

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, SEPTEMBER 3, 2019
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m. on Tuesday, September 3, 2019, in the Council Chambers of the Municipal Building located at 201 South Main Street.

Council Members Present:

Mayor Pro Tem Lee Kimrey
Council Member Chip Turner
Council Member Griffin McClure
Council Member Melody Wiggins

Also Present:

Frankie Maness, City Manager
Aaron Holland, Assistant City Manager
Darcy Sperry, City Clerk
Bryan Coleman, City Attorney
Nathan Page, Planning Director
Kristy Cole, Assistant Police Chief
Jenni Bost, Zoning Enforcement Officer

Council Member Absent:

Mayor Jerry Peterman

Mayor Pro Tem Lee Kimrey called the meeting to order and presided at 7:00 p.m. Council Member Griffin McClure gave the invocation and everyone stood to recite the Pledge of Allegiance.

Mayor Pro Tem Kimrey asked for consensus to move “Items Not on Tonight’s Agenda” before the “Closed Session” portion of this meeting. Consensus was given.

Consent Agenda:

- a. Approve Minutes – August 6, 2019 Regular Session*
- b. Approve Tax Releases*

CITY OF GRAHAM				
RELEASE ACCOUNTS				
SEPTEMBER				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
29710	2019	SCOGGINS, GARY DEAN	SOLD PROPERTY, RELEASE HOMESTEAD EXEMPTION	209.50
639120	2019	BARKER, THERESA G	QUALIFIED FOR HOMESTEAD EXEMPTION	415.82
661071	2019	SHORT, JOHNNY LEE REVOC TRUST	BUSINESS PP BILLED TO WRONG TAXPAYER	\$170.68
668940	2019	TOMLIN, LILLY O	QUALIFIED FOR HOMESTEAD EXEMPTION	\$501.87
470487	2019	PERRY, EVERETT S. JR	QUALIFIED FOR HOMESTEAD EXEMPTION	\$376.48
667244	2019	HARDIE, JANET L LIFE ESTATE	QUALIFIED FOR HOMESTEAD EXEMPTION	\$201.56
674675	2019	TRAILHEAD CHURCH (P# 134454)	CHURCH EXEMPTION 85% OF PROPERTY	\$1,100.56
674675	2019	TRAILHEAD CHURCH (P# 134731)	PARTIAL CHURCH EXEMPTION-APPLIED LATE	\$65.60
678688	2019	BUCHANAN, SILVIA	QUALIFIED FOR HOMESTEAD EXEMPTION	\$279.56

- c. Approve Request from Graham First United Methodist Church to close East Market Street from 3:00 p.m. – 8:00 p.m. on Sunday, October 27, 2019 for a Community Event, provided the following conditions are met prior to the event::*
 - i. Provide a Certificate of Liability insurance meeting all City requirements (received)*
 - ii. Schedule public safety personnel following the Extra Duty Solutions process*

Mayor Pro Tem Kimrey asked Council Members if they would like to pull any of the items from the Consent Agenda. With no comment forthcoming, he asked to pull item “c”.

Council Member Chip Turner made a motion to approve items “a” and “b” on the Consent Agenda, seconded by Council Member McClure. All voted in favor of the motion.

With respect to item “c”, Mayor Pro Tem Kimrey asked City Manager Frankie Maness to explain the requirement for the Extra Duty Solutions process. Mr. Maness explained this is a program that schedules various personnel for events. The City’s Police Department recently started participating in the program. Assistant Police Chief Kristy Cole stated that the agreement with Extra Duty Solutions takes the scheduling of any extra duty assignment off her department. A brief discussion about when we started using Extra Duty Solutions, cost and billing ensued.

Mayor Pro Tem Kimrey opened the discussion to the floor. Mr. Barry Coe of 214 North Marshall Street Graham stepped forward and asked if there is a price negotiation option available. He also asked if there is an option to have officers from other agencies volunteer their time to a charity event vs. paying Extra Duty Solutions. Assistant Chief Cole advised that one would still have to go through Extra Duty Solutions to make sure of availability and that officers do have the option of donating their pay back to the charity if they so choose.

With no further questions forthcoming, Council Member Wiggins made a motion to approve item “c” on the Consent Agenda, seconded by Council Member Turner. All voted in favor of the motion.

Old Business:

- a. Public Hearing: Petition for Voluntary Contiguous Annexation for a 111.44 acre area off Rogers Road (GPIN 8872986536 & 8873900485) (AN1901):***
 - i. Approve Annexation Ordinance***

Assistant City Manager Aaron Holland explained that this request is to annex in approximately 111 acres off Rogers Road. He added that this property was actually annexed in back in July of 2019 and subsequently Council rescinded that annexation due to a change in ownership of the property. Mr. Holland added that this is the final step in the annexation process.

Mayor Pro Tem Kimrey opened the Public Hearing and with no comments forthcoming, he closed the Public Hearing.

Council Member Wiggins made a motion to approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for an area off Rogers Road, seconded by Council Member McClure. All voted in favor of the motion.

ANNEXATION ORDINANCE
TO EXTEND THE CORPORATE LIMITS
OF THE
CITY OF GRAHAM, NORTH CAROLINA
FOR AN AREA OFF ROGERS ROAD (AN1901)

WHEREAS, the Graham City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the Graham City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 7:00 P.M. on September 3, 2019, after due notice by publication on August 22, 2019; and

WHEREAS, the Graham City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Graham, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of September 30, 2019:

ALL of that certain piece, parcel or tract of land lying and being in the City of Graham, Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

DESCRIPTION IS OF THE DIXIE W. ROGERS ETAL PROPERTY AS RECORDED IN DEED BOOK 550, PAGE 473 OF THE ALAMANCE COUNTY REGISTER OF DEEDS AND BEING PARCEL ID # 130476 TOGETHER WITH A PORTION OF THE SHOFFNER LAND AND TIMBER, LLC PROPERTY AS RECORDED IN DEED BOOK 2512, PAGE 695 OF THE ALAMANCE COUNTY REGISTER OF DEEDS AND BEING PARCEL ID # 131641 AND IS AS FOLLOWS:

BEGINNING AT AN EXISTING IRON PIPE, SAID PIPE HAVING A NC NAD 83 (NSRS2011) COORDINATE OF N:830,321.28, E:1,878,218.84, SAID PIPE ALSO BEING A COMMON CORNER WITH THE JEAN S BONEY REVOCABLE TRUST PROPERTY AS DESCRIBED IN DEED BOOK 2519, PAGE 613; THENCE WITH THE EASTERN LINE OF THE JEAN S BONEY REVOCABLE TRUST PROPERTY

S 64°05'28" E FOR A DISTANCE OF 835.66 FEET TO AN EXISTING 1" PINCH TOP; THENCE CONTINUING WITH THE EASTERN LINE OF THE JEAN S BONEY REVOCABLE TRUST PROPERTY S 64°16'27" E FOR A DISTANCE OF 160.00 FEET TO A CALCULATED POINT IN THE CENTERLINE OF LITTLE ALAMANCE CREEK, SAID POINT BEING A COMMON CORNER WITH THE SHOFFNER LAND AND TIMBER, LLC PROPERTY AS DESCRIBED IN DEED BOOK 2512, PAGE 695; THENCE WITH THE SHOFFNER LAND AND TIMBER, LLC. PROPERTY S 64°16'27" E FOR A DISTANCE OF 335.12 FEET TO A POINT IN THE CENTERLINE OF LITTLE ALAMANCE CREEK; THENCE THE FOLLOWING TWENTYTWO (22) CALLS TO CALCULATED POINTS IN THE CENTERLINE OF LITTLE ALAMANCE CREEK,

- (1) N 55°15'21" E FOR A DISTANCE OF 54.94 FEET; THENCE
- (2) N 85°15'23" E FOR A DISTANCE OF 148.60 FEET; THENCE
- (3) N 40°16'02" E FOR A DISTANCE OF 115.52 FEET; THENCE
- (4) N 18°10'36" W FOR A DISTANCE OF 154.72 FEET; THENCE
- (5) N 12°52'15" W FOR A DISTANCE OF 256.88 FEET; THENCE
- (6) N 34°43'03" E FOR A DISTANCE OF 75.43 FEET; THENCE WITH THE MARTIN L. SHOFFNER PROPERTY AS RECORDED IN DEED BOOK 3440, PAGE 381,
- (7) S 81°45'47" E FOR A DISTANCE OF 169.58 FEET; THENCE
- (8) S 84°04'09" E FOR A DISTANCE OF 263.67 FEET; THENCE
- (9) S 80°26'01" E FOR A DISTANCE OF 114.19 FEET; THENCE
- (10) S 66°47'27" E FOR A DISTANCE OF 190.33 FEET; THENCE

- (11) S 37°41'56" E FOR A DISTANCE OF 209.62 FEET; THENCE
- (12) S 08°21'10" E FOR A DISTANCE OF 86.52 FEET; THENCE
- (13) S 04°35'47" W FOR A DISTANCE OF 50.86 FEET; THENCE
- (14) S 43°49'02" W FOR A DISTANCE OF 38.22 FEET; THENCE
- (15) S 82°19'35" W FOR A DISTANCE OF 146.52 FEET; THENCE
- (16) S 60°50'31" W FOR A DISTANCE OF 268.25 FEET; THENCE
- (17) S 05°47'09" W FOR A DISTANCE OF 8.69 FEET; THENCE
- (18) S 05°47'09" W FOR A DISTANCE OF 38.96 FEET; THENCE
- (19) S 33°53'21" E FOR A DISTANCE OF 143.51 FEET; THENCE
- (20) S 88°11'32" E FOR A DISTANCE OF 134.20 FEET; THENCE
- (21) S 38°14'39" E FOR A DISTANCE OF 142.86 FEET; THENCE
- (22) S 49°11'57" E FOR A DISTANCE OF 191.62 FEET;

THENCE LEAVING THE CENTERLINE OF LITTLE ALAMANCE CREEK ALONG THE SOUTHERN LINE OF THE FOUST FAMILY PROPERTIES, LLC PROPERTY AS DESCRIBED IN DEED BOOK 3520, PAGE 846 S 01°38'44" W FOR A DISTANCE OF 629.73 FEET TO AN EXISTING 1 ½" IRON PIPE, SAID PIPE BEING A COMMON CORNER WITH THE ETHEL C. ROGERS HEIRS PROPERTY AS DESCRIBED IN DEED BOOK 205, PAGE 536; THENCE WITH THE ETHEL C. ROGERS HEIRS PROPERTY THE FOLLOWING FOUR (4) CALLS,

- (1) N 88°54'32" W FOR A DISTANCE OF 131.76 FEET TO AN EXISTING 1 ½" IRON PIPE; THENCE
- (2) S 10°42'15" E FOR A DISTANCE OF 1838.49 FEET TO AN EXISTING ¾" IRON REBAR; THENCE
- (3) S 39°16'16" E FOR A DISTANCE OF 199.48 FEET TO AN EXISTING ½" IRON REBAR; THENCE
- (4) S 39°16'16" E FOR A DISTANCE OF 10.00 FEET TO A CALCULATED POINT ON THE TOP OF BANK OF BIG ALAMANCE CREEK;

THENCE WITH THE TOP OF BANK OF BIG ALAMANCE CREEK THE FOLLOWING SIX (6) CALLS TO CALCULATED POINTS ON THE TOP OF BANK

- (1) S 55°03'43" W FOR A DISTANCE OF 69.03 FEET; THENCE
- (2) S 79°57'14" W FOR A DISTANCE OF 67.12 FEET; THENCE
- (3) N 88°04'58" W FOR A DISTANCE OF 81.66 FEET; THENCE
- (4) S 87°26'28" W FOR A DISTANCE OF 98.46 FEET; THENCE
- (5) N 86°14'49" W FOR A DISTANCE OF 136.25 FEET; THENCE
- (6) S 75°45'24" W FOR A DISTANCE OF 103.48 FEET;

THENCE LEAVING THE TOP OF BANK OF BIG ALAMANCE CREEK ALONG THE EASTERN LINE OF THE FORKS OF ALAMANCE SUBDIVISION PROPERTY AS SHOWN ON PLAT BOOK 78, PAGE 426/427 THE FOLLOWING SEVEN (7) CALLS,

- (1) N 29°16'44" W FOR A DISTANCE OF 167.91 FEET TO A ¾" EXISTING IRON REBAR; THENCE
- (2) N 29°16'44" W FOR A DISTANCE OF 1029.54 FEET TO A ¾" EXISTING IRON REBAR; THENCE
- (3) S 76°47'52" W FOR A DISTANCE OF 400.34 FEET TO A ½" EXISTING IRON REBAR; THENCE
- (4) S 76°47'52" W FOR A DISTANCE OF 260.10 FEET TO A 1" EXISTING IRON PIPE; THENCE
- (5) N 03°19'45" W FOR A DISTANCE OF 664.75 FEET TO A ½" EXISTING IRON REBAR; THENCE
- (6) N 03°19'45" W FOR A DISTANCE OF 654.40 FEET TO AN EXISTING STONE; THENCE
- (7) N 51°51'11" W FOR A DISTANCE OF 726.37 FEET TO A ½" EXISTING IRON REBAR,

SAID REBAR BEING A COMMON CORNER WITH THE CECIL AND KRISTI EAKES PROPERTY AS DESCRIBED IN DEED BOOK 2728, PAGE 926; THENCE WITH THE EAKES PROPERTY THE FOLLOWING TWO (2) CALLS,

- (1) N 04°08'29" E FOR A DISTANCE OF 76.80 FEET TO AN IRON REBAR SET; THENCE
- (2) N 85°50'09" W FOR A DISTANCE OF 199.96 FEET TO A ¾" EXISTING IRON PIPE,

SAID IRON PIPE BEING IN THE EASTERN RIGHT OF WAY OF ROGERS ROAD, STATE ROAD # 2309; THENCE WITH THE RIGHT OF WAY OF ROGERS ROAD THE FOLLOWING FOUR (4) CALLS

- (1) ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2896.77 FEET AND A CHORD BEARING AND DISTANCE OF N 01°20'00" E FOR A DISTANCE OF 250.87 FEET TO AN IRON REBAR SET; THENCE
- (2) N 01°19'11" W FOR A DISTANCE OF 238.26 FEET TO AN IRON REBAR SET; THENCE
- (3) N 02°09'46" W FOR A DISTANCE OF 374.54 FEET TO AN IRON REBAR SET; THENCE
- (4) N 00°14'45" W FOR A DISTANCE OF 76.39 FEET TO AN IRON REBAR SET;

THENCE LEAVING THE RIGHT OF WAY OF ROGERS ROAD ALONG THE SOUTHERN PROPERTY LINE OF THE JEAN S BONEY REVOCABLE TRUST PROPERTY AS DESCRIBED IN DEED BOOK 2519, PAGE 613 THE FOLLOWING,

S 64°05'28" E FOR A DISTANCE OF 5.36 FEET TO THE POINT AND PLACE OF BEGINNING AND CONTAINING 111.439 ACRES MORE OR LESS AS SHOWN ON A SURVEY PLAT BY GREEN MOUNTAIN ENGINEERING AND BEING GME PROJECT NUMBER 17-096.

Section 2. Upon and after September 30, 2019, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Graham and shall be entitled to the same privileges and benefits as other parts of the City of Graham. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Graham shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory described in Section 1 above, together with a duly certified copy of this Ordinance. Such a map shall also be delivered to the Alamance County Board of Elections, as required by G.S. 163-288.1.

Adopted this, the 3rd day of September, 2019.

b. Mutual Aid Memorandum of Understanding with Alamance County for Alamance County Detention Center Evacuation

i. Approve Memorandum of Understanding

Mr. Maness explained that at the last meeting, Council and staff discussed this mutual aid agreement with the County. Since the last meeting, staff has had the opportunity to sit with representatives from the Sheriff's Department and County Emergency Management. He stated that while there are other agreements with other entities for the use of the Center, he was reassured that the City of Graham makes all final decisions on who uses our Recreation Center.

Council Members and staff briefly discussed the agreement before Captain Sykes with the Alamance County Sheriff's Office joined the discussion. Captain Sykes advised that his department has an emergency response plan in place. Due to the confidential nature of this plan, he was not at liberty to discuss the details with Council. He did offer that most of the time, they would be looking to evacuate the jail for a structure fire or bomb threat and not during a natural disaster event. He assured Council Members that security would be at the highest level if inmates had to be housed at the Recreation Center for any length of time. Captain Sykes stated that to date, they have never had to evacuate the jail.

Mr. Eric Crissman of 208 Albright Avenue Graham stepped forward and asked if in the event of a mass arrest, would the Center be used. Captain Sykes answered no.

With no further questions forthcoming, Council Member McClure made a motion to Authorize the City Manager to execute a Mutual Aid Memorandum of Understanding with Alamance County for Alamance County Detention Center Evacuation with the addition of an exit clause. Council Member Wiggins seconded the motion and all voted in favor of the motion.

c. Boards & Commissions Task Force Update

Council Member Wiggins provided Council with an update of what the Task Force has been working on to date. She advised that the group has been working on making language in the Code of Ordinances and Development Ordinances similar for all boards and commissions. She anticipates that this should be done within the next couple of months and recommendations will be reviewed by the City Attorney's before being presented to Council.

Requests and Petitions from Citizens:

a. Encroachment License Agreement Request by Paul Crofts to extend the front façade at 135 South Main Street

Mr. Holland explained that this request is to allow the City Manager and City Attorney to enter into an encroachment agreement with Mr. Paul Crofts. According to the letter submitted, this request is to extend the front façade by one foot from the existing front wall. Mr. Holland added that City staff has met with Mr. Crofts at the location and he has been informed that approval from NCDOT will also be required. The Historic Resources Commission granted a Certificate of Appropriateness for this property at their August 13, 2019 meeting.

Council Members and staff briefly discussed the encroachment process in general and the role that NCDOT plays in the process. City Attorney Bryan Coleman advised that the City has the authority to ask for an encroachment to be removed. With no further discussion forthcoming, Mayor Pro Tem Kimrey opened the discussion to the floor.

Mr. Crotts stepped forward and explained that he was making this request because of marketing requirements by La-Z-Boy, whom he sells product for.

Mr. Chuck Talley of 808 Sideview Street Graham stepped forward and stated that he believes City approval sends a strong message to NCDOT.

With no further comments forthcoming, Council Member Wiggins made a motion to authorize the City Manager and City Attorney to enter into an encroachment license agreement with Paul Crotts to extend the front façade at 135 S. Main Street as identified by the submitted photos with the following condition(s):

- Provide proof and maintenance of \$1,000,000 in liability insurance with the City as additional insured
- Provide a final survey to confirm approved use of public space
- Improvements under the Encroachment License must be made prior to the expiration of the building permit

Council Member Turner seconded the motion and all voted in favor of the motion.

Recommendations from Planning Board:

a. Public Hearing: RZ1902 Roll Ward Street. Application by Jensen Roll to rezone approximately 0.25 acres from R-12 to R-7 (GPIN 8884130286)

Planning Director Nathan Page explained that this property is surrounded by residential properties and across the street from the rear of the Children's Museum. This request is to rezone the property to R-7. He added that the stated reason for the rezoning is "Current zoning is larger than the existing lot and I would like to decrease setbacks." The property appears to be under the required 12,000 square feet for the R-12 zoning. Mr. Page advised that both staff and the Planning Board recommend approval.

Following a brief discussion between Council Members and staff, Mayor Pro Tem Kimrey opened the Public Hearing.

Mr. Roll of 414 South Maple Street Graham stepped forward and explained that this request is to bring this property into compliance and offer more flexibility with the property.

With no further comments forthcoming, Council Member McClure made a motion that the application be approved, the application is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reason: This is in accordance with Strategies 4.3.1 and 5.2.1. Council Member Wiggins seconded the motion and all voted in favor of the motion.

b. Public Hearing: RZ1903 Albany Street Duplex. Application by Cheaper Homes LLC to rezone approximately 0.25 acres from B-2 to R-7 (GPIN 8874850468)

Mr. Page explained that this property is surrounded by commercial properties. This request is to rezone the property to R-7. He added that the stated reason for the rezoning is “Use lot for 2 single homes.” The property appears to be under the required 11,000 square feet for two single family homes within the B-2 zoning.

Council Members and staff briefly discussed whether or not this request is compliant with The Graham 2035 Comprehensive Plan, as well as, the recommended denial by both the staff and the Planning Board. Council Member discussed spot zoning. With no further discussion forthcoming, Mayor Pro Tem Kimrey opened the Public Hearing.

Mr. David Kudron of Cheaper Homes LLC stepped forward to address Council. He passed out pictures of the existing dwellings on the property and he stated that his plan is to build two single family homes if this rezoning is approved. He stated that he believes the dwellings will sit there and deteriorate if this request is not approved. Mayor Pro Tem Kimrey expressed concern with the effect on the surrounding B-2 properties should this request be approved.

Mr. Norman Thomas of 4205 Alloway Place Fayetteville stepped forward to address Council. He stated this property belonged to his uncle and had been occupied until June 2017. He expressed concern that the reason for denial by the Planning Board was because the applicant was not present at that meeting. Mr. Thomas, the executor of his uncle’s estate, stated that he believes rezoning this property would improve the appearance of the property and add tax value to the City. Mayor Pro Tem Kimrey advised that when there are questions by the Planning Board and the applicant is not present, denial may be justified. With no further comments forthcoming, Mayor Pro Tem Kimrey closed the Public Hearing.

Mayor Pro Tem Kimrey made a motion that the application be denied, the application is not fully consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: In accordance with Policy 2.2.1 and Strategy 4.3.1, this rezoning will restrict the development potential of this lot, as well as negatively impact an adjacent lot. Council Member Wiggins seconded the motion. Council Member McClure stated that he would like to see this matter tabled, to allow time to further research spot zoning. Following another brief discussion by Council Members, Council Members voted on the motion on motion made. Ayes: Mayor Pro Tem Kimrey and Council Member Wiggins. Nays: Council Member Turner and Council Member McClure. Motion failed.

Council Member McClure made a motion to table this item, seconded by Council Member Turner. Ayes: Council Member McClure and Council Member Turner. Nays: Mayor Pro Tem Kimrey and Council Member Wiggins. Motion failed. Mr. Coleman advised that with no favorable motion, the request died.

c. Public Hearing: AM1903 Banquet Hall. Application by Aneesa Glines for a text amendment to permit banquet halls with the business and industrial districts

Mr. Page explained that this request is to permit banquet halls within the light industrial zoning districts. Staff looked at the use “banquet hall” and added a recommended definition, as well as, included business parcels, all of the conditional parcels and the office & institutional parcels to the recommendation to amend the Table of Permitted Uses.

Following a brief discussion between Council and staff regarding the B-3 zoning district, Mayor Pro Tem Kimrey opened the Public Hearing.

Mrs. Aneesa Glines of 205 West Harden Street stepped forward to address Council. Mrs. Glines informed Council that she is a wedding planner who recently purchased the property at 205 West Harden Street. She presented a PowerPoint presentation depicting “inspirational photos” for a proposed wedding and event venue.

Council Member McClure asked why the request was to amend our Development Ordinance and not for a Special Use Permit. Mr. Page advised that a Special Use Permit is requested when something might be considered injurious to adjacent neighboring property. After discussing this request with the applicant, it was determined that it might be easier for the applicant to go this route and be able to speak directly to the Council and staff at all stages, versus going the quasi-judicial route. Mayor Pro Tem Kimrey asked the applicant if she was going to leave the industrial look of the building, to which Mrs. Glines replied yes.

Mrs. Jennifer Talley of 808 Sideview Street Graham stepped forward and expressed concern for the lack of off street parking for this property.

With no further comments forthcoming, Council Member McClure made a motion that the text amendment be approved, the text amendment is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: The 2035 Plan, in Strategy 1.2.3, 2.1.5, and Policy 2.3.1 recommends increasing tourism opportunities within the downtown area of Graham. Council Member Wiggins seconded the motion. Mayor Pro Tem made a motion to amend the motion to eliminate the B-3 zoning district, seconded by Council Member Wiggins. All voted in favor of the amended motion.

d. Public Hearing: SUP1902 Moore St Townhomes. Application by Brad Deaton for a Special Use Permit for 61 townhomes (GPIN 8883460674, 8883364585, 8883367692) Item tabled by Planning Board 8/20/19

Mayor Pro Tem Kimrey advised that the Planning Board tabled this item and it was suggested that Council not open the Quasi-Judicial Public Hearing and take on evidence. Upon the direction by Mr. Coleman, Mayor Pro Tem Kimrey asked for a vote to not open the Public Hearing and wait for a recommendation from Planning Board. All voted in favor.

Downtown Small Area Plan Update:

Mayor Pro Tem Kimrey asked Mr. Coleman to read a prepared statement about Financial Conflict of Interest. Mr. Coleman read the following statement:

Financial Conflict of Interest

“I am going to start my response by reading, in part, NCGS 160A-75 entitled VOTING- “No member shall be excused from voting except upon matters involving the consideration of the member’s own financial interest...” This statute demonstrates a strong public policy for council members to vote. If there is a clear financial impact, positively or negatively, that would influence the council member’s vote, the council member may consider requesting the Council to recuse them.

Any financial impact is not the standard for determining whether a council member should be excused from voting. In each case, it will depend on the particular set of facts. We have received some guidance regarding financial conflicts of interest from the School of Government. It states as follows:

"Number of People Affected The range of financial impact on board members can be thought of as a continuum based on the extent to which the effect is unique to the board member, on one end of the spectrum, or experienced by many or most citizens, on the other end. If the effect on the board member is the same as the effect on a significant number of citizens, then it is fair to allow the individual to vote. The board member is affected as part of a larger group of citizens, and the vote can serve to represent that group. This is perhaps the most important factor. Even a significant financial effect may not be disqualifying if it is one that is universally or widely experienced by citizens in the jurisdiction."

Again, with the statute and the information from the School of Government read together, it is clear that public policy is intended to allow a member to vote if at all possible."

Mayor Pro Tem Kimrey polled the Council for any conflicts of interest in this matter. Council Member McClure disclosed that he does have financial implications involved with the loading zones, which would directly affect his business and the need to offsite warehouse. He added that he felt that if Council works through the plan and consider the suggestions he would recommend, he would demonstrate impartiality. He added that the financial implications would be nominal to his business. By consensus, Council voted that Council Member McClure would not have to be recused.

Mr. Tom Boney of the Alamance News stepped forward and hand delivered a letter to each Council Member, Mr. Maness, Mr. Coleman and City Clerk Darcy Sperry. The letter was a request to have City Attorneys consult with the State Ethics Commission to examine whether certain City Council Members who own property or operate businesses in the downtown area have a conflict of interest in voting on various aspects of the Downtown Plan. Mayor Pro Tem Kimrey advised that Council had attempted to do due diligence by reaching out to the North Carolina School of Government and legal counsel.

Mr. Page explained that the City contracted with Toole Design Group to make recommendations for a Downtown Plan. The most significant portion of the proposed plan is to provide us with an understanding of the needs surrounding our critical infrastructure that includes a sequential approach to improvement that balances all of the pertinent issues to our city. If approved by the City, the plan shall be binding to NCDOT.

Mr. Chris Lambka of Toole Design Group stepped forward to address Council. Mr. Lambka presented Council with a PowerPoint slide presentation outlining their proposed Downtown Master plan. The presentation included the purpose of the plan, the meaningful engagement process, the recommendations provided in the plan, as well as implementation strategies and a phasing schedule. Mr. Lambka advised that this proposed plan was to provide a future path forward for the City, but does not lock the City into the guiding document that it is.

Council Member McClure expressed concern with the proposed roundabout on South Main Street and asked what load of traffic takes a single lane to a multilane roundabout. Mr. Lambka stated that the NCHRP 672 was used as a guiding document. He stated that the intent is to encourage motorists to take advantage of alternate routes to navigate through the downtown area. He stated that future studies may have to be done, but preliminary studies say that a single lane roundabout will hold the capacity needed for the roadway. Council Member McClure asked about a recent NCDOT document regarding cost sharing with the complete street programs and what might be considered pedestrian facilities.

Mr. Page stated that a pedestrian facility might be a shared use path which is included in the plan or all facilities which pedestrians need to use. Concerning cost sharing, Council Member McClure asked if NCDOT would still recognize an adopted plan if Council were to amend it after adoption. Mr. Lambka advised that NCDOT would have to be consulted. Council Member McClure inquired as to where we are in the contract process. Mr. Lambka advised that Toole Design Group has stated from the beginning that they want to be here for the City, not only now, but into the future as well. He added that with the current contract with the City, they are nearing the end with producing a plan. Mr. Lambka stated that this plan is a guiding document that creates a vision and tries to move the City forward. He added that this plan can be amended and changed as the City moves forward into design.

Council Member Turner also inquired about the roundabout proposed for South Main Street, asking what the chances are for NCDOT to actually put one there. Mr. Lambka advised that they have had multiple meetings with NCDOT experts and they were excited about this plan. He added that roundabout's are safer than traditional intersections. Council Member Turner expressed concern with possibly bottlenecking traffic on South Main Street. Mr. Lambka advised that Toole Design Group will have to perform more studies on that, but the preliminary traffic study done says it will work. Council Member Turner expressed concern with Council voting on something that still needs more studies. Mr. Lambka advised that those studies will get more into the weeds of design versus a plan to guide the future. Council Member Turner and Mr. Lambka briefly spoke about valley curb versus tradition curb.

Mayor Pro Tem Kimrey asked Mr. Lambka to explain why all of this is happening. Mr. Lambka referred to the City's aging infrastructure in the downtown area and the benefit of upgrading infrastructure while the asphalt is already open. He also spoke of the benefit of getting a plan adopted so that the City has some control of how NCDOT will come through and resurface roadways. Mr. Lambka pointed to the overall need for safety in the downtown area as well. Mayor Pro Tem Kimrey pointed out that without a plan, the City cannot get in front of the NCDOT repaving and cannot put in water and sewer improvements, which are slated as short-term capital improvements. Mayor Pro Tem Kimrey expressed concern with the cost to taxpayers if we do not have a plan and in 2-3 years have to go in and rip up roadway to make water and sewer improvements. Mayor Pro Tem Kimrey pointed out that the City has had a roundabout in place for years at Court Square. Mr. Lambka stated that Court Square could be considered a glorified roundabout, but it is actually referred to in the industry as a traffic circle. Mayor Pro Tem Kimrey asked if the intent of the proposed roundabout at McAden Street is to divert those vehicles who do not wish to come downtown. Mr. Lambka advised that is the case. Mayor Pro Tem Kimrey and Mr. Lambka briefly spoke of the possibility of creating more parking between McAden Street and Pine Street, as well as, from Pine Street to Court Square with the installation of roundabouts. Mayor Pro Tem Kimrey reminded everyone that this is not an engineered plan, but rather a conceptual one and asked Mr. Lambka about the next phase should this plan be adopted. Mr. Lambka advised that the City continue conversations with NCDOT and encouraged the City to conduct catalyst projects, such as temporarily restriping Court Square and setting up a pocket park in Court Square. He suggested the pocket park be set up for at least 30 days in an effort to gather Court Square activity. Mayor Pro Tem Kimrey and Mr. Lambka briefly discussed engineering and NCDOT's requirements for parking. Mayor Pro Tem Kimrey and Mr. Page briefly talked about public engagement questionnaires that show safety as a high priority with those who wish to travel, walk and shop in our downtown area. Mayor Pro Tem Kimrey talked about the complete streets concept being a statewide initiative for NCDOT.

With no further comments forthcoming, Mayor Pro Tem Kimrey opened the discussion to the floor. The following individuals stepped forward to address the Downtown Master Plan with Council Members:

Roger Ausley – 300 S. Main St. Graham	Rachel Rogers – Sam Lee Rd. Graham
Molly Fudell – 103 N. Main St. Graham	Janee' Farrar – 114 E. Harden St. Graham
Nate Perry – 201 S. Maple St. Graham	Jordan Conklin – 626 Johnson Ave. Graham
Eric Crissman – 208 Albright Ave. Graham	Jason Cox – 200 N. Main St. Graham
A.O. Carmichael – 314 S. Marshall St. Graham	Tony Holt – 327 E. Elm St. Graham
James Gullede – 3078 Cullens Dr. Graham	Chuck Talley – 808 Sideview St. Graham
Travers Webb – Harden St. Graham	Scott Pickard – 101 Southwood Ct. Graham
Ahmet Cloggy – 115 N. Main St. Graham	Jennifer Talley – 808 Sideview St. Graham
Jeff Leimberger – 213 N. Melville St. Graham	Nicki Smith – 402 S. Maple St. Graham
Bonnie Hutchinson-213 N. Melville St. Graham	Marcy Green – 133 E. Davis St. Burlington
Ann Meletzke – Healthy Alamance	Jan Searls – 526 E. Pine St. Graham
Cary Worthy – 110 Albright Ave. Graham	Elaine Murrin – 1213 Raspberry Run Graham
Gail Miller – 425 Wildwood Dr. Graham	Adam Miller – 921 Hanford Rd. Graham
Paul Harden – 16 NE Ct. Square Graham	Jose Lagunas – 120 S. Main St. Graham
Fred Sternberg – 38 SE Ct. Square Graham	Darlene Morgan – Ct. Square Graham
Jack Williams (no address provided)	Jensen Roll - 414 S. Maple St. Graham
Mark Blalock – 4408 Mt. Hermon Church Rd. Graham	Paul Crotts – 135 S. Main St. Graham

Mrs. Talley presented a petition to Mr. Maness.

Mayor Pro Tem Kimrey made a motion that we adopt the Downtown Master Plan as a guide to plan for the future of the Downtown in the City of Graham with the following conditions:

- This plan highly recommends keeping pull in parking on west and east elm st where possible
- This plan highly recommends maintaining non-restrictive loading zones as close to current as possible
- This plan highly recommends the most yield of 40 angle pull in spaces around the exterior of Court Square while exploring interior parking options also
- This plan eliminate the idea of a splash park around the courthouse
- This idea recommend the fire suppression riser system during water upgrades in the downtown.

Council Member Wiggins seconded the motion.

Mayor Pro Tem Kimrey stated that this plan is a moving target but we need to get in front of NCDOT paving. The recommendations in his motion calls for a net increase in parking. Council Member McClure stated that this plan needs changes made and would like to see a work session before adoption. Council Member Wiggins expressed concern that people may not understand what a conceptual plan is. She stated that we cannot do anything until a plan is adopted. She stated that this plan is merely conceptual and does not have details. She encouraged people to continue talking and stated that this Council is working to better this community. Council Member McClure expressed concern that once adopted, we do not have a mechanism in place to make changes. Council Member

Wiggins stated that we have to take the first step. She added there are some things in this plan she likes, and some things she does not like.

Council Member Turner stated that he agrees with Council Member McClure. He expressed concern with roundabouts, trees and parking around Court Square. He would like to see a work session as well. Council Member Turner is concerned with a plan that makes changes that never get done.

Ayes: Mayor Pro Tem Kimrey and Council Member Wiggins. Nays: Council Member McClure and Council Member Turner. Motion failed 2:2.

Council Member McClure made a motion to table the decision in adopting this plan and ask the City Clerk to work on scheduling a work session before the next meeting, seconded by Council Member Turner.

Council Member McClure stated that he cannot see the logic with being hasty in adopting this plan. He wants to get this plan the best Council can get it before adopting it. He stated that he wants a plan Council can pass.

Ayes: Council Member McClure and Council Member Turner. Nays: Mayor Pro Tem Kimrey and Council Member Wiggins. Motion failed 2:2.

Mayor Pro Tem Kimrey called for a five minute recess. Following the recess, Mayor Pro Tem Kimrey reconvened the regular meeting.

Code of Ordinances:

a. First Reading: Approve Ordinance amendment to CHAPTER 18- STEETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE IV- EXCAVATION PERMIT of the Code of Ordinances to amend the requirements and permitting process for excavation in the City Right-of-Way

Mr. Holland explained that the City currently has a process described in the Code of Ordinances that requires a permit for anyone wanting to make any opening in any street or sidewalk. This has proven to be insufficient due to utility work being performed not necessarily within the street or sidewalk, but along these areas within the right-of-way. This has created issues with our Public Works and Utilities departments by not being properly informed of work being done and ultimately causing conflicts in the field delaying projects or damaging City infrastructure. Staff has researched communities to evaluate language that would require a permit for any work within the City right-of-way as well as create an application that would be sufficient for the work performed. Staff recommends approval.

Council Member Turner and Mayor Pro Tem Kimrey expressed some concern with the proposed language in this request. Council Member Turner asked about the possibility of requiring an encroachment for repair agreement and provide an indemnity bond. Mr. Holland stated it would be hard to do a blanket encroachment agreement. Mayor Pro Tem Kimrey expressed concern that the proposed language doesn't clearly state what triggers the permit process.

Mr. Talley of 808 Sideview Street Graham stepped forward and asked where in the City is this geared towards. Mr. Maness replied within the corporate limits. He asked if people could not just call 811. Mr. Maness explained that the City is not always notified when someone is digging in the City's right-of-way and this is an attempt to avoid those situations. Mr. Holland advised that our current ordinance references an application, which we currently do not have.

With no further discussion forthcoming, Mayor Pro Tem Kimrey made a motion to table this matter until we can better define language that clears up concerns brought forth, seconded by Council Member McClure. All voted in favor of the motion.

b. First Reading: Approve Ordinance amendment to CHAPTER 12- OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III- NUISANCES of the Code of Ordinances to delete requirement of the City to store removed junk debris for seven days

Mr. Holland explained that this request was to make a small change to an ordinance we already have in our Code of Ordinances concerning junk debris. After evaluating the current language, City staff is recommending amending Sec. 12-71 (1) which references the abatement of nuisances by removal of junk debris. The requested amendment is to delete an antiquated requirement of the City to store removed items for seven days. Mr. Holland added that this will allow for a more effective abatement process of junk debris removal from properties refusing to comply by allowing the option for the City to dispose of junk nuisances more expeditiously.

Council Members and staff briefly discussed how often we hold junk debris. Mr. Holland stated he is unaware of that happening during his tenure with the City. Zoning Enforcement Officer Jenni Bost stepped forward and addressed Council. She stated that the reason for this ordinance change is for those who do not show any desire to remove debris and/or clean up their property. Mr. Holland advised that issuing fines/citations is not cleaning up properties. Mayor Pro Tem Kimrey asked Mr. Coleman about the legal ramifications of disposing of personal property. Mr. Coleman advised that the City is within its right to do so, provided ample notification is given.

Mr. Pickard stepped forward and stated he is in support of staff's recommendation.

Mr. Dean Ward of 1143 Challenge Drive Graham stepped forward and stated that he believes there is a North Carolina General Statute requiring the holding of personal property.

Mrs. Talley stepped forward and expressed concern with the mailing of notices regarding junk debris. She stated that she does not believe landlords should be held responsible for what their tenants throw out. Mr. Holland advised that what Mrs. Talley is referring to is handled in a different part of the Code of Ordinances.

With no further comments forthcoming, Mayor Pro Tem Kimrey made a motion to table this item, seconded by Council Member Turner. Mayor Pro Tem Kimrey expressed concern from a legal standpoint and would like further research done. Council Member McClure agreed. All voted in favor of the motion.

Issues Not on Tonight's Agenda:

Mr. Ron James stepped forward and expressed concern with the possibility of allowing someone from outside the City of Graham to serve on a City of Graham Board or Commission. Council Member Wiggins advised that there are several current boards and commissions that allow for non-residents of the City to serve.

Mr. Boney stepped forward and expressed concern with a recent public records request he made. He stated that he believes he was not given everything he asked for. Mr. Maness advised that all information had been turned over to Mr. Boney.

Closed Session:

At 11:36 p.m., Mayor Pro Tem Kimrey made a motion to go into Closed Session Pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (5): to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property located at 125 North Main Street (Parcel: 145867) owned by Forrest James Wrenn III, Trustee of the Forrest James Wrenn III Irrevocable Trust for one or more of the following public purposes: Historic Preservation, Transportation and/or Culture and Recreation. Council Member Wiggins seconded the motion and all voted in favor of the motion.

At 12:07 a.m. on September 4, 2019, Mayor Pro Tem Kimrey made a motion to close the Closed Session and reconvene the Regular Session. Council Member McClure seconded the motion and all voted in favor of the motion.

Mr. Maness advised that Council has directed him to follow through with the potential acquisition of this parcel.

At 12:09 a.m., Council Member Wiggins made a motion to adjourn, seconded by Council Member McClure. All voted in favor of the motion.

Darcy Sperry, City Clerk