



Planning Board City Council

Joint Meeting Agenda
September 17, 2013 at 7:00pm
Council Chambers, 201 S Main St

Invocation

1. Item for Planning Board only: Approve minutes of the August 20, 2013 meeting
2. Text Amendment for Board of Adjustment Statute. Request by staff to amend Article IV, Division 4 of the *Development Ordinance* due to changes to the state statute governing zoning boards of adjustment.
3. Text Amendment for Subdivisions and Site Plans. Request by staff to amend the *Development Ordinance* to replace "Article VIII. Subdivision Regulations" with "Article VIII. Subdivisions and Site Plans," add "Appendix C. Street Standards," and make other related amendments.

This Joint Meeting does not serve as a public hearing for the City Council.

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

PLANNING ZONING BOARD
Tuesday, August 20, 2013

The Planning & Zoning Board held its regular meeting on Tuesday, August 20, 2013 at 7:00 p.m. in the Council Chambers of the Graham Municipal Building. Board members present were Dean Ward, Ricky Hall, Bill Teer, Andy Rumley, Bonnie Blalock, and Tim Beshel. Michael Benesch was absent. Staff members present were Frankie Maness, City Manager, Melissa Guilbeau, City Planner, Kaitland Finkle, Planning Intern, Darcy Sperry, Zoning Enforcement Officer and Martha Johnson, Zoning/Inspections Technician.

Chairman Andy Rumley called the meeting to order and explained the function of the Board.

Invocation was given by Ricky Hall.

1. Ricky Hall made a motion for approval for the July 16, 2013 minutes, second by Bonnie Blalock. All voted in favor.

Mayor Peterman addressed the Board concerning the City Council's vote for last month's rezoning of the Woody Drive project that was opposite from the Planning Board's recommendation. Mayor Peterman stated they felt like they didn't have enough information plus they had to consider the two petitions that were presented. He thanked the Board for a great job they had done. Bill Teer responded that he felt like Council made the right decision.

2. Request by Third Wave Housing for a rezoning from Light Industrial I-1 to Residential (multifamily) R-MF for property at 219 W. Harden Street (GPIN #8884056108). Richard Angino with Third Wave Housing located at 463 ½ Carolina Circle, Winston Salem, N.C. spoke representing the firm doing the project at 219 W. Harden Street. Mr. Angino said he had been doing this for approximately twenty years, taking historical mill buildings and turning them into apartments in North Carolina and South Carolina. He said these have been located in older neighborhoods that were walkable to the downtown areas. He stated his company will get historic tax credits on this property and will try to bring the exterior façade at this location back to the 1910 era. Mr. Angino said all metal siding will be removed and the stone located at the bottom of the building will also be removed. He said the towers will stay. The historical approval process will not be finished until March or April 2014.

Dean Ward asked how many of the 127 units would be one bedroom and two bedroom apartments.

Mr. Angino said there would be 91 one bedroom with 660 – 740 square feet and the remainder would be two bedroom with 900-1000 square feet and all would be loft apartments with fourteen foot ceilings. Mr. Angino said the tenants would have background checks, criminal checks, income and employment screenings.

Mr. Teer asked the estimated rent and he said \$500 for one bedroom and \$700-750 for the two bedrooms.

Mr. Ward discussed the volume of calls the Police Departments in Mebane, Asheboro and Gastonia had received to service the apartments in these locations that were developed by Third Wave Housing. Mr. Ward asked about the amenities that would be offered at this project. Mr. Angino said they would have a clubhouse, Wi-Fi room, gym, a community space, park benches, 3 bbq's along with picnic tables. He also stated there would be no fencing around the project and what was there would be removed.

Kim Griffin of 208 N. Maple Street spoke next. She was interested in knowing if any infrastructure studies had been done concerning schools, roads etc. Mr. Angino said the phase one environmental study was in the first part of the process for the studies and were not completed at this time. He also said that his company was very open to any questions or comments and he had business cards if anyone was interested. He said they

were open to meeting somewhere to discuss the progress with the neighbors if needed. Mick Griffin of the same address 208 N. Maple Street said he didn't want a low rent project in his neighborhood and that he previously had some concerns but a lot had been alleviated now after Mr. Angino had spoken.

Dean Ward said he thought the project was a great idea but he felt like it should have been a conditional rezoning. He was also concerned about the building not meeting the setbacks along with the possible police calls that might be received, similar to the project in Mebane. Melissa Guilbeau stated that the building is non-conforming structure but it would not prohibit use of the building since they will reuse the existing structure. Mr. Ward asked if any contaminants had been found thus far and if anything happened and his company chose not to proceed with their project then the property would be opened up to any R-MF. Mr. Angino said the process was just started last week and it could take up to 60 days for all reports to be back to them with the results.

Tom Boney of the Alamance News 124 W. Elm Street asked about the parking requirements for 127 units. Melissa Guilbeau stated the requirements would be for 1.5 spaces per unit.

Andy Rumley stated he would like to see this historical building be brought back to use. He said he had concerns about traffic and the public safety but that goes along with any multifamily development.

Bill Teer made a motion to approve, second by Tim Beshel. The motion carried 4 to 2. Voting against were Dean Ward and Ricky Hall.

There being no further business the meeting was adjourned.

Respectfully Submitted,
Martha Johnson
Inspections/Zoning Technician



STAFF REPORT

Prepared by Kaitland Finkle, Planning Intern

Text Amendment for Board of Adjustment Statute

Contact Information
Not applicable

Type of Request: Text Amendment

Meeting Dates

Planning Board on September 17, 2013

City Council on October 1, 2013

Summary

Regulations regarding the Board of Adjustment need to be updated to reflect changes made in the state statute. House Bill 276 “An act to clarify and modernize statutes regarding zoning boards of adjustment” was approved on June 19, 2013 and amends G.S. 160A-388. This act becomes effective October 1, 2013, and applies to actions taken on or after that date by any board of adjustment. Although changes are not drastic, alterations aim to clarify, create standardized procedures, and simplify processes used by the board.

Amendments that were made to the board of adjustment statute can be categorized by three types of changes. The first is a group of stylistic and organizational changes to clarify the statute. Related portions were consolidated into coherent sections and headings were provided for readability.

The second group of changes was largely technical in nature. Clerks to the board are now authorized to administer oaths to witnesses and the process for requesting and objecting to subpoenas was clarified. Also, the portions regarding judicial review were updated to incorporate recent legislation on judicial appeals, and text regarding the necessity to follow quasi-judicial procedures was added.

The third group of changes incorporated a variety of consensus modernizations and uniformity updates. A uniform notice requirement for hearings on quasi-judicial matters was added which requires a mailing to the owner of the affected property and adjacent owners, as well as posting on site. Appeals to the board must be filed within 30 days of notice of a final, binding administrative decision. When the zoning enforcement officer makes a determination affecting a property, the land owner is given the option of posting notice of the determination on the site to provide notice to those who may wish to appeal that determination to the board of adjustment. The officials whose determinations are appealed are required to appear as witnesses at the appeal hearing. Alternative dispute resolution for appeals is authorized. Variances and appeals to the BOA are authorized, but not required, for land development regulations other than zoning ordinances. The four-fifths majority vote is retained for variances, but only a simple majority is required for ordinance interpretations. The standard for variances is further defined,

Project Name

Text Amendment for Board of Adjustment Statute

Location

Citywide

GPIN

Not applicable

Current Zoning

Not applicable

Proposed Zoning

Not applicable

Staff Recommendation

Approval

deleting the “practical difficulty” language, defining what constitutes “unnecessary hardship,” and continuing the prohibition on use variances. Board decisions must be made in a reasonable time, reduced to writing, reflect the board’s determination of contested facts, and be signed by the board chair. Furthermore, a clearer effective date for decisions is defined.

The following amendments to the Development Ordinance are proposed:

- **Amending Article IV, Division 4. Board of Adjustment**
The proposed amendments are attached, showing both track changes and the final version.

Conformity to the *Growth Management Plan (GMP)*

Planning District: not applicable

Development Type: not applicable

Applicable Goals to Guide Us into the Future

Not applicable; purpose of text amendment is to update ordinance to reflect changes in the State statute that governs zoning boards of adjustment.

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.

Staff Recommendation

Based on the current regulations in Division 4 of the *Development Ordinances* and House Bill 276 “An act to clarify and modernize statutes regarding zoning boards of adjustment”, staff recommends **approval** of the text amendment. The following supports this recommendation:

- Taken together, these amendments do not drastically alter the fundamental nature of the board of adjustment, its duties, or its mandated procedures. Instead, the rewritten statute aims to provide greater clarity and more uniform procedures around the state.
- In what is likely a first for a bill addressing zoning reform, the bill moved through the entire legislative process without a single dissenting vote. It received unanimous support from the House Government Committee, the full House of Representatives (a 119-0 vote), the Senate Commerce Committee, and the full Senate (a 47-0 vote).

DIVISION 4. BOARD OF ADJUSTMENT

Section 10.95 Creation; members; appointment; compensation

There shall be and is hereby created a board of adjustment, referred to in this division as the "board," consisting of five members of the City of Graham Planning Board. Three members shall be citizens and residents of the City of Graham and shall be appointed by the City Council; two members shall be citizens and residents of the area lying outside the corporate limits of the City of Graham (extraterritorial area) but within the Graham planning area and shall be appointed by the Alamance County Board of Commissioners in accordance with section 160A-362 of the General Statutes of North Carolina. Extraterritorial members shall have equal rights, privileges, and duties with the other members. The Council shall appoint the remaining two members of the City of Graham Planning Board as alternate members to serve on the board in the absence or temporary disqualification of any City member or to fill a vacancy pending appointment of a City member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as City members. Each alternate ~~member, while attending any City or special meeting of the board and~~ serving on behalf of any City member ~~, shall have and may exercise~~ has all the powers and duties of a City member. The members of the board ~~of adjustment~~ shall receive no compensation for their services.

Section 10.96 ~~Officers; p~~Proceedings generally

(1) Officers. The board shall elect a chair and a vice-chair, each of whom shall serve for one year or until s/he is re-elected or his/her successor is elected. The board shall appoint a secretary who may be an officer or an employee of the city.

(2) Notice of Hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on adjacent street or highway right-of-way.

(3) Meetings. The board# shall adopt rules for the conduct of its business. Meetings shall be held at the call of the chair and at such other times as the board may determine. A quorum for a meeting shall consist of a majority of the members of the board, not including vacancies. ~~The chair or, in his/her absence, the vice chair, may administer oaths and compel the attendance of witnesses by subpoena.~~ All meetings of the board shall be open to the public. The secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record.

(4) Oaths. The chair or, in his/her absence, the vice-chair, and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

(5) Subpoenas. The board through the chair, or in the chair's absence anyone acting as chair, may compel the production of evidence and the attendance of witnesses by subpoena. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Section 10.97 Appeals; hearings; notice

~~Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the City of Graham affected by any decision of the zoning enforcement officer. Such appeals shall be taken within times prescribed by the board of adjustment by general rule, by filing with the zoning enforcement officer and with the board of adjustment a notice of appeal specifying the ground thereof. The zoning enforcement officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board of adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney.~~

Section 10.98 Stay of proceedings

~~An appeal stays all proceedings in furtherance of the action appealed from, unless the zoning enforcement officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this article. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the zoning enforcement officer/planner and on due cause shown.~~

Section 10.99-97 Powers and duties generally

The board may hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board shall follow quasi-judicial procedures when deciding appeals and requests for variances. The board of adjustment shall have the following powers and duties:

(1) ~~Administrative review appeals~~. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article. The board shall hear and decide appeals decisions of administrative officials charged with enforcement of the development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

- a) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.
- b) The official who made the decision shall give a written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- c) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- d) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- e) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- f) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the

- appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- g) Subject to the provisions of subsection (f) above, the board shall hear and decide the appeal within a reasonable time.
 - h) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
 - i) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
 - j) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

(2) *Variances.* When unnecessary hardships would result from carrying out the strict letter of the ordinance, the board ~~of adjustment shall have the power to vary or modify~~ any of the ~~regulations or provisions of the ordinance so that~~ provisions of the ordinance upon a showing of all of the following:

- a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance ~~shall be observed, such that~~ public safety ~~and welfare secured, is secured,~~ and substantial justice ~~done. is achieved.~~

No change in permitted uses may be authorized by variance. Appropriate conditions, ~~which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the board.~~ may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(3) Limitations. The ~~b~~Board of Adjustment shall not have jurisdiction with respect to Section 10.85 Conditional Zoning Districts except as provided in this section. The ~~b~~Board of Adjustment shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the ~~b~~Board prior to the approval of a conditional district. In addition, the ~~B~~board of Adjustment may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. At no time shall the ~~b~~Board of Adjustment have authority to consider a variance related to the number of or size of permissible signs in a conditional district.

Section 10.100-98 Decisions of board

~~(a) In exercising the above mentioned powers, the board of adjustment may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision or determination that in its opinion ought to be made in the premises. To this end the board shall have all the powers of the zoning enforcement officer from whom the appeal is taken.~~

~~(b_a) The concurring vote of four-fifths of the members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official charged with the enforcement of this article, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the ordinance grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' members of the board for calculation of the requisite 4/5 (four/fifths) majority of the members if there are no qualified alternates available to take the place of such members.~~

~~(b_b) The final decision of each matter decided by the ~~b~~Board shall be by recorded resolution indicating the reasons for the decision, based on findings fact and conclusions of law, which shall be public record.~~

~~(c) A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.~~

Section 10.99 Quasi-judicial decisions and judicial review

~~(a) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the~~

board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(b) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Section 10.~~101-100~~ Appeals from board

Any person or persons jointly or individually aggrieved by any decision of the board ~~of adjustment~~, or any taxpayer, or any officer, department, board or bureau of the City of Graham shall have recourse to the courts as provided by law.

Section 10.~~102-101~~ Terms; ~~vacancies~~; removal

(a) The term of office of the members of the board ~~of adjustment~~ shall run concurrent with their Planning Board term.

(b) A member may be removed for cause by the City Council for reasons such as repeated absence. If a member is absent or expects to be absent for reasons of health or time out-of-town, that member may request that the absence(s) be excused. Before a member is removed for cause, s/he shall receive a letter from the Council describing the proposed action and giving the member an opportunity to state why the action should or should not be taken.

Sections 10.102-10.109 Reserved

DIVISION 4. BOARD OF ADJUSTMENT

Section 10.95 Creation; members; appointment; compensation

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Section 10.96 Proceedings generally

(1) Officers. The board shall elect a chair and a vice-chair, each of whom shall serve for one year or until s/he is re-elected or his/her successor is elected. The board shall appoint a secretary who may be an officer or an employee of the city.

(2) Notice of Hearing. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on adjacent street or highway right-of-way.

(3) Meetings. The board shall adopt rules for the conduct of its business. Meetings shall be held at the call of the chair and at such other times as the board may determine. A quorum for a meeting shall consist of a majority of the members of the board, not including vacancies. All meetings of the board shall be open to the public. The secretary shall keep minutes of the proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record.

(4) Oaths. The chair or, in his/her absence, the vice-chair, and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any

person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

(5) Subpoenas. The board through the chair, or in the chair's absence anyone acting as chair, may compel the production of evidence and the attendance of witnesses by subpoena. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Section 10.97 Powers and duties generally

The board may hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board shall follow quasi-judicial procedures when deciding appeals and requests for variances. The board shall have the following powers and duties:

(1) *Appeals*. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article. The board shall hear and decide appeals decisions of administrative officials charged with enforcement of the development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

- a) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.
- b) The official who made the decision shall give a written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- c) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- d) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official

who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

- e) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- f) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- g) Subject to the provisions of subsection (f) above, the board shall hear and decide the appeal within a reasonable time.
- h) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
- i) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
- j) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

(2) *Variances*. When unnecessary hardships would result from carrying out the strict letter of the ordinance, the board shall vary any of the provisions of the ordinance upon a showing of all of the following:

- a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(3) *Limitations.* The board shall not have jurisdiction with respect to Section 10.85 Conditional Zoning Districts except as provided in this section. The board shall have jurisdiction with respect to conditional districts if the request pertains to a variance from specified minimum requirements of the zoning ordinance and is filed with the board prior to the approval of a conditional district. In addition, the board may also hear and decide on various petitions for approved conditional district plans on matters related to ordinance provisions which are not associated with specifically approved conditions of the plan that are more restrictive than minimum ordinance requirements. At no time shall the board have authority to consider a variance related to the number of or size of permissible signs in a conditional district.

Section 10.98 Decisions of board

(a) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority of the members if there are no qualified alternates available to take the place of such members.

(b) The final decision of each matter decided by the board shall be by recorded resolution indicating the reasons for the decision, based on findings fact and conclusions of law, which shall be public record.

(c) A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Section 10.99 Quasi-judicial decisions and judicial review

(a) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(b) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Section 10.100 Appeals from board

Any person or persons jointly or individually aggrieved by any decision of the board or any taxpayer, or any officer, department, board or bureau of the City of Graham shall have recourse to the courts as provided by law.

Section 10.101 Terms; removal

(a) The term of office of the members of the board shall run concurrent with their Planning Board term.

(b) A member may be removed for cause by the City Council for reasons such as repeated absence. If a member is absent or expects to be absent for reasons of health or time out-of-town, that member may request that the absence(s) be excused. Before a member is removed for cause, s/he shall receive a letter from the Council describing the proposed action and giving the member an opportunity to state why the action should or should not be taken.

Sections 10.102-10.109 Reserved



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 Board of Adjustment Statute

Type of Request

Text Amendment

Meeting Dates

Planning Board on September 17, 2013

City Council on October 1, 2013

- I move to **recommend APPROVAL** in that the amendment 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** because the amendment 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 17th day of September, 2013.

Attest:

Andy Rumley, Planning Board Chairman

Martha Johnson



STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

Text Amendment for Subdivisions and Site Plans

Contact Information
not applicable

Type of Request: Text Amendment

Meeting Dates

Planning Board on September 17, 2013
City Council on October 1, 2013 (tentative)

Summary

A number of issues over the last several months have suggested a need to make amendments to sections of Article VIII of the *Development Ordinances*. Instead of individual amendments, staff has drafted a new Article VIII that addresses all the identified issues and reorganizes the article to make it easier to understand. Some of the issues that staff sought to address include:

- The timing and surety of all required improvements for subdivisions
- A need for clear procedures for site plans, especially in relation to conditional rezoning and special use permit approvals
- Clarifying when development fees are assessed
- Updating standards for public infrastructure and adding new options for street cross-sections
- Consolidating requirements for townhome and condominium style developments
- Differentiating between acceptance of a street for public maintenance and approval of a final plat

Project Name
Text Amendment for Subdivisions and Site Plans

Location
citywide

GPIN
not applicable

Current Zoning
not applicable

Proposed Zoning
not applicable

Staff Recommendation
Approval

The proposed **new Article VIII is titled “Subdivisions and Site Plans.”** It includes three divisions: one for subdivision procedures, one for site plan procedures, and one for subdivision and site plan standards. The new Article VIII combines what is currently in our ordinance, what we currently do in practice, and best practices from other communities. Staff also proposes an **Appendix C** that would provide new options for street cross-sections for local residential streets, and standards for avenues and commercial and industrial streets, which we currently do not have.

To aid in understanding the new Article VIII, staff has prepared a comparison table that shows where each section of the new ordinance was derived from, referencing the section of the current ordinance or stating that the section is new to the ordinance. Staff has also prepared flow charts that outline the basic steps for major subdivisions and site plans. Both the table and flow charts are attached.

The proposed new Article VIII impacts other sections of the *Development Ordinance* and requires amendments to the following:

- **Article II. Definitions for “flag lot.”** To remove redundant language related to standards, which are listed in Article VIII.
- **Section 10.85 Conditional Zoning Districts.** To specify “preliminary” site plans and remove redundant language related to amendments, which are listed in the new Article VIII.
- **Section 10.139 Application for a Special Use Permit.** To specify “preliminary” site plans or “plot plans” and clean up the wording.
- **Section 10.149 Special Uses Listed “Use: Condominiums.”** To remove all language related to procedures for creating a condominium in general, which are listed in the new Article VIII, while retaining language related to a special use permit for a condominium dwelling.
- **Section 10.149 Special Uses Listed “Use: Duplex Dwelling Unit.”** To remove the specific requirement for a site plan.
- **Section 10.149 Special Uses Listed “Use: Manufactured Home Parks.”** To specify “preliminary” site plans.
- **Section 10.149 Special Uses Listed “Use: Telecommunications Towers.”** To specify “preliminary” site plans and remove redundant language related to licensed professionals, which are required in the new Article VIII.
- **Section 10.149 Special Uses Listed “Use: Townhouse Developments.”** To remove all language related to procedures for creating a townhouse-type subdivision and a subdivision with common areas, which are listed in the new Article VIII, while retaining language related to a special use permit for a townhouse dwelling.
- **Section 10.247 Building Spacing Requirements for Multifamily Residential Buildings.** To remove redundant language related to site plans, which is provided in the new Article VIII.

The following amendments to the Development Ordinance are proposed:

- Replace “Article VIII. Subdivision Regulations” with “Article VIII. Subdivisions and Site Plans”
The proposed new Article VIII is attached.
- Add “Appendix C. Street Standards”
The proposed Appendix C is attached.
- Amend the nine sections listed above
The proposed amendments are attached.

Conformity to the *Growth Management Plan (GMP)*

Planning District: not applicable

Development Type: not applicable

Description of Development Type

not applicable

Development Toolkit Checklist

not applicable

Applicable Goals to Guide Us into the Future

- 6.1.1. Support efforts to protect sensitive natural resources including wetlands, waterways, slopes, floodplains, etc. *The new street cross-sections will provide more options for street design, including options with narrower streets that will produce less stormwater runoff and for alternative stormwater designs that improve surface water quality.*
- 6.1.3. Encourage the placement of utility wires underground. *A standard has been added as new Section 10.357(6) that encourages the placement of utility wires underground.*
- 6.1.3. Promote the incorporation of street trees along new roads and the extension or widening of existing roads. *The new street cross-sections do not require street trees, but do encourage them and provide dimensional standards that are appropriate for the long-term maintenance of street trees.*
- 6.2.1. Encourage the creation and use of alternative forms of transportation regionally and within the planning area. *New standards have been added that will result in subdivisions where it is easier to walk and bike, including a requirement for inter-subdivision connections, the discouragement of dead-end streets, and the provision of walkways from the public sidewalk to a building. The new street cross-sections also require a minimum five-foot wide sidewalk on both sides of new streets, with limited exceptions.*
- 6.2.1. Require interconnectivity between subdivisions. *New standards strengthen the existing requirement to provide street stubs to adjacent properties by requiring that those street stubs be constructed as part of the subdivision and that any new subdivision shall connect to a street stub.*
- 6.2.2. Water and sewer service shall be encouraged in areas where it is economically feasible and beneficial to the City and residents. *New standards require major subdivisions in the ETJ to connect to any existing public water or sewer lines that are available at the boundary of the subdivision, and to extend water or sewer line stubs to adjacent properties.*

Applicable Planning District Policies and Recommendations

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

Staff Recommendation

Based on the *Growth Management Plan 2000-2020* and research of State regulations, other jurisdictions and best practices, staff **recommends approval** of the text amendments. The following supports this recommendation:

- The proposed text amendments will further a number of goals of the *Growth Management Plan* and will address a number of known issues with the current ordinance.

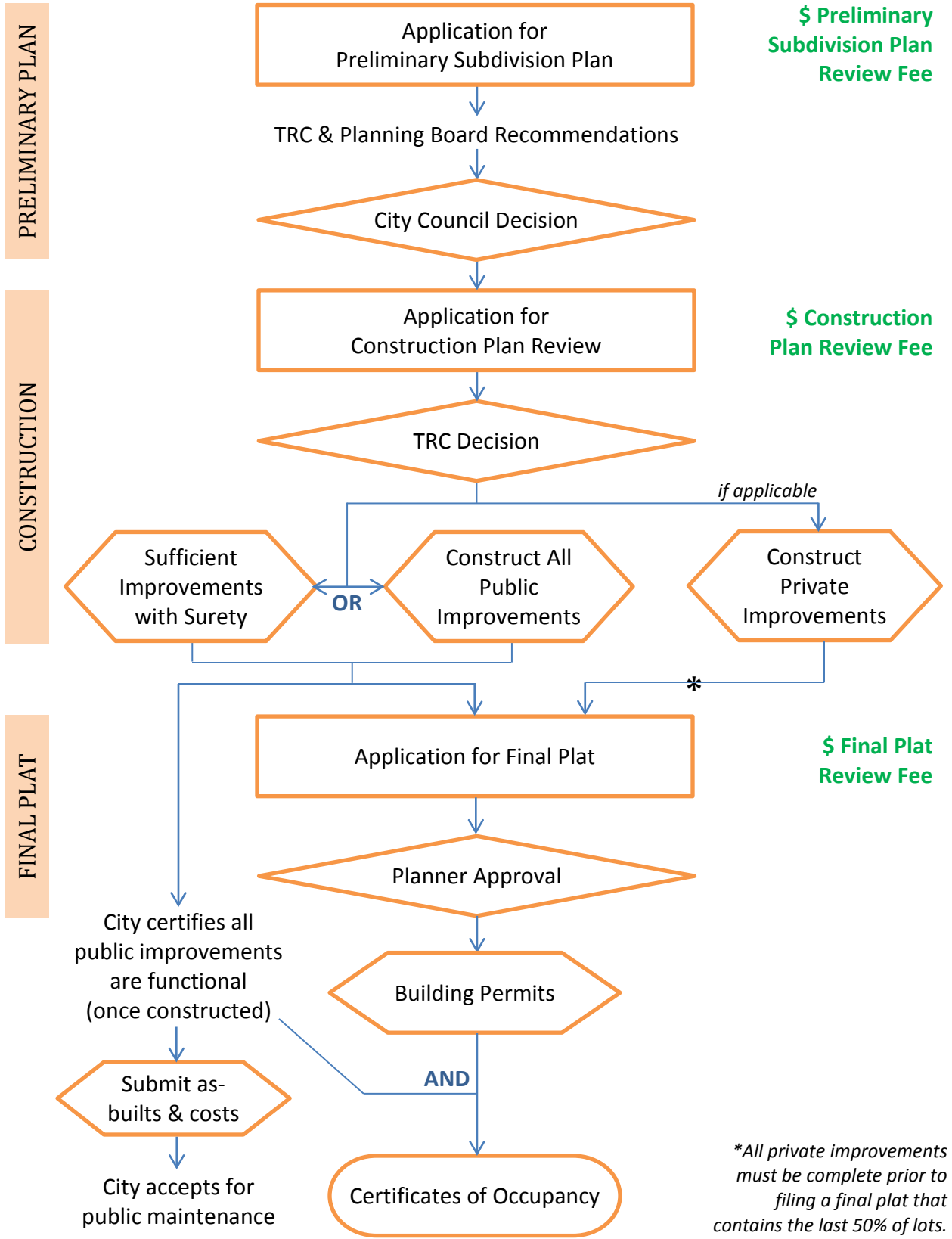
Comparison Table

Section in New Article VIII	"New" or Section from Previous Article VIII
DIVISION 1. SUBDIVISION PROCEDURES	
335 Purpose	New
336(a) Applicability	336.2 modified
336(b) Exemptions	336.1(b), (1) thru (4)
337 Classes of Subdivisions	336.1(c) & (d), modified
338 Procedures for Minor Subdivisions	342(b) & (d), modified and new
<i>339 Procedures for Major Subdivisions</i>	
339(a) Pre-Application Conference	340(a) modified
339(b)(1) Application [Preliminary Plan]	341(a), (b), (d) & (e), modified and new
339(b)(2) Action by TRC	New
339(b)(3) Action by Planning Board	New
339(b)(4) Action by City Council	New
339(b)(5) Phasing	341(a), modified and new
339(b)(6) Revisions to an Approved Preliminary	New
339(b)(7) Sunsetting of an Approved Preliminary	New
339(c)(1) Application [Construction Plans]	343 & 343(6), modified
339(c)(2) Review and Approval	New
339(c)(3) Construction of Public Improvements	New & 339 modified
339(c)(4) Construction of Private Improvements	New
339(c)(5) As-Built Drawings and Infra. Costs	350 & 351, modified
339(d)(1) Application [Final Plat]	347 partial, and New
339(d)(2) Review and Approval	347 partial, and New
339(d)(3) Building permits	339 partial
339(d)(4) Certificate of Occupancy	New
339(d)(5) Acceptance of Public Improvements	338, 350 modified, 351 modified, and New
339(d)(6) Hold or Revoke	New
340 Specifications for Final Plats	342(c) modified, 346 partial, and New
341 Procedures for Non-Subdivision Maps or Plats	New
342 Additional Procedures for Subs with Comm Areas	149 (Use: Townhouse Devs) partial and modified
343 Penalties	337 modified
DIVISION 2. SITE PLAN PROCEDURES	
346 Applicability [Site Plan Procedures]	New
347 Procedures for Site Plans	New, except...
347(b)(4) Administrative Amendments	85.F modified
348 Procedures for Plot Plans	New
349 Additional Procedures for Condominiums	149 (Use: Condominiums) partial and modified

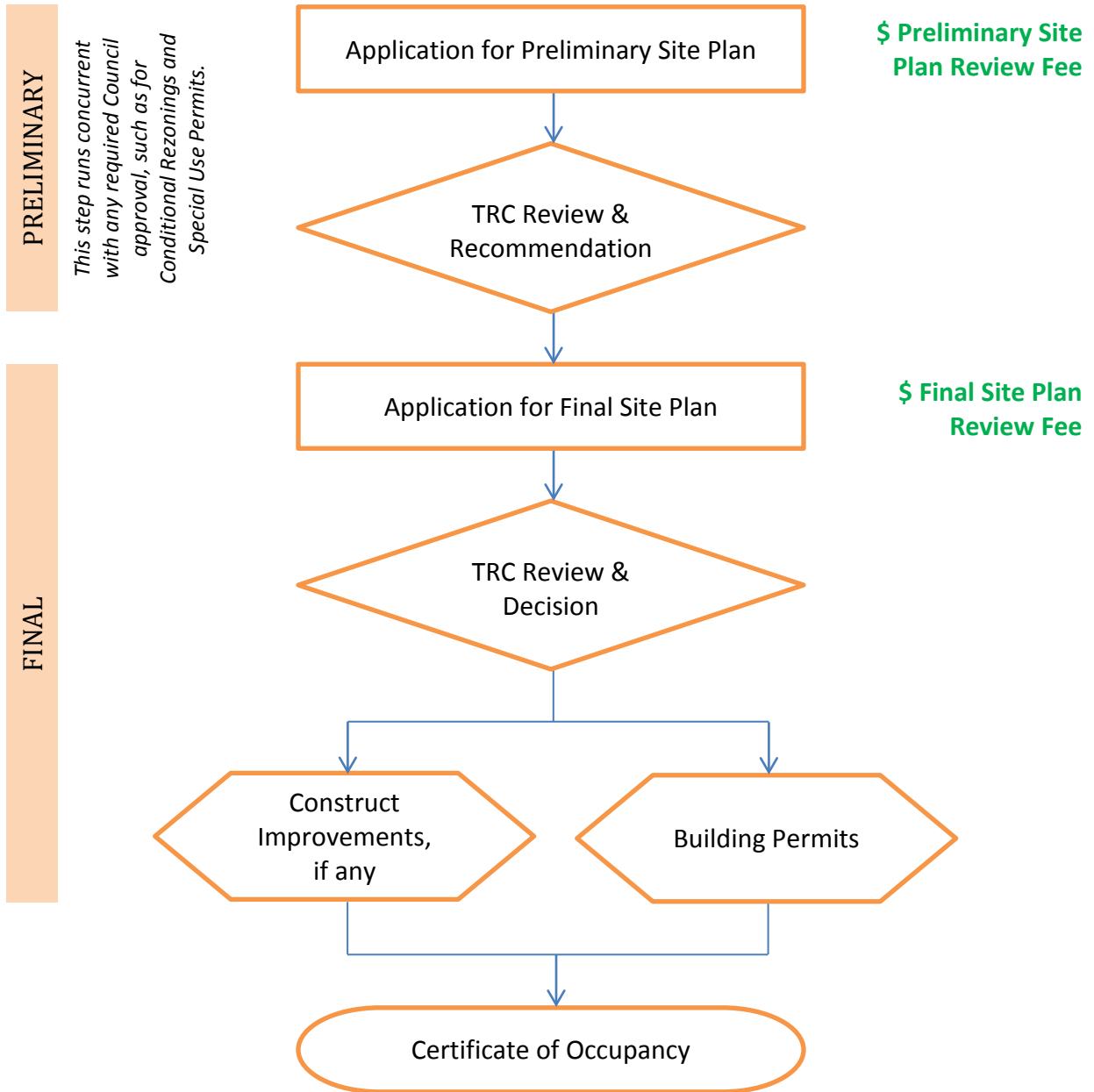
Comparison Table

Section in New Article VIII	"New" or Section from Previous Article VIII
DIVISION 3. SUBDIVISION AND SITE PLAN STANDARDS	
352 Applicability [Standards]	New
353(1) Lot dimensions	New, 341(b)(5)c.1, & 149 (Use: Townhouse Devs) partial
353(2) Lots, flag	336.1(e) modified
353(3) Lots not served by public sewer	344(c) modified
353(4) Lot frontage	341(b)(5)c.3 modified
353(5) Lot side lines	341(b)(5)c.4
354(1) Block tiers	341(b)(5)c.1 modified, and New
354(2) Block length	341(b)(5)c.2
355(1) Access layout	341(d)(1) modified
355(2) Access from surrounding streets	New
355(3) Access, future	341(d)(2) partial, and New
355(4) Access, dead-ends streets	341(d)(13) partial, and New
355(5) Access, alley	341(d)(5) & 348(1)
355(6) Access, sidewalk	New
356(1) Street, straight	341(d)(2) partial
356(2) Street cross-sections	New
356(3) Street names	341(d)(3) modified
357(1) Utility, within City	New
357(2) Utility, major outside City	New
357(3) Utility stubs to be provided	New
357(4) Utility specifications	New
357(5) Utility easements	341(d)(14)
357(6) Utility wires underground	New

Major Subdivision Procedures



Site Plan Procedures



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Section 10.336 Applicability; exemptions.....	1
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Section 10.338 Procedures for Minor Subdivisions	2
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Section 10.342 Additional Procedures for Subdivisions with Common Areas.....	7
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DIVISION 2. SITE PLAN PROCEDURES	8
Section 10.346 Applicability	8
Section 10.347 Procedures for Site Plans	9
Section 10.348 Procedures for Plot Plans	10
Section 10.349 Additional Procedures for Condominiums.....	10
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Section 10.353 Lot Standards.....	11
Section 10.354 Block Standards	12
Section 10.355 Access Standards.....	12
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ARTICLE VIII. SUBDIVISIONS AND SITE PLANS

DIVISION 1. SUBDIVISION PROCEDURES

Section 10.335 Purpose

The purpose of the subdivision regulations as herein set forth are to provide for the orderly growth and development of the city; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and other public facilities; for the provision of adequate recreation areas serving residents of the immediate area; for the provision of rights-of-way or easements for street and utility purposes; and, for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety and the general welfare.

Section 10.336 Applicability; exemptions

- (a) Except as expressly exempted below, no land located either partially or wholly within the territorial jurisdiction of the City of Graham shall be subdivided until a final plat, approved in accordance with the procedures set out in this ordinance, shall have been approved by the City and filed and recorded with the Alamance County Register of Deeds.
- (b) The following are exempt from the provisions of this article, unless otherwise provided:
 - (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the applicable zoning district.
 - (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
 - (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the applicable zoning district.

Section 10.337 Classes of Subdivisions

The following classes of subdivisions are hereby established:

- (1) Subdivision, minor. A subdivision that divides a tract or parcel of land into no more than four (4) residential lots and does not involve the construction or extension of any public street or utility.
- (2) Subdivision, major. A subdivision that is not a minor subdivision.

Section 10.338 Procedures for Minor Subdivisions

- (a) Pre-Application. Before submitting a final plat, applicants are encouraged to contact the Planner to discuss the procedures, standards and regulations required for approval.
- (b) Review and Approval. The applicant shall submit two (2) reproducible copies and one (1) paper copy of the final plat, prepared according to the specifications for final plats in Section 10.340, a fee fixed by the City Council, and any applicable recording fees. The Planner shall review and find that the proposed minor subdivision either does or does not meet the requirements of this ordinance, the City's Code of Ordinances and State Law. If approved, the Planner shall cause the final plat to be recorded and shall file one (1) reproducible copy of the final plat with the City.

Section 10.339 Procedures for Major Subdivisions

- (a) Pre-Application Conference. Before submitting an application, applicants are encouraged to schedule a pre-application conference with the Planner to discuss the procedures, standards and regulations required for approval.
- (b) Preliminary Subdivision Plan Approval; Phasing; Revisions; Sunsetting
 - (1) Application. A complete application shall be filed with the Planner on or before the 25th of the month before the regular meeting of the Planning Board at which approval is sought. The application shall include, in addition to other reasonable requirements as may be requested by the Planning Board, the following:
 - a. The proposed name of the subdivision
 - b. The location thereof with respect to existing streets and other land features as shown upon a small-scale vicinity map
 - c. Name and address of the person to whom notice of hearing or other communication shall be sent
 - d. Name and address of owner(s) of the subdivision
 - e. A preliminary plan of the subdivision complete with north arrow and date, prepared by a design professional licensed in North Carolina. It shall show, at a minimum:
 - 1. Location, width and other dimensions of all existing streets and other important features such as parks, railroads, watercourses and exceptional topography, within and contiguous to the tract to be subdivided
 - 2. Existing contours as established through the use of an instrument of hand-level accuracy or better, at an interval of two (2) feet
 - 3. The location, width and other dimensions of blocks, lots, parks and other open spaces
 - 4. The design, size, location, grade and elevation of all proposed sanitary sewers, water mains and stormwater facilities, and accessories to each

5. Dimensions of streets
 6. Addresses of all existing lots
- f. A preliminary subdivision plan review fee fixed by the City Council
- (2) Action by Technical Review Committee. The Technical Review Committee shall have the opportunity to review the application, suggest necessary and reasonable changes to the application to achieve the purpose and requirements of this ordinance, and make a recommendation to the Planning Board.
 - (3) Action by Planning Board. The Planning Board shall review the application and make a recommendation to the City Council, in accordance with Section 10.22.
 - (4) Action by City Council. The City Council shall review the application and either approve or deny the application based on the following criteria:
 - a. The plan complies with all applicable requirements of this ordinance, City specifications, the City's Code of Ordinances and State Law.
 - b. The plan conforms to all applicable plans adopted or endorsed by the City.
 - c. The plan fulfills the purpose and intent of this ordinance and this article.
 - (5) Phasing. A subdivision may be developed in phases provided that a general phasing plan shall be noted on the preliminary subdivision plan, with phase lines following reasonable and logical boundaries, and each phase able to "stand alone" in regard to utilities, fire protection, streets and stormwater management. Lot numbers should not be duplicated within different phases of the same subdivision.
 - (6) Revisions to an Approved Preliminary Subdivision Plan
 - a. Minor revisions to an approved preliminary subdivision plan that reflect the same basic street and lot configurations as shown on the original approval may be approved by the Planner at his or her discretion.
 - b. Any request for a revision to an approved preliminary subdivision plan that increases the number of buildable lots, decreases the amount of common open space or changes the road layout shall be initiated and processed as a new application for preliminary subdivision plan approval.
 - (7) Sunsetting of an Approved Preliminary Subdivision Plan. Within five (5) years after approval of the preliminary subdivision plan, the preliminary subdivision plan approval shall be automatically voided for any portions of the preliminary subdivision plan that have not received final plat approval and have not been recorded in the Alamance County Register of Deeds, unless a written request for an extension has been made to the Planner prior to the expiration period. Only one extension may be granted for a period not to exceed three (3) years.

(c) Approval and Construction of Improvements

- (1) Application. The developer shall submit satisfactory plans and specifications for completing all required improvements of the entire subdivision or a specified phase thereof, documentation of any required applications or permits from other permitting authorities, and a construction plan review fee fixed by the City Council. For the purpose of this section, improvements shall mean any streets, utilities, landscaping or other features designed for public or common use or enjoyment, whether planned for public or private maintenance. Plans and profiles for public infrastructure shall accurately locate and describe said infrastructure and shall be prepared in accordance with standards provided by the City.
- (2) Review and Approval. The Technical Review Committee shall review all submitted plans and specifications to ensure that they meet all applicable requirements and conform to the approved preliminary subdivision plan, and shall have the authority to require any modifications to the technical specifications that the Committee deems necessary.
- (3) Construction of Public Improvements
 - a. Upon approval or issuance of all required construction drawing plans, profiles, specifications and permits, for the entire subdivision or a specified phase thereof, the developer shall, at a cost borne completely by the developer, construct all required public improvements.
 - b. As an alternative to completing construction of all required public improvements prior to the approval of a final plat, a developer may request to use a construction surety, as follows:
 1. After the subdivision, or a specified phase thereof, has been certified by the City as having sufficient improvements to provide functional fire protection (with the first layer of asphalt on the roadways and water supplies for fire-fighting equipment), the developer may post a security instrument, in a form acceptable to the City, in an amount equal to 150% of the estimated construction cost of the required improvements which remain incomplete, and with surety and conditions satisfactory to the City providing for and securing to the City the actual construction and installation of said improvements. The surety shall be accompanied by a detailed, itemized list of all required improvements that stand incomplete and a schedule for the completion of said improvements.
 2. The surety may be renewed or extended for a period of up to three (3) years from the date it was initially accepted, provided that each renewal or extension within the three (3) year period shall be for an amount equal to 150% of an updated estimated cost of construction for the remaining required improvements at the time of the renewal or extension, and shall be accompanied by a detailed, itemized list of all required improvements that stand incomplete and a schedule for completion of said improvements.
- (4) Construction of Private Improvements. Where private improvements were required as a condition of approval of a preliminary subdivision plan, the developer shall, at a cost borne completely by the developer, construct all required private improvements prior to the recording of any final plat that includes the last fifty (50) percent of lots within the subdivision as a whole.

(d) Final Plat Approval; Building Permits; Certificates of Occupancy; Acceptance of Public Improvements

- (1) Application. Once all required improvements have been completed or a construction surety has been accepted by the City for the portion of the subdivision for which final approval is being sought, the developer may submit an application for approval of a final plat. The final plat shall be prepared by the developer for certification and filing according to the specifications for final plats in Section 10.340. The application shall include two (2) reproducible copies and one (1) paper copy of the final plat, a final plat review fee fixed by the City Council, and any applicable recording fees.
- (2) Review and Approval. The Planner shall review the application and, upon satisfaction that it meets all requirements of this ordinance and of the approved preliminary subdivision plan, shall approve the final plat. The Planner shall cause the final plat to be recorded and shall file one (1) reproducible copy of the final plat with the City.
- (3) No building permit may be issued for any building or structure located within an approved preliminary subdivision until a final plat for that phase of the subdivision on which the building permit is sought has been approved and recorded in accordance with the procedures and requirements of this section, with the exception of townhouse lots, which may be issued a building permit prior to approval of a final plat for the sole purpose of establishing the field location of common walls.
- (4) No certificate of occupancy may be issued for any building or structure within the subdivision until the City certifies that all public improvements for that phase of the subdivision within which a certificate of occupancy is sought have been installed as required and are functional. A certificate of occupancy may be issued even though minor deficiencies and defects remain provided that the deficiencies or defects do not render the improvements dysfunctional, the improvements provide the full level of fire protection, and the developer has provided the City with a construction surety (as provided for in Section 10.339(c)(3)b) for the deficiencies and defects.
- (5) Acceptance of Public Improvements. The approval of a preliminary plan or the approval or recording of a final plat shall not be deemed to constitute the acceptance by the City of Graham or the public of any street or other ground, public utility line or other public facility shown upon the plat. Any public improvements that are to be accepted by the City for public maintenance shall first be inspected by the City. Upon recommendation of the City Manager, the City Council shall adopt a resolution stating the City's acceptance of the public improvements for public maintenance. Such resolution shall contain the names of any streets and any other sufficient identifying information. Prior to final acceptance by the City of any public improvements, the developer shall submit the following to the City:
 - a. A complete set of as-built drawings, to include two (2) paper sets and one (1) digital copy, reflecting all changes made during construction, all labeled as "As-Built Drawings" and certified by the Project Engineer of record. The drawings shall include, but are not limited to, the following information:
 1. 8.5" x 11" valve/manhole location drawings.

2. All water valve and sewer manhole locations with no less than two (2) reference dimensions from permanent features, final invert and top elevations of manholes, lengths and slope of sanitary sewers, dimensions and details of wastewater pumping stations, location of all pipe materials identified by type and size, and accurate locations of all water and sewer taps including meter boxes and cleanouts.
 3. Actual rim, top of grate, top of curb, invert elevations of all sewer and stormwater manholes, catch basins and junction boxes, and all valve and blow off tie downs to at least two (2) permanent markers.
- b. A detailed, itemized list of all public infrastructure costs, providing the lengths, dimensions, descriptions and actual construction costs of any and all water and sanitary sewer facilities, and other capital assets to be maintained by the City, such as roads, sidewalks, bridges, dams, curb-and-gutter, stormwater facilities, etc.
 - c. A warranty or guarantee for public infrastructure for a period of one (1) year from the date of the City's acceptance for public maintenance.
- (6) The City reserves the right to hold or revoke building permits or certificates of occupancy and withhold or revoke subdivision approvals up and until the time at which all required improvements have been completed and accepted.

Section 10.340 Specifications for Final Plats

In addition to the requirements of G.S. 47-30 and the Alamance County Register of Deeds, the following shall be required, as applicable, on any final plat reviewed and recorded by the City of Graham:

- (1) Existing corporate boundaries, if within the boundaries of the plat
- (2) All easements and reservations, with labels and dimensions
- (3) Addresses for all lots that are part of the subdivision, and for all surrounding lots that have an address
- (4) City of Graham Certification
 - a. For major subdivisions: Approval date and signature by the City Planner
 - b. For minor subdivisions: "Approved by the City Planner as a Minor Subdivision in accordance with the *City of Graham Development Ordinance*."
 - c. For those exempt from the provisions of this article: "No approval required by the *City of Graham Development Ordinance*."
- (5) If more than two (2) sheets are required, an index sheet of the same dimensions showing the entire subdivision on a reduced scale and delineating the areas shown on the other sheets.

Section 10.341 Procedures for Non-Subdivision Maps or Plats

For any map or plat, other than subdivision plats, which is required by State Law to contain a City certification, the applicant shall submit two (2) reproducible copies prepared according to the specifications for final plats in Section 10.340 and any applicable recording fees. The Planner shall review the map or plat for conformity with any applicable provisions of this ordinance, the City's Code of Ordinances or State Law. If approved, the Planner shall cause the final plat to be recorded and shall file one (1) reproducible copy of the final plat with the City.

Section 10.342 Additional Procedures for Subdivisions with Common Areas

In addition to any other applicable procedures, this section shall apply to any subdivision that includes common areas or facilities for maintenance serving more than one dwelling lot.

- (1) Before the sale of any structures in the development, the developer shall file proposed bylaws of a non-profit owners' association containing covenants and restrictions governing common areas, the owners' association and sites. The covenants and restrictions shall include provisions for the following:
 - a. All owners of sites in the development, both original purchasers and each successive purchaser, shall be members.
 - b. The owner's association shall be responsible for payment of premiums for liability insurance, local taxes, maintenance of facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas, and, if applicable, maintenance and repair to the exterior of all structures located within the development.
 - c. It shall be further provided that upon default by the owners association in payment to the entitled governmental authority of ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, which default shall continue for a period of six months, each owner of a site in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of sites in the development. If the sum is not paid by the owner within 30 days following receipt of notice of the amount due, the amount shall become a continuing lien on the site of the owner, his heirs, devisees, personal representatives, and assigns. The taxing governmental authority may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the lot of the owner.
 - d. The owners' association shall be empowered to levy assessments against the owners of sites within the development for the payment of expenditures made by the owners' association for the items set forth in the preceding subparagraph, and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the site of the owner.
 - e. Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a site.

- f. Any and all common walls between individual residences shall be party walls and provisions for the maintenance thereof and restoration in the event of destruction or damages shall be established.
 - g. Common areas shall not be subdivided or conveyed by the owner's association.
- (2) The owner's association shall be organized and in legal existence before the sale of any structures in the development.
- (3) Any common areas or facilities shall have fee-simple title conveyed to the owners' association. For townhouse subdivisions, all areas within the development other than public street rights-of-way, areas dedicated to the City and home sites shall be designated as common areas.

Section 10.343 Penalties

Any person who subdivides land in violation of this article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this article and recorded in the office of the Alamance County Register of Deeds, may be subject to penalties as described in G.S. 160A-375.

Sections 10.344 – 10.345 Reserved

DIVISION 2. SITE PLAN PROCEDURES

Section 10.346 Applicability

- (a) Before any building, structure or parking facility is constructed, installed, expanded or extended, with the exception of single family detached dwellings and their accessory structures, or as otherwise required by this ordinance, a site plan must be submitted to and approved in accordance with the procedures outlined in Section 10.347.
- (b) For certain types of improvements, a plot plan may be required and shall follow the procedures outlined in Section 10.348. Types of improvements that may require a plot plan include the following:
 - (1) The construction or expansion of single family detached homes
 - (2) The construction, installation or expansion of single family residential accessory structures that require a building permit
 - (3) Zoning requests that do not require a site plan but where compliance with setbacks, parking, landscaping or other spatial standards must be demonstrated
 - (4) The installation or construction of freestanding or outdoor advertising signs

Section 10.347 Procedures for Site Plans

- (a) Pre-Application Conference. Before submitting an application, applicants are encouraged to schedule a pre-application conference with the Planner to discuss the procedures, standards and regulations required for approval.

- (b) Preliminary Site Plan Review; Phasing; Administrative Amendments
 - (1) Application. A complete application shall be filed with the Planner. The application shall include a site plan prepared by a qualified person in an acceptable manner, showing sufficient and detailed information to demonstrate compliance with all applicable regulations, and a preliminary site plan review fee fixed by the City Council. If appropriate, the preliminary site plan can also serve as the preliminary subdivision plan. If a preliminary site plan is not required, the applicant may choose to not submit a preliminary site plan.

 - (2) Action by Technical Review Committee. The Technical Review Committee shall have the opportunity to review the application, suggest necessary and reasonable changes to the application to achieve the purpose and requirements of this ordinance, and make a recommendation to the Planner or Planning Board, as appropriate.

 - (3) Phasing. A site may be developed in phases provided that a general phasing plan shall be noted on the preliminary site plan, with phase lines following reasonable and logical boundaries, and each phase able to “stand alone” in regard to utilities, fire protection, streets and stormwater management.

 - (4) Administrative Amendments.
 - a. Administrative amendments for minor revisions to a preliminary site plan that was approved by the City Council may be approved by the Planner. An administrative amendment must be requested by the applicant in writing, signed by all required persons, and be accompanied by an administrative amendment review fee fixed by the City Council. The decision of the Planner must be in writing stating the grounds for approval or denial. The standard for approving a requested minor revision shall be that the revision does not significantly alter the site plan or its conditions, that it does not increase the number of structures or dwellings units, and that the change does not have a significant impact upon abutting properties. The following revisions may be considered minor:
 - 1. Up to a 10% increase or any decrease in gross floor area of a building
 - 2. Up to a 10% reduction in the approved setbacks from exterior property lines
 - 3. Relocation of parking areas, internal driveways or structures where such relocation occurs more than 100 feet from exterior property lines
 - 4. Relocation of access driveways within up to 50 feet of the approved location when warranted by site-specific conditions

 - b. All other revisions to a preliminary site plan that was approved by the City Council shall be considered major and shall be considered a new application.

- c. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment to the City Council within fifteen (15) days of knowledge of the approval. Even absent knowledge of the approval, the approval shall be final after thirty (30) days.

(c) Final Site Plan Review; Construction of Improvements; Certificate of Occupancy

- (1) Application. Prior to the issuance of any building permits or to the construction or installation of any improvements, the developer shall submit to the Planner a final site plan for the entire site or a specified phase thereof, along with construction drawings for any required improvements, any other plans required for review, documentation of any required applications or permits from other permitting authorities, and a final site plan review fee fixed by the City Council. All plans shall be prepared by a design professional licensed in North Carolina and shall be drawn to a scale that is legible. If more than two (2) sheets are required, an index sheet of the same dimensions shall be required.
- (2) Review and Approval. The Technical Review Committee shall review all submitted plans and drawings to ensure that they meet all applicable requirements and conform to the approved preliminary site plan, and shall have the authority to require any modifications to the technical specifications that the Committee deems necessary.
- (3) If any public improvements are required, the construction of public improvements shall follow the procedures in Section 10.339(c)(3) and the acceptance of said improvements shall follow the procedures in Section 10.339(d)(5).
- (4) A Certificate of Occupancy shall not be issued for any building or structure on the site until the City verifies that all required improvements have been constructed in accordance with the approved site plan and construction drawings and specifications, and that all other requirements have been met.

Section 10.348 Procedures for Plot Plans

- (a) Application. A plot plan, prepared in an acceptable manner, shall be submitted to the City.
- (b) Review and Approval. The appropriate City staff shall review the application against the requirements of this ordinance and other applicable standards and requirements.

Section 10.349 Additional Procedures for Condominiums

In addition to any other applicable procedures, this section shall apply to any condominium development.

- (1) The applicant shall submit two (2) reproducible copies and one (1) paper copy of the final condominium plat, prepared according to the specifications for final plats in Section 10.340, a copy of a declaration establishing unit ownership, a copy of the bylaws governing administration, and any applicable recording fees. The declaration shall comply with the following requirements:
 - a. The declaration shall be a complete legal document prepared strictly in accordance with the North Carolina Unit Ownership Act (G.S. 47A, Article 1).

- b. The plans of buildings to be attached to the declaration when recorded shall be prepared in accordance with the North Carolina Unit Ownership Act (G.S. 47A, Article 1).
 - c. The declaration and bylaws shall contain a statement that common expenses include ad valorem taxes, public assessments or governmental liens levied on common areas, if any.
- (2) The Planner shall review and find that the proposed condominium either does or does not meet the requirements of this ordinance, the City's Code of Ordinances and State Law. If approved, the Planner shall cause the final condominium plat to be recorded and shall file one (1) reproducible copy of the final plat with the City.

Sections 10.350 – 10.351 Reserved

DIVISION 3. SUBDIVISION AND SITE PLAN STANDARDS

Section 10.352 Applicability

Unless specifically exempted or where other regulations require a higher standard, all subdivisions and site plans shall meet the minimum standards of this division.

Section 10.353 Lot Standards

This section does not apply to site plans.

- (1) Lots that are occupied or are intended to be occupied shall meet the minimum requirements of Section 10.245 Area, Height, and Yard Regulations and the minimum lot depth shall be one hundred ten (110) feet, with the exception of townhouse lots, which shall have a minimum width of twenty (20) feet.
- (2) Flag lots shall contain only one (1) single family dwelling and its uninhabited accessory structures and meet the following standards:
 - a. The maximum flagpole length shall be three hundred (300) feet;
 - b. The minimum flagpole width shall be thirty (30) feet, except in cases where an existing structure and its required side yard could not be accommodated, then the width shall be at least 15 feet and capable of being used for ingress and egress;
 - c. The minimum lot size shall be one (1) acre;
 - d. Each flag lot shall have a separate access drive; and,
 - e. The minimum front yard setback shall apply to all the yards of a flag lot.
- (3) For residential lots that are not served by public sewer, the minimum lot size shall be approved by the director of the Alamance County Health Department for the purpose of providing adequate area for the on-site treatment of sanitary sewage, and in no case shall be less than eighteen thousand (18,000) square feet.

- (4) Every lot shall have frontage on a public street, with the exception of townhouse lots, which shall have legal access to a public street.
- (5) Every side lot line extended shall be perpendicular to the centerline of the fronting street if such centerline is a tangent or radial to the centerline if such is a curve; however, the side lot lines may be adjusted to the contour of the land if necessary to produce usable lots.

Section 10.354 Block Standards

This section does not apply to minor subdivisions or to site plans.

- (1) Residential blocks should allow for two (2) tiers of residential lots, except where single tier lots are required to accommodate single-loaded streets where across from a public park or open space, to allow for unusual topographical conditions, or when adjacent to the outer perimeter of a subdivision.
- (2) Blocks shall not exceed one thousand (1,000) feet in length; provided that for sufficient reason the Planning Board may approve longer blocks upon such conditions as it shall prescribe.

Section 10.355 Access Standards

This section does not apply to minor subdivisions or to site plans, with the exception of (6) below.

- (1) Street and alley layouts shall conform to transportation plans adopted by or endorsed by the City, insofar as practical, and should be designed in order to provide multiple routes for pedestrian and vehicular trips from, to and within the subdivision.
- (2) Any residential subdivision with more than twenty-five (25) lots must provide at least two (2) points of vehicular ingress and egress from existing and surrounding streets, unless unique circumstances make this impractical.
- (3) The street layout shall be designed to provide for future access to and not impose undue hardships upon adjacent property. Where a subdivision adjoins unsubdivided land, stub streets within the new subdivision shall be extended and constructed to the boundary of the abutting property to meet maximum block length standards and provide for a continuous street network. The length of stub streets shall not exceed the depth of one buildable lot or shall conform to the standards for dead-end streets. Where a stub street exists on abutting property, the street system of any new subdivision must connect to the stub street to form a through street.
- (4) Dead-end streets are discouraged, but where provided they shall be no longer than five hundred (500) feet unless, upon certain conditions, the Planning Board recommends approval of extending a dead-end street more than five hundred (500) feet. Any dead-end street must meet the City's standards and specifications and provide adequate turnaround for emergency and curbside service vehicles.
- (5) An alley shall be provided in all business districts and shall be a through alley, provided, however, all business lots are accessible to such alley. The minimum right-of-way width of an alley shall be twenty (20) feet. A developer may reserve the air rights over alleys in business or industrial districts provided a fifteen-foot clearance is maintained above the grade of such alley.

- (6) Where a site fronts on a street with an existing sidewalk, or where a site is required to construct a sidewalk, development must provide safe, direct, convenient and accessible pedestrian access between the public sidewalk and buildings on the site.

Section 10.356 Street Standards

This section does not apply to minor subdivisions or to site plans.

- (1) Streets shall be straight but may be adjusted to the contour of the land or other terrain features if necessary to produce streets of reasonable gradient and usable lots.
- (2) Streets shall be designed and constructed in accordance with the street cross-sections located in Appendix C of this ordinance and the standard specifications of the City. Streets include the roadway, curb-and-gutter, sidewalk, street lights, bridges and/or culverts, and any other related improvements.
- (3) Street names shall conform to street-naming practices of the City, and where streets are continuations of existing streets, the existing street name shall be used.

Section 10.357 Utility Standards

- (1) All new lots created within the City's corporate limits shall have access to public water and sewer service, except in exceptional circumstances where unique topography or other unique circumstances would make this unfeasible.
- (2) All major subdivisions not within the City's corporate limits, where public water and/or sanitary sewer facilities are available at the boundary of the development, shall connect to the public water and/or sanitary sewer systems and provide such service to every lot within the subdivision.
- (3) Where a major subdivision provides public water and/or sanitary sewer service, water and/or sanitary sewer line stubs shall be provided to the property line at the same location where street stubs are provided.
- (4) All new water, sanitary sewer and stormwater facilities shall be designed and constructed in accordance with the standard specifications of the City and requirements of the State.
- (5) The minimum width of any utility easement necessarily located along either a side or rear lot line shall be fifteen (15) feet.
- (6) Utility wires are encouraged to be placed underground.

Sections 10.358 – 10.359 Reserved

APPENDIX C. STREET STANDARDS

These standards should be applied, to the greatest extent possible, to all new street construction or reconstruction.

GENERAL STANDARDS AND REQUIREMENTS

- (a) Street lights shall be installed at 500 foot intervals and where major streets intersect.
- (b) All streets and/or alleys shall intersect at right angles as nearly as possible.
- (c) Each corner of every intersection of streets and/or alleys shall be provided with a sight area in the shape of a triangle, said triangle to be formed by connecting each end of a sight line with the property line, at a point a minimum of fifteen (15) feet from the intersection of street and/or alley lines. When the property line in the vicinity of an intersection is curved or when streets intersect at other than right angles, the location of the sight line shall be as approved by the TRC.
- (d) No streets shall intersect so that the point of intersection shall be closer than one hundred fifty (150) feet to a main line railroad right-of-way.
- (e) All streets shall be at a grade with the railroad at any railroad crossing for at least fifty (50) feet on each side thereof.
- (f) A horizontal curve of reasonably long radius should be used where a deflection angle of more than ten (10) degrees in the alignment of a street occurs. The centerline radius of curvature for streets seventy (70) feet or more in width should be not less than three hundred (300) feet, and on all other streets, not less than one hundred fifty (150) feet except when good cause is shown for deviation.
- (g) Vertical curves should connect all changes in grade and be designed in accordance with the North Carolina Department of Transportation Division of Highways Minimum Design Criteria for Subdivision Roads.
- (h) Dead-end streets shall terminate in a circular area with a minimum diameter of eighty-one (81) feet for the paved area, unless the TRC recommends approval of an equally safe and convenient form of turning such as a "Y" or "T".
- (i) The right-of-way line should be located at least two feet behind the sidewalk, or as otherwise required by the TRC where no sidewalk is provided, to allow for City utilities. The right-of-way should be centered on the centerline of the street.

LOCAL RESIDENTIAL STREETS

Local residential streets provide direct access to residential land uses. Sidewalks are required on both sides of the street, with some exceptions. The green zone should include grass, landscaping and street trees; natural or structured stormwater BMPs, such as swales, may be permitted in this area with TRC approval. The shared vehicle and parking zone provides mobility and accessibility for motor vehicles and bicycles, with low volumes and low speeds (posted and design speeds of 25mph).

Residential Narrow

Intended for use where the predominant character is one of large-lot, lower density housing. Sidewalks on only one side of the street may be permitted by the TRC for very low density developments or where no development is proposed on one side of the street. Parking on the street will be infrequent, with ample on-site parking. Residential Narrow may be used if all of the following conditions are met:

- Net densities along the street are below four units per acre
- Lots are at least 80 feet wide
- There is sufficient on-site parking for three vehicles per dwelling unit
- There is more than one connection to the street for redundant emergency access routes (e.g. not a dead-end street)
- There are alternative, parallel routes available, and
- Block length is a maximum of 1,000'.

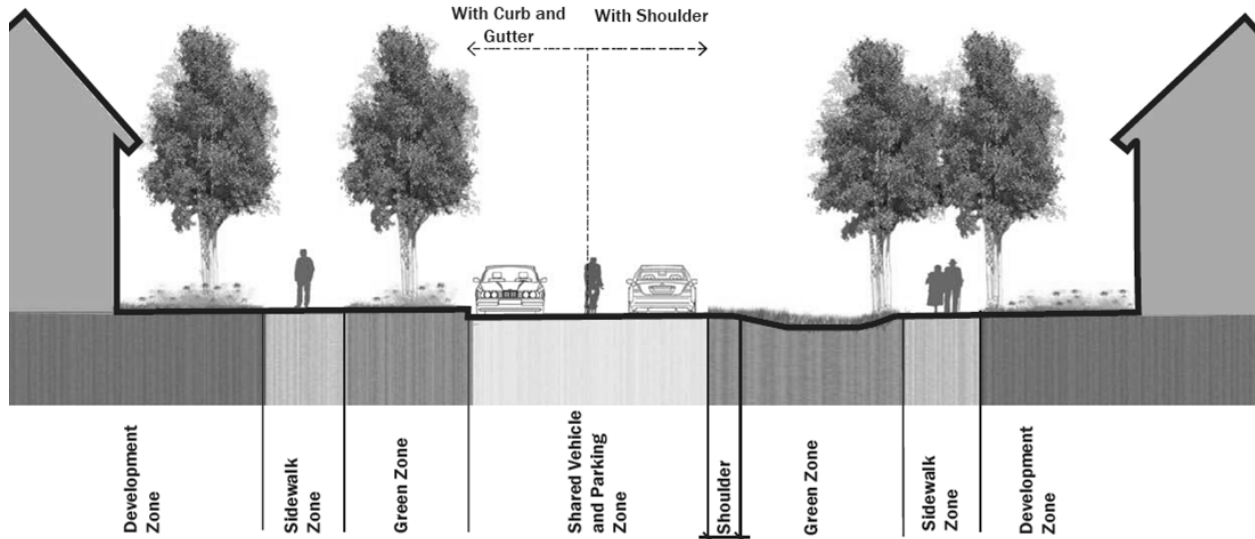
Residential Medium

Intended for use where the predominant character is low- to medium-density residential land uses. Sidewalks on only one side of the street may be permitted by the TRC where no development is proposed on one side of the street. Parking will be infrequent; parking on the street will occur more frequently than with the Residential Narrow street, but most parking should be accommodated on-site. Residential Medium is the default local residential street.

Residential Wide

Intended for use where the predominant character is medium- to high-density residential land uses. Sidewalks on only one side of the street may be permitted by the TRC where no development is proposed on one side of the street. Parking is offered in a separate zone because it is expected that there will be much more demand for on-street parking in these higher-density areas. Residential Wide must be used if both of the following conditions are met:

- Net densities along the street are at or above 8 dwelling units per acre, and
- There is insufficient on-site parking for 2.5 vehicles per dwelling unit.



Shared Vehicle and Parking Zone^{2,3}

	With Curb and Gutter	With Shoulder ⁴	Sidewalk Zone ⁵	Green Zone ^{5,6}	Shoulder ^{4,7}	Right-of-Way ⁸
Residential Narrow	20'	20'	5'	7'	6'	50'
Residential Medium	27'	26'	5'	7'	6'	55'
Residential Wide	35'	not permitted	6'	7'	not permitted	65'

Notes

1. All dimensions are minimum widths.
2. Measured from back-of-curb (BOC) to BOC for curb and gutter sections and from edge of pavement (EOP) to EOP for shoulder sections.
3. A median is typically not appropriate, but may be allowable if approved by the TRC.
4. A shoulder may be permitted only with TRC approval.
5. Where unique physical constraints prevent a green zone at least four feet wide, and with TRC approval, the sidewalk may be placed at the back-of-curb, provided that the minimum width of the sidewalk shall be increased by one foot and only standard curb and gutter shall be allowed.
6. Where street trees are not provided, the green zone may be reduced to four feet.
7. Shoulder zone typically has grass. Width may be reduced to four feet with TRC approval for unique physical constraints, provided that the green zone is seven feet wide.
8. The right-of-way width may be reduced, with TRC approval, if the green zone is narrower than seven feet or if the sidewalk is to be located in a sidewalk and utility easement, and may be increased if wider or additional roadway elements are provided, such as a median or wide swale.
9. Maximum grade shall be 8%.

LOCAL COMMERCIAL AND INDUSTRIAL STREETS

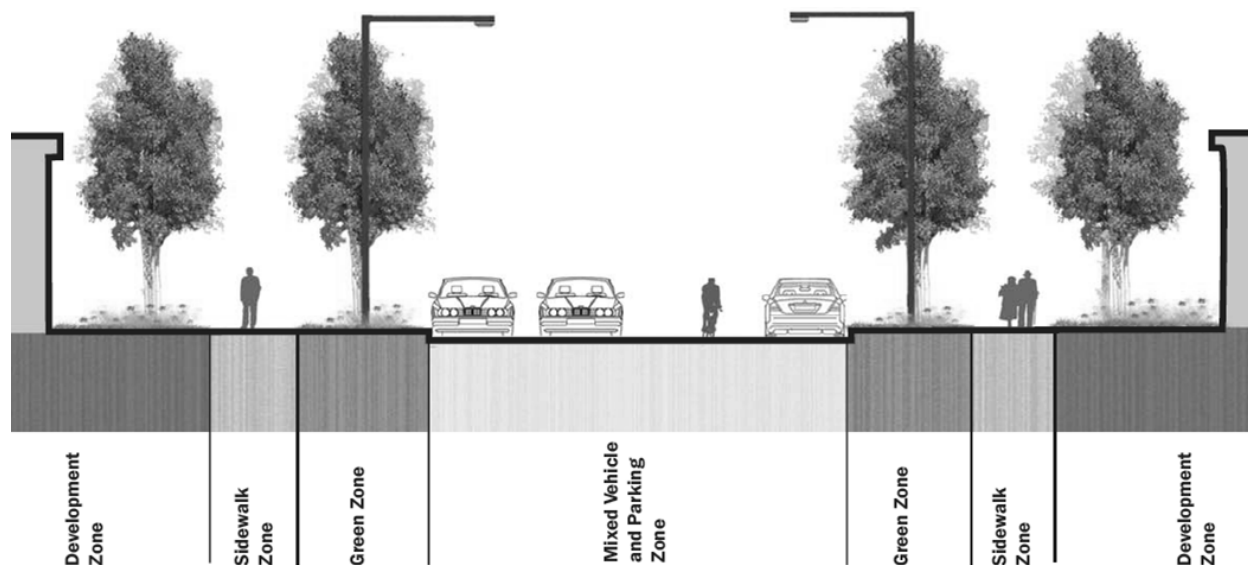
Local commercial and industrial streets provide direct access to commercial, office, industrial and mixed land uses. Sidewalks are required on both sides of the street. The green zone should include grass, landscaping and street trees; natural or structured stormwater BMPs may be permitted in this area with TRC approval. The mixed vehicle and parking zone provides mobility and accessibility for motor vehicles and bicycles, with low volumes and low speeds (posted and design speeds of 25mph).

Commercial Medium and Commercial Wide

Local commercial streets provide direct access to commercial, office or mixed land uses, and apply to developments ranging from very pedestrian-oriented retail locations to business parks. In areas where off-street parking is available in sufficient quantity and proximity, the Commercial Medium street is appropriate to help maintain low speeds. Commercial Wide streets should be used where there is limited off-street parking nearby, short-term visitors are likely, and there is, therefore, a high demand for on-street parking.

Industrial

Local industrial streets provide direct access to predominantly industrial or warehouse/distribution land uses, with their design geared toward the operational requirements of large volumes of trucks while also recognizing that other modes and complementary land uses should be accommodated.



	Mixed Vehicle and Parking Zone ^{2,3}	Sidewalk Zone ⁴	Green Zone ^{4,5}	Right-of-Way ⁶
	Total Travelway	Parking		
Commercial Medium	27'	one side	5'	55'
Commercial Wide	41'	both sides	6'	71'
Industrial	35'	one side	5'	63'

Notes

1. All dimensions are minimum widths.
2. Measured from back-of-curb (BOC) to BOC.
3. A median is typically not appropriate, but may be allowable if approved by the TRC.
4. Where unique physical constraints prevent a green zone at least four feet wide, and with TRC approval, the sidewalk may be placed at the back-of-curb, provided that the minimum width of the sidewalk shall be increased by one foot and only standard curb and gutter shall be allowed.
5. Where street trees are not provided, the green zone may be reduced to four feet.
6. The right-of-way width may be reduced, with TRC approval, if the green zone is narrower than seven feet or if the sidewalk is to be located in a sidewalk and utility easement, and may be increased if wider or additional roadway elements are provided, such as a median or wide swale.
7. Maximum grade shall be 7%.

AVENUES

Avenues serve a diverse set of functions in a wide variety of land uses. They may function as arterials or collectors but at low to moderate speeds, providing access from neighborhoods to commercial areas, between areas of the city and, in some cases, through residential neighborhoods. Development along avenues may include a wide range of land uses, including single family, multi-family, commercial, mixed use, institutional or industrial uses, in a range of densities. Avenues are designed to provide a balance of service for all modes of transport, including vehicles, bicyclists, pedestrians and transit.



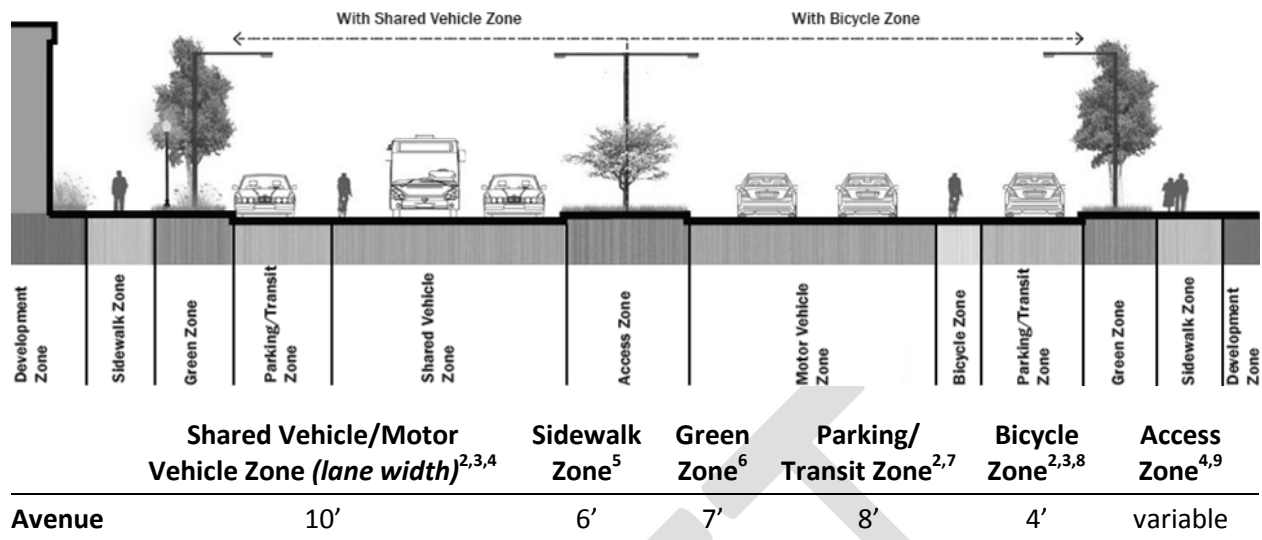
Example of an avenue with bike lane, on-street parking and a median.

Since avenues serve so many functions and contexts, there are a number of potential cross-sections and design teams should carefully consider the following design elements:

- **Posted speed** of 25-30 mph preferred, with 35 mph allowable. **Design speed** of 30-40 mph; slightly higher than the posted speed, but not so high as to encourage speeding.
- **Number of through lanes** may be: one in each direction (2-lane); one in each direction plus an intermittently landscaped or (on short blocks) back-to-back turning lane (3-lane); two in each direction (4-lane); or, two in each direction plus an intermittently landscaped turning lane (5-lane).
- **Bicycle lanes** are desirable and are especially important when there are few other options for bicycle network continuity. Wide outside lanes may also be considered under constrained conditions.
- **On-street parking** is desirable in areas with front-facing development, especially retail development.
- **Green zones** should be provided to separate pedestrians from vehicles and to enhance the streetscape. Even in constrained situations, the green zone and street trees should be the design priority, with any deviations from the preferred width justified and documented. The green zone may include landscaping, street trees, lighting, street furniture, hardscaping and related pedestrian/bike/transit amenities.
- **Pedestrian lighting** should be considered at mid-block crossings and near locations where nighttime pedestrian activity is likely.
- **Block length** should not exceed 600' to provide more frequent and accessible opportunities for crossings and to enhance connectivity for all modes.
- **Utilities** should be placed underground whenever possible. Every attempt should be made, even with underground placement, to avoid or minimize conflicts with street trees.



Example of an avenue through a residential neighborhood.



Notes

1. All dimensions are minimum widths.
2. The gutter pan is not considered part of any minimum width, with the exception of the parking/transit zone.
3. If bicycle lanes are not possible, shared lanes may be allowed by the TRC. For a shared lane, the outside lane should be a minimum of 14' wide.
4. For median-divided avenues with only one lane in each direction, lanes should be 14' wide.
5. In areas that are currently or are planned to be pedestrian-oriented retail or mixed-use development, a minimum eight-foot sidewalk should be provided.
6. Where a seven-foot wide green zone cannot be provided, the following guidelines apply. If the green zone is less than five feet, trees should not be planted, but shrubbery or ground cover may be acceptable. Even in constrained conditions, the green zone should never be less than four feet. Sight distance should be considered in the location and spacing of trees within the green zone. In highly urban conditions, sidewalk amenities should be placed in the green zone. Natural or structured stormwater BMPs may be permitted in this area with TRC approval.
7. Parking is an option. The width may vary depending on the type of parking. Angle parking is allowed, with reverse angle parking preferred. Wherever full-time, dedicated on-street parking is provided, curb extensions should be provided at intersections to shorten the crossing distance for pedestrians.
8. Five-foot bicycle lanes are preferred. Bicycle lanes located next to on-street parking should be six feet wide. Steep grades may call for wider bicycle lanes.
9. The access zone is optional and may include either an intermittently landscaped turn lane or a median. Medians are not typical but may be provided, primarily in residential areas; they should be at least eight-feet wide and landscaped, including trees given sight distance considerations.
10. Maximum grade shall be 6%.

Article II. Definitions

(7) Sign Specifications: See Section 10-398 (2).

Impervious Surface Coverage - That portion of a lot covered by buildings, structures, paving or other impervious surface materials.

Interior Living Space - All area within the exterior walls of a single-family dwelling, excluding garages, utility space and storage within garages, and all un-glassed porches or stoops.

Junked Motor Vehicle - A motor vehicle that does not display a current license plate and is one or more of the following: 1) is partially dismantled or wrecked; or 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or 3) more than five years old and appears to be worth less than \$100.00; provided that any motor vehicle used on a regular basis for business or personal use shall not be caused to be removed or disposed.

Junk yard and/or salvage operations: A lot, land or structure or part thereof used primarily for the storage of worn-out or wrecked automobiles and motor vehicles; for the collecting, processing, storage and/or sale of salvage paper, animal hides, rags, rubber, glass, scrap metal, lumber or other used building materials; or for the dismantling, storing and salvaging of machinery or vehicles or for the sales of parts thereof.

Landfill, Demolition and Construction Debris - A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

Landfill, Sanitary, Solid Waste - A site for solid waste disposal from residential, industrial or commercial activities

Lot - A parcel of land, not divided by streets, occupied or to be occupied by a building and its accessory buildings, or by a unified business or housing development and its accessory buildings, together with such open spaces as are required under the provisions of law, and having its principal frontage on a street or other means of access.

Lot, corner - A lot or portion of a lot at the junction of and abutting upon two or more streets.

Lot, depth of - The mean horizontal distance between the front and rear lot lines.

Lot, flag - An interior lot located to the rear of another lot, but with a narrow portion of the lot extending to a street. ~~No part of the narrow portion of the lot can be less than 30 feet in width except in cases where an existing structure(s) and its required side yard could not be accommodated, then the width shall be at least 15 feet capable of being used for ingress and egress. The front yard requirements shall apply to all the yards of a flag lot.~~

Lot, Front Of --The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, the narrowest side fronting on a street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on that street on which the greatest number of lots front, or if un-platted, on that street on which the greatest number of buildings have been erected.

Lot, Interior - A lot other than a corner lot.



Section 10.85 Conditional Zoning Districts

Conditional Residential District

Conditional Office and Institutional District

Conditional Business District

Conditional Industrial District

Conditional Mixed Use Residential District

Conditional Mixed Use Commercial District

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, and adopted district and area plans. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

B. Plans and other information to accompany petition

- 1) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a preliminary site plan, ~~drawn to scale by a design professional licensed in North Carolina~~, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided, if applicable:
 - a) A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
 - b) All existing easements, reservations, and rights-of-way;
 - c) Areas in which structures will be located;
 - d) Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;
 - e) All yards, buffers, screening, and landscaping required by these regulations or proposed by the



petitioner;

- f) All existing and proposed points of access to public streets;
 - g) Watershed locations and delineation of areas within the regulatory floodplain as shown on the Official Flood Insurance Rate Maps;
 - h) Proposed phasing, if any;
 - i) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development; and
 - j) Generalized traffic, parking, and circulation plans.
- 2) The Planner has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.
- 3) In the course of evaluating the proposed use, the Planner, Planning Board, or City Council may request additional information from the petitioner. This information may include the following:
- a) Proposed number and general location of all structures;
 - b) Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - c) Existing and general proposed topography, if available, at five-foot contour intervals or less;
 - d) The location of significant trees on the subject property;
 - e) Scale of buildings relative to abutting property;
 - f) Height of structures;
 - g) Exterior features of proposed development;
 - h) Any other information needed to demonstrate compliance with these regulations; and
 - i) Proposed number and location of signs.
- 4) The preliminary site plan and any supporting text shall constitute part of the petition for all purposes under this Section.
- 5) The Planner may require the petitioner to submit more than one copy of the petition and preliminary site plan in order to have enough copies available to circulate to other government agencies for review and comment.



C. Approval of conditional zoning district

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a conditional zoning district, the Council shall act in accordance with Section 10.83, "Action by City Council." Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

D. Conditions to approval of petition

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the City, County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the City Council.

E. Effect of approval

- 1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved preliminary site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map.
- 2) If a petition is approved, the petitioner shall comply with all requirements established for obtaining a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and preliminary site plan shall be allowed on the subject property. ~~A change of location of the structures-Minor revisions~~ may be authorized pursuant to Section ~~10.85(F) 10.347(b)(4) Administrative Amendments, Alterations to approval. The changes to the site plan layout will not increase the number of structures.~~
- 3) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation.
- 4) Any conditional zoning district shall have vested rights pursuant to N.C.G.S. Section 160A-385.1 for the period of time established pursuant to Division 12, Vested Rights, of this Development Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section 160A-385.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to Division 12 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid.



~~F. Alterations to approval.~~

- ~~1) Except as provided in subsection 2 below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures in this Section.~~
- ~~2) The Planner or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. An administrative amendment shall not be subject to a protest petition pursuant to Section 10.84. Any decision must be in writing stating the grounds for approval or denial.~~

~~Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less.~~

~~The Planner or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and City Council consideration is deemed appropriate under the circumstances. If the Planner or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.~~

~~Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Planner.~~

~~If the Planner or designee denies approval of the requested amendment, then the applicant can appeal that decision to the City Council for its review and decision, pursuant to the standard above. If appealed, this requires notification to adjacent property owners within fifteen days of the filed appeal. If the City Council denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the City Council within fifteen days of knowledge of the approval. Even if an adjacent property does not have knowledge of the approval, the approval shall be final after thirty days.~~

GF. Review of approval of a conditional zoning district

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the City Council a report, which may recommend that the property be classified to another district.



Section 10.139 Application for Special Use Permit

Section 10.138 Special uses shown in Table of Permitted Uses

Each use for which a special use permit is required is indicated in the Table of Permitted Uses, by an "S" in the column for a particular zoning district. The "S" indicates that such use may be placed in that zoning district only after a special use permit has been approved by the city council and issued by the zoning enforcement officer.

Section 10.139 Application for a Special Use Permit

Applicants for a special use permit are advised to confer with the ~~Planner zoning enforcement officer and, if possible, with the planning board~~ before formal application for a permit in order to ascertain what information must accompany the formal application. ~~Applications for special use permits shall be submitted to the Planner.~~ Depending on the character and size of the proposed use, a plot plan or a preliminary site plan may be required showing any or all of the following information ~~may be required~~, in addition to the specific conditions set forth under each special use:

- a. Vicinity map, showing the location of the property in relation to existing and proposed streets, streams, railroads and other major physical features.
- b. Location, size and type of all buildings, existing and proposed, on or near the property.
- c. Grading plan.
- d. Proposed points of vehicle ingress and egress, together with the proposed pattern of internal circulation.
- e. Proposed parking and loading areas.
- f. Landscape plan, showing the number, location, size and name of each plant species; and the proposed ground cover, especially on slopes, blanks, and ditches. If the special use permit is approved, the landscape plan shall be carried out within one year of the date of issuance of the certificate of occupancy; landscaping shall be permanently maintained thereafter.
- g. Proposed provision for utilities.
- h. Location, size, height, orientation, and lighting information on all signs. ~~Applications for special use permits, together with site plans, maps, and drawings in sufficient detail to present required information, shall be submitted to the planner, who shall transmit these to the planning board.~~

Section 10.140 Timing of Submissions

The applicant must submit the required plans and request for a special use permit on or before the 25th day of the month preceding the planning board meeting at which consideration is desired.



Section 10.149 Special uses listed "Use: Condominiums"

4. No lights shall be so arranged as to direct or reflect light into any residence.
5. No curb cut shall be less than 25 feet from the intersection of any two street curb lines. Curb cuts shall not be wider than 25 feet. No more than two curb cuts shall be permitted on each abutting street.
6. An opaque screen at least eight feet in height shall be provided along each property line adjoining a district zoned residential.

Use: Condominiums

Special Use Districts: R-12, R-9 and R-7

1. A preliminary site plan shall be submitted.
2. The dimensional requirements for multifamily developments shall apply.
3. The off-street parking requirements for multifamily developments shall apply.

Definition and Description: A condominium is two or more single units in a multi-unit structure with common areas and facilities, on one tract of land. Unit owners own only the interior portions of their unit and accessory space and have an undivided interest in the common areas and facilities.

Creation and Ownership: Condominium ownership may be created by initial development or by an owner or the co-owners of a structure by an express declaration of their intention to submit such property to the provisions of the "Unit Ownership Act," of North Carolina (Chapter 47A of the North Carolina General Statutes), which declaration shall be prepared in strict compliance with the Unit Ownership Act, approved by the city council and recorded in the office of the Alamance County register of deeds. The creation, establishment, or declaration of a condominium development shall be carried out in compliance with the applicable provisions of Chapter 47A of the North Carolina General Statutes.

Site Plan and Planning Board Review:

1. The developer shall submit a site plan prepared by a professional engineer or architect registered and licensed to practice in North Carolina. The site plan and accompanying information shall be presented according to the procedure for applying for a Special Use Permit and shall serve as the Special Use Permit application.
2. The developer shall also submit a water and sewer utility plan; a grading and soil erosion control plan if the area to be disturbed is greater than an acre; street and utility plans and profiles if public streets are to be constructed; and any additional plans required for review. These plans shall be reviewed and approved by designated staff before approval of the final plat.

Action on site plan and Special use permit by City Council: Following action by the planning board, the Planning Board's recommendations on the site plan along with recommendations on granting the special use permit shall be forwarded to the city council for public hearing and action. Favorable action by the city council shall result in approval of the preliminary plat and associated plans and granting of a special use permit.



~~Building Permits: After approval of the site plan, utility plans, and street plans and profiles, if necessary, the developer may apply for building permits.~~

~~Construction of Public Streets and Utilities: When public streets and utilities are being constructed in conjunction with a condominium development, the developer shall have street and utility plans and profiles approved before approval of a final plat. The developer shall have also installed the public improvements to meet City of Graham standards according to approved plans and profiles, or have financially guaranteed their installation before approval of the final plat.~~

~~Dimensional Requirements. Off-Street Parking and Loading Requirements.~~

- ~~1. The dimensional requirements for multifamily developments shall apply and are found in the Table of Area, Height, and Yard Requirements, Section 10.245.~~
- ~~2. Off-street parking and loading requirements for multifamily developments shall apply. These are found in Sections 10-240 and 10-241.~~

~~Submission of Unit ownership Declaration and Bylaws: Before or at the same time as submission of the final plat, the developer shall submit to the staff for review and approval a copy of a declaration establishing unit ownership and a copy of the bylaws governing administration. The City shall keep a copy of the bylaws. The declaration shall comply with the following requirements:~~

- ~~1. The declaration shall be a complete legal document prepared strictly in accordance with the North Carolina Unit Ownership Act.~~
- ~~2. The plans of buildings to be attached to the above declaration when recorded shall be prepared in accordance with the North Carolina Unit Ownership Act.~~
- ~~3. The declaration and bylaws shall contain a statement that common expenses include ad valorem taxes, public assessments or governmental liens levied on common areas, if any.~~

~~Final Plat: With authorization from the city council during the preliminary plat approval process, the enforcement officer can sign off on a final plat which shall then be recorded in the office of the Register of Deeds.~~

Use: Drive-in Theater

Special Use Districts: B-2, I-1, and I-2

Screening: An eight-foot-high opaque screen shall be required except at driveways. Where any residence would have a view of the viewing screen, a thick screen of evergreens at an initial height of at least five feet, and capable of forming at maturity a visible barrier between the heights of four feet and 20 feet, shall be provided along the theater property line.

Street Access and View from Street: The lot shall abut or have easy access to a major thoroughfare or collector street.

The viewing screen shall be directed away from major thoroughfares or collector streets.



Section 10.149 Special uses listed "Use: Duplex Dwelling Unit"

Minimizing Light and Sound: Lighting shall be shielded so that direct light is not cast on adjoining property. Sound shall be delivered to each car by individual speakers. Loudspeakers shall not be used.

Waiting Space for Cars: On-site waiting space for 20 vehicles shall be provided at each box office. Each box office shall open at least 30 minutes before the first feature is scheduled to start.. The scheduled starting time of the first feature shall be prominently displayed.

Use: Duplex Dwelling Unit

Special Use District: R-7

~~Site plan to be provided~~

Minimum of 11,000 square feet for each two dwelling units required.

Minimum of 80 feet road frontage required. On corner lots this frontage shall be measured on the side with the shortest width.

Use: Electronic, Internet or Sweepstakes Gaming.

Special Use Districts: B-2 and I-1, except not permitted in any of these districts if in a unified business development

Setbacks:

1. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to another Electronic, Internet or Sweepstakes Gaming establishment.
2. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to a public or private elementary or secondary school, child day care center or nursery school, public park, church, or community college.
3. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 500 feet from a bar or night club.

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Electronic, Internet or Sweepstakes Gaming establishment is to be located to the nearest point of the lot line or boundary of the closest Electronic, Internet or Sweepstakes Gaming establishment , residence, residentially zoned district, public or private elementary or secondary school, child day care center or nursery school, public park, church, community college, bar, or night club.

Other Restrictions:

1. There shall not be more than one (1) Electronic, Internet or Sweepstakes Gaming establishment in the same building, structure, or portion thereof. Additionally, no other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Electronic, Internet or Sweepstakes Gaming establishment.
2. Flashing lights or fluttering devices designed and used to attract attention are not permitted.



Section 10.149 Special uses listed "Use: Manufactured Home Parks"

- b. No building shall be located closer than 30 feet to any manufactured home.
 - c. All service buildings and the grounds of the park shall be kept clean and free from any condition that will menace the health of any occupant or the public or constitute a nuisance.
 - d. Maintenance of service buildings shall be the responsibility of the owner of that manufactured home park
14. Fire protection: The park shall meet the most recently adopted standards for adequate fire protection established by the National Fire Protection Association.
15. Skirting: All manufactured homes moved into the City of Graham or its extraterritorial jurisdiction, shall be skirted. A time limit of up to sixty (60) days shall be granted to install skirting. After the sixty-day period, the building inspector shall inspect the skirting for compliance with this section. Skirting must be a noncorrosive, durable material such as vinyl or other suitable material approved by the building inspector. The color shall be in keeping with the color scheme of the manufactured home. All removable hitches shall be removed.

Preliminary Site Plan: In applying for a special use permit the developer of a manufactured home park shall submit plans and specifications showing compliance with the Development Standards listed above. The preliminary site plans shall include or show:

1. A legal description of the property shown and referenced to major streets and tax map number, drawn to scale, clearly showing the extent and area to be used for manufactured home park purposes.
2. The number, size and locations of all manufactured home spaces.
3. Location of underground water, sewer, and gas lines; electric and telephone wires
4. Location and specifications for water taps, sewage disposal connections and other facilities on each manufactured home space.
5. Location of all buildings, proposed or existing, in the area to be used as a manufactured home
6. Location of all roads, driveways and walkways serving the park and each space
7. The original and finished grade of the property.
8. The location by insert map showing true north.
9. A plan for providing fire protection and safety, where applicable.
10. A plan for providing fire protection and safety, where applicable.
11. Plans shall specify the method of garbage disposal

Approval must be obtained from the appropriate state and local agencies for construction of the systems if required.



Section 10.149 Special uses listed "Use: Telecommunications Towers"

3. The facility shall be operated in a wholly enclosed building except that if the facility is adjacent to railway tracks, loading into a railway car may take place outside the building provided no materials remain on the loading area for more than 24 hours.

Use: Telecommunications Towers (Cellular, PCS, Radio, TV, etc.)

Special Use Districts: I-1 and I-2

Setback and Height Requirements:

1. *Non-residential districts* - The minimum distance from the base of the tower to the nearest property line shall be equal to or greater than the height of the tower. The city council shall have the option to waive this provision upon receiving documentation from the petitioner that the tower is engineered such that in the event of collapse, the tower will fall upon itself within the property boundaries upon which it is located. This option may require the establishment of a setback equivalent to a fall zone easement certified by a professional engineer registered in North Carolina. In any case, the minimum setback for a tower and all appurtenant structures shall be 25 feet from the nearest property line.
2. *Proximity to right-of-way* - No free standing or guyed tower may be constructed closer than the tower's height from any public right-of-way.

Appurtenant Structures for Tower Operations:

An appurtenant structure constructed for the purpose of housing equipment related to tower operations may accompany each tower. Such structures shall be unmanned and be limited to 240 square feet of gross floor space for each tower and co-locator (e.g. 3 users on a tower equals three times 240 square feet for accessory structures). Setback for these structures shall be at least 15 feet from any property line.

Fencing and Screening:

1. The base of the tower, including but not limited to equipment and/or storage structures, along with any guy wires shall be enclosed by a commercial grade chain link fence (or fence of equal or greater quality) a minimum of eight feet in height.
2. A vegetative screen shall be planted around the security fencing consisting of at least two staggered rows of evergreen shrubs on five feet centers, at least five feet tall at the time of planting, unless existing vegetation or topography is determined to provide screening at least as effective as the planted screen.

Preliminary Site ~~Development~~ Plan:

The applicant shall present a preliminary site plan prepared by a North Carolina registered land surveyor, registered landscape architect, or registered professional engineer, showing:

1. Siting and size of existing and proposed structures and descriptions of the color and nature of all exterior materials;



Section 10.149 Special uses listed "Use: Townhouse Developments"

engineer shall present documentation that the tower has sufficient structural integrity to accommodate more than one user.

Cessation in Use:

If the wireless telecommunications towers ceases to be used for this purpose, then the tower owner shall dismantle and remove the tower and accessory structures from the site, within 120 days from the date the tower is taken out of service. The tower owner shall notify the Planner when any transmission tower is placed out of service. This Special Use Permit expires 120 days after the date that any transmission tower is taken out of service.

Historic District:

Towers are not permitted in a designated historic district or on property on which a designated historic landmark is located. In addition towers shall not be constructed within 350 feet of a designated historic district or an historic landmark. "Historic" means a district or landmark, which has been nominated, to the National Register of Historic Places.

Outside Storage:

Outside storage is not permitted on the tower site.

Use: Townhouse Developments

Special Use Districts: R-12, R-9 and R-7

1. A preliminary site plan shall be submitted. It shall number and show the location and dimensions of the sites within the development along with other information required by the City.
2. The dimensional requirements for multifamily developments shall apply.
3. The off-street parking requirements for multifamily developments shall apply.

~~Definition and Description: Townhouse developments contain one or more structures containing a total of two or more units intended for owner occupancy, where ownership of the land beneath each unit runs with that unit, where units and the individually owned lands on which they rest do not meet conventional lot requirements for street frontage and yard sizes, and where walls between units are constructed in accordance with North Carolina State Building Code requirements. In a townhouse development each unit is situated on a plot of land within a larger tract. The plot or site is intended for conveyance in fee simple to an owner after construction and shall be sufficient in size to contain the structure to be constructed thereon; the site may be of any larger size desired by the developer, provided that in no case shall a site be less than 20 feet wide.~~

~~Dimensional Requirements, Off-Street Parking and Loading Requirements. The dimensional requirements for multifamily developments shall apply and are found in the Table of Area, Height, and Yard Requirements, Section 10.245~~

~~Off-street parking and loading requirements for multifamily developments shall apply. These are found in Sections 10-240 and 10-241.~~



Preliminary Plat, Site Plan and Planning Board Review:

The developer shall prepare the following plans and information for submission to the planning board:

1. A preliminary plat of a proposed townhouse development shall be submitted to the planning board according to the procedures for obtaining a special use permit.
2. A site plan prepared by a professional engineer or architect registered and licensed to practice in North Carolina shall be submitted along with the preliminary plat. It shall number and show the location and dimensions of sites within the development along with other information required by the city.

The developer shall also submit a water and sewer utility plan, a grading and soil erosion control plan, if the area to be disturbed is greater than an acre, street and utility plans and profiles if public streets are to be constructed, and any additional plans required for review. These plans shall be reviewed and approved by the designated staff before approval of the final plat

Action on preliminary plat, plans and special use permit by City Council: Following action by the planning board, the planning board's recommendations on the preliminary plat, other plans submitted and recommendations on granting the special use permit shall be forwarded to the city council for public hearing and action. Favorable action by the city council shall result in approval of the preliminary plat and associated plans and granting of a special use permit.

Building Permits: After approval of the site plan, utility plans, and street plans and profiles, if necessary, the developer may apply for building permits.

Streets and Utilities: When public street and utilities are being constructed in conjunction with a townhouse subdivision, the developer shall have street and utility plans approved before approval of a final plat. The developer shall have also installed the public improvements to meet City of Graham standards according to approved plans and profiles, or financially guaranteed their installation as provided in the Subdivision Ordinance,

Declaration of Covenants and Restrictions Governing Common Areas, the Owners' Association and Sites: Before the sale of any structures in the development, at the latest at the time the final plat is submitted, the developer shall file proposed bylaws of the owners' association containing covenants and restrictions governing common areas, the owners' association and sites. The covenants and restrictions shall include provisions for the following:

1. Where developments have common areas or facilities for maintenance serving more than one unit, these areas are to be conveyed to a non-profit owners' association in which all owners of sites in the development are members. All area on the site plan other than public street rights-of-way, areas dedicated to the city and home sites shall be designated as common areas, the fee-simple title to which shall be conveyed by the developer to the owners' association. These common areas shall not be subdivided or conveyed by the owner's association.
2. The owner's association shall be organized and in legal existence before the sale of any structures in the development.



- ~~3.— Membership in the owner's association shall be mandatory for each original purchaser and each successive purchaser of a site.~~
- ~~4.— The owner's association shall be responsible for payment of premiums for liability insurance, local taxes, maintenance of facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas, maintenance and repair to the exterior of all structures located within the development.~~
- ~~5.— It shall be further provided that upon default by the owners association in payment to the entitled governmental authority of ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, which default shall continue for a period of six months, each owner of a site in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of sites in the development. If the sum is not paid by the owner within 30 days following receipt of notice of the amount due, the amount shall become a continuing lien on the site of the owner, his heirs, devisees, personal representatives, and assigns. The taxing governmental authority may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the lot of the owner.~~
- ~~6.— The owners' association shall be empowered to levy assessments against the owners of sites within the development for the payment of expenditures made by the owners' association for the items set forth in the preceding subparagraph, and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the site of the owner.~~
- ~~7.— Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a site.~~
- ~~8.— All common walls between individual residences shall be party walls and provisions for the maintenance thereof and restoration in the event of destruction or damages shall be established.~~

~~Final Plat: If authorized by the city council during the preliminary plat approval process, the enforcement officer may sign off on the final plat for recording in the office of the Register of Deeds. The final plat shall show the dimensions and bearing of each site. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in North Carolina. The final plat shall contain the following certifications:~~

~~Certificate of Survey and Accuracy~~

~~Certificate of Ownership and Dedication~~

~~Certificate of Approval or Non-Approval by the N.C. Department of Transportation~~



Section 10.247 Building Spacing Requirements for Multifamily Residential Buildings

Gilbreath Street, and South Marshall Street, the minimum required front yard depth shall be 10 feet less than shown herein if:

- a. The average front yard depth of the two closest dwellings fronting on the same side of the street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth, or
- b. The average front yard depth of all dwellings fronting on the same street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth.

10. Screening

- (a) O-1, B-2, and B-3 Districts – business uses whose property lines abut a district zoned residential shall erect an opaque screen at least six feet high designed so as to obstruct the view from surrounding residential property. Screens are not to be brightly colored, multicolored, or otherwise obtrusive. Colors and textures harmonious with nature and nearby residential structures are recommended.
- (b) I-1 and I-2 Districts – a buffer strip shall be planted along the side or rear property line of any use that abuts any property in a residential zone. The strip shall be at least 10 feet wide planted with an opaque screen of evergreen shrubs or trees which at maturity will be between eight and 12 feet high.

Section 10.246 amended by City Council November 7, 2000

Section 10.247 Building Spacing Requirements for Multifamily Residential Buildings (Townhouses, Condominiums and Apartments)

- (a) Minimum Spacing of Buildings: If a zoning lot is developed for multifamily or townhouse residential buildings, the following method shall be used to determine the minimum spacing of buildings. ~~The spacing of buildings shall be shown on a site plan prepared accordance with the special use provisions for condominiums and townhouses and Note 18, Table of Permitted Uses for multifamily developments.~~
- (b) Front Yard Setbacks: On lots of more than 40,000 square feet which contain three or more dwelling units, all buildings shall observe front yard setback requirements from any street on which the lot abuts.
- (c) Calculation of Triangle: For all yards, including those on the project perimeter, each wall of every dwelling shall have a minimum yard space in the shape of an imaginary isosceles triangle. The base of the triangle shall be a line connecting the extreme ends of the wall of the building and whose altitude shall be the length of the base line multiplied by a factor related to the height of the dwelling as provided in Table 10.247 below and illustrated in the accompanying figures. There shall be a minimum distance of 15 feet between any walls of one-story buildings and 20 feet between two-story buildings. Any wall over 10 feet long shall be treated as a separate wall.

Section 10.247 (c) revised 1/4/2000





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 Subdivisions and Site Plans

Type of Request

Text Amendment

Meeting Dates

Planning Board on September 17, 2013

City Council on October 1, 2013

- I move to **recommend APPROVAL** in that the amendment 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** because the amendment 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 17th day of September, 2013.

Attest:

Andy Rumley, Planning Board Chairman

Martha Johnson