



## Planning Board

### Meeting Agenda

April 16, 2013 at 7:00pm  
Council Chambers, 201 S Main St

#### Invocation

1. Approve minutes of the March 19, 2013 meeting.
2. 1620 S Main St Rezoning (RZ1302). Request by Boswell Land Development, LLC, to rezone property located at 1620 S Main St (GPIN 8883421685) from Conditional Business (C-B) to General Business (B-2).
3. E Elm St/Town Branch Rd Triplex (CR1302). Request by John L. Kempf for a conditional rezoning from Residential (high density) (R-7) to Conditional Residential (C-R) for property located between E Elm St and Town Branch Rd (GPIN 8884455665) to construct a three-unit multifamily dwelling.
4. Text Amendment for Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments. Request by staff and the Historic District Commission to amend the *Development Ordinances* to add the "Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments" as Appendix B.
5. Text Amendment for Short-Term Special Use Permit. Request by staff to amend the *Development Ordinance* to remove the section on "short-term special use permits."

*A complete agenda packet is available at [www.cityofgraham.com/boards](http://www.cityofgraham.com/boards).*

PLANNING ZONING BOARD

Tuesday, March 19, 2013

The Planning & Zoning Board held its regular meeting on Tuesday, March 19, 2013 at 7:00 p.m. in the Council Chambers of the Graham Municipal Building. Board members present were Andy Rumley, Dean Ward, Ricky Hall, Bonnie Blalock, Bill Teer, and Tim Beshel. Michael Benesch was absent. Staff members present were Frankie Maness, City Manager, Melissa Guilbeau, City Planner, Martha Johnson, Zoning/Inspections Technician and Darcy Sperry, Zoning Enforcement Officer.

Chairman Andy Rumley called the meeting to order.

Invocation was given by Ricky Hall.

1. Ricky Hall made a motion for approval for the February 19, 2013 minutes, second by Bonnie Blalock. All voted in favor.

Mayor Jerry Peterman addressed the Board to discuss any questions about the City Council approving the repeal of a special use permit for a unified business development by Vasant Sejjal at 1229 S. Main Street. The Mayor stated it was a simple request being made. Ricky Hall inquired about the property being back to a nonconforming parcel. Melissa Guilbeau said it is not nonconforming as the property is permitted to have the house and the business on the property.

2. Request of Laverne Zachary for a Rezoning from R-12 & R-MF to B-2 for property located at 918 S. Main Street (GPIN #8883283139).

Caitlyn Fisher of 117 Montree Lane spoke first concerning the rezoning. She had no problem with the part that has frontage on S. Main Street being zoned B-2 but the Ivey Road portion of the parcel she stated that she feels noise from potential delivery trucks would have an adverse affect on neighboring properties, in addition to increased traffic.

Laverne Zachary of 707 N. Wilba Road Mebane, NC spoke next being the person requesting the rezoning. He explained he was trying to sell the property and was advised by his realtor he would have a better chance selling the property if it was zoned business. Bill Teer asked if there was an exit onto Ivey Road and Mr. Zachary said there currently wasn't one but there was room for one.

Shane Fisher of 117 Montree Lane spoke next. He asked if the rezoning was all or nothing. Andy Rumley stated the owner of the property was requesting all to be rezoned B-2. Dean Ward asked if they had a lot of problems with the multifamily units on Bullis Street. Mr. Fisher said there was significant amount of loud noise from them with gunshots being heard from there in the past. Dean Ward reminded Mr. Fisher with the current zoning R-MF more apartments could be put there. Mr. Zachary said the property is for sale and he wants to sell it as one unit.

Ricky Hall said the Ivey Road area is bad in the mornings with all of the school traffic and any additional traffic added would be very bad. Tim Beshel asked if the property could be split. Melissa Guilbeau said staff recommends the property to be split with B-2 on S. Main Street and the other remain residential. Ricky Hall made a motion to split the zoning of the property with the frontage on

S. Main Street to be B2 and the other fronting Ivey Road to remain R-MF, seconded by Tim Beshel. The vote was 5 to 1 in favor.

Andy Rumley apologized for not explaining the function of the Board when the meeting first was called to order so he proceeded to do so at that point for those present.

3. Request of Dale Congdon for a Conditional Rezoning from R-7 to C-R for property located at 408 N. Main Street (GPIN #8884154970). Bonnie Blalock asked if we had received any drawings for the proposed townhomes. Melissa Guilbeau said no and she spoke to Mr. Congdon to let him know about the comments from TRC and she hasn't heard from him since then. There was no one present representing the petitioner. Ricky Hall made a motion for the request to be tabled, seconded by Bill Teer. All voted in favor.

Melissa Guilbeau asked if the Board would be interested in any additional Quasi-Judicial training and the Board replied yes they would be interested.

There being no further business the meeting was adjourned.

Respectfully Submitted,  
Martha Johnson  
Inspections/Zoning Technician



# STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

## 1620 S Main St Rezoning (RZ1302)

**Type of Request:** Rezoning

### Meeting Dates

Planning Board on April 16, 2013

City Council on May 7, 2013 (tentative)

### Contact Information

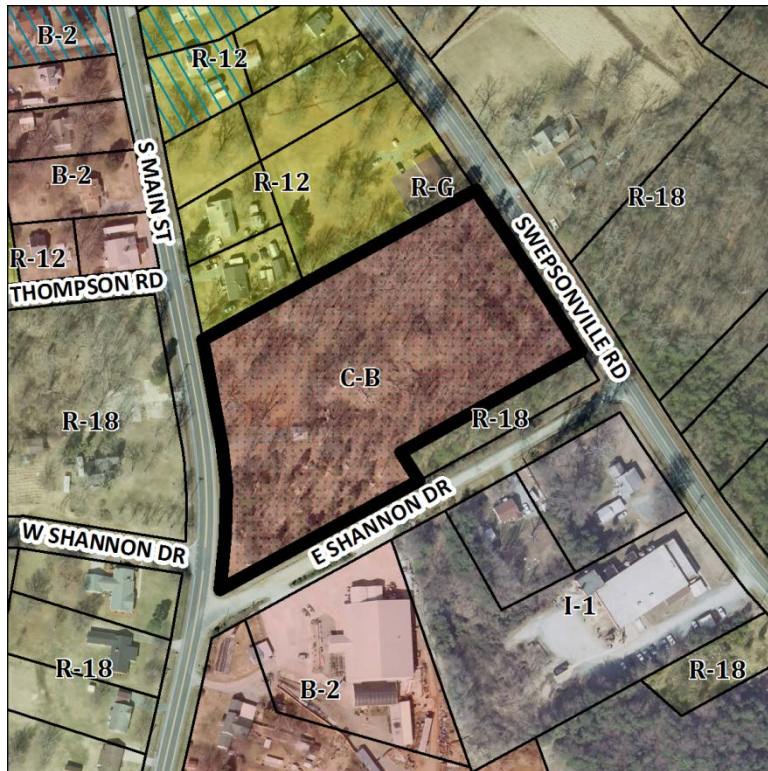
Boswell Land Development, LLC

3340 Red Wolf Way, Burlington, NC 27215

336-222-8070; boswellconstruction@msn.com

## Summary

This is a request to rezone the subject property from C-B to B-2. The stated reason for this rezoning request is for “more flexibility in timing of project and flexibility to not have to do entire project at once.”



### Project Name

1620 S Main St Rezoning  
(RZ1302)

### Location

1620 S Main St

GPIN: 8883421685

### Size

4.24 acres

### Current Zoning

Conditional Business (C-B)

### Proposed Zoning

General Business (B-2)

### Surrounding Zoning

R-12, R-18, R-G, I-1 & B-2

### Surrounding Land Uses

Single Family, Retail and  
Vacant

### Staff Recommendation

Denial

The current C-B zoning was approved on September 2, 2008; it included a list of “requested uses” and a list of “excluded uses” (see attached) and the following conditions:

- A site plan shall be submitted to and approved by the City Council prior to construction.
- The property shall be allowed only one freestanding sign per street frontage and shall be a monument sign that can only be five feet in height and 40 square feet in area.
- A demolition permit must be issued by the City before the structure is torn down.

The zoning of the property prior to approval of the C-B conditional rezoning was R-18.

## Conformity to the *Growth Management Plan (GMP)* and Other Adopted Plans

**Planning District:** South

**Development Types:** Neighborhood Residential, adjacent to Traditional Neighborhood Development and Village Center

### Applicable Goals to Guide Us into the Future

- 6.3.2. Encourage commercial development within designated village centers as opposed to continued commercial strip development. *The rezoning would provide for commercial uses adjacent to a designated village center.*
- 6.3.4. Promote the location of mixed-use development at designated village centers. *The B-2 zoning district provides for a large variety of commercial, office, light industrial and residential uses, but does not require a mix of uses.*

### Applicable Planning District Policies and Recommendations

- 7.5.4.1.2. 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 S Main St. *The rezoning would provide for commercial development adjacent to a designated village center.*

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### Staff Recommendation

Based on the *Growth Management Plan 2000-2020* and the *City of Graham Development Ordinance*, staff **recommends denial** of the rezoning. The following supports this recommendation:

- The *Growth Management Plan* identifies this area as the edge of a Traditional Neighborhood Development Village Center, which includes a mix of uses and a focus on the pedestrian.

The current zoning designation of C-B permits a mix of uses and requires City Council approval of a site plan prior to construction, which would encourage development of the site in a way that contributes to the planned pedestrian nature of this area. Rezoning to B-2 would also permit (but not require) a mix of uses but would not require City Council approval of a site plan for any use permitted by right.

#### Description of Development Type

Neighborhood Residential, adjacent to Traditional Neighborhood Development and Village Center

#### Development Toolkit Checklist

Located near a major thoroughfare

For single family residential, townhouses, apartments & condominiums, commercial, office/institutional and mixed use

Characteristics include open space; parks included with development; pedestrian-oriented; automobile-oriented; design requirements; sidewalks; street trees; landscaping; buffering/screening; parking provided on-site; height of structures regulated; controlled access; building orientation

Density of 3+ DU/acre or 10,001 to 100,000sf of retail

Infrastructure includes water, sewer, street connectivity and underground utilities



## 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 "City of Graham Growth Management Plan 2000-2020" 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 "City of Graham Growth Management Plan 2000-2020" shall not preclude consideration or approval of the proposed amendment by the City Council.*

**1620 S Main St Rezoning  
(RZ1302)**

**Type of Request**

Rezoning

**Meeting Dates**

Planning Board on April 16, 2013  
City Council on May 7, 2013

I move to **recommend APPROVAL** in that the application is consistent with all of the objectives and policies for growth and development contained in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:

- o Based on the recommendations of the *Growth Management Plan*
- o [Insert reasons]

I move to **recommend DENIAL** of the request because the application is not fully consistent with the objectives and policies for growth and development in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:

- o [Insert reasons]

The report reflects the recommendation of the Planning Board, this the 16<sup>th</sup> day of April, 2013.

Attest:

\_\_\_\_\_  
Andy Rumley, Planning Board Chairman

\_\_\_\_\_  
Martha Johnson





# STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

## E Elm St/Town Branch Rd Triplex (CR1302)

**Type of Request:** Conditional Rezoning

### Meeting Dates

Planning Board on April 16, 2013

City Council on May 7, 2013 (tentative)

### Contact Information

John L Kempf

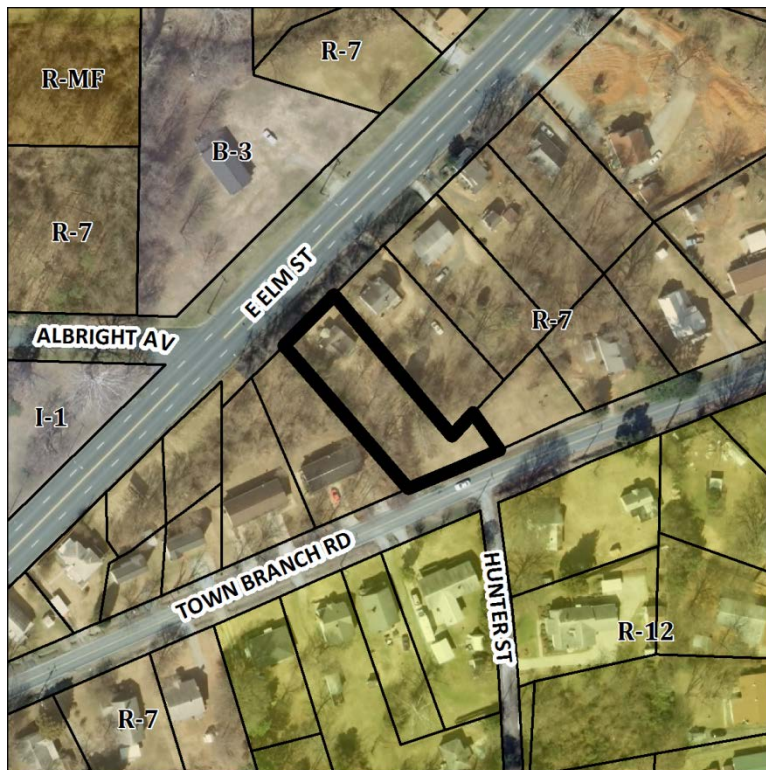
PO Box 1340, Graham, NC 27253

336-263-4580

johnlkempf@aol.com

## Summary

This is a request to rezone the subject property from R-7 to C-R. The applicant is proposing to construct a three-unit multifamily dwelling. The parcel is currently occupied by a deteriorated single family house that the applicant proposes to remove.



### Project Name

E Elm St/Town Branch Rd  
Triplex (CR1302)

### Location

Between E Elm St &  
Town Branch Rd

GPIN: 8884455665

### Size

0.378 acres

### Proposed Density

7.9 DU/acre

### Current Zoning

Residential (high density)  
(R-7)

### Proposed Zoning

Conditional Residential (C-R)

### Surrounding Zoning

R-7, R-12 & B-3

### Surrounding Land Uses

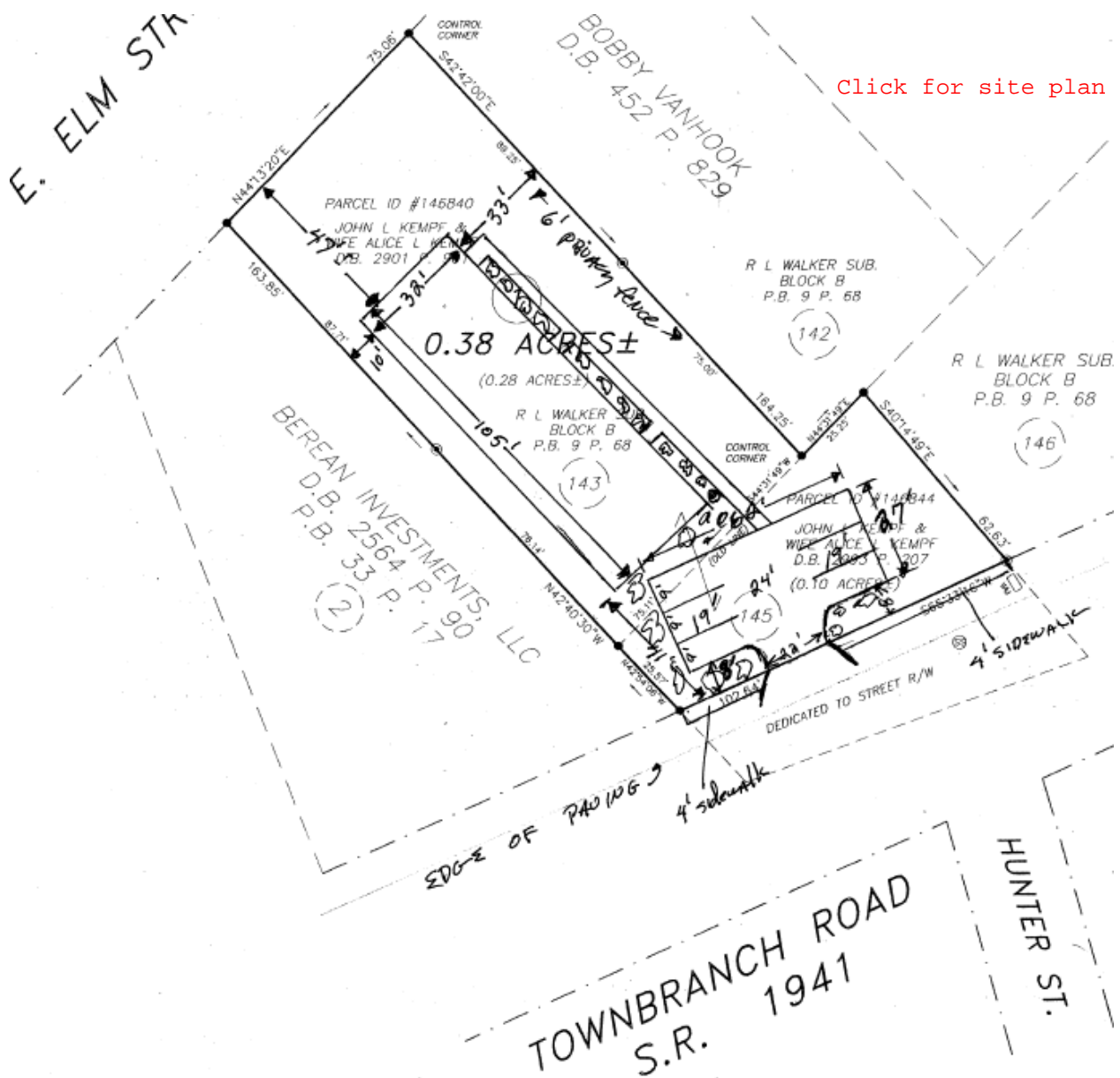
Single Family, Duplex, Vacant  
and Business

### Staff Recommendation

Approval, with conditions

The applicant is proposing to rezone the property to C-R in accordance with the site plan submitted. The proposal is for a three-family building with a total of approximately 3,327 square feet. The building will have access from Town Branch Rd as there is no feasible entry from E Elm St because of the lot's elevation above street level. The proposal includes the following specifics:

- Minimum setbacks of 25' for the front and rear and 9' for the sides
- Six off-street parking spaces in a lot accessed from Town Branch Rd
- A four-foot wide sidewalk along Town Branch Rd
- A six-foot high privacy fence along the northeast property line shared with an existing single family house





## Technical Review Committee

The Technical Review Committee reviewed the application and provided comments to the applicant via the City Planner. As of the publishing of this agenda packet, the applicant had not responded to the comments. The following are comments that still need to be addressed:

- Make the sidewalk five feet wide as per the Pedestrian Plan; it should be placed behind the ditch.
- Parking is located in required front yard; please provide bushes to screen the parking from the road.
- Consider providing a standard street light on a pole for security of the parking lot.
- Provide a 10'x70' sight distance easement at entrance and remove all landscaping from easement.
- Consider lining proposed driveway up with existing Hunter St.

## Conformity to the *Growth Management Plan (GMP)* and Other Adopted Plans

**Planning District:** North

**Development Type:** Neighborhood Residential

### Applicable Goals to Guide Us into the Future

- 6.1.3. Encourage development that compliments existing architectural designs of the neighborhood. *The proposal does not provide any architectural renderings, so it is unclear whether it will support this goal.*
- 6.3.1. Prohibit residential development that is in close proximity to incompatible uses or provide proper buffering to protect existing uses and new development. *The proposal is for residential development in an area that has a mix of residential building types and includes a six-foot privacy fence adjacent to the existing single family home.*

### Applicable Planning District Policies and Recommendations

- 7.3.4.1.1. Encourage infill development within the district, as well as redevelopment efforts of deteriorating structures. *This development will construct a three dwelling unit building on a lot that is currently occupied by a deteriorated house.*

### Graham Pedestrian Plan

- Recommends a five-foot sidewalk on both sides of Town Branch Rd, from E Elm St to Teer Rd, as the second highest priority project. *This proposal includes a four-foot sidewalk along Town Branch Rd.*

#### Description of Development Type

Neighborhood Residential

#### Development Toolkit Checklist

Located near a major thoroughfare

For single family residential and townhouses

Characteristics include open space; parks included with development; pedestrian-oriented; automobile-oriented; sidewalks; street trees; landscaping

Density of 3+ DU/acre

Infrastructure includes water, sewer, street connectivity and underground utilities

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### **Staff Recommendation**

Based on the *Growth Management Plan 2000-2020* and the *City of Graham Development Ordinance*, staff **recommends approval of the conditional rezoning, with the following conditions:**

- The sidewalk will be five feet wide and located behind the ditch.
- Bushes will be provided in appropriate locations to screen the parking lot from the road.
- A standard street light on a pole will be provided for security of the parking lot.
- A 10'x70' sight distance easement will be provided at the driveway entrance.
- The applicant will work with NCDOT for a mutually agreeable driveway entrance location.

The following supports this recommendation:

- The development complies with the Development Toolkit Checklist for Neighborhood Residential and furthers a number of goals and policies of the *Growth Management Plan*.
- The development complies with the standards of the Development Ordinance, or proposes a decrease in the standard that would not have a negative effect.



## 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 "City of Graham Growth Management Plan 2000-2020" 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 "City of Graham Growth Management Plan 2000-2020" shall not preclude consideration or approval of the proposed amendment by the City Council.*

**E Elm St/Town Branch Rd Triplex  
(CR1302)**

**Type of Request**  
Conditional Rezoning

**Meeting Dates**  
Planning Board on April 16, 2013  
City Council on May 7, 2013

- I move to **recommend APPROVAL** in that the application is consistent with all of the objectives and policies for growth and development contained in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o Based on the recommendations of the *Growth Management Plan*
  - o [Insert reasons]
- I move to **recommend APPROVAL with the following conditions**[insert conditions] in that the application with the added conditions is consistent with all of the objectives and policies for growth and development contained in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o Based on the recommendations of the *Growth Management Plan*
  - o [Insert reasons]
- I move to **recommend DENIAL** of the request because the application is not fully consistent with the objectives and policies for growth and development in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o [Insert reasons]

The report reflects the recommendation of the Planning Board, this the 16<sup>th</sup> day of April, 2013.

Attest:

\_\_\_\_\_  
Andy Rumley, Planning Board Chairman

\_\_\_\_\_  
Martha Johnson



# STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

## Text Amendment for Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments

**Type of Request:** Text Amendment

### Meeting Dates

Historic District Commission on April 3, 2013

Planning Board on April 16, 2013

City Council on May 7, 2013

### Contact Information

not applicable

## Summary

In order to allow outdoor dining areas or other types of display on sidewalks in the B-1 zoning district, staff proposes to amend the Code of Ordinances to add a section that establishes a permit for such activity, along with specific standards for these activities ([see attached](#), for reference). Also, since much of the B-1 zoning district is in the Courthouse Square Historic District, the Historic District Commission has approved a set of guidelines that will allow staff to approve these permits if they meet the guidelines; those that don't will need to apply for a certificate of appropriateness. Staff and the Historic District Commission recommend that these approved guidelines be adopted as Appendix B of the *City of Graham Development Ordinances*.

<b><u>Project Name</u></b> Text Amendment for Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments
<b><u>Location</u></b> B-1 Zoning District
<b><u>GPIN</u></b> not applicable
<b><u>Current Zoning</u></b> not applicable
<b><u>Proposed Zoning</u></b> not applicable
<b><u>Staff Recommendation</u></b> Approval

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

**Planning District:** North

**Development Type:** Town Center

### Applicable Goals to Guide Us into the Future

- 6.2. To provide effective and efficient services for all.  
*Including the approved guidelines as an appendix will make it easier for staff to administer the City's ordinances by making them readily available to all.*

### Applicable Planning District Policies and Recommendations

- 7.3.4.1.6. Continue to encourage the redevelopment efforts underway within the Town Center.  
*Including the approved guidelines as an appendix will provide clear standards by making them readily available to all.*

<b><u>Description of Development Type</u></b> Town Center
<b><u>Development Toolkit Checklist</u></b> not applicable, since development is not proposed

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### **Staff Recommendation**

Based on the *Growth Management Plan 2000-2020*, the *City of Graham Development Ordinances* and the request of the Historic District Commission, staff **recommends approval of the text amendment**.

The following supports this recommendation:

- Including the “Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments” as an appendix will ensure that they are clearly available and understood by all, since they will be an officially adopted part of the *Development Ordinances*.

### **Suggested Motion Format**

- I move that we recommend to the City Council that the “Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments” be adopted as Appendix B of the *City of Graham Development Ordinances*.

# APPENDIX B. HISTORIC DISTRICT DESIGN GUIDELINES FOR OUTDOOR DISPLAYS, DINING AND OTHER TEMPORARY ENCROACHMENTS

These guidelines are to be used by City of Graham staff to approve permits for outdoor displays, dining and other temporary encroachments within the Courthouse Square Historic District. The guidelines described below are in addition to those prescribed in the Code of Ordinances. Any applicant who proposes an outdoor display, dining or other temporary encroachment that does not meet the guidelines described below may apply for a Certificate of Appropriateness.

- All outdoor furniture, lighting, barriers, fixtures and other decorative materials should be made of the same complimentary quality materials.
- Landscaping and planters are encouraged to enhance the appearance of outdoor dining areas.

## **Awnings, Umbrellas and Upholstered Surfaces**

- Awnings, umbrellas and all upholstered surfaces must be made of canvas or a similar woven material that meets all local, state and federal safety and fire standards. Vinyl or plastic is prohibited. Metal awnings may be permitted with a Certificate of Appropriateness.
- Only burgundy, hunter green or a closely related color shall be approved for awnings, umbrellas or other upholstered surfaces. These shall be solid colored or striped.
- Multiple awnings on one building should have a consistent design and material and be complimentary in color and pattern.
- The placement of awnings should not obstruct major architectural features.
- Awnings should be compatible with the structure in size, scale and style.
- Awnings should generally be mounted within the window or entry opening, directly on the frame. If this is not possible, they should be attached just outside the opening. On masonry structures, attachments for awnings should be made in the mortar joints and not in the brick itself.
- Flat panel, shed or slanted awnings are encouraged. Barrel shaped awnings or canopies are not appropriate.
- Retractable and roll-down awnings are encouraged.
- Awnings on upper floors shall project no further than three (3) feet from the face of the building, should be no higher than half the height of the window opening, and should fill the width of the window opening but not extend past it.

## **Furniture**

- All outdoor furniture, including tables, chairs, umbrella bases and poles, benches, trash receptacles and other street furniture, should be compatible with the historic character of the district in size, scale, material and color.
- All outdoor furniture must have a uniform or complimentary design, color and material. It may be colored or of a natural unpainted material (i.e. wood or metal). White plastic or any fluorescent or other strikingly bright or vivid colors are prohibited.



**Lighting**

- Lighting fixtures and poles should be compatible in scale and materials with the structure, landscape and neighboring setting.
- It is not appropriate to introduce period lighting fixtures from an era earlier than the historic building in an attempt to create a false historic appearance.

**Barriers or Delineators**

- Barriers or delineators should be made of wrought iron or wood. Metal may also be appropriate. Planters may be made of other suitable materials but may not be made of plastic.
- The style of the barrier or delineator should complement the architecture of the building façade and the style of the outdoor dining furniture.

DRAFT



## 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 "City of Graham Growth Management Plan 2000-2020" 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 "City of Graham Growth Management Plan 2000-2020" shall not preclude consideration or approval of the proposed amendment by the City Council.*

### **Text Amendment for Historic District Design Guidelines for Outdoor Displays, Dining and Other Temporary Encroachments**

#### **Type of Request**

Text Amendment

#### **Meeting Dates**

Planning Board on April 16, 2013

City Council on May 7, 2013

- I move to **recommend APPROVAL** in that the application is consistent with all of the objectives and policies for growth and development contained in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o Based on the recommendations of the *Growth Management Plan*
  - o [Insert reasons]
- I move to **recommend DENIAL** of the request because the application is not fully consistent with the objectives and policies for growth and development in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o [Insert reasons]

The report reflects the recommendation of the Planning Board, this the 16<sup>th</sup> day of April, 2013.

Attest:

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Andy Rumley, Planning Board Chairman

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Martha Johnson



# STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

**Text Amendment for Short-Term Special Use Permits**

**Contact Information**  
not applicable

**Type of Request:** Text Amendment

## Meeting Dates

Planning Board on April 16, 2013

City Council on May 7, 2013 (tentative)

## Summary

Staff requests that the section on “short-term special use permits” be removed from the Development Ordinance. This section allows the Council to issue a special use permit, for a period of two years, in any zoning district, as the city council determines to be in the public interest and to be necessary and just in the circumstances of each case. The permit can be renewed indefinitely.

In the opinion of staff, the language of this section leaves much open to interpretation and question, including in what circumstances such a permit can be requested. From time to time, the legality of the short-term special use permit has been questioned by staff and citizens alike. In the opinion of some, the STSUP provides a means to achieve a land use that is otherwise prohibited or restricted in other sections of the *Development Ordinance*. The process for renewal also bypasses Planning Board review. Staff believes that our *Development Ordinance* provides sufficient flexibility and direction for unique circumstances through other mechanisms, such as the variance process, conditional rezoning or simply through provisions for nonconformities.

**Project Name**  
Text Amendment for Short-Term Special Use Permits

**Location**  
citywide

**GPIN**  
not applicable

**Current Zoning**  
not applicable

**Proposed Zoning**  
not applicable

**Staff Recommendation**  
Approval

## The following amendments to the Development Ordinance are proposed:

- Delete Section 10-150 Short-term special use permit
- Amend Sections. 10-151-10.159 Reserved, as follows:

*Showing changes*

Sections- ~~10.151~~10-150-10.159 Reserved-

*Final result*

Sections 10.150-10.159 Reserved

## Effects on Current Approved Short-Term Special Use Permits

There are currently three approved short-term special use permits. They are described below, along with the effect this text amendment would have on them:

- **Living Landscapes** *originally approved 1/3/1996, current approval expires 1/7/2014*

This short-term special use permit, which has been approved nine times, permits Living Landscapes to operate an office and to store, grow and sell nursery stock at 2077 S Main St, along with the following conditions: maintain adequate off-street parking; business may operate on Sunday from 1pm to 6pm; maintain restrooms for public use; and, maintain the integrity of the neighborhood.

The property is zoned R-18. The use – Garden Center or Retail Nursery – is not permitted in the R-18 zoning district; it is permitted by right in the B-2, I-1 and I-2 zoning districts, as a use in the C-B or C-I conditional zoning districts, or with a special use permit in the R-MF and R-G zoning districts.

If this text amendment is approved, this short-term special use permit would expire on 1/7/2014. At that time, the current use would become nonconforming. The use would be permitted to continue but would not be permitted to be enlarged or extended in any way, subject to the exceptions outlined in Section 10.69(b). The applicant could choose to request a rezoning of the property or a text amendment to the Development Ordinance that would make this a conforming use.

- **NW Court Sq Sidewalk Café** *originally approved 2/1/2000, current approval expires 2/4/2014*

This short-term special use permit, which has been approved seven times, permits the operation of a sidewalk café with canopy at 28 NW Court Sq, along with the following conditions: maintain restrooms for public use; need to keep check on trash blowing up against fence; during business hours, the gates to the outside seating area must remain unlocked with lock completely removed from gates and gates must be labeled as exits; a minimum 44" aisle width shall be maintained at all times in the dining area and throughout egress paths; and, taxes, water rents and privilege license to be paid by due dates.

The property is zoned B-1 and is in the Courthouse Square Historic District. The use – Restaurant (without drive-thru) – is permitted by right in the B-1 zoning district. However, it is located in the public right-of-way.

If this text amendment is approved, this short-term special use permit would expire on 2/4/2014. At that time, the awning structure would remain, since it is located in an area covered by a permanent encroachment agreement. Use of the area for outdoor dining, with the associated fencing and furniture, would not be permitted by any existing ordinances. Staff is proposing an amendment to the Code of Ordinances that would establish a permit for outdoor displays, dining and other temporary encroachments, including a two-year time frame for this sidewalk café to come into compliance with requirements of the new permit.

- **Herring Bros. Construction** *originally approved 1/2/2001, current approval expires 1/18/2015*

This short-term special use permit, which has been approved seven times, permits Herring Brothers Construction to use the property for parking and storage for their business and to continue to use the existing rental house and carport, along with the following conditions: maintain a 20' setback on the west side of the property; entire lot, including rental house lot, should be kept clean to meet all standards under Chapter 8, Article III, Nuisances of the City Ordinance; large truck (18 wheeler) may

remain on the lot; and, all privilege license, water rents and property taxes concerning this business shall be paid by due dates.

The property is zoned R-7. The first use – Single Family Detached Dwelling – is permitted by right in the R-7 zoning district; it is not permitted in any industrial districts. The second use – Parking lots or access driveways serving uses not permitted in district where lot is located – is permitted with a special use permit in several zoning districts, including the R-7 zoning district, and as a use in all the conditional zoning districts. The third use – Storage Yard – is not permitted in the R-7 zoning district, but is permitted by right in the I-1 and I-2 zoning districts and as a use in the C-I conditional zoning district.

If this text amendment is approved, this short-term special use permit would expire on 1/18/2015. At that time, the current uses of parking and storage yard would become nonconforming. Those uses would be permitted to continue but would not be permitted to be enlarged or extended in any way, subject to the exceptions outlined in Section 10.69(b). The current use of single family dwelling would be conforming and would not be affected. The applicant could choose to request a rezoning of the property, a special use permit for the parking, or a text amendment to the Development Ordinance that would make the parking and/or storage yards conforming uses. The applicant could also choose to subdivide the property as part of making it conforming.

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

**Planning District:** not applicable

**Development Type:** not applicable

#### Applicable Goals to Guide Us into the Future

- 6.2. To provide effective and efficient services for all.  
*Removing short-term special use permits will simplify the development process by removing what has been an unclear, case-by-case provision.*

**Description of Development Type**

not applicable

**Development Toolkit Checklist**

not applicable

#### Applicable Planning District Policies and Recommendations

- Not applicable; citywide text amendment not located in a Planning District

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### Staff Recommendation

Based on the *Growth Management Plan 2000-2020*, the *City of Graham Development Ordinances* and research of State statutes, other jurisdictions and best practices, staff **recommends approval of the text amendment**. The following supports this recommendation:

- This amendment will make the *Development Ordinance* more effective and easier to enforce by removing a provision that has often caused confusion.



## 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 "City of Graham Growth Management Plan 2000-2020" 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 "City of Graham Growth Management Plan 2000-2020" shall not preclude consideration or approval of the proposed amendment by the City Council.*

### Text Amendment for Short-Term Special Use Permits

**Type of Request**  
Text Amendment

**Meeting Dates**  
Planning Board on April 16, 2013  
City Council on May 7, 2013

- I move to **recommend APPROVAL** in that the application is consistent with all of the objectives and policies for growth and development contained in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o Based on the recommendations of the *Growth Management Plan*
- I move to **recommend DENIAL** of the request because the application is not fully consistent with the objectives and policies for growth and development in *The City of Graham Growth Management Plan 2000-2020* because of the following reasons:
- o [Insert reasons]

The report reflects the recommendation of the Planning Board, this the 16<sup>th</sup> day of April, 2013.

Attest:

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Andy Rumley, Planning Board Chairman

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Martha Johnson