



# **Board of Adjustment**

## **Meeting Agenda**

November 20, 2018 following the Planning Board  
Council Chambers, 201 S Main St

1. Approve minutes of the February 20, 2018 meeting
  
2. New Business
  - A. VR1802: County Ford Sidewalk. An application for a variance from the required installation of a sidewalk for property located at 111 Auto Park Drive
  
3. Public comment on non-agenda items

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



# STAFF REPORT

Prepared by Nathan Page, Planning Director

**County Sidewalk (VR1802)**

**Type of Request:** Variance

**Meeting Dates**

Board of Adjustment on November 20, 2018

**Contact Information**

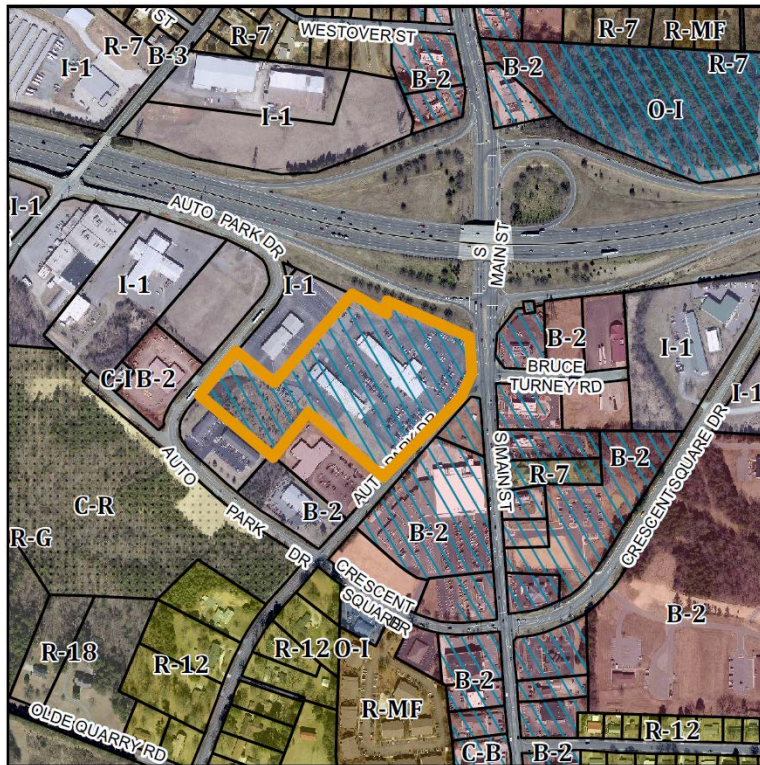
Dale A. Stearns

P.O. Box 597 Graham NC 27253

(336)222-5901, rdm@vernonlaw.com

## Summary

This is a request for a variance from the construction requirement for a sidewalk when new development takes place within the overlay.



### Location

111 Auto Park Drive

GPIN: 8884101353

### Current Zoning

Light Industrial (I-1)

### Current Use

Vehicle Dealers/Rentals (new and used)

### Surrounding Zoning

I-1, B-2

### Surrounding Land Uses

commercial, vacant, apartments

Attached is a **draft of a Resolution for the Board to consider** when making its decision. This draft Resolution should be modified as the Board sees fit and is only provided by staff as a template.



522 SOUTH LEXINGTON AVENUE ■ BURLINGTON, NORTH CAROLINA 27215-5827  
MAILING ADDRESS: P.O. DRAWER 2958 ■ BURLINGTON, NORTH CAROLINA 27216-2958  
TELEPHONE: (336) 227-8851 ■ FACSIMILE: (336) 226-3866 ■ WWW.VERNONLAW.COM

JOHN H. VERNON, JR. (1911-1986)  
JOHN H. VERNON, III  
WILEY P. WOOTEN  
E. LAWSON BROWN, JR.  
MARK A. JONES  
BENJAMIN D. OVERBY  
JENNIFER L. BOGACKI\*

LINDA M. MALONE  
THOMAS S. WHITAKER\*\*  
RYAN D. MOFFITT  
PATRICIA A. McALLISTER  
ASHLEY L. CARTER  
KRISTEN L. DELFORGE

November 6, 2018

\*ALSO ADMITTED IN MASSACHUSETTS  
\*\*CERTIFIED SUPERIOR COURT MEDIATOR

**Via Hand Delivery**

City of Graham, Planning Department  
Attn: Mr. Nathan Page, City Planner  
201 S. Main St.  
Graham, NC 27253

RECEIVED

NOV 06 2018

CITY OF GRAHAM  
INSP. / P.Z.

Re: *County Motor Land Company, LLC – Application for a Variance*  
Parcel No.: 145708  
Our File: 03481A-83

Dear Mr. Page:

As you know, this firm represents County Motor Land Company, LLC, the Applicant in the enclosed and above-referenced Application for a Variance, which I am hereby submitting on its behalf. Attendant to the enclosed Application, please find the following additional documents enclosed herewith:

- (1) Addendum stating grounds for requested variance;
- (2) City of Graham Zoning Map encompassing Highway 87/Main Street Overlay District;
- (3) Topography map encompassing Highway 87/Main Street Overlay District;
- (4) 2017 NCDOT AADT Map encompassing Subject area;
- (5) Top Construction sidewalk construction estimate for Subject Property;
- (6) Sidewalk construction estimate for Taco Bell property;
- (7) Sidewalk construction estimate for Garden Valley property;
- (8) Various photographs of the Subject Property and other areas within the Highway 87/Main Street Overlay District.

Please do not hesitate to contact our office if you have any questions.

Very truly yours,

Ryan D. Moffitt

Enclosures

Cc: Mr. Dale Stearns

00300D-000002/411763 v1



# Application for a VARIANCE

P.O. Drawer 357  
201 South Main Street  
Graham, NC 27253  
(336) 570-6705  
Fax (336) 570-6703  
www.cityofgraham.com

Variance requests are heard by the Board of Adjustment. This is a quasi-judicial process, meaning that it is similar to a court of law. Decisions are based on evidence and testimony presented during the hearing. Applicants should submit enough evidence to support the request for a variance. Types of evidence might include maps, drawings, pictures, cost estimates, or other information that will clearly demonstrate that the four criteria for a variance, listed below, are met. Applicants should also refrain from discussing the request with any member of the Board of Adjustment.

### Property on which a Variance is sought

Street Address: 111 Auto Park Drive  
Tax Map#: 145708 GPIN: 8884101353  
Current Zoning District(s): I-1  
Overlay District, if applicable:  
 Historic  S Main St/Hwy 87  E Harden St/Hwy 54  
Current Use: Automotive Dealership  
Property Owner: County Motor Land Company, LLC  
Mailing Address: P. O. Box 957  
City, State, Zip: Graham, NC 27253

### Applicant

Property Owner  Other \_\_\_\_\_  
Name: Dale A. Stearns  
Mailing Address: P.O. Box 597  
City, State, Zip: Graham, N.C. 27253  
Phone # (336) 222-5901  
Email: RDM@vernonlaw.com

I, the applicant, hereby petition the Board of Adjustment for a variance from the strict letter of the *Development Ordinance*, as described in this application.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Dale A. Stearns 11-3-18  
Signature of Applicant Date

### Purpose of Variance Request

Describe the purpose of this variance request. *What are you trying to do that the Development Ordinance is prohibiting? Attach evidence to illustrate and support your case.*

See attached.

### Nature of Variance Request

List the specific part(s) of the *Development Ordinance* from which you are seeking a variance (for example, setbacks).

See attached.

### Criteria for a Variance

When unnecessary hardships would result from carrying out the strict letter of the ordinance, the Board of Adjustment 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.

## APPLICATION FOR VARIANCE

### CITY OF GRAHAM, NORTH CAROLINA

**Applicant and Property Owner: County Motor Land Company, LLC**

**Alamance County Parcel Number 145708 (“Subject Property”)**

#### **I. Purpose of Variance**

The Applicant owns the Subject Property which is the subject of this Application for Variance and which is located at 105 Auto Park Drive, Graham, North Carolina 27253. The Applicant and its related predecessors have owned the Subject Property since 1971. The Subject Property, which is zoned I-1 for light industrial uses, accommodates the Ford automotive dealership known as “County Ford”, which has operated from the Subject Property for the last forty-seven years, since the Applicant’s and it’s predecessors’ acquisition of the Subject Property. Prior to moving to the Subject Property, the County Ford dealership was located on Harden Street in Graham. The County Motor dealership has been in business in the City of Graham for over sixty years.

As is customary for long-running businesses to do from time to time, the Applicant, having operated its business on the Subject Property for almost fifty years, is in the process of renovating its facilities in order to maintain a modern and inviting appearance. Given the Subject Property’s vicinity to and visibility from Interstate 40/85 and Highway 87, the Applicant understands the importance of a clean tasteful appearance to its business and the surrounding neighborhood. In this case, the Applicant, in undertaking to renovate and update the appearances of the County Ford dealership already existing on its premises, submitted a site plan, designs and elevations to the City of Graham (the “City”) for review and approval of the proposed renovations. Upon the City’s review, it was determined that sidewalks would be required to be installed along the entire 728-foot frontage of the Subject Property as part of the renovation of the Subject Property’s facilities and pursuant to Section 10.446 of the Main Street/Highway 87 Overlay (the “Overlay District”) of the City’s Development Ordinance (the “Ordinance”).

The purpose of the variance requested herein is for the Applicant to obtain relief from the sidewalk requirement set forth in Section 10.446 of the Ordinance, which is being imposed as part of renovations to the County Ford dealership on the Subject Property. To require the sidewalk to be constructed on the entirety of the Subject Property’s 728-foot frontage will result in unnecessary hardship to the Applicant that other parcels within the Overlay District do not share in complying with the same Ordinance requirement. The Subject Property is challenged by a unique set of conditions that make sidewalk accommodations an unnecessary safety risk, it will require substantial alteration to the Subject Property and will be unreasonably expensive to construct especially in light of the risk-utility imbalance that a sidewalk presents in this particular location.

#### **II. Nature of Variance**

The Applicant seeks a variance from Section 10.446 of the City of Graham Development Ordinance, in the form of a waiver of the sidewalk requirement being imposed on the Subject Property as a result of the facilities renovations undertaken thereon.

### **III. Variance Criteria**

#### **A. Unnecessary hardship results from strict application of the Ordinance**

To require the Applicant, as part of facility renovations on the Subject Property, to construct sidewalk along the 728-foot frontage of the Subject Property in accordance with the strict application of Section 10.446 of the Ordinance will create an unnecessary hardship to the Applicant by way of creating an unnecessary source of liability for the Applicant and a clear measure of safety risk to couple with whatever minimal utility might be realized from the sidewalk facility. In addition to the new liability and risks borne by the Applicant from a minimally useful and dangerous sidewalk lining its automotive dealership, the Applicant will lose a substantial portion of its property which is used to display for-sale automotive inventory and would be required to bear the full cost for the construction of the sidewalk, which, due to the condition of the Subject Property, would be substantially more expensive than the typical sidewalk that is found on other properties within the Overlay District.

Taken together, the burden that the foregoing challenges create for the Applicant and Subject Property in attempting to comply with the sidewalk requirement of the Ordinance is clearly excessive and undue when viewed in light of the more suitable and reasonable conditions faced by the other parcels in complying with the Overlay District sidewalk requirement.

#### **B. Hardship results from conditions that are peculiar to the Property**

The Subject Property is subject to a number of property-specific conditions which make implementation and compliance with the sidewalk construction requirement of the Overlay District Ordinance extensively more challenging than it is for the other parcels within the Overlay District that do not contend with the same challenging conditions. The hardship-causing factors for the Subject Property include its size, location and topography.

##### **i. Location**

As noted above, the Subject Property faces east onto Auto Park Drive, and is bordered to the north by the Interstate 40/85 Exit 147 off-ramp, to the south by a strip center, and to the west by another automotive dealership property. For a short distance, approximately 130 feet, the Subject Property runs along Main Street. The challenge that location poses to the Subject Property for sidewalk construction purposes is the risk of injury and the Applicant's potential liability due to the volume of traffic and the traffic pattern along Main Street and Auto Park Drive in front of the Subject Property.

For motorists, a lot of maneuvering and decision-making take place in the short section of Main Street in front of the Subject Property. Drivers exiting from the interstate and bearing south off of the exit ramp are led directly into the far-right lane of Main Street, which is actually a right-turn-only lane that funnels directly into Auto Park Drive. Those motorists exiting the interstate that wish to proceed south on Main Street, and not onto Auto Park Drive, must make

the quick decision to immediately merge left from the right-turn-only lane onto Main Street proper before the traffic pattern compels them onto Auto Park Drive. Conversely, those motorists traveling south on Main Street from the direction of downtown Graham who wish to access Auto Park Drive, must judge the interstate-exiting traffic carefully as to whether those vehicles will utilize or entirely cross over the right-turn-only lane before making their own decision. Simply put, the stretch of Main Street in front of the Subject Property is fast-moving with more maneuvering than usual given the obscure traffic pattern.

To further exacerbate the pedestrian risk caused by the traffic pattern, Auto Park Drive abruptly converts from a two-way northeast-southwest running road in front of the Subject Property, where it becomes a one-way, southwest-running road. Without sufficient warning to drivers traveling southeast along Auto Park Drive, the Applicant regularly observes drivers who fail to realize the one-way status of Auto Park Drive until they reach Main Street facing the wrong direction. These issues result in the Applicant having to exercise special care in the operation of its business knowing the issues faced with the unique traffic patterns presented along its boundaries. To introduce a pedestrian element to an already risky traffic scenario would only further subject the Applicant and its agents to unnecessary liability and safety concerns, and would encourage pedestrian use in an area where the more prudent approach would be to discourage it. Moreover, the parcel adjacent to the exit ramp to the north of Interstate 40/85 and along the western margin of Main Street (Taco Bell) and the parcel adjacent to the north (Zaxby's) were not required to construct sidewalk along their Main Street frontage upon development, which we are informed occurred since the Overlay District became effective.

ii. Size

Of the approximately 142 parcels encompassed within the Overlay District and subject to the sidewalk requirement imposed thereby, the size of the Subject Property causes it to contain more road frontage than all but approximately 5 other parcels in the Overlay District. As indicated above, the Subject Property's frontage along Main Street and Auto Park Drive is 728 linear feet, a portion of which along Main Street is topographically challenged. Roughly two-thirds of the Subject Property's street frontage is on Auto Park Drive, and does not serve Main Street—which is the primary subject of the Overlay District. As outlined above, the portion of the Subject Property that front's Main Street is unsuitable for pedestrian use in light of the traffic considerations in that immediate area.

The overwhelming majority of parcels within the Overlay District which are unlike the Subject Property in terms of character and size have much more appropriate conditions to reasonably accommodate the sidewalk requirement. The downtown businesses and other Main Street businesses are made up of B-2-zoned enterprises which have substantially less road frontage and are more likely to generate pedestrian traffic. The Subject Property does not operate in the same character as the other businesses in the Overlay District, as it is a much larger, industrially-zoned property that is heavily reliant on automotive traffic, and is served by a one-way road in Auto Park Drive that practically functions as a public "service drive".

When considered in light of the location and topography of the Subject Property, and the character of the business thereon, the size of the Subject Property and unusual extent of road frontage (compared to other properties in the Overlay District) only increases the already

excessive and burdensome cost of what will be a risk-prone sidewalk facility for both the Applicant and the public.

iii. Topography

The topography of the Subject Property, especially along its frontage of Main Street and the beginning of Auto Park Drive exhibits an aggressively steep pitch from the existing curb on Main Street measuring almost (if not more than) 10-feet in height. At the top of the pitch, the Subject Property is paved and accommodates the display of its for-sale automobile inventory. The Subject Property contends with this aggressive pitch for roughly one-third of its street frontage. In order to construct a sidewalk along the pitched frontage, a substantial amount of earth will have to be cut away from the incline in order to accommodate the six-foot width of the sidewalk, the requisite grass planting between the sidewalk and curb, and room between the sidewalk and the new property line. From there, construction of a retaining wall will be necessary to support the earth where it was cut away to accommodate the sidewalk for the length necessary until the sidewalk evens out with the natural grade of the property along Auto Park Drive.

If one were to drive the length of the Overlay District, there are no other properties therein that have the same topographical challenges as the Subject Property described above. The obvious hardship with the topography is that it increases the cost of construction by multiples. The linear-foot-price for construction of the first one-third of the Subject Property's frontage is 2.3 times more than the linear-foot-price for the remaining relatively flat two-thirds of frontage. This cost does not include the value of the Subject Property that will be required to be taken in order to accommodate the pedestrian right of way.

The exorbitant cost of construction and substantial value of property taken to accommodate the Ordinance-required sidewalk which result from the topographical challenges and size of the Subject Property, combined with the risks and liabilities attendant to a sidewalk in this location makes the hardship faced by the Applicant clearly unnecessary.

Altogether, the foregoing features combine to make the required sidewalk a liability to the Applicant (and safety risk to pedestrians and motorists using and driving along the proposed sidewalk), it would take and alter a substantial amount of the Subject Property to accommodate, and it would cost the Applicant excessively more to construct than would a typical stretch of sidewalk that is found fronting other parcels within the Overlay District. The end result of this unnecessary hardship would be a sidewalk offering minimal utility but laden with safety risks, liabilities and immense costs and loss of property to be borne solely by the Applicant if the Ordinance is strictly enforced.

**C. Hardship does not result from actions taken by the Property Owner**

The hardship faced by the Applicant in this case does not result from its own actions. The Applicant and its related predecessors have owned the Subject Property for almost fifty years, with the Applicant entity having assumed title from its related predecessors in title in 2001. In accordance with the Applicant/Owner's history with the Subject Property, it was long-ago developed for its current use as an automotive dealership.

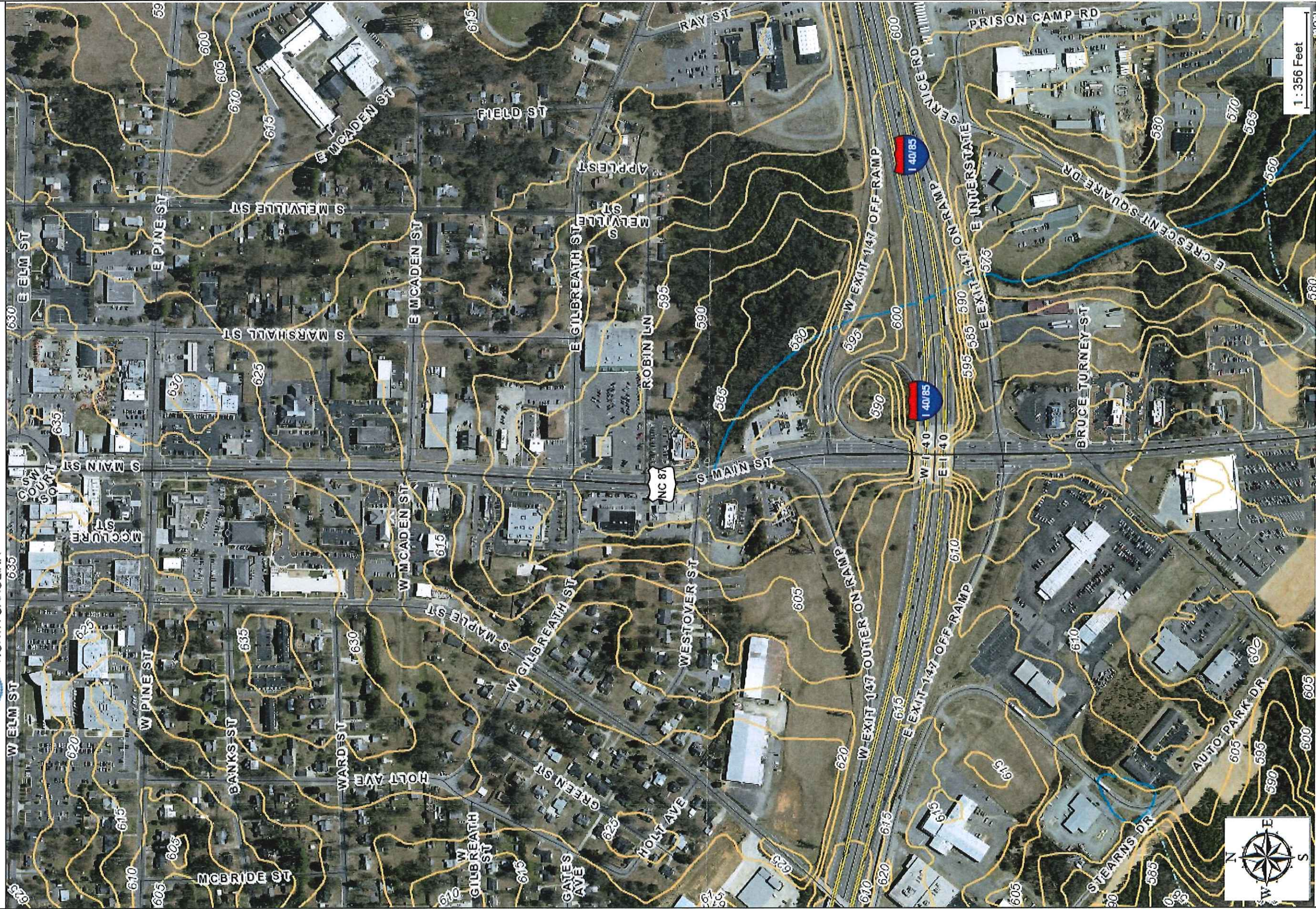


The Overlay District and corresponding sidewalk requirement was enacted in 2008, at which time the Applicant's ownership and Subject Property's use had been well established.

Through the history of the Applicant's and its predecessors in title's ownership and use of the Subject Property as an automotive dealership no alterations have been made to the Subject Property that result in the hardship that the Applicant faces today in constructing a sidewalk under unduly burdensome and expensive circumstances. The character of the Subject Property has remained the same as it was prior to the Applicant's ownership, with the same, geographical, size, and topographical features that it has today.

**D. Variance is consistent with spirit, purpose and intent of the Ordinance such that the safety of the public is secured and substantial justice is achieved**

Omission of the sidewalk from the Subject Property is consistent with the spirit, purpose and intent of the Ordinance where it avoids a certain safety risk that outweighs any utility that the sidewalk would otherwise offer. Moreover, the Applicant's renovations (which triggered the sidewalk requirement) are undertaken in the spirit of the Ordinance with the objective of maintaining a facility that is tasteful, clean, safe and hospitable, as has been the Applicant's aim as a Graham business citizen for the last six decades.



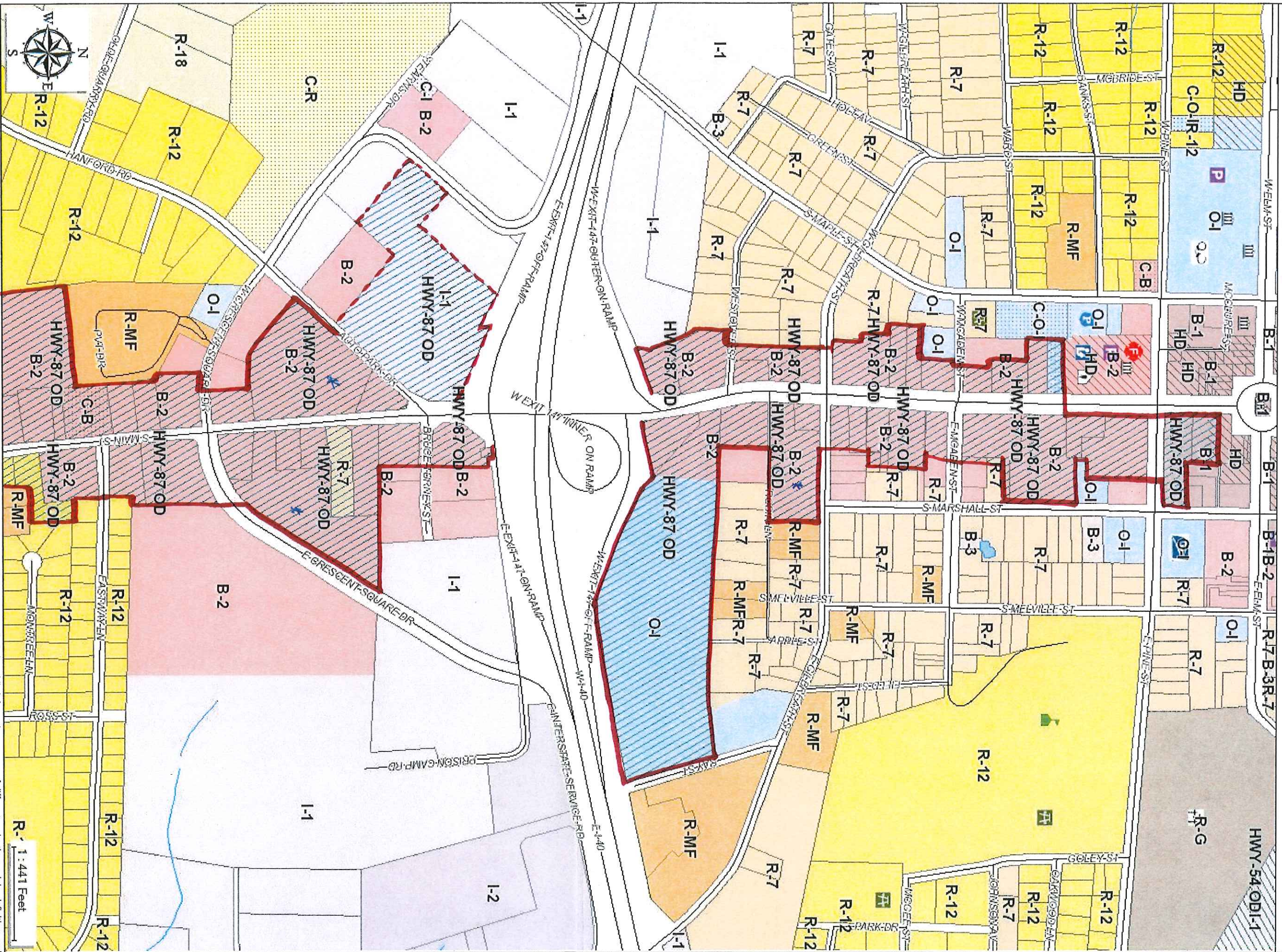
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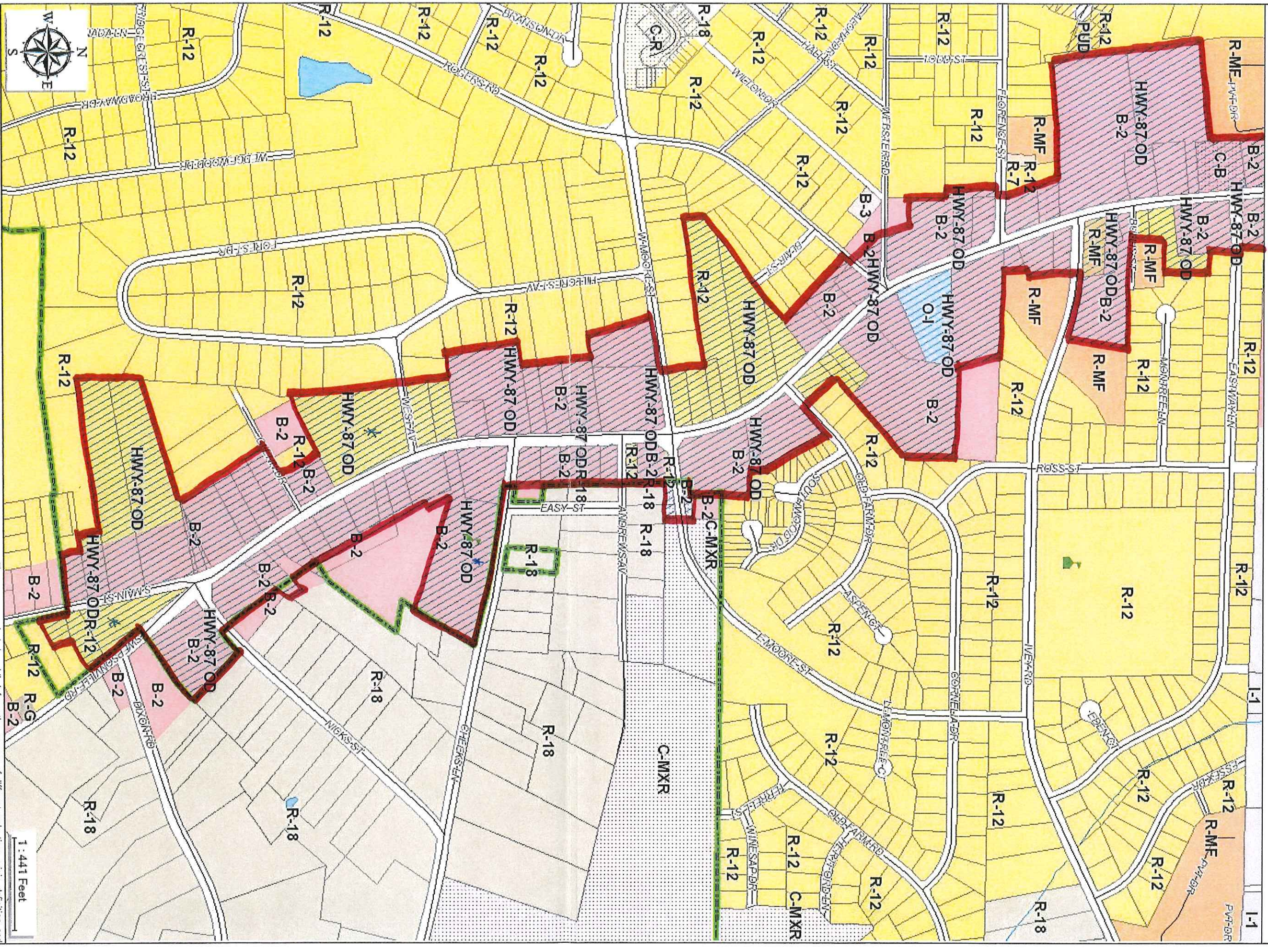
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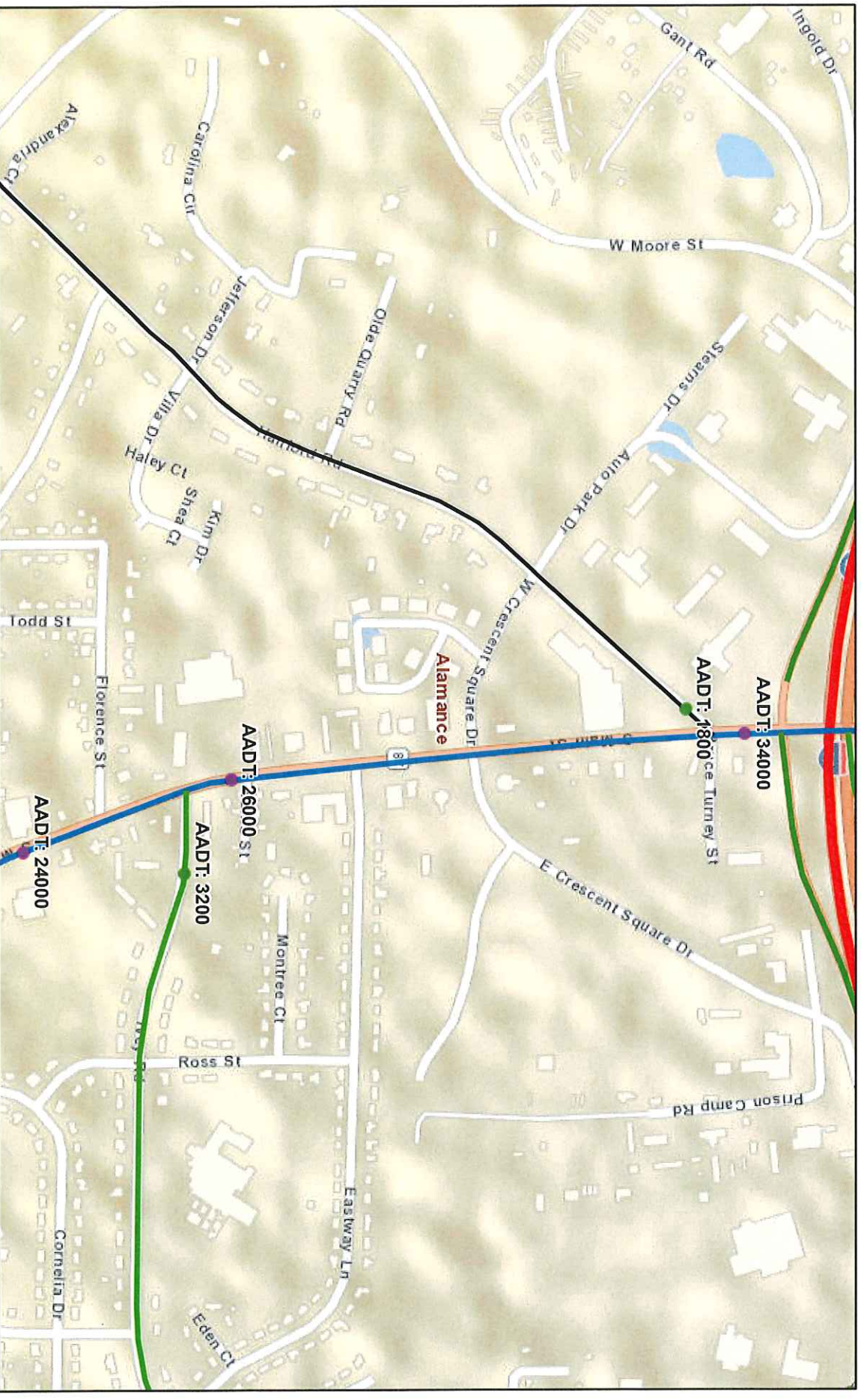


This map was compiled from the GIS resources of the Burlington Regional GIS Partnership for public planning and agency support purposes. These resources include public information sources of different scale, time, origin, definition, and accuracy, which aspects produce inconsistencies among features represented together on this map. The Partnership shall not be held liable for any errors in this map or supporting data. Primary public information sources from which this map was compiled, in conjunction with field surveys where required, must be consulted for the verification of the information contained within this map.



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# NCDOT AADT Station Map

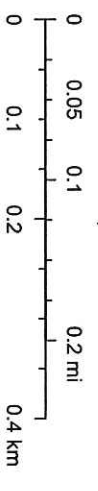


11/5/2018, 4:38:55 PM

NCDOT\_AADT\_Stations NCDOT\_AADT\_Traffic\_Segmentation - NCDOT\_AADT\_Traffic\_Segments\_Secondary\_Non-System

- NC Routes
- Secondary Routes

1:9,028



**Ryan D. Moffitt**

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**From:** Doug Uhler <doug@topconstructioncompany.com>  
**Sent:** Tuesday, October 30, 2018 7:47 AM  
**To:** Ryan D. Moffitt  
**Subject:** RE: retaining wall, sidewalk and curb along property line  
**Attachments:** County Ford, frontage areas.pdf

Ryan, please see the attached for area locations. Following are the anticipated cost, but not confirmed. Once design and engineering are completed final pricing will be established.

Area A: \$38,176  
Area B: \$26,193  
Area C: \$39,035  
Area D: \$16,939

Economies of scale is driving the increase. Call me with any questions.

Doug

**Douglas R. Uhler**  
2404 W. Front Street, Burlington, NC 27215  
P.O. Box 2719, Burlington, NC 27216  
O: 336.585.1307 ext:15  
C: 336.516.1384



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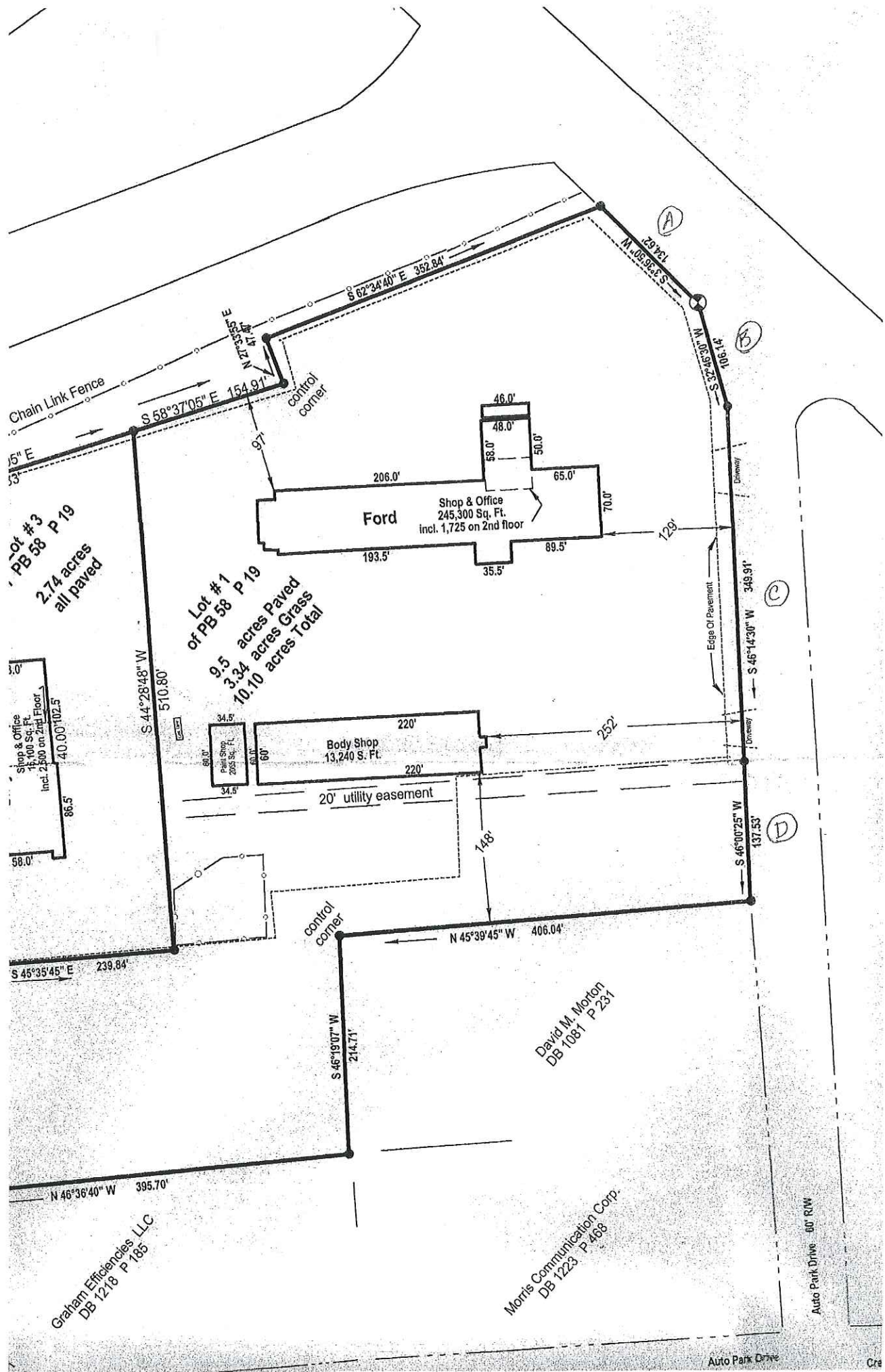
**From:** Ryan D. Moffitt [mailto:[rdm@vernonlaw.com](mailto:rdm@vernonlaw.com)]  
**Sent:** Thursday, October 25, 2018 4:30 PM  
**To:** Doug Uhler  
**Subject:** RE: retaining wall, sidewalk and curb along property line

Doug – Per our conversation, please see the attached plan with segments for estimate indicated. Thanks for your help!

Ryan D. Moffitt  
Attorney  
The Vernon Law Firm, P.A.  
522 S. Lexington Avenue  
P. O. Drawer 2958 (27216)  
Burlington, North Carolina 27215  
Tele: 336-227-8851  
Fax: 336-226-3866  
E-mail: [rdm@vernonlaw.com](mailto:rdm@vernonlaw.com)

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PO Box 468  
Elkin, NC 28621  
(336) 835-6700



6040A Six Forks Road #408  
Raleigh, NC 27609  
(919) 882-2061

## STATEMENT OF OPINION

July 14, 2016

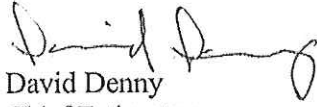
Burger Busters, Inc.  
Mr. Don Baruch  
2242 West Great Neck Road, Suite 201  
Virginia Beach, VA 23451

Re: Sidewalk Installation  
Store #15385  
507 S. Main Street  
Graham, NC 27253

To Whom it May Concern:

It is our opinion that the proposed 642 s.f. of 4" thick concrete sidewalk including ramps at each end can be installed for \$3,000.00.

Thank you,

  
David Denny  
Chief Estimator

**FAST2**  
ROI



## 2018-2019 Business Beautification Grant Program Application

Property Information <small>(Please type or print clearly)</small>	Applicant Information <small>(Please type or print clearly)</small>
Street Address: <u>505 S. Main St</u>	Name: <u>Gooden Valley Market</u>
Tax Parcel ID#: <u>1-1-110</u>	Phone Number: <u>336-263-1111</u>
Owner's Name: <u>David Boyd</u>	Email: <u>goodenvalleymarket@gmail.com</u>
Use of Building: <u>Retail Store</u>	Relationship to Property <small>(check one)</small>
Business Name <small>(if applicable)</small> : _____	Property Owner <input type="checkbox"/> Tenant/Business Owner <input checked="" type="checkbox"/>

### Description of Proposed Improvement

Write a brief description below and attach 1) an existing photo of the project area; 2) a drawing, sketch or picture of the proposed improvement. (Please type or print clearly)

**Total Estimated Cost** (lowest bid quote) \$13,000 *Attach at least two itemized cost estimates from vendors/contractors for proposed work.*

## 2018-2019 Business Beautification Grant Program Application

I  have /  have not received any other grant funding for the proposed improvement listed above.  
If you answered "Have", please state from what source, amount and date of award.

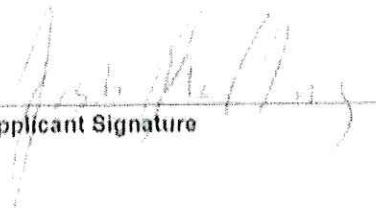
### Checklist for a Complete Application

- I have read the City of Graham *Business Beautification Grant Program* overview and fully understand the agreement
- I have met with the City Building Inspector. My project [does  / does not ] require a building permit.
- The owner's written and signed permission is attached, if applicant is not owner. (Not applicable )
- An existing picture of the project area and a drawing, sketch and/or picture of the proposed improvement are/is attached.
- At least two itemized project cost estimates are attached.
- If located in the Graham Historic District, I have received Certificate of Appropriateness (COA) approval for the work submitted in this application prior to the Appearance Commission meeting in which these grant funds will be awarded (October 15).

I understand that the City of Graham *Business Beautification Grant Program* must be used in the manner described in this application, and the application must be approved by the Graham Appearance Commission prior to commencement of any project.

I understand that failure to comply with the approved application may result in a forfeiture of all grant funds.

I understand that failure to complete the project by May 1, 2019 will result in the forfeiture of all grant funds.

  
Applicant Signature

10/11/18  
Date

## R.N.H. Services Concrete Quote for Josh Reading 5-8-18

Location: Auto Park Dr. and Main St. in Graham beside County Ford Dealership

Contact: Josh Reading

Quote includes all equipment , labor and material.

Scope: Grade, set up and pour 460 linear ft of sidewalk. Side walk to be 5ft. wide and 5 inches thick. Concrete will be 3500psi. Broom finish with expansion joints. Will include one handicap ramp with bumper pad if required.

Estimated project time is 4-5days

**Quote price : \$ 28,700.00**

Any questions call Nathan 336-675-6234

[rnhservices.weebly.com](http://rnhservices.weebly.com)

Thank you for allowing me to quote this for you.



Location: 805 S main St Graham NC

This quote includes all equipment and labor provided to complete job in full.

Work to be done: Grade, set up and pour 460 linear ft of sidewalk. Side walk to be 5ft. wide and 5 inches thick. Concrete will be 3500psi. Broom finish with expansion joints. Will include one handicap ramp and parking space with bumper pad if required.

Estimated project time is 5-6days

Hope we can further serve you by gaining your trust and completing this job for you.

Quote price : \$ 35,000.00

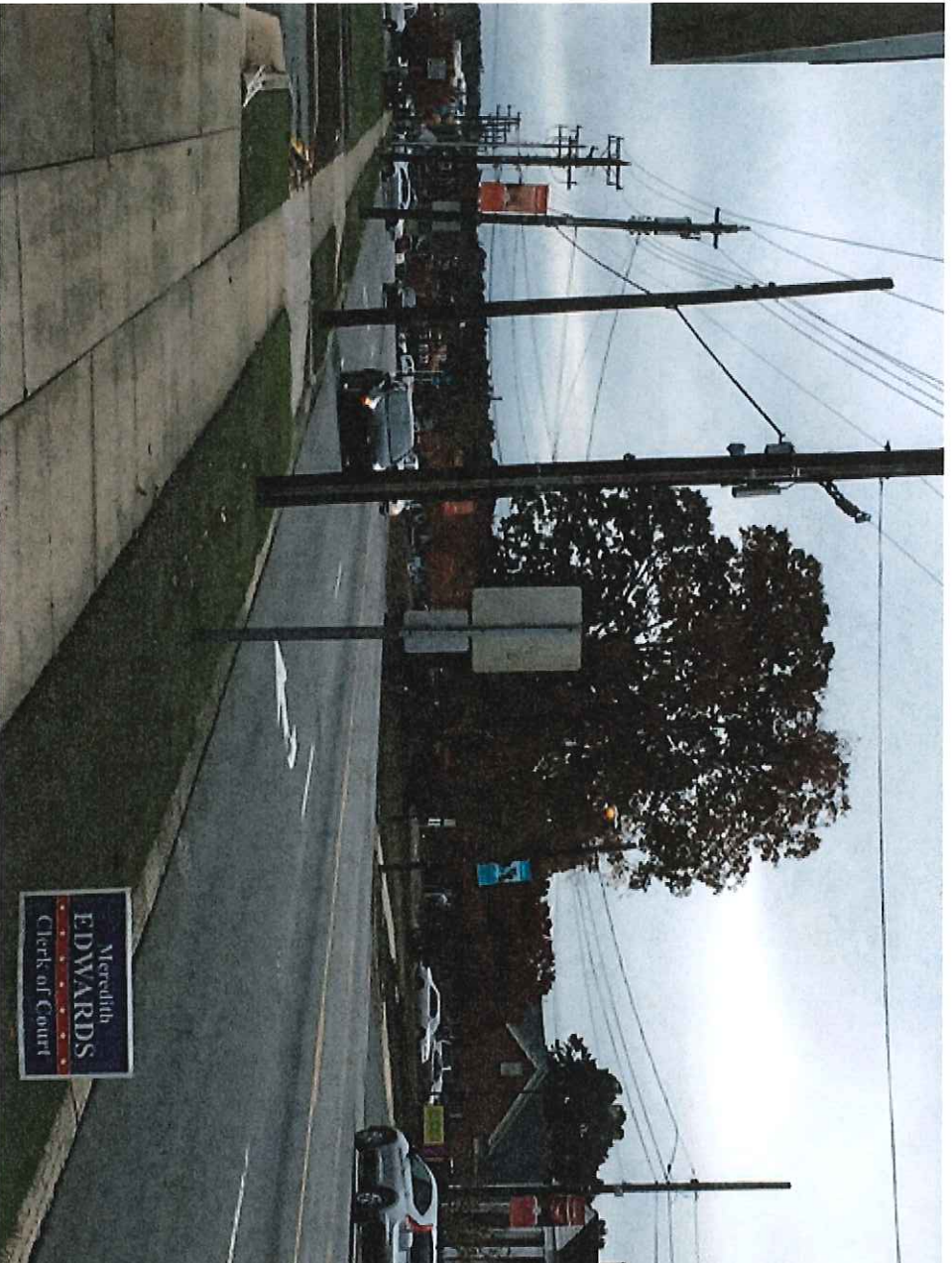


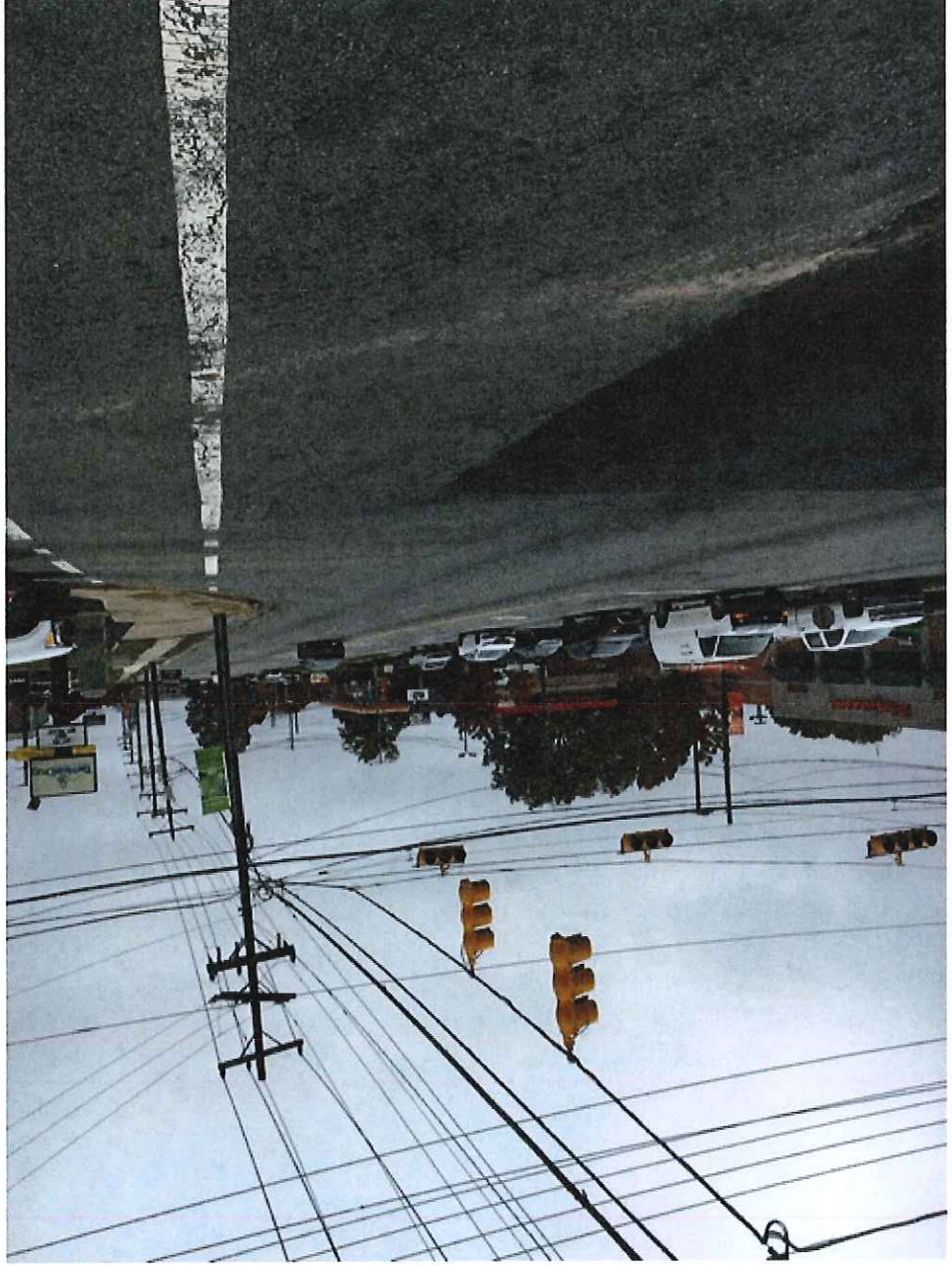
Eastern Shoulder Main St (across City Hall)





E Shoulder Main St (across City Hall) Facing South





Southeast Quad, Main & Gilbreath facing North

Southeast Quad. Main & Gilbreath facing South

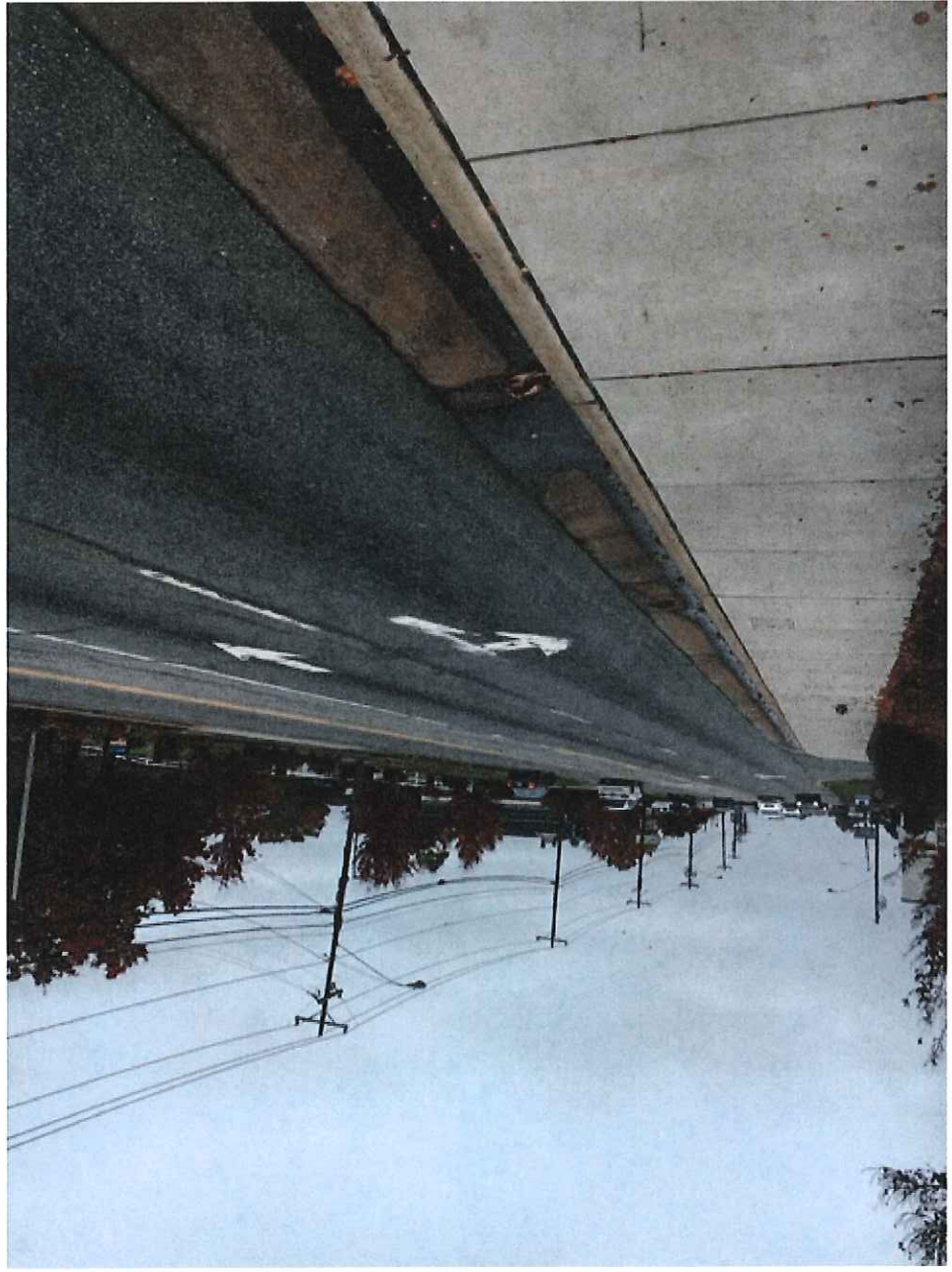


Taco Bell (W. shoulder Main St.) facing North



Taco Bell (W. shoulder Main St.) facing South





Northwest Quad, Main & Crescent facing North

Northwest Quad. Main & Crescent facing South



Southeast Quad Main & Ivey facing North





Facing Subject Property from Main St. North to South

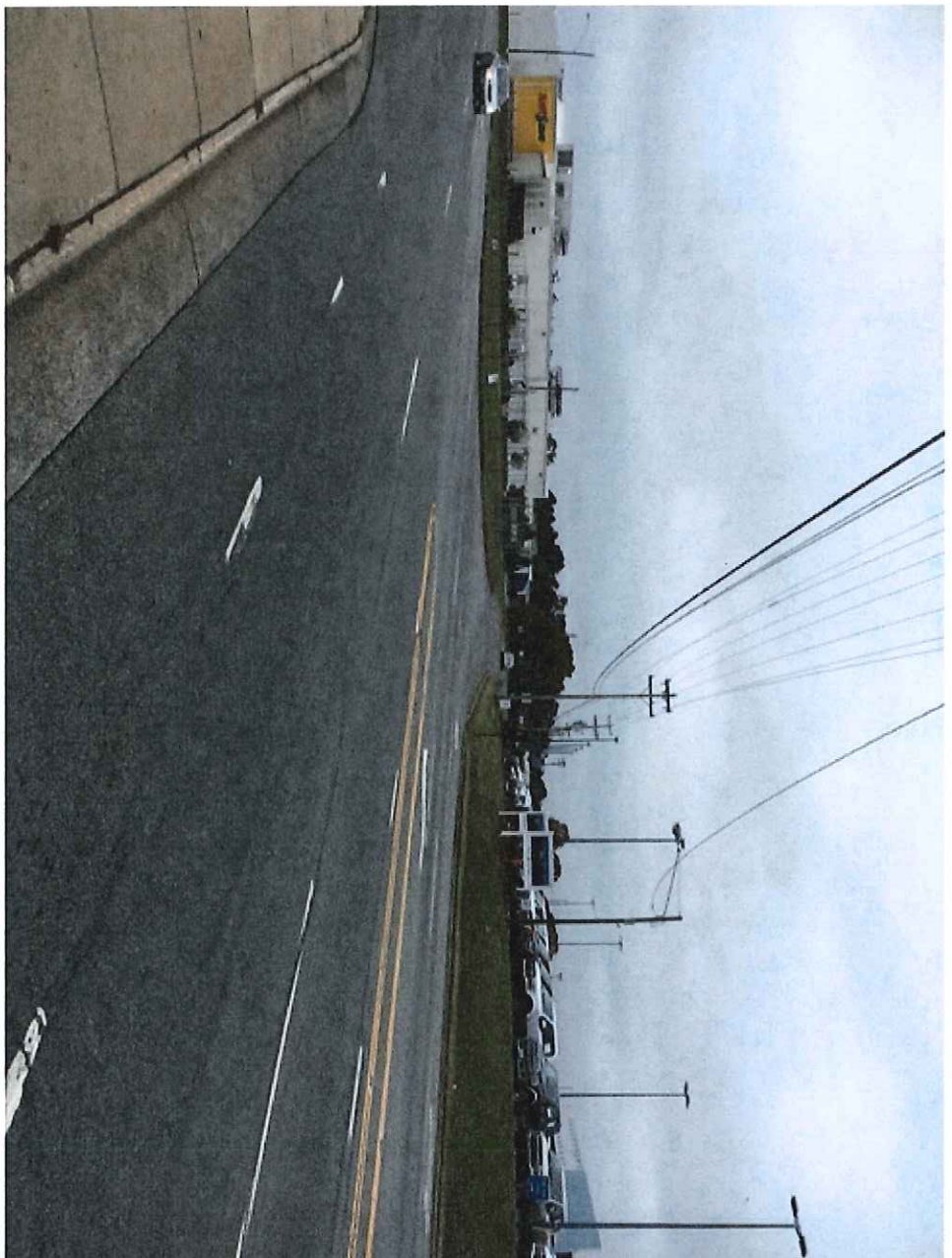


Facing Subject Property from Eastern shoulder Main St.



Facing Subject Property from Eastern shoulder Main St.





Facing Subject Property/Auto Park Drive entrance from E. shoulder Main St.

Facing Subject Property/Auto Park Drive entrance from E. shoulder Main St.



Subject Property Main Street frontage



Subject Property Main Street Frontage



Subject Property Main Street Frontage





Subject Property incline on Main Street frontage.

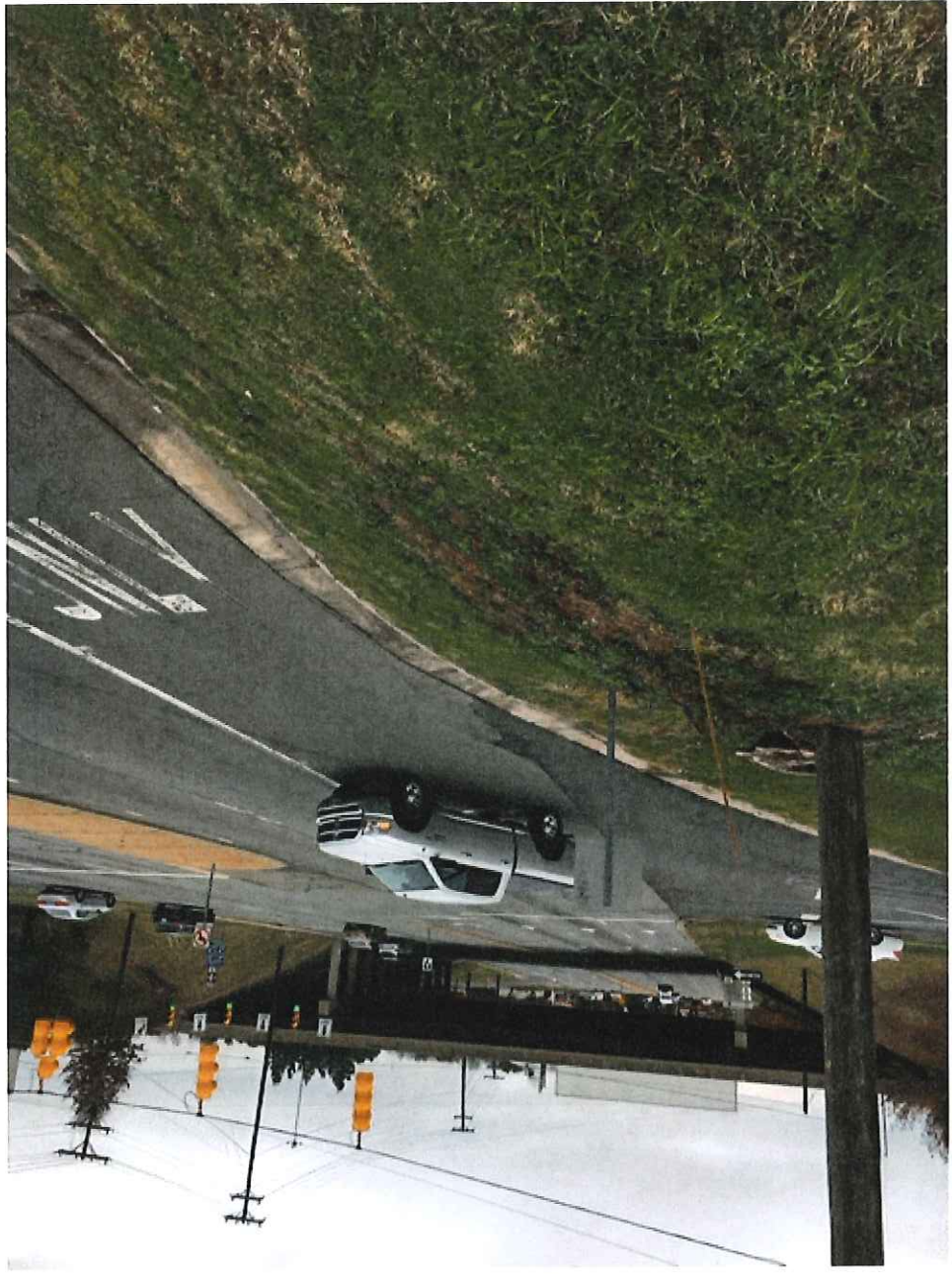


Subject Property Main Street frontage from car lot



Subject Property Main Street Frontage from car lot





Subject Property Main Street frontage from car lot



Subject Property Main Street/Auto Park entrance from car lot

Subject Property Main Street/Auto Park entrance from car lot



Main Street/Auto Park outlet from Auto Park vantage



Auto Park Drive from Subject Property entrance





Good

For Review  
AZ

**City of Graham**  
P.O. Drawer 357  
201 South Main Street  
Graham, North Carolina 27253  
Tel: (336) 570-6700 / Fax: (336) 570-6703

August 3, 2006

Dear mail merge

You are receiving this letter because the City of Graham is proposing to add a Highway Corridor Overlay Zone to properties located along East Harden Street (Highway 54) and South Main Street (Highway 87).

The proposed addition to the *City of Graham Development Ordinances* and to the "Zoning Atlas of the City of Graham, North Carolina" includes:

**Article XI. Highway Corridor Overlay Districts**, which is being proposed to help preserve and enhance the image of Highway 87 and Highway 54, manage growth, and to control the negative impacts of strip development. These overlay districts include building design standards, additional sign regulations, access management, screening and buffering requirements, and a list of prohibited uses. A map is attached showing the 300-plus properties that are adjacent on either side of Highway 87 or Highway 54.

On **August 15, 2006 at 7:30 PM** in the Council Chambers at Graham City Hall, the Graham Planning Board will make a recommendation on the proposed Article XI. Highway Corridor Overlay Districts.

On **September 5, 2006 at 7:30 PM** in the Council Chambers at Graham City Hall, the Graham City Council will hold a Public Hearing to adopt the proposed Article XI. Highway Corridor Overlay Districts.

You are more than welcome to attend both meetings. A copy of the proposed ordinance is available at the Planning and Inspections Department at Graham City Hall.

If you have any questions, please contact me at (336)-570-6705.

Sincerely,

*Michael Leinwand*

**Michael Leinwand**  
Planner

# Zoning restrictions likely on NC 87-54

## 600 notified of hearings on overlay zoning

By **STEPHEN MILLS**  
Staff Writer

Stricter zoning regulations for properties along South Main Street and East Harden Avenue [NC 87 and 54] could be approved by early October, if a proposed ordinance change makes its way through the Graham planning and zoning board and the city council in upcoming meetings.

Six hundred letters were mailed by the city this past week to the affected property owners along the two routes and to the first adjacent property to those.

The South Main Street (NC 87) overlay district will add additional zoning restrictions to 135 parcels.

The East Harden (NC 54) overlay district will apply to 97 parcels.

The notices advise property owners of the meetings set for September 19 [before the planning and zoning board] and October 3 [before the city council] at 7:30 p.m. in the city council chambers at Graham city hall.

The new zoning ordinance is being proposed to "help preserve and enhance the image of highway 87 and highway 54; manage growth, and to control the negative impacts of strip development. These overlay districts include building design standards, additional sign regulations, access management, screening and buffering requirements, and a list of prohibited uses," according to the city's letter dated September 8.

The NC87 and 54 overlay districts have officially been in the making for a considerable time, first proposed in early 2005. The first official draft was reviewed by the planning and zoning board, and a joint meeting of the planning and zoning board and the city council in April was requested by the late Bob Moore, at the time chairman of the planning and zoning board.

Many of the early concepts went through a heavy review and rework to specifically reflect the interpretation of both the board and the council.

All previous reviews and discussions of the proposed ordinance have been at open public meetings with the subject of the review clearly defined. Members of both the planning and zoning board and the city council have participated in the wording and content modifications that have created the official ordinance proposal that will be presented at the upcoming meetings.

The overlay plans are intended as additional restrictions on the two primary highway routes through the growing southern areas to the downtown section.

"These highways have the potential to color how every visitor to Graham views the city," said mayor Jerry Peterman at the April city council meeting.

The new ordinance restrictions would apply to South Main Street from the southern end of the historic district in downtown to the southern city limit.

On East Harden Street, the restrictive zone would start at Pine Street and extend south to the southern extreme of the extra-territorial jurisdiction.

Neither overlay district is intended to apply to single family detached homes on their own lots nor to places of worship.

In addition to the basic restrictions already in place by the current property zoning, these overlay plans propose to prohibit the following additional property uses: adult entertainment, all incinerators, asphalt mixing plants, auto repair facilities with outside storage, bars, campgrounds commercial, flea markets, hazardous waste facilities, jails, junkyards, salvage yards, landfills for demolition debris landfills for household

and commercial waste, manufactured dwelling parks, manufactured home sales, medical waste operations, pawnshops, petroleum and petroleum product storage over 100,00 gallons, racetracks for automobiles or motorcycles, recycling facilities, sexually oriented business, shooting range indoor or outdoor, tattoo business, towers for cellular or digital communications (excluding government use), towers for radio or television.

Building design restrictions proposed in these overlay plans include:

- manufactured, mobile, units except during construction

- all other materials for street facing sides of buildings except masonry, wood, textured vinyl siding, stucco or similar material

- primary colors except those that are low reflective, subtle, neutral or earth tone colors

- accent areas may be brighter
- low sloping roofs without a parapet wall (pitches less than 3/12)

- tinted glass at street level

- glass which is tinted more than factor 35 or which is mirror or reflective

- accessory structures and signage shall be similar design with the primary structure and of like materials

- the use of decorative materials such as fountains, outdoor seating and benches and statues is encouraged

Prohibitions on signage are extensive within these documents. The list of prohibitions includes:

- animated signs, moving signs, flashing signs and changeable copy signs

- portable signs

- projecting or suspended signs

- inflatable signs or tethered balloons

- backlit freestanding signs

- except in knockout backlit sign

- beacons

- roof signs

- flags used as promotional posters

- outdoor advertising signs except adjacent to Interstate 85

- 40 and which face that highway
- Trees along the highway will be restricted by the existing city of Graham development ordinance Article VII, which specifies landscaping requirements.

- Service entrances for shipping and receiving would be required to be oriented away from the street. Buildings would be located so that services are not visible from the street.

- Within the city boundaries sidewalks would be installed by the developers and would require grass between it and the curbs.

- All wiring for utilities including telephone, electrical, cable and related functions would be underground where possible, under the proposal.

- Screening by structures or landscaping shall obstruct the view of solid waste containers and dumpsters, and electrical equipment and heating and air conditioning equipment at ground level and even for similar equipment located on roofs visible to the highway.

- The city's technical review committee within the planning and zoning department, may approve the screening of parking areas by use of earthen berms, masonry walls, or other means, if these overlay districts are approved by adoption of the ordinance.

- Copies of the overlay district ordinance being reviewed at the upcoming planning and zoning board and city council meetings can be obtained during normal work hours at the planning and zoning department front desk on the left side of the main entrance to the Graham city hall.

AFFIDAVIT OF PUBLICATION

THOMAS BONEY, JR., Publisher of

The Alamance News



a newspaper of general circulation, published weekly at Graham, NC, being duly sworn, say that the foregoing and attached notice

NOTICE OF PUBLIC HEARING

in the matter of City Council of the City of Graham, NC will hold a public hearing on Tuesday, October 3, 2006 at 7:30pm to consider the amendments on sections of the City of Graham Development Ordinance and to the Zoning Atlas of the City of Graham, North Carolina appeared in said newspaper TWO issues(weeks consecutively)

beginning with the issue of SEPTEMBER 14, 2006

and ending with the issue of SEPTEMBER 21, 2006

Handwritten signature of Thomas Boney, Jr.

Thomas Boney, Jr., Publisher

Sworn to and subscribed before me,

this the 22TH day of SEPTEMBER, 2006

Handwritten signature of the official.

My commission expires

September 26, 2010

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of the City of Graham, NC will hold a public hearing on Tuesday, October 3, 2006 at 7:30 pm in the Graham Municipal Building, 201 South Main Street, Graham, NC to consider amendments to the following sections of the City of Graham Development Ordinances and to the "Zoning Atlas of the City of Graham, North Carolina":

Article XI. Highway Corridor Overlay Districts, which is being proposed to help preserve and enhance the image of Highway 87 and Highway 54, manage growth, and to control the negative impacts of strip development. These overlay districts include building design standards, additional sign regulations, access management, screening and buffering requirements, and a list of prohibited uses.

A copy of the proposed Development Ordinance revision is available at the City of Graham Planning Department located at 201 South Main Street, Graham, NC for review by any interested parties.

All persons interested in the foregoing items are invited to attend said public hearing.

Michael Leinwand
Planner

Sept. 14, 21.















## Board of Adjustment Resolution of Findings of Fact, Conclusions of Law and Decision

The Board of Adjustment for the City of Graham, North Carolina, having held a public hearing on **November 20, 2018** to consider **case number VR1802**, submitted by **Dale A. Stearns of Burlington** at 711 N Gurney Street, for a **variance from Development Ordinance section 10.446, requiring the construction of a sidewalk**, and having heard all the evidence and arguments presented at the hearings, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS OF LAW:

### FINDINGS OF FACT

*NOTE: These Findings of Fact were prepared by staff and should be modified by the Board as it sees fit.*

1. The property that is the subject of this variance request, 111 Auto Park Drive, is zoned light industrial (I-1) and is within the Highway 87 Overlay District.
2. A site plan was submitted in April of 2018 by Atlantic Design Company for 111 Auto Park Drive, which included a 3,111 square foot expansion. The permits state that this project budget was in excess of \$1 million. At this meeting the applicant was informed with regards to the sidewalk requirement.
3. The applicant agreed to install the sidewalk, or bond the same, prior to the receipt of a Certificate of Occupancy.
4. The Graham City Council, on October 3 of 2006 adopted the Highway 87 Overlay District, including Section 10.446 Sidewalks which states "This section shall apply to future development that is located within the Overlay District. Sidewalks shall be installed by the developer along all abutting streets and built in compliance with the City of Graham Standards and Specifications. A grass planting between the sidewalk and the curb shall be required." All parcels within the Overlay received public notice three ways; via letter dated August 3, 2006, a newspaper article dated September 14, 2006, and a Notice of Public Hearing which ran both September 14 and 21, 2006 (Exhibit A).
5. The City of Graham Development Ordinance in section 10.16 defines Development, Future as "Any human-caused change to improved or unimproved real estate that requires a permit or approval from any agency of the city or county, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations."
6. The City of Graham Pedestrian Plan, adopted November of 2006 included sidewalk on the parcel at 111 Auto Park Drive as the third highest priority.
7. The City of Graham installed sidewalk on the east side of Highway 87 in 2007.
8. Graham has increasingly been prioritizing sidewalks, doubling our sidewalk budget in 2015, as well as requiring most new development to incorporate sidewalks.
9. Graham is requiring new NCDOT automobile projects to consider pedestrian mobility and safety.
10. As part of SPOT 5.0, NCDOT identified the lack of a sidewalk on the west side of Highway 87 as a priority, and subsequently allocated \$430,719.20, with the City of Graham allocating \$107,679.80 for the construction of a sidewalk on the west side of Highway 87 from Gilbreath to Ivey.

11. The City of Graham has constructed, or required a developer to construct, sidewalk in comparable locations, many of which have required the installation of retaining walls (Exhibit B). These include but are not limited to; Wendy's, Cook-Out, D&D Truck and Auto, and McDonald's. Graham has also required sidewalk construction for these other projects within the Highway 87 Overlay District; Walgreens, Bojangles, Popeye's, Graham Park and Ride, AutoZone, O'Reilly's, Quality Plus, Sheetz, the South Graham Medical Center, Dollar General, and Rivermill Academy.
12. The applicant is estimating pricing of \$165/linear foot. Graham's most recent sidewalk on an NCDOT street (E. Elm Street) was \$160/linear foot.
13. The applicant is required to install the sidewalk to City specifications, which would then be adopted into the City's network for maintenance. The City at that time would also accept all liability with regards to pedestrian usage of the infrastructure.
14. NCDOT has stated that project EB-5884, (SPOT ID B140786) was a P 4.0 Project. It was submitted by BGMPO and supported at the division needs level by the division and BGMPO ... this project scored well due to the safety benefit, low cost, and destination types being a municipal center and a minor employment center.

[insert additional Findings of Fact, if any are made]

## CONCLUSIONS OF LAW

*The Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:*

*NOTE: These Conclusions of Law were prepared as a draft by staff and should be modified by the Board as it sees fit.*

1. 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. *The proposed variance does not affect the existing land use, Vehicle Dealer/Rentals (new and used), which is permitted by right in the light industrial district.*
2. 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. *The requested variance does not change the existing land use. If denied, there may be a loss of approximately five parking spaces for the developer.*
3. 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. *The applicant did not provide sufficient evidence to demonstrate a hardship. There are adjacent parcels with similar circumstances; Just Save will require a retaining wall to support their foundation due to their proximity to Highway 87, as well as the retaining wall installed by Wendy's.*
4. 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. *The applicant did not provide sufficient evidence to demonstrate a hardship.*
5. 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. *It is the spirit, purpose and intent of this section to complete a sidewalk network from our downtown along the entirety of the commercial corridor. Granting this variance contradicts this, and reduces safety for pedestrians.*

## DECISION

*In exercising its powers, the Board of Adjustment may grant or deny a variance and may impose any appropriate conditions on the variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance.*

For the above reasons, the Board of Adjustment (Grants/Grants with Conditions/Denies) the variance that is the subject of this application.

Conditions:

1. The applicant provides the City of Graham with a pedestrian easement and a temporary construction easement to permit the future expansion of Graham's sidewalk network as planned with NCDOT project EB-5884.
2. The applicant install sidewalk for their frontage to the south/east on Auto Park Drive.
3. [insert other conditions]

Staff recommends that, the variance be denied on the aforementioned grounds.

The resolution reflects the decision of the Board of Adjustment, made the 20<sup>th</sup> day of November, 2018.

Attest:

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Ricky Hall, Chair

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Debbie Jolly, Secretary