



Planning Board

Meeting Agenda

April 18, 2017 at 7:00 PM
Council Chambers, 201 S Main St

Meeting Called to Order, Invocation, and Overview of Board and general meeting rules

1. Approve minutes of the March 21, 2017 meeting
2. New Business
 - a. **AM1702 Planning Board Requirements.** An amendment by City Council to permit real estate owners within the City Limits to serve on the Planning Board.
 - b. **AM1703 Food Trucks.** An amendment by Debarah Wilson to permit Temporary Outdoor Sales within the Downtown Business District.
 - c. **AM1704 Appeal Fee.** An amendment proposed by staff for a fee to offset administrative expenses for appeals, to be refunded if the appeal is overturned.
3. Public comment on non-agenda items

Adjourn

A complete agenda packet is available at www.cityofgraham.com

PLANNING ZONING BOARD

Tuesday, March 21, 2017

The Planning & Zoning Board held their regular meeting on Tuesday, March 21, 2017 in the Council Chambers of the Graham Municipal Building at 7:00 p.m. Board members present were Ricky Hall, Andy Rumley, Michael Benesch, Bonnie Blalock, Barry Hicks and Dean Ward. Member absent was Kenneth Dixon. Staff members present were Nathan Page, Planning Director, Aaron Holland, Assistant City Manager and Martha Johnson Zoning & Inspection Technician. Andy Rumley called the meeting to order, gave the Overview of the Board, and general meeting rules. Ricky Hall gave the invocation.

1. Approval of the January 17, 2017 meeting minutes. Ricky Hall made a motion for approval, second by Bonnie Blalock. All voted in favor.

2. New Business:

a. Appearance Commission (AM1701) Request by the City of Graham Appearance Commission to rewrite their enabling ordinance. Ricky Hall made a motion to approve, second by Michael Benesch. All voted aye.

b. Mallard Care Home (SUP1701) Request by Garry Wiley for a Special Use Permit to allow a Family Care Home at 304 Mallard Creek Drive. Martha Johnson, Notary, swore in Nathan Page, Planning Director and Tee Jay Bondurant, the property owner. Mr. Page further explained this request is for a Family Care Home which our Ordinance defines differently from a Group Home. If granted, this Special Use Permit would allow up to 6 unrelated individuals to reside within the unit.

Tee Jay Bondurant, 304 Mallard Creek Drive (owner) spoke on behalf of the applicant Universal Mental Health. Mr. Bondurant stated he and his wife currently takes care of his special needs brother and would like to have one more special needs person there. There was some discussion among the Board members to make a motion and add limitations of adding only one more special needs person instead of the six individuals allowed. Mr. Bondurant stated he would sign any paper if necessary stating his intent for only adding one person. Mr. Page stated the Board needed to consult with the City Attorney concerning the language. Dean Ward made a motion to table this item to allow the City Attorney to clear the Board's questions concerning restrictions. Ricky Hall seconded the motion, all voted aye.

c. Steve's Rezoning (CR1701) Request by Justin Long to rezone 329 and 331 W Harden Street from Light Industrial (I-1) to Conditional Business (C-B). Nathan Page, Planning Director explained the requested rezoning. The applicant is proposing to allow for further expansion to take place closer to the property line and not interfere with the parking lot, this would allow the rear and side yards be reduced to zero. The front yard setback would be reduced from the current fifty foot to thirty foot.

Ronald Hutchens (Graham Marina) 318 W Harden Street spoke next. Mr. Hutchens business is located across the street from the applicant and he has concerns about future development and the impact the water runoff would have on his property. Mr. Hutchens already has flooding issues, pipe erosion from sewer and leaking pipes. After much discussion Mr. Page stated this road is a NCDOT road not the City of Graham but he would notify the Water and Sewer Department about these issues and would identify the issues with NCDOT.

Ricky Hall made a motion to approve, second by Bonnie Blalock. The vote was 5 to 1 with Dean Ward being the dissenting vote.

3. Public comment on non-agenda items. None.

Andy Rumley stated referring to the City Council's recent ruling on residence restrictions, he would like to notify the City of Graham that he will tenure his resignation to the Planning Board effective immediately. Mr. Rumley said he had enjoyed his time serving on the Board and appreciates all this Board does for the City of Graham.

No further business the meeting was adjourned.

Respectfully Submitted,
Martha Johnson



STAFF REPORT

Prepared by Nathan Page, Planning Director

Text Amendment for: Section 10.17 Created

Type of Request: Text Amendment

Meeting Dates

Planning Board on April 18, 2017

City Council on May 2, 2017

Contact Information

N/A

Summary

The City Council has proposed amending the residency requirement for Planning Board members to the Development Ordinance

The following amendments to the Development Ordinance are proposed:

Existing Language:

Section 10.17 Created

There is hereby created a planning board, referred to in this article as the "board," to be composed of seven members, five residents and citizens of the City of Graham, appointed by the city and two members appointed by the county commissioners to represent the extraterritorial area. All members of the board, before entering upon their duties, shall take and subscribe to the oath of office required to be taken by officials of the city.

Proposed Language:

Section 10.17 Created

There is hereby created a planning board, referred to in this article as the "board," to be composed of seven members, five residents and citizens of the City of Graham, or real property owners within the City limits, appointed by the city and two members appointed by the county commissioners to represent the extraterritorial area. All members of the board, before entering upon their duties, shall take and subscribe to the oath of office required to be taken by officials of the city.

Conformity to The Graham 2035 Comprehensive Plan and Other Adopted Plans

Not applicable.

Applicable Planning District Policies and Recommendations

- Not applicable; city-wide.

Project Name

PB Requirements (AM1702)

Location

city-wide

Current Zoning

not applicable

Proposed Zoning

not applicable

Overlay District

not applicable

Staff Recommendation

see below

Planning District

All

Development Type

All

Staff Recommendation

Because of the nature of this amendment, staff acknowledges that the authority to appoint and remove members of the Planning Board lie solely with the City Council, who shall make decisions regarding requirements.

- The proposed amendment relaxes who may serve on the Planning Board, and allows the City Council more discretion regarding who may best represent the City's goals.



PLANNING BOARD Recommendation & Statement of Consistency

Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

PB Requirements (AM1702)
Type of Request
Text Amendment
Meeting Dates
Planning Board on April 18, 2017
City Council on May 2, 2017

I move to **recommend APPROVAL** of the application as presented.

I move to **recommend DENIAL**.

The application is **consistent** with *The Graham 2035 Comprehensive Plan*.

The application is **not fully consistent** with *The Graham 2035 Comprehensive Plan*.

The action is reasonable and in the public interest for the following reasons:

This report reflects the recommendation of the Planning Board, this the 18th day of April, 2017.

Attest:

Ricky Hall, Planning Board Vice-Chair

Martha Johnson, Secretary



STAFF REPORT

Prepared by Nathan Page, City Planner

Text Amendment for: Food Trucks

Type of Request: Text Amendment

Meeting Dates

Planning Board on April 18, 2017

City Council on May 2, 2017

Contact Information

Not applicable

Summary

T Debarah Wilson has proposed amending the permitted uses for the B-1 (Central Business District) in the Development Ordinance. Debarah states that the “request is being made to assist business owners, organizations, and citizens of Graham who request using the City of Graham for an event or festival the ability to allow food trucks at events planned in Downtown Graham.” *Currently, all Temporary Outdoor Sales are prohibited, from Girl Scout Cookies to mattresses.*

The following amendments to the Development Ordinance are proposed:

Existing Language:

Project Name

Food Trucks (AM1703)

Location

city-wide

Current Zoning

not applicable

Proposed Zoning

not applicable

Overlay District

not applicable

Staff Recommendation

Approval

Section 10.135 Table of Permitted Uses

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-1	C-O-1	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC	
Radio, Television Stations without Towers											X	X	X	C	X	X	C			C	3
Recycling Facility, Commercial															S	S					4
Restaurant (with drive-thru)												X		C	X	X	C			C	3
Restaurant (without drive-thru)												X	X	C	X		C			C	3
Retail Sales No Outside Storage or Sales											S	X	X	C	X			C	C	C	3
Roadside stands, temporary, for sale of agricultural products produced on premises; not in right-of-way								X	X	C	X	X	X	C	X	X	C	C	C	C	1
Roadside Stands & Outdoor Sales, Temporary (Prohibited)																					
Course Treatment Plant																					5

Proposed Language:

Section 10.135 Table of Permitted Uses

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-1	C-O-1	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC	
Radio, Television Stations without Towers											X	X	X	C	X	X	C			C	3
Recycling Facility, Commercial															S	S					4
Restaurant (with drive-thru)												X		C	X	X	C			C	3
Restaurant (without drive-thru)												X	X	C	X		C			C	3
Retail Sales No Outside Storage or Sales											S	X	X	C	X			C	C	C	3
Roadside stands, temporary, for sale of agricultural products produced on premises; not in right-of-way								X	X	C	X	X	X	C	X	X	C	C	C	C	1
Roadside Stands & Outdoor Sales, Temporary													X								

With a note added stating “As part of a City-Sanctioned event.”

Alternative Language:

Section 10.135 Table of Permitted Uses

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-1	C-O-1	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC	
Radio, Television Stations without Towers											X	X	X	C	X	X	C			C	3
Recycling Facility, Commercial															S	S					4
Restaurant (with drive-thru)												X		C	X	X	C			C	3
Restaurant (without drive-thru)												X	X	C	X		C			C	3
Retail Sales No Outside Storage or Sales											S	X	X	C	X			C	C	C	3
Roadside stands, temporary, for sale of agricultural products produced on premises; not in right-of-way								X	X	C	X	X	X	C	X	X	C	C	C	C	1
Roadside Stands & Outdoor Sales, Temporary			X	X	X	C	X	X	X	C	X	X	X	C	X						

The following text would be added to the Code of Ordinances, Chapter 20, Article IV, Sec. 20-112 and be called “Temporary Outdoor Sales”.

Temporary Outdoor Sales:

These restrictions do not apply to farmers selling goods grown on their own property, nor to schools, approved educational, religious or charitable organizations, when the proceeds from such solicitation, in excess of the cost of the goods sold, goes to the fund of some approved educational or charitable organization.

Temporary sales shall not be located within 100 feet of the primary entrance to a similar-purpose institution without prior written permission of a person with authority to represent the local business, unless that business is not open during the time the sales are taking place. A new letter must be issued

for each time the temporary sales are permitted to be located closer than 100 feet. For example: Donut trucks may not locate except for with the permission of the local business in front of any building whose primary source of revenue is generated by sale of food objects. Similarly, a vendor selling mattresses cannot locate within 100 feet of a building who primarily sells furniture, without prior written permission of affected parties.

When sales are located in the right-of-way (for example on-street parking spaces), the service window must be facing the curb. This applies except in the event of a city-council supported road closure, at which point the truck may be parked to face away from the curb. Other than as a part of a City-sanctioned event, the trucks shall not occupy more than one parking space.

Vendors are required to keep a 15 foot buffer free of trash, as well as provide a means for trash disposal not using city receptacles.

Generator(s) must not run within 200' of a dwelling unit after 9 PM, nor before 8AM, except as part of a City sanctioned event.

Hours of Operation: Sales shall not commence before 7AM, nor continue past 11PM.

Permitted Zones: When operating in the right of way, the zone of the abutting parcel shall be considered to extend to the mid-line of the road.

Sound: No music or amplified advertising shall be permitted at any time.

Unattended sales: gear or goods cannot be left unattended for more than ten minutes.

Fee for Site Disturbance: A \$100 cash fee, renewed annually will cover minor trash pickup, but would not be a barrier to entry for vendors. If a vender can be determined to be the source of trash in the vicinity, the permit will be void.

Signage: Other than any signs painted on the mobile unit (for example on the side of a food truck), only one A-frame sign, not to exceed 3 square feet per side is permitted. (*Section added xx/xx/xx*).

Conformity to The Graham 2035 Comprehensive Plan and Other Adopted Plans

Strategy 2.1.5 Reduce Barriers Work with local businesses and economic development partners to identify and address unnecessary barriers to local business development. *Food trucks have been a less expensive way to enter into a market, and have successfully expanded into brick and mortar businesses in many municipalities.*

Planning District

All

Development Type

All

Strategy 2.1.1 Business Incubation Develop a business incubation program to encourage development of new business ventures. *As the cost to start a food truck can be around \$10,000 while a new restaurant is in excess of \$100,000, the ability for an entrepreneur to test a market theory is much more forgiving for food trucks.*

Policy 2.3.1 Downtown A vibrant downtown is critical for Graham's economic success. Graham's downtown is a priority when considering incentives, investments, regulations, and marketing. Encourage entertainment options to locate within Graham's Downtown. *With the current popularity of downtown events, the desire for additional dining venues has been growing. Food Truck Rodeos continue to be successful events in surrounding municipalities and draw crowds who typically do not frequent the downtown area.*

Applicable Planning District Policies and Recommendations

- Not applicable; city-wide.

Staff Recommendation

Based on *The Graham 2035 Comprehensive Plan*, other jurisdictions and best practices, staff **recommends approval** of the text amendment. The following supports this recommendation:

- The prohibition against food trucks restricts business startups, reduces participation at City sanctioned events, and unjustly denies the entire jurisdiction of the City for one use.



PLANNING BOARD Recommendation & Statement of Consistency

Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

Food Trucks (AM1703)
Type of Request
Text Amendment
Meeting Dates
Planning Board on April 18, 2017
City Council on May 2, 2017

I move to **recommend APPROVAL** of the application as presented.

I move to **recommend DENIAL**.

The application is **consistent** with *The Graham 2035 Comprehensive Plan*.

The application is **not fully consistent** with *The Graham 2035 Comprehensive Plan*.

The action is reasonable and in the public interest for the following reasons:

This report reflects the recommendation of the Planning Board, this the 18th day of April, 2017.

Attest:

Ricky Hall, Planning Board Vice-Chair

Martha Johnson, Secretary



STAFF REPORT

Prepared by Nathan Page, Planning Director

Text Amendment for: Sections 10.46 Duties of zoning enforcement officer, board of adjustment and city council as to matters of appeal

Type of Request: Text Amendment

Meeting Dates

Planning Board on November 15, 2016

City Council on December 6, 2016

Contact Information

N/A

Summary

The Planning Board has proposed adding a fee for appeals to the Ordinance, in an attempt to cover the costs the City must bear when they provide public notice for appeals, and to help offset the staff requirements for the quasi-judicial hearings.

The following amendments to the Development Ordinance are proposed:

Existing Language:

Section 10.46 Duties of zoning enforcement officer, board of adjustment and city council as to matters of appeal

It is the intention of this article that all questions arising in connection with the enforcement of this article shall be presented first to the zoning enforcement officer, that such questions shall come before the board of adjustment only on appeal from the zoning enforcement officer, and that from the decision of the board of adjustment recourse shall be to the courts as provided by law. It is further the intention of this article that the duties of the Graham City Council in connection with this article shall not include the hearing of appeals from the action of the zoning enforcement officer. The duties of the city council in connection with this article shall be only the duty of considering and passing upon any proposed amendment or repeal of this article.

Proposed Language:

Section 10.46 Duties of zoning enforcement officer, board of adjustment and city council as to matters of appeal

It is the intention of this article that all questions arising in connection with the enforcement of this article shall be presented first to the zoning enforcement officer, that such questions shall come before the board of adjustment only on appeal from the zoning enforcement officer, and that from the decision of the board of adjustment recourse shall be to the courts as provided by law. In the event of appeal of

<u>Project Name</u>
Fee for Appeals (AM1704)
<u>Location</u>
city-wide
<u>Current Zoning</u>
not applicable
<u>Proposed Zoning</u>
not applicable
<u>Overlay District</u>
not applicable
<u>Staff Recommendation</u>
Approval

an administrative decision, a fee fixed by the city council and kept on file in the office of the city clerk shall be paid to the City of Graham to cover the costs of advertising and a portion of the administrative expenses involved. However, in the event that the staff decision is overturned by the Board of Adjustment, the fee shall be returned to the applicant in full.

It is further the intention of this article that the duties of the Graham City Council in connection with this article shall not include the hearing of appeals from the action of the zoning enforcement officer. The duties of the city council in connection with this article shall be only the duty of considering and passing upon any proposed amendment or repeal of this article.

Conformity to The Graham 2035 Comprehensive Plan and Other Adopted Plans

Not applicable.

Applicable Planning District Policies and Recommendations

- Not applicable; city-wide.

Planning District

All

Development Type

All

Staff Recommendation

Based on the comprehensive plan, staff **recommends approval** of the text amendment. The following supports this recommendation:

- The proposed amendment will reduce the incidence of frivolous appeals, thus decreasing the administrative burden on the City. However, it will allow valid cases to move forward without a financial burden for applicants.



PLANNING BOARD Recommendation & Statement of Consistency

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Fee for Appeals (AM1704)
Type of Request
Text Amendment
Meeting Dates
Planning Board on April 18, 2017
City Council on May 2, 2017

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I move to **recommend DENIAL**.

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Ricky Hall, Planning Board Vice-Chair

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