional), Street Connectivity, Underground Utilities

#### **Planning District Policies and Recommendations (GMP, p.48)**

- Encourage commercial development in the district in village and neighborhood centers to serve the residents of South Graham. This pattern should be promoted over the highway commercial/strip development that has occurred along South Main Street.
- Expand the jurisdictional boundaries of Graham in order to ensure consistent development patterns along the existing boundaries of the district.

#### **Conditions Listed in Section 10.144 of the City of Graham Development Ordinance**

- 1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
- 2) That conditions specific to each use, identified by this Ordinance are complied with.
- 3) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- 4) That the use will not substantially injure the value of adjoining property or that the use is a public necessity.
- 5) That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- 6) That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

Assistant City Manager Maness advised that the Council that based on the *Growth Management Plan 2000-2020* and the *City of Graham Development Ordinances*, the staff **recommended approval** 6:1 for the Special Use Permit Request by Vasant D. Sejpal for a Unified Business Development located at 1229 S. Main Street for the following reasons:

- The *GMP* recommends commercial development in the district in village and neighborhood centers to serve the residents of South Graham.

Mayor Peterman asked what caused the one Planning and Zoning Board member to not approve. Assistant City Manager Maness replied that he did not have that information with him.

Mike Garrison of 427 Forrest Drive, Graham stated that their concern was due to the potential noise level arising on the back side of Mr. Sejpal's lot if it were to be developed. He stated that many residents along Crescent and Forrest Drive are elderly.

Mayor Peterman asked if the staff could go over the variance and describe what may be developed on this lot should the short term special use permit be approved.

Assistant City Manager replied that the permit application was not proposing a specific business or that there would be any development in the rear of the property however it does not exclude development from happening sometime in the future. Mr. Maness explained that Mr. Sejpal would have to provide parking and handicap parking should there be future development. He would be allowed to use the existing structure but not add additional structures. As a use by right, he would be allowed to put any business at this property which is allowable in that district and not expressly prohibited somewhere else in the City's Ordinances.

Mayor Peterman stated that this property is located in the overlay district which carries additional restrictions.

Mayor Peterman asked if anyone else from the floor wished to speak regarding the request of Vasant Sejpal for a special use permit for property located at 1229 S. Main Street for a Unified Business Development. None were forthcoming.

Mayor Peterman polled the Council for discussion.

Council Member Albright asked for clarification that the property is currently zoned B2 and that any B2 Business was allowable on the property.

Assistant City Manager responded that any B2 business would be allowed unless it is expressly prohibited by an Ordinance or Overlay District and that there would be a few uses that are restricted thru the special use permit.

Council Member Albright asked if a 3<sup>rd</sup> business could be added to the property. Assistant City Manager Maness responded that a 3<sup>rd</sup> business could not be added. Council Member Albright requested clarification that buffering would be required if a business was located at the rear of the property. Assistant City Manager stated that when a business is next to a residential property landscaping ordinance requirements are based on the proposed use, adjacent use and intensity of development. Assistant City Manager Maness pointed out that there is a pond on this property and that any future development would have to consider if these are wetlands.

Council Member Euliss asked about potential limitations due to the pond. Assistant City Manager Maness replied that if it is deemed to be wetlands there would be development limitations to not disturb the wetlands.

Mayor Pro Tem Linens requested clarification that one of the existing structures is currently being used as a church. Assistant City Manager Maness responded that one of the existing structures is being used as a church and the remaining structure's use is to be determined.

Mayor Peterman asked if a bus station could be located on this property under a B-2 zoning. Assistant City Manager Maness responded that it would require a special use permit to operate a bus station on B-2 zoned property. The owner would have to return before the City Council to request approval for a bus station.

There being no further discussion, Mayor Peterman closed the quasi-judicial hearing at 7:30 p.m. and reconvened regular session.

Upon motion by Council Member Albright to approve the Special Use Permit Request by Vasant D. Sejpal for a Unified Business Development located at 1229 S. Main Street and adopt the Findings of Fact numbers 1 through 8 proposed by the Planning Department as the evidence submitted satisfies the requirements of Section 10.144 of the *City of Graham Development Ordinances*. All aye.

At 7:32 p.m. Mayor Peterman recessed regular session to convene the Quasi-Judicial Public Hearing Request of Mid-State Magic, Inc. (Rod Cousins, Owner) special use permit for property located at Trollingwood Road and Ralph Scott Road (vacant land) for auditoriums, stadiums, and similar facilities where admission is charged or organized athletic events are held. Property shown on Alamance County Tax Maps 13-13-2B & Portion of 13-13-2 (GPINS#8894762250 & portion of 8894742981).

**Quasi-Judicial Public Hearing Request of Mid-State Magic, Inc. (Rod Cousins, Owner) Special Use Permit for Property Located at Trollingwood Road and Ralph Scott Road (vacant land) for Auditoriums, Stadiums, and Similar Facilities Where Admission is Charged or Organized Athletic Events are Held. Property shown on Alamance County Tax Maps 13-13-2B & Portion of 13-13-2 (GPINS#8894762250 & portion of 8894742981).**

Council Members should not have ex parte conversation with individuals related to the case. Council Members were invited to advise if anyone had contacted them about this item scheduled for a Quasi-Judicial hearing.

Mayor Peterman stated that he had attended the Planning and Zoning Meeting where this item was heard and he spoke with Planning and Zoning Board Members Bill Teer, Dean Ward and Lee Kimrey. City Attorney Whited asked if he received facts about this matter outside the hearing. Mayor Peterman responded that he did not receive any facts that he did not already know. City Attorney Whited asked if Mayor Peterman had been lobbied by those communications to take a certain action with regards to this hearing. Mayor Peterman responded that he had not been lobbied.

Council Member Euliss asked if any of the individuals had advised Mayor Peterman how to vote and Mayor Peterman responded that they had not advised him how to vote. Council Member Euliss said that he thought that Mayor Peterman did not have a conflict with regards to this hearing.

City Attorney Whited swore in City Manager Rollins, Assistant City Manager Maness, City Planner Holland, Tara Corbett, Jay Duffy and Rick Epperson.

Assistant Manager Frankie Maness presented the Council with the request of Mid-State Magic, Inc. (Rod Cousins, Owner) special use permit for property located at Trollingwood Road and Ralph Scott Road (vacant land) for auditoriums, stadiums, and similar facilities where admission is charged or organized athletic events are held. Property shown on Alamance County Tax Maps 13-13-2B & Portion of 13-13-2 (GPINS#8894762250 & portion of 8894742981) and the following findings of fact proposed by the Planning Department.

Rod Cousins with Mid-State Magic, Inc. is requesting a Special Use Permit for a recreational gymnasium complex located off Trollingwood Road and Ralph Scott Road. The vacant property is approximately 19.14 acres. According to the application packet, Mid-State Magic, Inc is proposing a 57,000 square foot facility with multi-purpose fields. A Special Use Permit is required for auditoriums, stadiums, and similar facilities where admission or organized athletic events are held.

The property is located inside the Graham City Limits and municipal water service is available. The surrounding properties are zoned I-1 (Light Industrial), B-2 (General Business), and R-G (General Residential).

### **Findings of Fact**

- 1) Rod Cousins with Mid-State Magic, Inc applied for a Special Use Permit for a recreational gymnasium complex on May 27, 2011, for a property located off Trollingwood Road and Ralph Scott Road, also identified as Alamance County Tax Map 8894762250 & portion of 8894742981 (Old Tax Map ID: 13-13-2B & portion of 13-13-2).
- 2) The property is approximately 19.14 acres and is located inside the Graham City Limits and municipal water service is available.
- 3) According to the application packet, Mid-State Magic, Inc is proposing a 57,000 square foot facility with multi-purpose fields.
- 4) A Special Use Permit is required for auditoriums, stadiums, and similar facilities where admission or organized athletic events are held.
- 5) The surrounding properties are zoned I-1 (Light Industrial), B-2 (General Business), and R-G (General Residential).
- 6) According to the *City of Graham Growth Management Plan: 2000-2020*, the parcel is located in the Regional Industrial Center & Highway Commercial Recommended Land Development Type and is located in the Hawfields Planning District.
- 7) The City of Graham staff **recommends approval** for the Special Use Permit Request by Rod Cousins with Mid-State Magic, Inc. for a recreational gymnasium complex located off Trollingwood Road and Ralph Scott Road for the following reason(s):
  - The *GMP* encourages the reuse and revitalization of unused or underutilized structures and properties.
  - The *GMP* encourages planning for adequate recreational facilities to serve all parts of the City.

The Staff recommends the following **conditions** as part of the approval of this Special Use Permit request:

- The two parcels shall be combined before construction is completed.
  - All construction shall conform to the City of Graham and NCDOT standards and specifications.
- 8) The City of Graham Planning Board recommended denial 7-0 on June 21, 2011 for the Special Use Permit request.
  - 9) The Special Use Permit was brought before the City of Graham Planning Board for the second time at the request of the Graham City Council. The Board recommended approval 4-3 on July 19, 2011.

### **Conformity to the Growth Management Plan (GMP):**

**Planning District** Hawfields Planning District (GMP, p.55):

#### **Recommended Land Development Type:**

The parcels are located in an area designated as both Regional Industrial Center (GMP, p.42) and Highway Commercial (GMP, p. 41).

##### ➤ Regional Industrial Center

- Areas developed for the manufacturing and processing of goods.
- These centers are characterized by the need for larger sites and transportation access.
- The Regional Industrial Centers should be designated to Industrial Parks and historic industrial areas of the City.
- The primary element for these developments is buffering.
- Development should make sure to be buffered and screened from adjacent residential and commercial.
- These centers are the home of heavy industrial uses.

##### ➤ Highway Commercial

- A commercial development that places an emphasis on the automobile and is usually characterized by numerous curb cuts, a linear pattern of development and large amounts of parking in front of the structures.
- Usually located along major roads that coincide with areas of existing strip development.
- Goal should be to minimize the number of curb cuts, move parking to the rear or sides of structures, and try to encourage more interconnectivity between uses.

#### **Goals to Guide Us into the Future (GMP, p. 34):**

- Provide various and adequate community facilities for all residents throughout the City (i.e. Senior Citizens Center).
- Plan for the construction of new facilities in areas of the City that are lacking facilities.
- Plan for adequate recreational facilities to serve all parts of the City.
- Encourage the reuse and revitalization of unused or underutilized structures and properties.

#### **Development Toolkit Checklist (GMP, after p.47):**

##### Regional Industrial Center

- Location Requirements: Major Thoroughfare, Interstate Access, Large Parcels, Railroad Access (Optional)
- Uses: Industrial (i.e. High-tech, Campus Developments)

- General Characteristics: Open space, Automobile oriented, Design Requirements, Sidewalks, Street Trees, Landscaping, Buffering/Screening, Parking Provided Onsite, Height of Structures Regulated, Controlled Access, Building Orientation
- Size of Development: 10,001-100,000 Sq. Ft. of Retail and Greater than 100,000 Sq. Ft. of Retail
- Infrastructure: Water, Sewer, Street connectivity, Underground Utilities

#### Highway Commercial

- Location Requirements: Major Thoroughfare, Interstate Access (Optional)
- Uses: Commercial, Office/Institutional
- General Characteristics: Automobile Oriented, Design Requirements, Sidewalks, Street Trees, Landscaping, Buffering/Screening, Parking Provided On-Site, Height of Structures Regulated, Controlled Access, Building Orientation
- Size of Development: 10,001 – 100,000 Sq. Ft. of Retail
- Infrastructure: Water, Sewer, Street Connectivity, Underground Utilities

#### **Planning District Policies and Recommendations (GMP, p.54)**

- Intersperse neighborhood centers within traditional neighborhood developments and other residential areas to serve the daily needs of residents and encourage pedestrian access over automobile use.
- Strategically locate village centers throughout the district to serve the needs of surrounding residents and to encourage transportation efficiencies by reducing automobile travel times and distances. Additionally, dense development patterns should be encouraged in these centers to increase pedestrian access to adjacent facilities over automobile use.

Mayor Peterman asked if anyone from the floor would like to speak regarding this request.

Tara Corbett, 751 Trollingwood Road, Graham addressed Council and stated that she is a residential property owner near this site and believes that if approved it would generate inappropriately large amounts of traffic causing that area to be unsafe for residents. She further stated that she is concerned for the potential noise levels and the lighting which would affect her property.

Jay W. Duffy of Davis, Martin, Powell and Associates located at 6415 Old Plank Road, High Point, NC 27265 addressed Council stating that he is the engineer of record for this project. He stated that he was present at the last Council meeting in which it was requested that they return again to the Planning and Zoning Board to receive approval and they have completed that request. The City of Graham sent out additional flyers to the neighbors of this property as well as extending those letters out to residents beyond the requirements. He stated that the site plan is in the preliminary stage and he would be available to answer any site plan questions.

The Council had no questions for Mr. Duffy at that time.

Rick Epperson of Weichert Realtors located at 22 Miller Street, Winston Salem, representative of Henderson Scott, addressed Council and stated that he was available to answer any questions. He explained that Mr. Scott was still in ill health and could not attend but that Mr. Scott hopes that the City will work with this project as he ultimately believes that it is a good project.

Council Member Turner asked Mr. Epperson if there were plans to install buffering. Mr. Epperson replied that there were plans for buffering but that he did not have the specifics at that time.

The Council had no further questions of Mr. Epperson at that time.

Mayor Peterman asked that anyone else who wanted to speak to come forward at that time. No one came forward. Mayor Peterman stated for the record that Ms. Corbett's concerns had not been addressed by the petitioners.

Jay W. Duffy of Davis, Martin, Powell and Associates located at 6415 Old Plank Road, High Point, NC 27265 responded to Mrs. Corbett's concerns regarding lighting issues by stating that parking lot and lighting plans are designed so that there is typically no spill-over along the property line. He explained that the site is a compacted site and therefore would not be projecting a lot of light into the adjacent area. Required buffers will be installed. There will be lights in the parking lot adjacent to Trollingwood Road. Details have not been completely finalized.

Council Member Albright asked if the lightening will remain on beyond 10 p.m. Mr. Duffy said this question was outside the scope of engineering and he could not answer that question.

Mayor Peterman asked that anyone else who wanted to speak to come forward at that time. No one came forward.

Mayor Peterman closed the quasi-judicial hearing at 7:42 p.m. and reconvened the regular session.

Mayor Peterman opened discussion among the Council by stating that he did not believe that the petitioners provided enough information nor did they address Ms. Corbett's concerns.

Council Member Albright responded that a little bit of information was provided by the engineer regarding the lighting issues.

Council Member Turner stated that in his experience when he works at a tournament they often do not leave until midnight and the lighting is still on at the grounds of those facilities.

Mr. Ricardo Lewis asked if he could address Council. Mayor Peterman stated that the Quasi-Judicial Hearing portion of the meeting had been closed.

City Attorney Whited advised that the Council may reopen the evidence of the quasi-judicial hearing and accept more evidence.

The Council reached a consensus to reopen evidence.

City Attorney Whited swore in Ricardo Lewis.

Ricardo Lewis of New Path Development and Consulting located at 1400 Battleground Avenue, Suite 211, Greensboro, spoke on behalf of Rod Cousins. He explained that the reason that he didn't speak earlier in the hearing was that he wasn't sure if there was question that he would

need to answer. He stated that the site engineer had discussed the lighting and that the facility will only be open until 10pm at night and that they do not plan to operate lightening for more than an hour or two after an event. He stated that they would adhere to the buffering, lighting requirements, building code and local ordinances. He further stated that if they need to enhance the buffering beyond the approved site plan that they would be willing to do so. Mr. Lewis pointed out that they would be required to have a parking lot lighting plan for site plan approval before going forward with construction.

Mayor Peterman asked for confirmation that alcohol would not be served and that they would close at 10 p.m. Mr. Lewis stated that those two things were correct. Mayor Peterman asked if there would be Sunday hours of operation. Mr. Lewis responded that tournaments will carry over onto the first part of the day on Sundays.

Mayor Peterman asked about the trucks currently parked on the property. Mr. Lewis responded that those trucks are encroaching and that they have spoken with Mr. Henderson and confirmed that there is no agreement for those trucks to be there.

Mayor Pro Linens asked for clarification that no alcohol would be served. Mayor Peterman responded that Mr. Lewis went on record confirming no alcohol sales or use on property.

Mayor Peterman asked about the old road access off of the Ralph Scott Road. Assistant City Manager responded that the completed access stops just inside the site plan but does not extend thru the property.

Mr. Lewis directed the Council's attention to the site plan and pointed out the planned private road with access from Ralph Scott Road to the parking lot on Trollingwood Road. He stated that there will be access from both Trollingwood Road and Ralph Scott Road.

Council Member Euliss asked if that roadway was already dedicated and City Manager Rollins replied that it is already dedicated.

Mayor Peterman asked when the traffic study would be conducted for this project. Assistant City Manager Maness replied that the TRC and NCDOT would advise if a traffic study or any offsite improvements such as traffic signals are required for this project.

Council Member Albright asked Mr. Lewis to clarify when the typical tournament season would be held. Mr. Lewis said from early March through September of each year.

Mr. Lewis went on to explain that the outside facilities would be a combination of soccer and baseball fields. He stated that there be soccer and baseball tournaments as well and that the site plan includes for 500 parking spaces and the building has a capacity of 2,000 occupants. The facility will close at 10:00 p.m. at night and during tournaments everyone should be gone by midnight. He closed by stating that financing cannot be secured for the project without prior approval of rezoning.

City Attorney Whited swore in Nicole Cousin.

Nicole Cousins of 2419 Churchhill Drive addressed Council and stated that her husband, Rod Cousins, wished to extend his apologies for not being present but he was with their son who had

just had surgery. She stated that she wanted to reiterate to the whole community that this project is and has always been for the kids. It is their opinion that there are not enough gyms or facilities where youth can be involved in teams outside of schools. Gym availability and the funds necessary to rent those gyms are very difficult to attain. She explained that this facility will have a huge impact on the youth that do not have an opportunity to play sports in school by giving them the chance to play in front of college coaches at multiple levels; Division 1, 2 and 3, prep schools and junior colleges. These youth may possibly receive an opportunity to go to school on full and partial scholarships. She stated that it is their main goal to open these opportunities up through basketball to all of the youth in this community. As far as other community members, it is their intention to operate their facility with respect to neighboring residents.

Council Member Albright asked if Ms. Cousins was involved in AAU ball and for how long. Ms. Cousins responded that have been involved with AAU for 4 or 5 years now and that they having been helping youth go to school on full and partial scholarships.

Mayor Peterman closed the quasi-judicial portion of the meeting at 8:02 p.m. and reconvened regular session.

Mayor Peterman polled the Council for Discussion, none was forth coming.

Council Member Euliss made a motion to deny the Special Use Permit Request by Rod Cousins with Mid-State Magic, Inc. for a recreational gymnasium complex located off Trollingwood Road and Ralph Scott Road and adopt the Findings of Fact numbers proposed by the Planning Department and make the additional findings that the conditions listed is Section 10.144 that 1) is a positive; 2) is a positive; 3) is a positive; 4) not sure a positive as it could substantially devalue surrounding residential properties; 5) location would not be in harmony with the area; 6) Not sure that satisfactory provisions has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space are valid concerns; 7) inappropriate noise in that area at late hours; 8) lightening problems; 9) late hours of operation; 10) traffic would be a problem; 11) lack of proper access to the property. Motion died for a lack of second.

Upon Motion by Council Member Albright to approve the Special Use Permit Request by Rod Cousins with Mid-State Magic, Inc. for a recreational gymnasium complex located off Trollingwood Road and Ralph Scott Road and adopt the Findings of Fact numbers 1 through 9 proposed by the Planning Department as the evidence submitted satisfies the requirements of Section 10.144 of the *City of Graham Development Ordinance*, second by Mayor Pro Tem Linens. Ayes: Council Member Albright, Mayor Pro Tem Linens, Council Member Turner and Mayor Peterman. Nays: Council Member Euliss. Motion carried 4:1.

At 8:07 p.m. Mayor Peterman recessed Regular Session to convene the Quasi-Judicial Hearing Request of Daphne M. Younger (David McVey, Owner) Special Use Permit for a Unified Buisness Development at 917 East Harden Street.

**Quasi-Judicial Public Hearing Request of Daphne M. Younger (David McVey, Owner) Special Use Permit for a Unified Business Development at 917 East Harden Street. Property as shown on Alamance County Tax Map 6-23-21E (GPIN#8884704967).**

Council Members should not have ex parte conversation with individuals related to the case. Council Members were invited to advise if anyone had contacted them about this item scheduled for a Quasi-Judicial hearing.

Mayor Peterman stated that he had attended the Planning and Zoning meeting when this item was presented but that he did not participate.

City Attorney Whited swore in City Manager Rollins, Assistant City Manager Maness, City Planner Holland, Daphne Younger and David McVey.

Assistant Manager Frankie Maness presented to the Council the following request by Ms. Younger and presented the findings of fact proposed by the Planning Department. Daphne McVey Younger is requesting a Special Use Permit for a Unified Business Development located at 917 E. Harden Street. Currently, an existing structure exists on the property which is used as a TV sales and service business. According to the application packet, Ms. Younger is requesting a Special Use Permit to have multiple businesses on one lot. A Special Use Permit is required for a Unified Business Development in a B-2 (General Business) zoning.

A unified business development consists of one or more principal structures or buildings, together with accessory structures or buildings, containing two or more stores, service establishments, offices, or other permitted uses. A development of this type is planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage, and 4) common landscaping plan. Examples are shopping centers, retail centers, office parks, and business parks having the characteristics listed above. Such unified business developments may include outparcels for lease or for sale, which may be intersected by public streets. Any such unified business development may be organized as a condominium or in a manner analogous to that of a townhouse development (with ownership of parcels beneath the building units and with parking and driveways being in common area owned and maintained by an Owners Association).  
(*City of Graham Development Ordinances*, Section 10.149)

The parcel is inside the Graham City Limits, and municipal water and sanitary sewer services are available. The adjacent properties are zoned B-2 (General Business), R-12 (Residential, Medium Density), and R-18 (Residential, Low Density).

### **Findings of Fact**

- 1) Daphne McVey Younger applied for a Special Use Permit for a Unified Business Development on June 23, 2011, for a property located at 917 E. Harden Street, also identified as Alamance County Tax Map 8884704967 (Old Tax Map ID: 6-23-21E).
- 2) The property is approximately 0.55 acres and is located inside the Graham City Limits and municipal water and sanitary sewer services are available.
- 3) According to the application packet, Ms. Younger requests to have multiple businesses on one lot.
- 4) Currently, a TV sales and service business occupies a structure on the property. A Special Use Permit is required for multiple businesses on one lot.

- 5) The surrounding properties are zoned B-2 (General Business), R-12 (Residential, medium density) & R-18 (Residential, low density).
- 6) According to the *City of Graham Growth Management Plan: 2000-2020*, the parcel is located in the Regional Employment Center Recommended Land Development Type and is located in the Central Planning District.
- 7) The City of Graham staff **recommends approval** for the Special Use Permit Request by Daphne McVey Younger for a Unified Business Development located at 917 E. Harden Street with the following conditions:
  - All East Harden Street/Highway 54 Overlay District standards and regulations located in the *City of Graham Development Ordinances* shall apply.
- 8) The City of Graham Planning Board unanimously recommended approval on July 19, 2011 for the Special Use Permit request.

### **Conformity to the Growth Management Plan (GMP):**

**Planning District** Central Planning District (GMP, p.50):

#### **Recommended Land Development Type:**

The parcel is located in an area designated as a Regional Employment Center (GMP, p. 42).

#### ➤ Regional Employment Center

- An area designed for office parks, research campuses, and some limited light industry.
- These centers service business and corporations that wish to be located within close proximity to the Interstate while still maintaining a campus like atmosphere.
- The development usually includes amenities for workers including trails, picnic areas and open space.
- A special emphasis should be placed on landscaping and building design to incorporate the natural features into each site design.
- These centers will serve as a major employment source in the future.

#### **Goals to Guide Us into the Future (GMP, p. 34):**

- Encourage development that compliments existing architectural designs of the neighborhood.
- Encourage the reuse and revitalization of unused or underutilized structures and properties.
- Increase the overall retail diversity throughout the City.

#### **Development Toolkit Checklist (GMP, after p.47):**

#### ➤ Regional Employment Center

- Location Requirements: Major Thoroughfare, Interstate Access, Large Parcels
- Uses: Office/Institutional, Industrial (i.e. High-tech, Campus Developments)
- General Characteristics: Open space, Automobile oriented, Design Requirements, Sidewalks, Street Trees, Landscaping, Buffering/Screening, Parking Provided Onsite, Height of Structures Regulated, Controlled Access, Building Orientation
- Size of Development: N/A
- Infrastructure: Water, Sewer, Street Connectivity, Underground Utilities

#### **Planning District Policies and Recommendations (GMP, p.50)**

- Limit direct access or the number of curb cuts to commercial activities by directing development to proposed regional and village centers and requiring internal connectivity between commercial uses, as well as uniformity in design standards.

- Provide a transitional buffer between the proposed commercial and village centers and existing or proposed single-family neighborhoods that would consist of landscaping, multi-family developments and/or townhouse developments.

**Conditions Listed in Section 10.144 of the City of Graham Development Ordinance**

- 1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
- 2) That conditions specific to each use, identified by this Ordinance are complied with.
- 3) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- 4) That the use will not substantially injure the value of adjoining property or that the use is a public necessity.
- 5) That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- 6) That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

Daphne Younger of 917 E. Harden Street addressed Council and stated that she would like to open up a small grooming shop in the back of the McVey's TV Shop. She stated that Mr. McVey has a room adjacent to his business with a private entrance and available parking in the rear of the property.

Mayor Peterman polled the Council for questions. None were forthcoming. He polled the floor for anyone who would like to speak, none were forthcoming.

Mayor Peterman closed the Quasi-Judicial hearing at 8:10 p.m. and reconvened open session. He opened conversation of the Council regarding the quasi-judicial public hearing request of Daphne M. Younger (David McVey, Owner) special use permit for a unified business development at 917 East Harden Street. There was no further discussion.

Upon Motion by Council Member Euliss to approve the Special Use Permit Request by Daphne McVey Younger for a Unified Business Development located at 917 E. Harden Street and adopt the Findings of Fact numbers 1 through 8 proposed by the Planning Department as the evidence submitted satisfies the requirements of Section 10.144 of the *City of Graham Development Ordinances*, second by Council Member Turner. All Aye.

At 8:13 p.m. Mayor Peterman recessed Regular Session to convene the Quasi-Judicial Hearing Request of Daphne M. Younger (David McVey, Owner) Special Use Permit for a Pet Grooming Business at 917 East Harden Street.

**Quasi-Judicial Public Hearing Request of Daphne M. Younger (David McVey, Owner) Special Use Permit for a Pet Grooming Business at 917 East Harden Street. Property as shown on Alamance County Tax Map 6-23-21E (GPIN#8884704967)**

Council Members should not have ex parte conversation with individuals related to the case. Council Members were invited to advise if anyone had contacted them about this item scheduled for a Quasi-Judicial hearing. None were forthcoming.

City Attorney Whited stated that if an individual had already been sworn in they would not need to do so again.

Assistant Manager Frankie Maness presented to the Council the following findings of fact proposed by the Planning Department. Daphne McVey Younger is requesting a Special Use Permit for a pet grooming business located at 917 E. Harden Street. Currently, an existing structure exists on the property which is used as a TV sales and service business. According to the application packet, Ms. Younger is requesting a Special Use Permit to utilize a portion of the structure for a pet grooming service. A Special Use Permit is required for a pet grooming service with no outside care or storage in a B-2 (General Business) zoning.

The parcel is located inside the Graham City Limits, and municipal water and sanitary sewer services are available. The adjacent properties are zoned B-2 (General Business), R-12 (Residential, Medium Density), and R-18 (Residential, Low Density).

### **Findings of Fact**

- 1) Daphne McVey Younger applied for a Special Use Permit for a pet grooming business on June 23, 2011, for a property located at 917 E. Harden Street, also identified as Alamance County Tax Map 8884704967 (Old Tax Map ID: 6-23-21E).
- 2) The property is approximately 0.55 acres and is located inside the Graham City Limits and municipal water and sanitary sewer services are available.
- 3) Currently, a TV sales and service business occupies a structure on the property.
- 4) According to the application packet, Ms. Younger requests to utilize a portion of the existing structure for a pet grooming service. A Special Use Permit is required for a pet grooming service.
- 5) The surrounding properties are zoned B-2 (General Business), R-12 (Residential, medium density) & R-18 (Residential, low density).
- 6) According to the *City of Graham Growth Management Plan: 2000-2020*, the parcel is located in the Regional Employment Center Recommended Land Development Type and is located in the Central Planning District.
- 7) The City of Graham staff **recommends approval** for the Special Use Permit Request by Daphne McVey Younger for a pet grooming business located at 917 E. Harden Street with the following conditions:
  - All East Harden Street/Highway 54 Overlay District standards and regulations located in the *City of Graham Development Ordinances* shall apply.
- 8) The City of Graham Planning Board unanimously recommended approval on July 19, 2011 for the Special Use Permit request.

### **Conformity to the Growth Management Plan (GMP):**

**Planning District** Central Planning District (GMP, p.50):

**Recommended Land Development Type:**

The parcel is located in an area designated as a Regional Employment Center (GMP, p. 42).

- Regional Employment Center
  - An area designed for office parks, research campuses, and some limited light industry.
  - These centers service business and corporations that wish to be located within close proximity to the Interstate while still maintaining a campus like atmosphere.
  - The development usually includes amenities for workers including trails, picnic areas and open space.
  - A special emphasis should be placed on landscaping and building design to incorporate the natural features into each site design.
  - These centers will serve as a major employment source in the future.

**Goals to Guide Us into the Future (GMP, p. 34):**

- Encourage development that compliments existing architectural designs of the neighborhood.
- Encourage the reuse and revitalization of unused or underutilized structures and properties.
- Increase the overall retail diversity throughout the City.

**Development Toolkit Checklist (GMP, after p.47):**

- Regional Employment Center
  - Location Requirements: Major Thoroughfare, Interstate Access, Large Parcels
  - Uses: Office/Institutional, Industrial (i.e. High-tech, Campus Developments)
  - General Characteristics: Open space, Automobile oriented, Design Requirements, Sidewalks, Street Trees, Landscaping, Buffering/Screening, Parking Provided Onsite, Height of Structures Regulated, Controlled Access, Building Orientation
  - Size of Development: N/A
  - Infrastructure: Water, Sewer, Street Connectivity, Underground Utilities

**Planning District Policies and Recommendations (GMP, p.50)**

- Limit direct access or the number of curb cuts to commercial activities by directing development to proposed regional and village centers and requiring internal connectivity between commercial uses, as well as uniformity in design standards.
- Provide a transitional buffer between the proposed commercial and village centers and existing or proposed single-family neighborhoods that would consist of landscaping, multi-family developments and/or townhouse developments.

**Conditions Listed in Section 10.144 of the City of Graham Development Ordinance**

- 1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
- 2) That conditions specific to each use, identified by this Ordinance are complied with.
- 3) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- 4) That the use will not substantially injure the value of adjoining property or that the use is a public necessity.

- 5) That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- 6) That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

There were no questions from the public or Council for Ms. Younger or Mr. McVey.

At 8:15 p.m. Mayor Peterman closed the Quasi-Judicial Hearing and reconvened regular session.

Upon Motion by Council Member Euliss to approve the Special Use Permit Request by Daphne McVey Younger for a pet grooming business located at 917 E. Harden Street and adopt the Findings of Fact numbers 1 through 8 proposed by the Planning Department as the evidence submitted satisfies the requirements of Section 10.144 of the *City of Graham Development Ordinances*, Second by Council Member Turner, all aye.

**Discuss the Sale of Approximately a 5.547 Acre Tract of Land Located at 431 E. Interstate Service Rd. known as Alamance County Old Tax ID#6-25-8 and GPIN# 8884402904.**

City Manager Rollins presented the recommendation by staff to sale 5.547 acres of land purchased by the City of Graham in 2009 for the originally proposed Mid-State Magic, Inc. project which never developed. He stated that the recommendation was to put the property up for sale with signage and to list it with the Chamber of Commerce as opposed to a real estate agent. He explained that the Chamber of Commerce is one of the first places of contact for industrial and business development in Alamance County. The Chamber maintains a website with photographs of available business and industrial property. He stated that the properties on both sides of the City's property were currently for sale. According to State law the City cannot negotiate a private sale and that the City is required to accept a written offer which is then presented to the Council for approval. Upon approval by the Council, the staff would then advertise the property for sale by upset bid through a local newspaper and through the Clerk of Court's office. After some discussion, City Manager Rollins advised that he thinks that a fair price for the property would be \$65,000 per acre which would bring \$365,550.

Mayor Pro Tem Linens asked if the City could put the land up for sale and receive an offer. City Manager Rollins responded that he would recommend \$65,000 per acre subject to upset bid.

Council Member Euliss asked if the City would consider placing this property in conjunction with adjacent property owners lots listed for sale as one whole area to bring some business and jobs to this area. Council Member Euliss suggested to not rush to price but rush to sale.

City Manager Rollins replied that in order to list this property the City would need to put a price on the property. Setting a price does not mean that that will be the actual selling price because it has to come back before Council to be approved in order to sell.

Council Member Albright stated that he was comfortable with a listed price of \$65,000.

Mayor Pro Tem Linens advised that he supports the recommendation by the City Manager.

Council Member Euliss stated that he would rather ask \$75,000 per acre but he would be okay with \$72,500.00.

Upon Motion by Council Member Euliss to set a price of \$72,500 per acre for the sale of approximately a 5.547 acre tract of land located at 431 E. Interstate Service Rd. known as Alamance County Old Tax ID#6-25-8 and GPIN# 8884402904 subject to compliance with North Carolina General Statute 160A-269, Second by Mayor Peterman. All aye.

**Request from the United Way of Alamance County to Close East Elm Street between Maple Avenue and Court Square and Allow a Caterer to Serve Beer and Wine from 7:30 p.m. to 10:30 p.m. on Friday, October 7, 2011 for the United Way Community Event.**

Item was pulled from the Agenda at the request of the United Way of Alamance County.

**Issues Not Included on Tonight's Agenda.**

Chuck Grainger of 404 Stonehedge Drive, Graham addressed Council stating that he did not see the need for a 4-way stop sign on Crescent Square Drive at the intersection of Interstate Service Road. Mayor Peterman replied that the City would ask NCDOT to look at and evaluate that intersection.

Mr. Grainger further stated that it is his opinion that the stop lights at Harden Street and Ivey Road, River Bend at Woody Drive and Main Street at Crescent Square are over a minute too long between changes.

City Manager Rollins stated he had observed the long delay at the light at Main Street and Crescent Drive and believes that there may be something wrong with the loops.

Mr. Grainger responded that a lot of fuel is wasted sitting at these long light interchanges. He stated that the light at the intersection of Elm Street at Marshall Street is also very long.

Council Member Euliss stated that the light at Main Street and Gilbreath Street also has a very long loop before it changes.

Mr. Grainger addressed the Council and stated that he was concerned that 31% of the current years' Budget was going to the Police Department and that he didn't agree with every police officer having his own patrol car. City Manager Rollins responded that every officer does not have his own patrol car and that the Police Department is the largest Department in the City of Graham. He advised that the Police Department Budget was in line with other municipalities the same size of Graham.

**Closed Session to Consider the City Attorney's Annual Review Pursuant to the Terms of N.C.G.S. 143-318-11 (a) (6).**

At 8:30 p.m. Mayor Peterman recessed regular session to convene closed session for the purpose of the City Attorney's annual review.

At 8:50 p.m. Mayor Peterman adjourned the closed session and reconvened regular session.

Closed Session Minutes from July 5, 2011 were approved in Closed Session but remain sealed due to review of personnel.

Mayor Peterman stated that everyone was in favor of keeping Keith Whited as the City Attorney and no changes were made to the contract fee.

Council Member Turner stated that Keith Whited is an asset to the City of Graham and that he was glad that the Mr. Whited wanted to stay on as the City Attorney.

Council Member Albright replied that he concurs with Council Member Turner's statements and that he appreciates the work that City Attorney Whited does for the City.

Mayor Pro Tem Linens stated that he would like to thank Mr. Whited for a job well done and he closed with saying that Mr. Whited is a well respected man.

Council Member Euliss thanked Mr. Whited and stated that he appreciates him.

City Manager Chris Rollins reminded the Council of the NCLM Annual Conference and advised the Council that he would be sending out an email to provide them with information regarding this years' event. He asked the Council Members let him know if they are interested in attending.

Council Member Albright announced that the City is very fortunate to have the current exhibit on display at the Alamance County Arts Council.

There being no further business, Council Member Euliss moved to adjourn, followed by Council Member Turner, all aye.

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Kimberly Harris, City Clerk