

Meeting called to order by the Mayor  
Invocation and Pledge of Allegiance

**1. Consent Agenda:**

- a. Approve Minutes – October 1, 2019 Regular Session
- b. Approve Minutes – October 22, 2019 Special Session
- c. Approve Tax Releases & Refunds
- d. Authorize the City Manager, City Attorney and City Clerk to enter into an agreement on behalf of the City with First Baptist Church of Graham for public parking
- e. Approve Resolution Authorizing Lease Agreement with Alamance Arts for property located at 213 S. Main Street Pursuant to G.S. 160A-272
- f. Approve request from Downtown Development Coordinator Mary Faucette to close the 100 block of West Elm Street from 9:00 a.m.-7:00 p.m. on Saturday, March 21, 2020 for the third annual Love Graham Event
- g. Approve Resolution Declaring Surplus and Authorizing Sale and Upset Bid Process for 0.077 Acre Property (GPIN 8883361185) on E. Moore Street
- h. Approve request by the Alamance County Veterans Organization to close the 100 & 200 block of East Elm Street from 7:00 a.m.-8:00 p.m. on Saturday, November 9, 2019 for a Veterans Day Parade/Festival with the following conditions:
  - Certificate of Liability with the City's requirements
  - Extra Duty Solutions schedule (Received 10/31/19)

**2. Old Business:**

- a. Quasi-judicial 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 10/15/19**
- b. Downtown Master Plan

**3. Requests & Petitions from Citizens:**

- a. Encroachment License Agreement request by John Zheng for property located at 139 West Elm Street

**4. Recommendations from Planning Board:**

- a. Public Hearing: CR1902 Albany Business. Application by J. Norman Thomas for a rezoning to permit duplexes and a small office space on a parcel located at 109 Albany Street (GPIN 8874850468)
- b. Public Hearing: SUP1903 Cherry Charter School. Application by SH Alamance LLC for a Special Use Permit for an Elementary School located on Cherry Lane (GPIN 8894906303)  
**Request withdrawn by applicant 10/15/19**
- c. Public Hearing: AM1905 Residential Rear Setbacks. Application by Rocky Long for an amendment to Residential Rear Setbacks, to reduce the setback requirement

**5. First Reading of an Ordinance of the City Council of the City of Graham, Amending Various Sections Related to Boards and Commissions of the Code of Ordinances of the City of Graham, North Carolina**

**6. First Reading of an Ordinance of the City Council of the City of Graham, Amending CHAPTER 13- UTILITIES, ARTICLE II- CONNECTIONS of the Code of Ordinances to add language to establish a Cross Connection and Backflow Prevention Program**

**7. Issues Not on Tonight's Agenda**

**CITY OF GRAHAM  
REGULAR SESSION  
TUESDAY, OCTOBER 1, 2019  
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m. on Tuesday, October 1, 2019, in the Council Chambers of the Municipal Building located at 201 South Main Street.

**Council Members Present:**

Mayor Jerry Peterman  
Mayor Pro Tem Lee Kimrey  
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  
Mary Faucette, Downtown Development Coordinator

**Council Member Absent:**

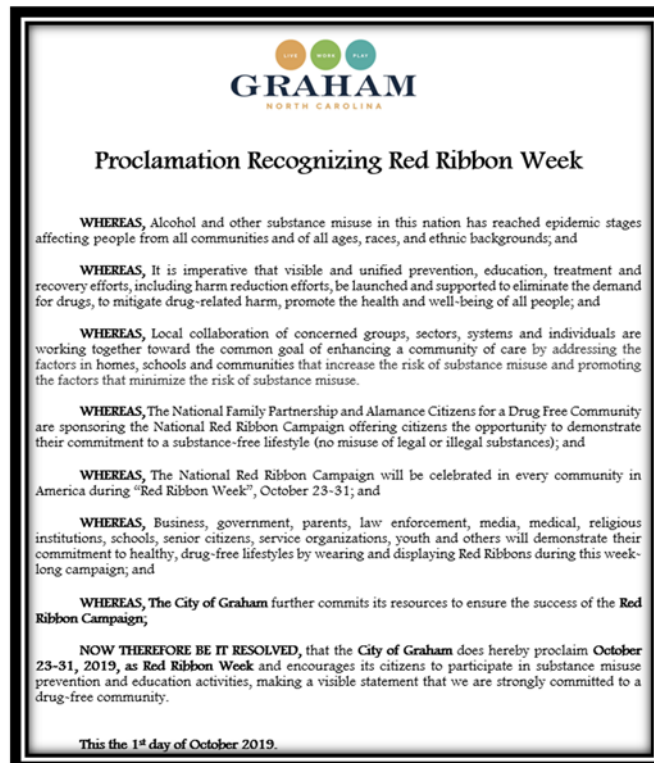
Council Member Chip Turner

Mayor Jerry Peterman called the meeting to order and presided at 7:00 p.m. Former Council Member Jim Albright gave the invocation and everyone stood to recite the Pledge of Allegiance.

**Honorary Proclamation:**

➤ *Red Ribbon Week*

Mr. Albright gave a brief history of the Red Ribbon Campaign and introduced Graham High School Teacher P.J. Michaelson. Mr. Michaelson introduced student body president Genesis Wilkins, senior class president Emmanuel Sanchez and sophomore class president Ismael Castillo. The students took turns reading the proclamation and handed out red ribbons to members of the Council.



**Consent Agenda:**

- a. Approve Minutes – September 3, 2019 Regular Session***
- b. Approve Minutes – September 18, 2019 Special Session***
- c. Approve Resolution Declaring Intent to Lease City-Owned Surplus Real Property Located at 213 S. Main Street Pursuant to G.S. 160A-272***

**RESOLUTION DECLARING INTENT TO LEASE CITY-OWNED SURPLUS REAL PROPERTY LOCATED AT 213 S. MAIN STREET PURSUANT TO G.S. 160A-272.**

WHEREAS, the City of Graham owns a certain piece of real property located at 213 S. Main Street, commonly referred to as the Captain White House; and

WHEREAS, the City deems the property surplus for the purposes of its own utilization and has previously entered into a lease with Alamance Arts; and

WHEREAS, North Carolina General Statute § 160A-272 authorizes that any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine; and

**THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT:**

1. The property will not be needed by the City for the term of the proposed lease; and
2. The City Council intends to authorize the lease at its next regular meeting on November 5, 2019; and
3. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

Adopted this 1<sup>st</sup> day of October, 2019.

- d. Approve Request by Alamance Arts for the closure of two (2) parking spaces immediately south of the Alamance County Historic Court House from October 18, 2019 through March 31, 2020 for the Embracing Peace sculpture display***
- e. Approve Resolution Authorizing Conveyance of 20 Self Contained Breathing Apparatus (SCBA) Air Packs and 58 Self Contained Breathing Apparatus (SCBA) Bottles to the Graham High School Fire Program Pursuant to G.S. 160A-274***

**RESOLUTION AUTHORIZING CONVEYANCE OF 20 SELF CONTAINED BREATHING APPARATUS (SCBA) AIR PACKS AND 20 SELF CONTAINED BREATHING APPARATUS (SCBA) BOTTLES TO GRAHAM HIGH SCHOOL FIRE PROGRAM PURSUANT TO G.S. 160A-274**

WHEREAS, the City of Graham owns 20 Self Contained Breathing Apparatus Air Packs (Inventory Control # 1450, 1451, 1452, 1453, 1454, 1455, and 1456) and 58 Self Contained Breathing Apparatus Bottles (Inventory Control # 1311, 1323, and 1352)

WHEREAS, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and

WHEREAS, the City of Graham has determined that it is in the best interest of the City to convey 20 Self Contained Breathing Apparatus Air Packs and 58 Self Contained Breathing Apparatus Bottles to the Graham High School Fire Program, and deems it wise to do so for no consideration.

**THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT:**

1. The City of Graham hereby conveys to the Alamance-Burlington School System, Graham High School Fire Program the following property: 20 Self Contained Breathing Apparatus Air packs (Inventory Control #: 1450, 1451, 1452, 1453, 1454, 1455, and 1456) and 58 Self Contained Breathing Apparatus Bottles (Inventory Control #: 1311, 1323, and 1352), subject to agreement that the aforementioned property not be used or conveyed for the purposes of firefighting activities immediately dangerous to life and health (IDLH).
2. The property herein described shall be conveyed for no consideration.
3. The City Manager, Finance Officer and City Clerk are authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.

Adopted this 1st day of October 2019.

Mayor Pro Tem Lee Kimrey made a motion to approve the Consent Agenda, seconded by Council Member Melody Wiggins. All voted in favor of the motion.

## **Old Business:**

### ***a. Downtown Master Plan***

Mayor Peterman informed everyone that he would be asking for a consensus from Council concerning the proposed Downtown Master Plan. He eluded to some of the same similarities and challenges we have today with what the City faced 40 years ago, when DOT last paved. Mayor Peterman stated that we gained a map of infrastructure placement and time from DOT from hiring consultants to provide us with this proposed Plan.

Mayor Peterman asked Council for consensus that we end discussion of the Downtown Small Area Plan, only make changes to the downtown for: (1) fire and pedestrian safety, (2) infrastructure needs, (3) ADA needs, (4) DOT regulations.

Mayor Pro Tem Kimrey stated he was pleased that we were able to get water and sewer improvements approved ahead of DOT paving. He added that he feels like we have accomplished the most important goal and will save the taxpayers money. He stated he is in favor of leaving this Plan tabled and moving forward.

Council Member McClure asked for clarity between Mayor Peterman's consensus and leaving this Plan tabled. Mayor Peterman advised that his request be for consensus that Council will look at what he proposed versus adoption of a Plan. Council Member McClure stated that he is not in favor of that. He added there are too many valuable things in this Plan that links us with our progress with DOT, and saves us money. Council Member McClure is not in support of putting this Plan on a shelf, never to be looked at again.

Council Member Wiggins stated that she is not in favor of wasting taxpayer money by putting this Plan on a shelf, but is in favor of doing water and sewer improvements. She expressed concern with a consensus vote not being legally binding. She is in favor of tabling this Plan.

Following a brief discussion between Council Members, Council Member McClure made a motion to hold an advertised work session at 1:00 p.m. on October 22, 2019 to further discuss the Downtown Master Plan, seconded by Council Member Wiggins. All voted in favor of the motion.

### ***b. Quasi-judicial Public Hearing: SUP1902 Moore St Townhomes. Application by Brad Deaton for a Special Use Permit for 61 townhomes (GPIN 8883460674, 8883364585, 8883367692)***

Planning Director Nathan Page advised that the Planning Board had tabled this item at the applicant's request. He advised that the Planning Board recommended no action be taken at this meeting. Mayor Peterman made a motion to table this item for one month, seconded by Council Member Griffin McClure. All voted in favor of the motion.

### ***c. Second 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***

Assistant City Manager Aaron Holland reminded Council that this item was brought before them last month. As requested, staff reviewed General Statutes and case laws as they pertain to junk removal for better clarity. It was determined that there are not any laws requiring a hold on junk debris prior to removal from private property. After evaluating the current and proposed language from the first reading, City staff is recommending amending Sec. 12-71 (1) which references the abatement of nuisances by removal of junk debris with additional changes to Sec. 12-71 (2-C) recommended by the City attorneys. The requested amendment is to delete an antiquated requirement of the City to store removed items for seven days but instead provide a hold of property on the subject property for 10 days. This compromise removes the responsibility of the City to store items offsite while providing additional time to the property owner to comply.

Council Members and staff briefly discussed how the proposed change in language would actually make this a first reading and the importance of documenting debris that is considered to be within the 10-day hold period. Mr. Holland informed Council of the supermajority vote stipulations pertaining to a first reading vote. He also spoke of plans for multiple visits to a property in violation with pictures to be taken each visit.

Council Member Melody Wiggins made a motion to approve the Ordinance amendment to CHAPTER 12- OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III- NUISANCES of the Code of Ordinances to amend requirement of the City to store removed junk debris, seconded by Mayor Pro Tem Kimrey. All voted in favor of the motion. Motion received the supermajority required to pass on the first reading.

### **Recommendations from Planning Board:**

***a. Public Hearing: AM1904 Boutique Shops. Application by Janet Ecklebarger to define Boutique Shops and make them use by right in Neighborhood Business (B-3)***

Planning Director Nathan Page explained that Ms. Janet Ecklebarger has applied for an amendment to our Development Ordinance to clarify Boutique Shops and to permit them as use by right in Neighborhood Business zones. He added that the Planning Board recommended approval with a 2,000 square foot maximum.

Following a brief discussion about calculating square footage and the size of lots in the B-3 zoning district, Mayor Peterman opened the Public Hearing.

Ms. Ecklebarger of 604 Washington Street Graham stepped forward and encouraged Council to approve her request. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Mayor Pro Tem Kimrey made a motion that the text amendment be approved with a 3,500 square foot maximum, the text amendment is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: The 2035 Plan, in Strategy 2.1.5 and 2.3.1, as well as Policy 2.1.6 and 2.3.2, recommends increasing small business opportunities within Graham. Council Member McClure seconded the motion and all voted in favor of the motion.



***b. Public Hearing: CR1901 S Main Townhomes. Application by Villane Inc. for 32 townhomes. GPIN 8882397172***

Mr. Page explained that this is a request to rezone the subject property from Conditional Rezoning to Conditional Rezoning. Originally, the rezoning permitted 32 townhomes with a private street. The proposed rezoning has 32 townhomes with a proposed public street. If rezoned, the property will also have to comply with the updated stormwater regulations. Mr. Page added that the property is currently vacant.

Council Members and staff discussed construction for private and public roads, the sewer easement at the back of the property, topography issues with this property and egress options for the property. Following this brief discussion, Mayor Peterman opened the Public Hearing.

Mr. Tom Boney of the Alamance News stepped forward and asked if the property would have to be brought into the City limits. Mr. Maness told him that it does not have to, but it is likely that it will. Mr. Maness listed several factors that determine whether or not the City would bring the property into the City limits. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Following another brief discussion between Council Members and staff, Council Member McClure made a motion that the application be approved, the application is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: For applicable Policy 3.3.2, 5.1.1 and 4.3.1. Mayor Pro Tem Kimrey seconded the motion and all voted in favor of the motion.

***c. Public Hearing: RZ1904 S Main Windsor. Application by David Michaels, Windsor Investments for rezoning from R-18 to R-9. GPIN 8883100157, and part of 8883312515, 8883216464, 8883204297, 8883303914***

Mr. Page explained that this is a request to rezone the subject property from R-18 and R-12 to R-9. The property is currently vacant, wooded, and under cultivation.

Mayor Pro Tem Kimrey asked Mr. Page what is currently the only type of dwelling permitted as a use by right in R-9. Mr. Page answered single-family homes. With no further questions forthcoming, Mayor Peterman opened the Public Hearing.

Mr. David Michaels of 5603 New Garden Village Drive Greensboro stepped forward representing Windsor Investments. He gave a brief history of Windsor Homes and spoke of another subdivision they are currently developing in Graham – The Forks of Alamance. He stated that they are proposing 130 homes for this property. Council Member McClure asked about the main points of egress with future roads. Mr. Michaels stated Parham Drive and Wildwood Lane would be the main roads leading to and from this property. Mayor Pro Tem Kimrey asked Mr. Michaels if there had been any thought of rezoning this property to R-12 with open space. Mr. Michaels stated that had been looked at, but they felt better requesting R-9.

The following individuals stepped forward to address this request with Council Members:

Sara Burnett – 1923 Broadway Dr. Graham	Neil Gann – 1923 Broadway Dr. Graham
Mark Jones – 1701 Parham Dr. Graham	Nicki Ellis – 1738 Parham Dr. Graham
Steve Anderson – 224 W. Shannon Dr. Graham	Marty Fuller – 205 W. Shannon Dr. Graham

Nathan Glass – 1524 Stonegate Dr. Graham	Richard Shevlin – 510 Wildwood Ln. Graham
Ron James – 1619 Wedgewood Dr. Graham	Alice Van Tine – 1831 Broadway Dr. Graham
Mitz Adamson Kime-1834 Broadway Dr. Graham	Hannah Bason – 1838 Broadway Dr. Graham
Jill Bullis – 500 Wildwood Ln. Graham	Hayden Garrison – 1933 Broadway Dr. Graham
Richard Arnold – 232 W. Shannon Dr. Graham	Patty Allen – 265 W. Shannon Dr. Graham
Mike Allen – 265 W. Shannon Dr. Graham	Susan Hyder – 302 Thompson Rd. Graham
Danielle King – 1842 Broadway Dr. Graham	Chris Foust – 1851 S. Main St. Graham

Mr. Tom Hall of 5603 New Village Drive Greensboro stepped forward to address the Council on behalf of Windsor Home. Mr. Hall stated that he is President and part owner of Windsor Homes. He added that he is proud to be a part of the Graham community. He stated that as a builder of several neighborhoods, he would like to believe that they are responsible and sensitive to the neighbor’s needs. Mr. Hall stated that his company would abide by all comments received during the site plan review process. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Council Members discussed the concerns voiced by those who spoke. Mayor Pro Tem Kimrey mentioned the 15 acres located in the flood zone while reminding everyone that the remaining acres could be developed tomorrow without any input from this Council under the current zoning. Council Member McClure expressed concern with the two points of egress, bookend by two different zoning districts. He stated that he likes R-12 or R-15, but is against R-9. Council Member Wiggins agreed that traffic is of concern, but that will be addressed with the Technical Review process. Mayor Peterman asked Mr. Michaels if his company would survive with R-12 zoning. Mr. Michaels stated he would have to look at the plan before answering that question. Mayor Peterman called for a break to allow Mr. Michaels and Mr. Hall time to discuss R-12 zoning. Following the break, Mr. Michaels informed Council Members that they prefer R-9 approval, but would favorable consider and modify their request from R-9 to R-12.

Mayor Pro Tem Kimrey made a motion that the application be approved to R-12, the application is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: Rezoning the property would be consistent with Policy 3.2.1, 3.3.2, and Strategy 4.3.1 of The Graham 2035 Comprehensive Plan. Council Member Wiggins seconded the Plan. Ayes: Mayor Pro Tem Kimrey, Council Member Wiggins and Mayor Peterman. Nays: Council Member McClure. Motion carried 3:1.

**Closed Session:**

At 9:44 p.m., Mayor Peterman 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.

Before Council left the Council Chambers, Mr. Boney expressed concern with the City's notification process. He also expressed concern with the lack of specificity the reasons included in the Closed Session motion state. Mayor Peterman advised it is for historic preservation.

At 9:56 p.m., Mayor Peterman reconvened the regular meeting. He stated that the City had received a counter-offer for property located at 125 North Main Street, to which Council has declined.

### **Issues Not on Tonight's Agenda:**

Mr. James stepped forward and expressed concern about the possibility of allowing someone from outside the City to serve on a City board/commission.

Mrs. Jennifer Talley of 808 Sideview Street stepped forward and expressed concern with the Downtown Master Plan continuing to be on the agenda.

Mr. Daniel Alvis of Maple Street Tavern stepped forward to thank Council and staff for their support during the recently held Rockin' for Research Event.

Downtown Development Coordinator Mary Faucette informed everyone that some City buildings have been lit up pink in observance of October being Breast Cancer Awareness Month.

Mr. Boney stepped forward and expressed concern with the makeup of the Boards & Commissions Task Force.

Council Member Wiggins mentioned the recent passing of current Historic Resources Commission Member Helen Sharpe.

Mr. Maness mentioned that some staff members are facing health challenges as well and asked that everyone keep them in your thoughts and prayers.

At 10:25 p.m., Mayor Pro Tem Kimrey made a motion to adjourn, seconded by Council Member McClure. All voted in favor of the motion.

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Darcy Sperry, City Clerk



**CITY OF GRAHAM  
SPECIAL SESSION  
TUESDAY, OCTOBER 22, 2019  
1:00 P.M.**

The City Council of the City of Graham met in special session at 1:00 p.m. on Tuesday, October 22, 2019, in the Council Chambers of the Municipal Building located at 201 South Main Street.

**Council Members Present:**

Mayor Jerry Peterman  
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  
Nathan Page, Planning Director  
Mary Faucette, Downtown Development Coordinator

Mayor Jerry Peterman called the meeting to order and presided at 1:00 p.m. Mayor Peterman gave the invocation.

Planning Director Nathan Page presented Council with an overview of the Downtown Small Area Plan. Council Member Griffin McClure presented Council with a printed handout of recommendations that he wanted added to Appendix section of the plan.

Mayor Pro Tem Lee Kimrey thanked Council Member McClure for including the recommendations he had stated earlier and had no issues with the ones he had added. Council Member Melody Wiggins was also in agreement with the recommendations presented.

Mayor Peterman had a concern with leaving items in the plan that he knew we were not going to do. He also wanted anything that done from the plan to be advertised.

Council Member Chip Turner stated that he wanted to remove the roundabouts from the plan since the streets they are proposed to be on are controlled by NCDOT. Mayor Pro Tem Kimrey suggested removing the images of the roundabouts. Council Member McClure was in agreement with the images being removed as long as the wording remained since the recommendations he was proposing for the Appendix addressed the Council's position on their implementation.

Mayor Peterman directed staff to study how to address advertising for items to be done from the plan.

At 1:34 p.m., Council Member Wiggins made a motion to adjourn, seconded by Mayor Pro Tem Kimrey. All voted in favor of the motion.

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Aaron Holland, Assistant City Manager

CITY OF GRAHAM  
RELEASE ACCOUNTS

**NOVEMBER**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
602015	2019	BARTS, HELEN J. LIFE ESTATE	RELEASE SCE VALUE & DISCOVERED FULL BILL	203.59
459853	2019	SMITH, BRANDON LEE	SOLD THE BOAT	1.28
629924	2019	MCNEELY, MARGARET B	QUALIFIED FOR HOMESTEAD EXEMPTION	\$157.67
646835	2019	CHEEK, PRISCILLA	PROPERTY SOLD RELEASE PREVIOUS OWNER	\$164.61
648047	2019	SALEM LEASING CORP	REMOVE LATE LISTING PENALTY	\$23.36
648047	2019	SALEM LEASING CORP	VEHICLE BILLED IN ERROR	\$37.84
648047	2019	SALEM LEASING CORP	VEHICLE BILLED IN ERROR - LOCATED IN DURHAM CO	\$231.08
664352	2019	CHAMPION & GILES PA	OUT OF BUSINESS 12/31/18-RELEASE BPP	\$82.87

**TOTAL RELEASES 902.30**

**CITY OF GRAHAM  
REFUNDS****NOVEMBER**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR REFUND</u>	<u>REFUND AMOUNT</u>
459853	2017	SMITH, BRANDON LEE	SOLD THE BOAT	1.34
459853	2018	SMITH, BRANDON LEE	SOLD THE BOAT	1.35

***TOTAL REFUNDS***      ***2.69***

## STAFF REPORT

<b>SUBJECT:</b>	LEASE AGREEMENT FOR PARKING FACILITIES
<b>PREPARED BY:</b>	MARY FAUCETTE, DOWNTOWN DEVELOPMENT COORDINATOR FRANKIE MANESS, CITY MANAGER

### REQUESTED ACTION:

Authorize a lease agreement for shared parking facilities with First Baptist Church of Graham.

### BACKGROUND/SUMMARY:

In an effort to afford additional parking options in the downtown, the City has discussed the option of entering into a parking lease agreement with First Baptist Church of Graham. The parking lot in question is conveniently located to downtown in the 200 block of North Main Street and has forty (40) marked parking spaces.

This proposed arrangement will be very similar to the arrangement with Graham Presbyterian Church that was recently approved by the City Council. The Church will allow for the land to be used for parking for the general public and the City will provide maintenance and the occasional improvement. The City is also agreeable to allow the Church discretion to close the lot during events in which it will require the sole use.

### FISCAL IMPACT:

Some initial repair and maintenance work will be required but it is believed this can be achieved through existing appropriations and force accounts.

### STAFF RECOMMENDATION:

Approval. The agreement will serve to ease public concern about limited parking options all the while maximizing use of available lands through joint use. Additionally, this agreement facilitates a new relationship with an organization in Graham’s downtown.

### SUGGESTED MOTION(S):

I make a motion to authorize the City Manager, City Attorney and City Clerk to enter into an agreement on behalf of the City with First Baptist Church of Graham for public parking.





## Lease Agreement for Parking Facilities

This lease agreement for shared Parking Facilities, entered into this 1st day of January, 2020 between FIRST BAPTIST CHURCH GRAHAM, hereinafter called Lessor, and THE CITY OF GRAHAM, hereinafter called Lessee.

### WITNESSETH:

In consideration of the mutual covenants herein, Lessor, in accordance with NCGS 160A-19, agrees to lease to Lessee certain parking facilities, located at 224 North Main Street Graham and used as a parking lot by the First Baptist Church Graham in the City of Graham, County of Alamance and State of NC, hereinafter called the facilities, described as the parking area shown on Exhibit A, representing 40 parking spaces (30 public and 10 handicap).

### LEASEHOLD AREA

The parking area shown on Exhibit A, representing 40 parking spaces, is leased to the Lessee and shall be available for public parking Monday through Saturday 6am – 11pm except when needed by the Lessor for its own events. Parking by the public will not be permitted on Sundays. Overnight parking is prohibited. The Lessor reserves the right to restrict parking at any time for church events, and church shall attempt to provide reasonable notice to Lessee of any such events.

### LEASE TERM AND OPTION FOR EXTENSION

This agreement shall have a 5-year term, beginning on January 1, 2020 and ending December 31, 2025. Either party can cancel this agreement by giving the other 60 days notice.

### MAINTENANCE

In consideration of the right to the use of the facilities to provide public parking, the Lessee shall provide, as reasonably necessary, asphalt repair work, striping and snow removal.

### SIGNAGE

Lessee shall provide signage, meeting with the written approval of Lessor, designating usage allowances. See Exhibit B, representing agreed signage language.

### ENFORCEMENT

Lessor and Lessee each reserve the right to tow, at the expense of the vehicle owners, vehicles improperly parked or abandoned. All enforcement shall be coordinated with the Graham Police Department.

**COOPERATION**

Lessor and Lessee agree to cooperate to the best of their abilities to mutually use the facilities without disrupting the other party. The parties agree to meet on occasion to work out any problems that may arise to the shared use. In any event, if there is a conflict between the needs of the Lessor and the Lessee as priority of use, the Lessor’s needs shall prevail if a solution cannot be agreed by the parties.

**SUPERVISION**

Neither the Lessor nor the Lessee will provide supervision or management of the facility, except that Lessor will be responsible for providing necessary signage or other notice when the facility is to be used for activities of the Lessor and closed to use by the public.

**INSURANCE**

At their own expense, Lessor and Lessee each agree to maintain liability insurance for the facilities as is standard for their own business usage. Lessee agrees to the name the Lessor as an additional named insured on their liability insurance policy for this parking lot.

**INDEMNIFICATION**

The Lessee agrees to indemnify and hold the Lessor harmless from any claims for injury to persons or property arising out of the use of the facilities by the public, including actual damages and reasonable attorney fees incurred defending against such claims, and the Lessor agrees to hold the Lessee harmless from any claims for injury to persons or property arising out of the use of the facilities by the Lessor during its own use and activities, including actual damages and reasonable attorney fees incurred defending against such claims. Lessor indemnifies the Lessee during the times of use as well as the Lessee indemnifies the Lessor during times of use of said parking lot.

**TERMINATION**

If Lessor transfers ownership, or if part or all of the facilities are condemned, or access to the facilities is changed or limited, Lessee may, in its sole discretion terminate this agreement without further liability by giving lessor not less than 60 days prior written notice. Upon termination of this agreement, Lessee agrees to remove all signage and repair damage due to excessive use or abuse. Lessor agrees to give lessee the right of first refusal on subsequent renewal of this agreement.

FIRST BAPTIST CHURCH GRAHAM, Lessor

Date: \_\_\_\_\_

By: \_\_\_\_\_

THE CITY OF GRAHAM, Lessee

Date: \_\_\_\_\_

By: \_\_\_\_\_



City Manager

Exhibit A



Exhibit B





## STAFF REPORT

SUBJECT:	ALAMANCE ARTS LEASE
PREPARED BY:	FRANKIE MANESS, CITY MANAGER

### REQUESTED ACTION:

Approve Resolution Authorizing Lease Agreement with Alamance Arts for property located at 213 S. Main Street Pursuant to G.S. 160A-272.

### BACKGROUND/SUMMARY:

The City of Graham purchased the Captain James White & Emma Holt White House in 1990 and has leased it to Alamance Arts since 1993. The proposed lease agreement seeks to continue this relationship. Particulars of the proposed lease include a 10-year term, \$1.00 annual rent and that Alamance Arts is responsible for all utilities.

The General Statutes ([G.S. 160A-272](#)) allow the City to lease or rent property following a 30-day notice period. This notice period is complete and has generated no comment or questions to date.

### FISCAL IMPACT

Negligible. The City currently provides several in-kind services including grounds, building and parking lot maintenance. Certain capital improvements are also provided from time to time. These existing arrangements are proposed to continue under the proposed lease.

### STAFF RECOMMENDATION:

Approval.

### SUGGESTED MOTION(S):

I move we approve the Resolution Authorizing Lease Agreement with Alamance Arts for property located at 213 S. Main Street Pursuant to G.S. 160A-272.

**RESOLUTION AUTHORIZING LEASE AGREEMENT WITH ALAMANCE ARTS  
FOR PROPERTY LOCATED AT 213 S. MAIN STREET PURSUANT TO G.S. 160A-272.**

**WHEREAS**, the City of Graham owns a certain piece of real property located at 213 S. Main Street, commonly referred to as the Captain White House; and

**WHEREAS**, the City deems the property surplus for the purposes of its own utilization and has previously entered into a lease with Alamance Arts; and

**WHEREAS**, North Carolina General Statute § 160A-272 authorizes that any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine; and

**WHEREAS**, Thirty Days of public notice is complete.

**THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT:**

1. The proposed lease be authorized and approved; and
2. The City Manager, City Attorney and City Clerk are authorized to execute the lease on behalf of the City.

Adopted this 5<sup>th</sup> day of November, 2019.

---

Mayor Jerry Peterman

Attest:

---

NORTH CAROLINA

ALAMANCE COUNTY

**AGREEMENT OF LEASE**

This Agreement and lease, made and entered into this the \_\_\_\_ day of \_\_\_\_\_ 2019, by and between City of Graham, a municipal corporation of the State of North Carolina, hereinafter referred to as: "Lessor", and Alamance Arts (Alamance County Arts Council, Inc.) a North Carolina non-profit corporation, with an office in Alamance County, North Carolina, hereinafter referred to as "Lessee";

WITNESSETH:

WHEREAS, Lessor owns real estate upon which a historic residence is situated, known as the Captain James and Emma Holt White House (Captain White House), 213 South Main Street, Graham, Alamance County, North Carolina, and appurtenant curtilage, being a part of Alamance County Tax Map 171, Block 690, Lot 17 being parcel designated as Alamance Tax Map 171, Block 690, Lot 17, hereafter referred to as the "Premises";

WHEREAS, Lessor is desirous of leasing said Premises to Lessee and lets the Premises to Lessee in accordance with the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Lessor does lease and let unto the Lessee the Premises described hereinbelow and Lessee accepts as Lessee said Premises upon the terms and conditions as set forth herein, as follows:

1. **Term of Lease.** The term of this Lease shall be ten (10) years commencing on the first day of January 2019 and ending on or about the first day of January 2029, both dates included unless sooner terminated as herein provided. The City of Graham reserves the right to cancel this Lease if the real property is not being used as an Arts Center facility by Alamance Arts (Alamance County Arts Council, Inc.) to conduct classes, programs, gallery presentations, or other ongoing activity involving people and the arts on a regular basis. The use of the facility for storage alone is not an ongoing activity involving people.
2. **Rent.** The annual rent for said property shall be \$1.00 for the Premises leased herein. Payment shall be due on the 1<sup>st</sup> day of January 2019 and the 1<sup>st</sup> day of every year thereafter.
3. **Alterations, Repairs, and Upkeep.** Lessor agrees to maintain the property and make repairs as it is determined in the discretion of the Lessor, after reasonable consultation with the Lessee. Lessee shall not make any alterations, additions or improvements in the premises hereby leased and demised without first obtaining from the Lessor its written consent, and all alterations, additions or improvements made by the Lessee during the course of its occupancy, or the term of its lease, shall inure to the benefit of and be the property of the Lessor upon the termination and end of this Lease; and such alterations, additions, and improvements shall be surrendered with the premises when the

same are surrendered by the Lessee to the Lessor. Requests for alterations will not be unreasonably withheld. All alterations shall follow the state historic standards.

Lessor shall be responsible for providing adequate plumbing and heating and air systems. Lessee agrees to change HVAC filters regularly. Lessees shall not put anything other than toilet paper in the plumbing. Lessee shall be responsible for keeping a clean rental space.

Lessor shall make repairs to the Premises within a reasonable period of time after notice of such repairs is given to Lessor's staff. Lessor will make their best efforts to work with Lessee on scheduling repairs, taking into consideration events the Lessee may already have scheduled.

Lessor shall provide lawn maintenance which includes, but is not limited to, reseeding, fertilizing and treating lawn with insecticide as needed.

Capital improvements may be considered on an annual basis and shall be submitted to the city manager.

Lessor shall maintain the parking area including snow removal and replacement of exterior bulbs as needed.

Lessor shall work with Lessee on scheduling any city events on the property.

4. **Signage and Interior Décor.** Lessee may utilize any existing signs on the Premises subject to applicable zoning ordinances, governmental regulations, codes, or restrictive covenants. Responsibility and expense for obtaining such approval and modifying to suit Lessee's needs shall be the responsibility of Lessee. If Lessee utilizes any existing signs for the exclusive use of Lessee, Lessee shall repair and maintain the same in good appearance at Lessee's expense. Interior décor should not impede the historical nature of the building.
5. **Utilities.** Lessee agrees to pay before delinquency all charges for gas, electricity, and water used by the Lessee during the term of this Lease.
6. **Garbage Disposal and Recycling.** Lessee will abide by all the city ordinances regarding the disposal of garbage and waste materials. The disposal of garbage, if generated in the normal course of operating Lessee's programs, will be the responsibility of the Lessee.
7. **Use and Occupancy.** The Lessee may use the leased properties for such lawful purposes as may be necessary to the conduct of the activities for which it was formed. Failure to use the facility for regular, ongoing activity involving people for a period in excess of ninety (90) days will be considered abandonment and sufficient cause to cancel this Lease.
8. **Vehicles and Parking Regulations.** Lessee will have exclusive use of the parking area located behind the Alamance Arts signage. Lessee will be able to hold events and programs on this property in order to fulfill Lessee's mission to continue to connect people through the arts.

9. **Excessive Noise Policy.** Lessee will abide by the city's noise ordinance and will be considerate of adjoining property owners.
10. **Storage.** Lessor shall not store items on Lessee's leased premises without the express written consent of the Lessee.
11. **Display of Signs in Windows.** All signage is to meet those standards that comply with local sign ordinances and are consistent with the historical nature of the building.
12. **Casualty Damage.** In the event the leased Premises are destroyed by fire or other casualty covered by extended coverage insurance during any term or extensions of this Lease, the Lessor does hereby agree to repair or replace the demised Premises to its former condition to the extent of insurance policy proceeds received and this Lease shall remain in full force and effect; provided, however, that said building or improvement is not damaged to such extent as to render it wholly unleaseable or that the cost of repairs or replacement does not exceed hundred percent (100%) of the insured value of the Premise and such repairs or restoration can be efficiently completed within 30 days.

In the event the leased Premises are damaged by fire or other casualties in excess of hundred percent (100%) of the insured value of the said Premises or such restoration or repairs needed to return the Premises to its approximate condition existing immediately preceding such fire or other casualty cannot be completed within 30 days, this Lease for the damaged Premises shall thereupon terminate.

The Lessor shall keep fire, casualty, and extended coverage insurance on the Premises at an amount it deems reasonable to cover loss it could incur as the result of damage to the building.

13. **Insurance.** All personal property placed in the leased Premises or in any other portion of said building or any place appurtenant thereto, shall be at the sole risk of the Lessee or the parties owning the same, and the Lessor shall in no event be liable for the loss, destruction, theft or damage to such property. Lessee shall at its own expense carry renters/business personal property insurance on all personal property located upon the Premises.

Lessor for its benefit, agrees to maintain at all times, at its expense, appropriate insurance for any liability in connection with personal injury or death from an accident on or about Lessor's property. This coverage will provide a \$1,000,000.00 per occurrence limit with a \$2,000,000.00 aggregate limit.

Lessee agrees to maintain at all times, at its expense, appropriate insurance for any liability in connection with personal injury or death from an accident on or about Lessor's property. This coverage must provide for, at a minimum, a \$1,000,000.00 per occurrence limit with a \$2,000,000.00 aggregate limit. Further, this coverage shall provide for fire legal liability with at least a \$500,000 limit. Lessor shall be named on the policies as an additional insured. Lessors should be listed as, City of Graham.

Lessee additionally agrees to maintain at all times, at its expense, appropriate coverage as required under Worker's Compensation Law and occupational disease law of the State of North Carolina.



Lessor for its benefit, agrees to maintain at all times, at its expense, appropriate fire and extended coverage insurance for Lessor's property. Lessor will maintain all fire protection equipment, including security and fire monitoring and sprinkler systems, if any.

Lessee shall cause to be issued to Lessor if requested, Certificates of Insurance for the following policies evidencing that Lessor is named as an additional insured:

- 1) General Liability Insurance;
- 2) Worker's Compensation Insurance;
- 3) Business Personal Property Insurance.

Lessor shall cause to be issued to Lessee if requested, Certificates of Insurance for the following policies:

- 1) General Liability Insurance;
- 2) Property Insurance (Fire and Extended Coverage).

14. **Damages to Lessee's Property.** The Lessor shall not be responsible for the damage, destruction, or theft of items of property owned by the Lessee or in the possession of the Lessee which are located in or around the leased Premises. The Lessee agrees to hold the Lessor harmless for any damage, destruction, or theft of the items of property owned by the Lessee or contained in or around the leased Premises.

15. **General Safety.** In the event of an emergency (i.e., fire, bomb threat, gas leak, etc.), Lessee should immediately call 911 and evacuate the building as shown on the evacuation maps that are posted throughout the building. In the event of a small fire, Lessee should use the fire extinguishers that are located throughout the building to try to extinguish the fire and contact local fire officials and building management as soon as possible. Lessee should not under any circumstances reenter the building after an emergency unless instructed to do so by local emergency officials.

16. **Assignment and Subletting.** The Lessee shall not assign this Lease or sublet the Premises herein leased without the written consent of the Lessor.

17. **Termination.** The Lessee covenants and agrees that if default shall be made in the performance by the Lessee of any agreement, covenant, or stipulation herein contained to be performed by the Lessee, and if Lessee shall fail to undertake corrective action to cure such default or nonperformance within thirty (30) days after notice thereof in writing has been given by the Lessor to the Lessee, then and in any such event, it shall be lawful for the Lessor, at its option, to declare the said term ended and this Lease or any portion thereof terminated and to recover possession of the Premises herein leased.

18. **Notice of Default or Nonperformance.** It is covenanted and agreed that before the Lessor shall be entitled or have the right to repossess the Premises herein leased or to terminate this Lease as set forth in paragraph 17 hereof, on account of the nonperformance of any covenant, agreement, or stipulation on the part of the Lessee, the said Lessor shall notify the Lessee in writing of such default or nonperformance and the Lessee shall have thirty (30) days from the date of such notice by the Lessor in which to perform such covenants or stipulations as the Lessee may have omitted or neglected to perform or undertake in good faith to cure such default; and if the Lessee shall perform such covenants and stipulations or undertake in good faith with due diligence to correct or cure such default within (30) days from the date of such written notice from the Lessor, then the Lessee's delay or neglect in performing such covenant or stipulation shall in no manner affect this Lease, and this Lease shall remain in full force and effect as though no such default or nonperformance had occurred.
  
19. **Notice.** Any notices required to be given under the terms hereof to the Lessee may be served by registered mail to Alamance Arts (The Alamance County Arts Council, Inc.), 213 South Main Street, Graham, North Carolina, 27253 or at such other address as the lessee may in writing designate to the Lessor, or such notice may be served upon the Lessee by any lawful process officer.
  
20. **Quiet Enjoyment.** Lessor covenants that if Lessee performs all the terms and conditions of this Lease, Lessee shall peaceably and quietly hold and enjoy the leased Premises for the term herein demised or any extended term without hindrance or interruption by Lessor or any other entity and Lessor shall protect the Lessee in the full, complete and absolute possession of the demised Premises and every part thereof.
  
21. **Indemnity.** The Lessor, to the fullest extent permitted by law, shall indemnify, defend, and hold Lessee harmless from and against any and all claims, liabilities, damages, injuries, losses, costs, and expenses of any kind (including attorneys' fees and court costs) incurred by Lessee arising from suits, claims, and/or causes of action arising from or growing out of any actions or inactions on the part of Lessor. Lessee, to the fullest extent permitted by law shall indemnify, defend, and hold the Lessor harmless from and against any and all claims, liabilities, damages, injuries, losses, costs, and expenses of any kind (including attorneys' fees, and court costs) incurred by the Lessor arising from suits, claims, and/or causes of action arising from or growing out of actions or inactions on the part of Lessee.
  
22. **Taxes.** Lessor shall pay when due all taxes and assessments of any kind or nature which are now or may hereafter be imposed on the demised Premises; and the Lessee shall pay when due all taxes and assessments of any kind or nature imposed or assessed on the merchandise, inventory, or other property or equipment installed or brought into or onto the demised Premises by or for the Lessee.

IN TESTIMONY WHEREOF, said parties have executed this Lease Agreement in duplicate originals, one of which is retained by each of the parties on the day and year above written.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**ALAMANCE ARTS**

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

**CITY OF GRAHAM**

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

## STAFF REPORT

<b>SUBJECT:</b>	CLOSURE OF THE 100 BLOCK OF WEST ELM STREET FOR THE THIRD ANNUAL LOVE GRAHAM EVENT
<b>PREPARED BY:</b>	MARY FAUCETTE, DOWNTOWN DEVELOPMENT COORDINATOR

### REQUESTED ACTION:

Closure of the 100 block of West Elm on Saturday March 21, 2020 from 9a – 7p for the third annual Love Graham event.

### BACKGROUND/SUMMARY:

The third annual Love Graham event is proposed to take place downtown on March 21, 2019 from 12Noon - 5p. The event will be comprised of arts and craft vendors, busker bands, a main stage, food trucks and a beer garden. The Graham Police Department will send a similar request to NCDOT for the closure of the 100 block of North Main Street for the event.

### FISCAL IMPACT:

N/A

### STAFF RECOMMENDATION:

Approve

### SUGGESTED MOTION(S):

I make a motion to approve the closure of the 100 block of West Elm Street on Saturday, March 21, 2020 from 9am – 7pm for the third annual Love Graham event.

# STAFF REPORT

SUBJECT:	DISPOSAL OF SURPLUS REAL PROPERTY ON S MAIN AND E MOORE STREET
PREPARED BY:	NATHAN PAGE, PLANNING DIRECTOR

## REQUESTED ACTION:

Declare the property surplus and authorize the disposal of the property via the upset bid method as outlined in GS 160A-269.

## BACKGROUND/SUMMARY:

The City of Graham owns a remnant parcel which was acquired as part of the Moore Street Extension project in the early 2000's. The entire property was not needed for the extension, resulting in five parcels, of which the City disposed of four in late 2009. This is the last piece of the parcel leftover from the construction of E. Moore Street.



The parcel is approximately 2,400 square feet. The City has surveyed the parcel and has received a written offer for the parcel in the amount of \$100, from Timothy and Laurinda Krotish.

## FISCAL IMPACT:

None. It will be the responsibility of the Krotish family to hire a closing attorney, as well as to pay for any additional surveying expenses.

## STAFF RECOMMENDATION:

Approval. City staff recommends recombining this small piece of land with the adjacent property.

## SUGGESTED MOTION(S):

I move to adopt the resolution declaring surplus and authorizing sale and upset bid process for property on E Moore Street.

**RESOLUTION DECLARING SURPLUS AND AUTHORIZING SALE AND UPSET BID PROCESS FOR 0.077 ACRE  
PROPERTY (GPIN: 8883361185) ON E. MOORE STREET**

**WHEREAS**, the City of Graham (“City”) owns a certain 0.077-acre parcel of real property located on E. Moore Street, which is more particularly described as GPIN #8883361185, Parcel ID: 144382 (the “Property”);

**WHEREAS**, North Carolina General Statute § 160A-269 permits the City to sell property by upset bid, after receipt of an offer to purchase property; and

**WHEREAS**, the City received an offer from Timothy and Laurinda Krotish (“Krotish”) to purchase the Property from the City for the amount of \$100; and

**WHEREAS**, The Privileges and Emoluments Clause of the State Constitution requires that a government receive adequate consideration when it conveys property.

**THEREFORE, THE CITY COUNCIL OF THE CITY OF GRAHAM RESOLVES THAT:**

1. The City Council declares the Property surplus and authorizes sale of the Property in accordance with the offer made by Timothy and Laurinda Krotish subject to the upset bid procedure provided in North Carolina General Statute § 160A-269.
2. The City Clerk, shall cause a notice of the proposed sale to be published. The notice shall describe the Property and the amount of the offer, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the City Clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. Timothy and Laurinda Krotish shall provide the City Clerk with a deposit in the amount of \$5.00, which may be made in cash, cashier’s check, certified check or surety bid bond.
5. If a qualifying higher upset bid is received, the City Clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received.
6. To be a qualifying higher bid, an upset bid must raise the existing offer (or subsequent higher upset bid) by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
7. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made in cash, cashier’s check, certified check or surety bid bond. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will credit the deposit of the final high bidder at closing.
8. The terms of the final sale are that:
  - a. The City Council must approve the final high bidder offer before the sale is closed, which it will do at the next regular meeting after the final upset bid period has passed; and
  - b. Bidders shall not attach any conditions to their bids.
  - c. The buyer must pay with cash at the time of closing.
9. The City reserves the right to withdraw the Property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Adopted this 5th day of November 2019.

---


Mayor Jerry Peterman

Attest:

---



On October 23<sup>rd</sup>, 2019, Laurinda and Timothy Krotish hereby offer \$100 for the parcel off E Moore Street owned by the City of Graham, more specifically known as 8883361185.

Laurinda Krotish 

Timothy Krotish 

I (WE) HEREBY CERTIFY THAT I (WE) AM (ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH WAS CONVEYED TO ME (US) BY DEED AS RECORDED IN DEED BOOK 1462 PAGE 970 AND ALLOTMENT TO BE MY (OUR) FREE ACT AND DEED AND DO HEREBY DEDICATE TO PUBLIC USE AS STREETS, RIGHTS OF WAY, AND EASEMENT FOREVER, ALL AREAS AS SHOWN OR INDICATED ON SAID PLAT.

*Jerry Peterson*  
FOR: CITY OF GRAHAM

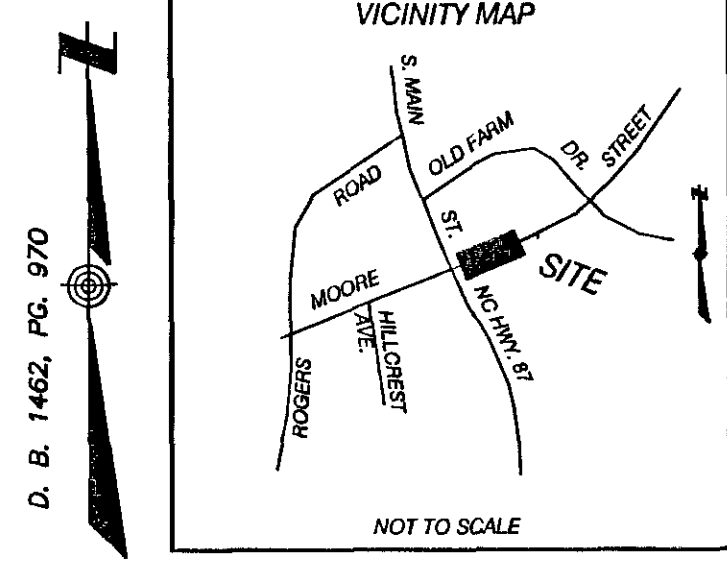
ALAMANCE COUNTY, NORTH CAROLINA  
BY MY HAND AND SEAL I DO HEREBY CERTIFY THAT *Jerry Peterson* PERSONALLY APPEARED BEFORE ME THIS DAY OF FEBRUARY, 2010 AND ACKNOWLEDGE THE DUE EXECUTION OF THE FOREGOING PLAT.  
*Maech N. Ophor*  
NOTARY PUBLIC  
October 28, 2012  
MY COMMISSION EXPIRES

Martha H. Johnson  
Notary Public  
Alamance County, NC  
My Commission Expires Oct. 28, 2012

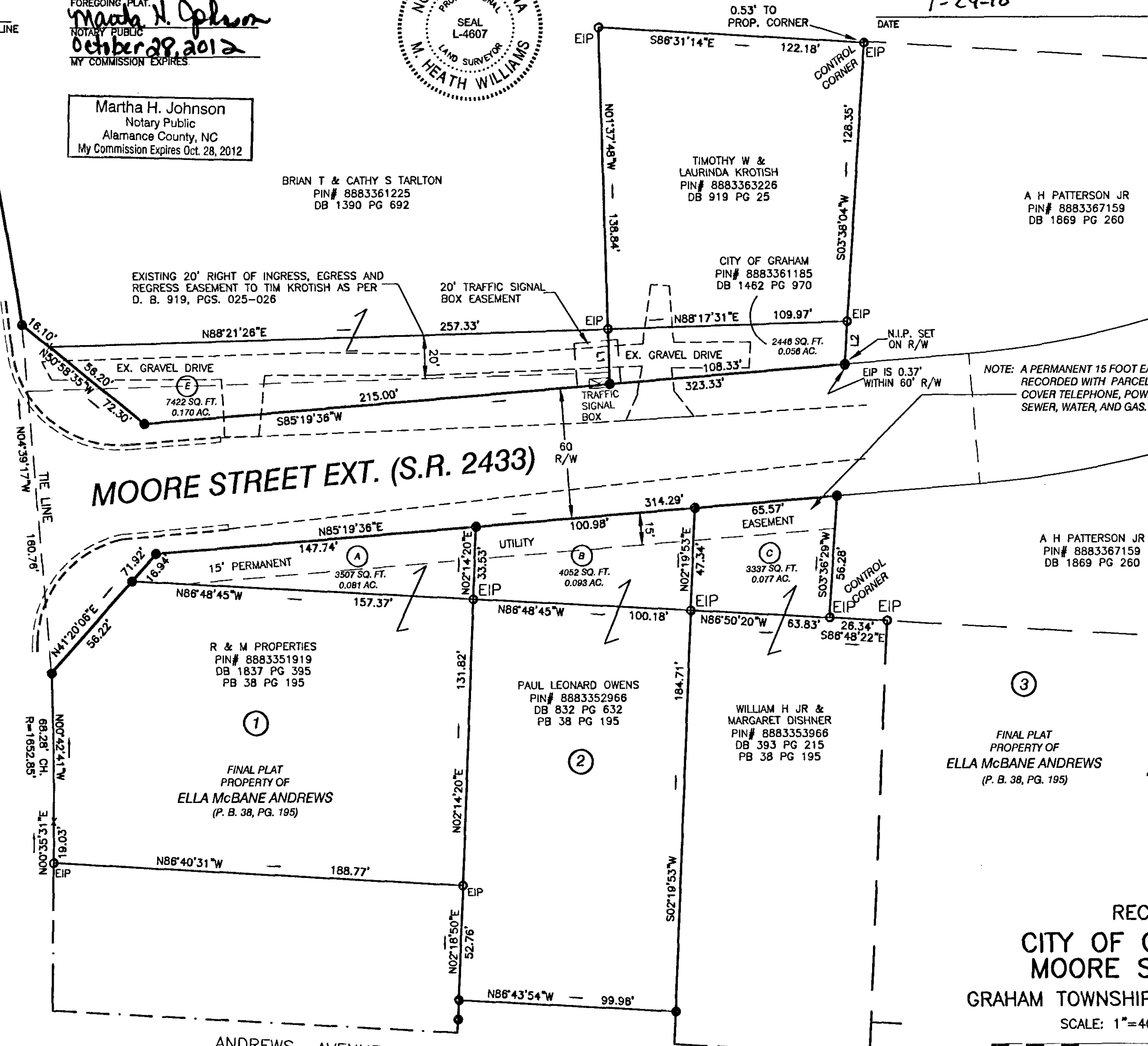


**SURVEYOR'S CERTIFICATION**  
STATE OF NORTH CAROLINA, COUNTY OF ALAMANCE  
I, M. HEATH WILLIAMS, CERTIFY THAT UNDER MY DIRECTION AND SUPERVISION THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY MADE BY ME THAT THE ERROR OF CLOSURE AS CALCULATED BY LATITUDES AND DEPARTURE IS 1: 10,000; A DEED DESCRIPTION OF WHICH IS RECORDED IN DEED BOOK 1462, PAGE 970; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES; THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; THAT THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.  
WITNESS MY HAND AND OFFICIAL SEAL THIS 28th DAY OF JANUARY, 2010.  
*M. Heath Williams* PROFESSIONAL LAND SURVEYOR L-4607

**ZONING ENFORCEMENT OFFICER CERTIFICATION**  
NO APPROVAL REQUIRED UNDER ARTICLE VIII, SECTION 10-336 b OF THE DEVELOPMENT ORDINANCE OF THE CITY OF GRAHAM.  
*Aaron Holland*  
ZONING ENFORCEMENT OFFICER  
PLANNER  
STATE OF NORTH CAROLINA  
COUNTY OF ALAMANCE  
*Aaron Holland*  
REVIEW OFFICER OF ALAMANCE COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.  
*Aaron Holland*  
REVIEW OFFICER  
DATE 1-29-10



S. MAIN STREET EXT.  
(NC HWY. 87)  
MOORE STREET EXT. (S.R. 2433)  
NC 87 MAIN ST.



Doc ID: 010287920001 Type: CRP  
Recorded: 02/05/2010 at 03:21:33 PM  
Fee Amt: \$21.00 Page 1 of 1  
Alamance, NC  
DAVID J.P. BARBER REGISTER OF DEEDS  
BK 73 PG 414

A H PATTERSON JR  
PIN# 8883367159  
DB 1869 PG 260

NOTE: A PERMANENT 15 FOOT EASEMENT, AS SHOWN, WILL BE RECORDED WITH PARCELS A-E. EASEMENT WILL COVER TELEPHONE, POWER, SANITARY SEWER, STORM SEWER, WATER, AND GAS.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S01°37'38"E	25.25'
L2	S03°36'29"W	19.73'

A H PATTERSON JR  
PIN# 8883367159  
DB 1869 PG 260

\* PURPOSE NOTE:  
THE PURPOSE OF THIS PLAT IS TO RECOMBINE PROPERTY CURRENTLY OWNED BY THE CITY OF GRAHAM WITH ADJOINING PROPERTY OWNERS AS SHOWN ON THIS PLAT DESIGNATED AS (A), (B), (C), & (E).

FINAL PLAT  
PROPERTY OF  
ELLA McBANE ANDREWS  
(P. B. 38, PG. 195)  
**FINAL PLAT  
RECOMBINATION OF  
CITY OF GRAHAM PROPERTY  
MOORE STREET EXTENSION**  
GRAHAM TOWNSHIP, ALAMANCE COUNTY, N. C.  
SCALE: 1"=40' JANUARY 28, 2010



ALLEY, WILLIAMS, CARMEN & KING, INC. ENGINEERS, ARCHITECTS & SURVEYORS  
740 CHAPEL HILL ROAD BURLINGTON, N. C. 27215

PHONE - 336-226-5534  
Firm License #F-0203

JOB NO. 08134

**LEGEND:**  
○ EIP EXISTING IRON PIPE  
● IRON PIPE SET  
x MATHEMATICAL POINT



# STAFF REPORT

<b>SUBJECT:</b>	STREET CLOSURE ON NOVEMBER 9, 2019 FOR VETERANS DAY FESTIVAL
<b>PREPARED BY:</b>	MARY FAUCETTE, DOWNTOWN DEVELOPMENT COORDINATOR

## REQUESTED ACTION:

Approve the closure of the 100 & 200 blocks E. Elm Street from 7 AM- 8 PM on November 9, 2019 for the Veterans Day Festival.

## BACKGROUND/SUMMARY:

The Alamance County Veterans Organization requests the closure of the 100 & 200 blocks of E. Elm Street in downtown Graham on November 9, 2019 for a Veterans Day Festival. The requested closure of E. Elm Street will begin at 7:00 am and re-open by 8:00pm.

This event runs in conjunction with the Annual Veterans Day Parade scheduled on this date at 10:00 am. This festival will include vendors, live music, military vehicles on display, and free food for all Veterans in attendance.

Staff has informed organizers pending Council approval tonight the following is required:

- Certificate of Liability with the City's requirements
- Extra Duty Solutions schedule

This is a County sponsored event and the County is obtaining insurance for the parade and event this year as they have over the past couple of years for the Annual Veterans Day Parade.

## FISCAL IMPACT:

There is no fiscal impact to the City of Graham in order to close the street.

## STAFF RECOMMENDATION:

Staff recommends approval. The Veterans Parade/Festival has been a big success and this anticipated event has already gained a lot of public support. The anticipated number of participants for this event warrant the requested closure hours in order to provide a safe environment.

## SUGGESTED MOTION(S):

I make a motion to approve the requested closure of the 100 & 200 blocks of East Elm Street on Saturday, November 9, 2019 from 7 am – 8 pm ) for the ALCOVETS Veterans Day Parade/Festival with the following conditions:

- Provide a Certificate of Liability insurance meeting all City requirements
- Schedule public safety personnel following the Extra Duty Solutions process (Received 10/31/19)



# STAFF REPORT

Prepared by Nathan Page, Planning Director

## Moore Townhomes (SUP1902)

**Type of Request:** Special Use Permit

### Meeting Dates

Planning Board on August 20 and October 15, 2019

City Council on November 5, 2019

## Contact Information

Bradford J. Deaton  
1400 Battleground Ave, Suite 201 Greensboro  
NC 27408  
336-274-2481 brad@trinterrallc.com

## Summary

This is a request for a Special Use Permit for Dwelling, Townhouse for property located on Moore St. The site is currently vacant. The site is approximately 9 acres. The plan would permit up to 61 units. The layout would connect Old Farm Road and Old Farm Drive, in an intersection with Moore Street, as well as completing the connection for Southwood Drive. The design includes stormwater control measures. There would be extensions of water and sewer for the new homes, with the installation cost to be borne by the developer.



### Location

Moore Street  
GPIN: 8883460674, 8883364585,  
8883367692

### Current Zoning

Residential (medium density)  
(R-12)

### Proposed Zoning

Residential (medium density)  
(R-12)

### Overlay District

none

### Surrounding Zoning

C-MXR, R-12

### Surrounding Land Uses

Single Family, Vacant

### Size

8.718 acres

### Public Water & Sewer

Yes

### Floodplain

No

### Staff Recommendation

Approval



The original plan for Southwood Townhomes was required to leave Right of Way to permit a connection to Moore Street. The plans for Old Farm Road also have always included a connection with an intersection with Moore Street.

## Conformity to *The Graham 2035 Comprehensive Plan (GCP)* and Other Adopted Plans

**Planning Type:** Neighborhood

**Development Type:** Suburban Residential

### Vision: Diverse Housing, Complete Neighborhoods

Graham will be a desirable place to live because of its variety of high quality housing options, providing affordable choices to people of all backgrounds. Neighborhoods will be walkable, safe, and vibrant and will promote private investment and enhancement of existing and future properties.

#### Issue 2: Maximize Land Use Efficiency

Communities are often tempted to support inefficient development in the name of economic growth. This can end up leading to higher costs to the public in the long term. Graham should plan for the efficient allocation and use of infrastructure over time, especially within employment and industrial areas.

#### Applicable Policies;

- **2.2.1: Focused Development** In order to maintain Graham's affordability and promote infill development and focused, walkable, and mixed use built environments. *Permitting a townhome development here allow for greater density without lengthening municipal infrastructure.*
- **5.1.1 Housing variety** Encourage a mix of housing types within Graham to increase choice. These can include single family dwelling units, multifamily dwelling units, small units, pre-fabricated homes, co-housing, and clustered housing. *This Special Use Permit facilitates additional housing options.*
- **5.2.1 Diverse Neighborhoods** Encourage a mix of housing types within Graham, including detached, duplex, multifamily, townhomes, and live-work units. *This amendment allows a neighborhood type which hasn't been widely constructed in recent years.*

#### **Planning Type**

Neighborhood

#### **Development Type**

Suburban Residential

For single family residential, townhouses, duplexes, accessory dwelling units, and small scale multi-family dwelling of twelve units or less.

Buildings should be located near the front of the property line, oriented towards the street, and include front porches and other private outdoor spaces.

Recess garages behind the front of buildings to avoid streetscapes dominated by garage doors.

Density of 3 to 6 DU/acre

## DRAFT Findings of Fact and Conclusions

In granting a special use permit, the City Council shall find that all of the six conditions listed below have been met, or it shall be denied. Staff has prepared the following DRAFT findings of fact for each of the six conditions. These findings should be modified by the Council as it considers its decision.

1. All applicable regulations of the zoning district in which the use is proposed are complied with.

- *The property is zoned R-12, a townhome is permitted only with a special use permit, or a rezoning to R-MF or R-G.*
2. Conditions specific to each use, identified by the Development Ordinance, are complied with.
    - *A preliminary site plan showing the location, dimensions, and sites within the development has been supplied.*
    - *The dimensional requirements for multifamily dwellings has been achieved.*
    - *The provision of off-street parking appears to be compliant, but will be required by the Graham Technical Review Committee (TRC).*
  3. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
    - *Permitting townhomes on this site will not materially endanger the public health or safety.*
  4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.
    - *Permitting townhomes on this site will not substantially injure the value of adjoining property.*
  5. The location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
    - *The plan is located in a neighborhood residential section of Graham, and is in general conformity with The Graham 2035 Comprehensive Plan.*
  6. Satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.
    - *The sketch plan submitted indicates general compliance with these requirements. The Graham TRC will require conformance with the City of Graham Ordinances prior to the issuance of a Certificate of Occupancy.*

---

### **Staff Recommendation**

Based on *The Graham 2035 Comprehensive Plan* and the *City of Graham Development Ordinance*, staff **recommends approval** of the Special Use Permit. The following supports this recommendation:

- The development furthers goals of *The Graham 2035 Comprehensive Plan* and is in conformance with the Suburban Residential development type.
- The development meets all six conditions required by Section 10.144 of the *Development Ordinance*.





RECEIVED

AUG 01 2019 Application for SPECIAL USE PERMIT PLANNING DEPT.

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

Uses shown as "S" in the City of Graham Development Ordinance, Section 10.135 Table of Permitted Uses, require a Special Use Permit before the use will be permitted in the zoning district. Applicants are strongly encouraged to consult with the City Planner to understand the requirements for the proposed special use and the information that will be needed as part of this application.

Site

Street Address: East Moore Street  
Tax Map#: 144628, 144441, 144442 GPIN: 883460674, 8883364585, 8883367692  
Current Zoning District(s): R-12  
Overlay District, if applicable:  
 Historic  S Main St/Hwy 87  E Harden St/Hwy 54  
Current Use: Vacant  
Property Owner: Brigham Road, LLC  
Mailing Address: 1400 Battleground Ave, Suite 201  
City, State, Zip: Greensboro, NC 27408  
Phone # (336) 274-2481  
Email: kevinp@phillipsmanagement.com

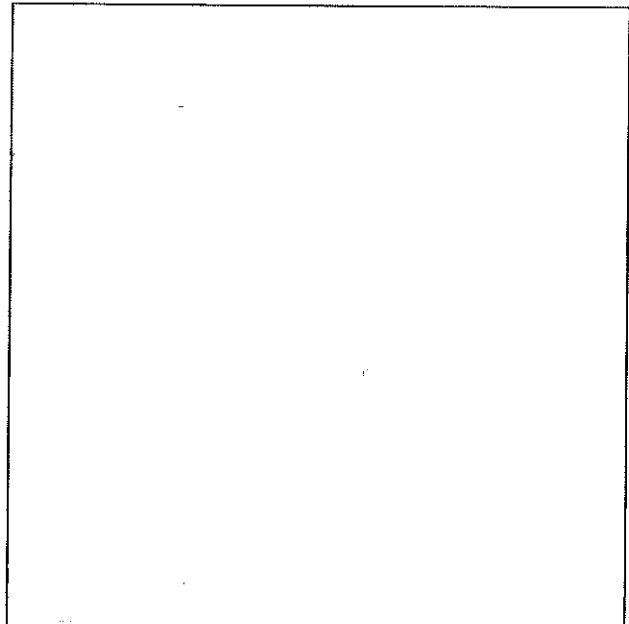
Proposed Special Use

Proposed Use (from Sec. 10.135 Table of Permitted Uses):  
Townhomes

Check if this use is also listed in Section 10.149 Special uses listed

This application must include sufficient information to demonstrate that all requirements of the proposed special use will be met. Check which of the following are submitted with this application:

- Preliminary Site Plan
- Descriptive Information



Applicant and Project Contact

Name: Bradford J. Deaton, PE  
 Property Owner Other  Developer  
Mailing Address: 1400 Battleground Ave, Suite 201  
City, State, Zip: Greensboro, NC 27408  
Phone # (336) 274-2481  
Email: Brad@trinterrallc.com

I certify that all information furnished is true to the best of my knowledge. I have provided all information needed to demonstrate that all requirements of the proposed special use will be met.

*Brad J. Deaton* 7/31/19  
Signature of Applicant Date

*Kevin Phillips* 7/31/19  
Signature of Property Owner Date  
(if other than applicant)

Office Use Only. DEVID# SUP1902

Additional sheets of Descriptive Information

Because applications for a Special Use Permit go through the public hearing process, applicants are encouraged to contact neighboring property owners prior to the public hearing.

Other Requirements

NCDOT Driveway Permit, if a new or relocated driveway is proposed on a NCDOT road, or for existing driveways if the use of the property is changing





## City Council Decision & Statement of Consistency

*Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. When adopting or rejecting any zoning amendment, the City Council shall also approve a statement describing whether its action is consistent with the comprehensive plan and briefly explaining why the City Council considers the action taken to be reasonable and in the public interest. The Planning Board shall provide a written recommendation to the City Council, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.*

### **Moore Townhomes (SUP1902)**

**Type of Request**  
Special Use Permit

**Meeting Dates**  
Planning Board on August 20 and  
October 15, 2019  
City Council on November 5, 2019

#### 1. Choose one...

- I move that the application be **APPROVED as presented.**
- I move that the application be **APPROVED with the following conditions:**
- o [Insert additional conditions]
- I move that the application be **DENIED.**

#### 2. Choose one...

- I move to adopt the Findings of Fact and Conclusions of Law **as presented in the staff report.**
- I move to adopt the Findings of Fact and Conclusions of Law presented in the staff report **with the following revisions:**

#### 3. Choose one...

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

#### 4. State reasons...

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

This report reflects the decision of the City Council, this the 5<sup>th</sup> day of November, 2019.

Attest:

\_\_\_\_\_  
Gerald R. Peterman, Mayor

\_\_\_\_\_  
Darcy L. Sperry, City Clerk

### **Suggested Revisions to Downtown Master Plan:**

Add Appendix D to Table of Contents: Conditions of Implementation (beginning on Page 147)

## **Conditions of Implementation**

**It is essential that the Graham Downtown Master Plan be used as a planning resource only and not a design document. The concepts that are recommended should be further developed if and when the City Council decides to move forward. All design details such as parking (type and number), active and passive amenities, street materials, landscaping, intersection reconfiguration, and many more elements described in the plan are put forth as best practice and can be refined or altered during the design phase of each project by City Council before being implemented. This plan is conceptual in nature and all recommendations should be done in cooperation with property owners.**

### **Goals for Implementation**

- Additional planning and design should achieve pull in parking on West and East Elm Streets where possible.
- Additional planning and design should maintain non-restrictive loading zones as close to current sites as possible.
- Additional planning and design should recommend the most yield of 40 angled pull in parking spaces around the exterior of Court Square while exploring additional interior parking options as well. Let it be noted that the preferred rendering on page 35 is the smaller inset showing pull in parking as opposed to the larger rendering shown on page 35 and 36.
- Additional planning and design should eliminate the idea of a splash park around Court Square.
- Additional planning and design should recommend the addition of a fire suppression riser system during any infrastructure upgrades in the downtown.
- Additional planning and design should consider all alternative routes for truck and vehicle traffic through downtown in addition to Gilbreath, Harden, McAden, Marshall, and Maple Streets.
- Additional planning and design should note that rear entry parking rendered on pages 42, 48, 50 and 51 is not actually preferred.
- Additional planning and design should not pursue a roundabout at McAden and South Main Street (shown on page 28).

# CONDITIONS OF IMPLEMENTATION

It is essential that the Graham Downtown Master Plan be used as a planning resource only and not a design document. The concepts that are recommended should be further developed if and when the City Council decides to move forward. All design details such as parking (type and number), active and passive amenities, street materials, landscaping, intersection reconfiguration, and many more elements described in the plan are put forth as best practice and can be refined or altered during the design phase of each project by City Council before being implemented. This plan is conceptual in nature and all recommendations should be done in cooperation with property owners.

## Goals for Implementation:

---

- Additional planning and design should achieve pull in parking on West and East Elm Streets where possible.
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- Additional planning and design should note that rear entry parking rendered on pages 42, 48, 50 and 51 is not actually preferred.
- Additional planning and design should not pursue a roundabout at McAden and South Main Street (shown on page 28).



# STAFF REPORT

SUBJECT:	ENCROACHMENT LICENSE AGREEMENT REQUEST BY JOHN ZHENG
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

## REQUESTED ACTION:

Authorize the City manager and City Attorney to enter into an encroachment license agreement with John Zheng for a proposed gas meter at 139 W. Elm Street.

## BACKGROUND/SUMMARY:

John Zheng has submitted a written letter and supporting photos for a proposed gas meter to be installed on the side wall of the building located at 139 W. Elm Street. The intent of the gas meter is to serve a future restaurant at the location. An encroachment license agreement approved by City Council is required pursuant to [Sec. 18-2\(c\)](#) of the City's Code of Ordinances. A recent request by Mr. Zheng was approved by City Council at the August 6<sup>th</sup>, 2019 meeting for the purpose of a grease trap within the sidewalk.



City staff has met and concurs with the proposed location of the gas meter. Historic Resources Commission approval is not required for this installation.

## FISCAL IMPACT:

There is a nominal expense to the City for costs associated with processing and monitoring of the license.

## STAFF RECOMMENDATION:

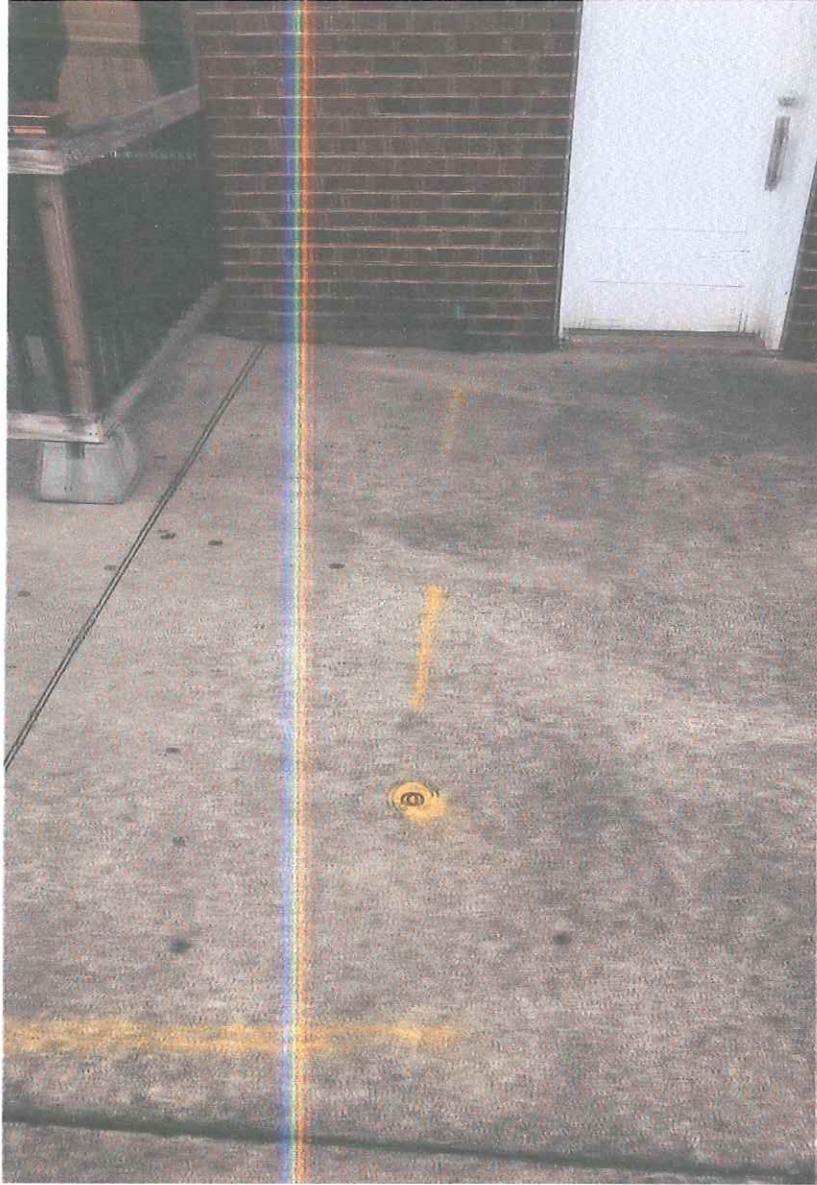
Staff recommends approval. The proposed project has received all necessary reviews and approvals except from NCDOT, and there appears to be no conflict with other uses within the Right of Way.

## SUGGESTED MOTION(S):

I move to authorize the City Manager and City Attorney to enter into an encroachment license agreement with John Zheng for a proposed gas meter at 139 W. Elm 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.





The C&Z Grill  
139 W Elm St Graham NC 27253  
Phone 917-951-1386 [johnzheng3355@gmail.com](mailto:johnzheng3355@gmail.com)

**ENCROACHMENT REQUEST FOR GAS METER INSTALLATION**  
139 W Elm St.

In order to prepare the above property for future use as a restaurant, a gas meter must be installed for this property.

After utility locating and an on-site review with city inspection department and piedmont natural gas company it was determined that the best location for such to be installed is in the sidewalk on N Maple St.

Any installation will meet any building code & city ordinance requirements, is subject to inspection by applicable City staff, and will include repairs to any sidewalk affected.

PLANNING ZONING BOARD

Tuesday, 15, 2019

The Planning & Zoning Board held their regular meeting on Tuesday, October 15, 2019 in the Council Chambers of the Graham Municipal Building at 7:00 p.m. Board members present were Dean Ward, Nate Perry, Eric Crissman, Michael Benesch, Justin Moody, and Rachel McIntyre. Bonnie Blalock was absent. Staff members present were Nathan Page, Aaron Holland, and Debbie Jolly, Zoning and Inspection Technician. Chairman Ward called the meeting to order, gave the Overview of the Board, general meeting rules.

1. Eric Crissman made a motion to move old business item b down to New Business after public comments and non- agenda items seconded by Dean Ward. All voted Aye. Approval of the September 17, 2019 minutes. A motion was made to approve the minutes by Eric Crissman seconded by Nate Perry. All voted in favor.
  
2. Old Business
  - a. SU1902 Moore St Townhomes. Application by Brad Deaton-Greensboro- for special Use Permit for 61 townhomes. GPIN 8883460674,8883364585 and 8883367692. Nathan Page stated the applicant had requested to table this item until the November meeting. Eric Crissman made a motion to table until next month with decision being made next month. Seconded by Rachel McIntyre. All voted Aye.
  
3. New Business
  - a. CR1902 Albany Business 109 Albany St- Application by Norman Thomas. Nathan Page gave overview of the project.
 

Norman Thomas                      4205 Alloway Place

Norman Thomas presented his application to the Planning Board and answered questions from the board. The planning board had a brief discussion. Eric Crissman made a motion to approve as presented with the following conditions, the parcel be considered Land Use Classification 3 for purposes landscaping. A safety fence at least 3 feet in height be installed on the Western property line. Seconded by Michael Benesch. All voted Aye

.
  
  - b. SUP 1903 Cherry Charter School Chairman Dean Ward accepted the request to withdraw this item.
  
  - c. AM1905 Residential Rear Setbacks, Application by Rocky Long for an amendment to Residential Rear Setbacks, to reduce the setback requirements. gave an overview of the project. Nathan Page gave an overview of the request of 20 feet setback from 20 percent.

of rear property line. Mr. Long presented his proposal to the planning board.  
 Rocky Long 1867 Challenge Dr.

The Planning board discussed about how this would affect different lots and lot sizes and asked Nathan several questions. Michael Benesh made a motion that the amendment be approved, with a note to 10.245 to allow the applicant to request approval from the Planning Department for a 20% rear yard setback in lieu of the 20-foot requirement. The application is consistent with The Graham 2035 Comprehensive Plan. Seconded by Nate Perry. All voted Aye.

#### Old Business

b. Review and potentially update The Graham 2035 Comprehensive Plan. The Planning Board discussed adding the following underlined language to *The 2035 Comprehensive Plan*

**Section 1.2.2 Interstate Signage.** Obtain a “State Historic Site” sign along the interstate to recognize the Courthouse Square and North Main Street Historic Districts. Place signs within the Courthouse Square also indicating the importance of the Square and include a sign for Wyatt Outlaw.

**Section 1.3.3 Harden Street.** Prepare a corridor plan to guide development and public investment in the East Harden/NC54 corridor. Extend the Highway 54 Overlay to W. Elm Street and W. Harden Street. Prepare a corridor plan to guide development and public investment on each of the approaches to the downtown.

**Section 1.3.3 Harden Street.** Prepare a corridor plan to guide development and public investment in the East Harden/NC54 corridor. Extend the Highway 54 Overlay to W. Elm Street and W. Harden Street. Prepare a corridor plan to guide development and public investment on each of the approaches to the downtown.

#### **Make education a strong point**

An educated population and skilled workforce are critical for promoting economic development. Schools in Graham represent a huge asset for promoting the City and improving the area’s quality of life. Alamance Community College should become a focal point within the City and region. Increase citizen advocacy for school funding.

**Policy 2.3.1(b): Downtown Entertainment Zone.** Prioritize constructing a downtown entertainment venue to allow for entertainment within the Central Business District.

**Strategy 2.3.4: Interstate Interchanges.** Develop a plan for the Interstate Interchanges, to present to NCDOT, to include landscaping and pedestrian improvements.

**Strategy 3.2.5: Future Transit Options.** Consider coordinating within the region to implement a transit system for citizens to access the governmental offices located in downtown Graham, and increase accessibility to Alamance Community College. Prioritize coordinating with PART and Link transit systems for citizens to access the governmental offices located in downtown. This will also allow the City to utilize federal transit funds for pedestrian improvements in the vicinity of transit stops.

**Policy 3.3.2: Limit Street Width.** Reduce roadway lane widths in order to slow down vehicular traffic in areas where bicycle and pedestrian traffic is encouraged. Paint existing roadways that are wider than necessary, to allow for a multi-use path within the existing pavement.

**Strategy 6.1.4.: Stormwater Education.** Leverage existing state and federal resources to educate Graham’s residents to the possible dangers and ramifications of stormwater run-off.

d. Board and Commission Roles and Responsibilities for Website/Publications

- i. Board Description (if any changes needed from current website)
  - 1. The Planning Board is a seven member advisory board to the City Council on matters relating to land use planning and development. Five of the seven members are appointed by the City Council while two members are from Graham's Extra-Territorial Jurisdiction (ETJ) and are appointed by the Alamance County Board of Commissioners. Members serve three-year staggered terms. Regular meetings of the Planning Board are held on the third Tuesday of each month at 7:00pm in the Council Chambers of City Hall, 201 South Main Street.
- ii. Volunteer Description (ie. desired skills, knowledge, interests, personality, etc. are best suited to serving on B&C)
  - 1. Planning Board Meetings may last up to 4 hours, and it is anticipated that there will be an additional 4 hours of work prior to each meeting.
  - 2. Applicants should have an interest in current and future development.
  - 3. It will be necessary for a new member to attend training.
- iii. 4 Photos (Horizontal)
  - 1. Neighborhood under construction
  - 2. Public Input Meeting
  - 3. Shot of neighborhood with established trees
  - 4. Shot of public space downtown- include pedestrians (or Pine Street Bike Lane)
- iv. Mission Statement (if applicable)
  - 1. The Graham Planning Board takes pride in furthering the recommendations adopted by The Graham 2035 Comprehensive Plan, in an effort to support planned economic and community development that attempts to curb urban sprawl.
- v. Programs to highlight (if applicable)
  - 1. N/A
- vi. Any FAQ's you would like included on the webpage
  - 1. Planning Board Meetings may last up to 4 hours, and it is anticipated that there will be an additional 4 hours of work prior to each meeting.
  - 2. Applicants should have an interest in current and future development.
- vii. Any resource links (if applicable)
  - 1. Related Links from Planning Department
- viii. Any additional information you would like to see included

4. Public comment on non-agenda items. No items

Michael Benesch made a motion to adjourn, Nate Perry seconded. All voted Aye.

No further business the meeting was adjourned.

Respectfully Submitted,  
Debbie Jolly





# STAFF REPORT

Prepared by Nathan Page, Planning Director

## Albany Business (CR1902)

**Type of Request:** Rezoning

### Meeting Dates

Planning Board on October 15, 2019

City Council on November 5, 2019

### Contact Information

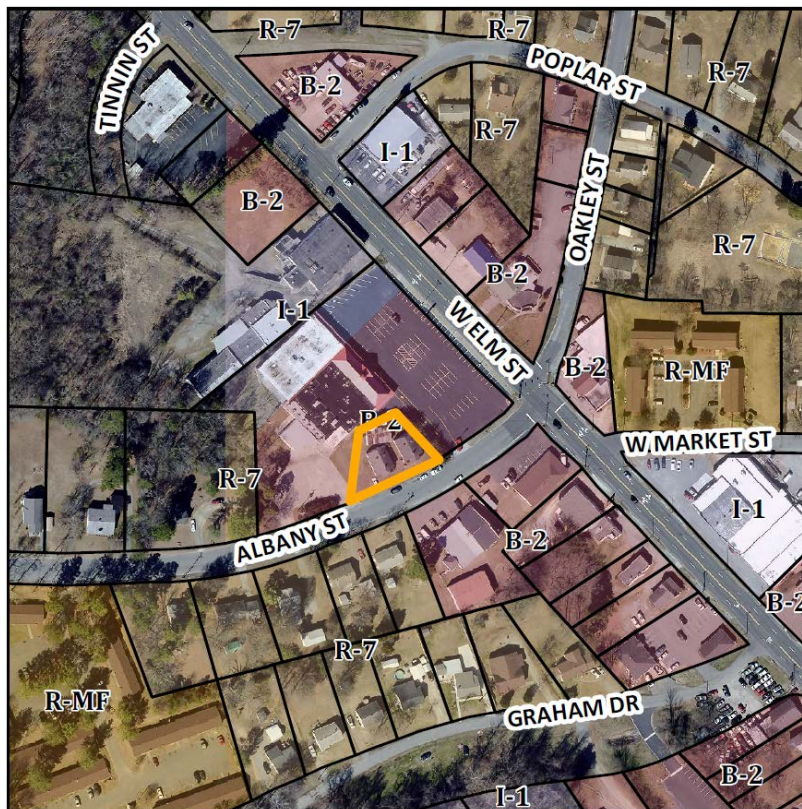
J Norman Thomas

4205 Arroway Place, Fayetteville NC, 28303

910-308-8424, paintmanthomas@yahoo.com

## Summary

This property is surrounded by commercial properties. This request is to rezone the property to C-R. The stated reason for the rezoning is "Two duplex dwellings for a total of 4 dwellings, and a commercial property to be used for offices, contractor's office, or small retail establishment."



### Location

109 Albany Street

GPIN: 8874850468

### Current Zoning

General Business (B-2)

### Proposed Zoning

Conditional Business (C-R)

### Overlay District

N/A

### Surrounding Zoning

High Density Residential, R-7 and General Business, B-2

### Surrounding Land Uses

Residential, Commercial

### Size

0.25 acres

### Public Water & Sewer

Connected

### Floodplain

No

### Staff Recommendation

Approval



## Conformity to the *Graham 2035 Comprehensive Plan (GCP)* and Other Adopted Plans

Planning District: Mixed Use Commercial

### Applicable Policies;

- 2.2.1 Focused Development.** In order to maintain Graham's affordability and promote growth, the City will facilitate smart growth development by promoting infill development and focused, walkable, and mixed use built environments. *Rezoning of this parcel to C-R would allow the two structures to be used as a duplex dwellings. It would also allow the commercial structure in the rear to have some of the uses from within the B-2 list. While it may reduce the total permitted uses, it will allow the current structures to be more fully utilized.*
- 5.1.1 Housing Variety.** Encourage a mix of housing types within Graham to increase choice. These can include single family dwelling units, multifamily dwelling units, small units, pre-fabricated homes, co-housing and clustered housing. *Rezoning of this parcel to C-R would allow for 4 dwelling units to be used here instead of one.*

### Development Type

Mixed Use Commercial

3-5 story building heights

Principal Uses: commercial and office developments primarily located at major intersections.

Supporting Uses: Mix of retail, commercial, office, multifamily residential, and institutional uses. Buildings are multiple stories with architectural details, surface textures, and modulation of light and shade, and should be built at a human scale.

### Applicable Strategies;

- 4.3.1 Land Use Patterns.** Promote development of efficient land use patterns to allow continued quality and efficiency of water systems. Discourage the extension of water service into areas that are not most suitable for development. *The rezoning of this parcel would allow for the existing structures to be used without any additional municipal infrastructure.*
- 5.2.1 Diverse Neighborhoods.** Encourage a mix of housing types within Graham, including detached, duplex, multifamily, townhomes, and live-work units. *The proposed rezoning would allow for the existing structures to be utilized as housing, and would allow a live-work type of arrangement for the structure to the rear.*

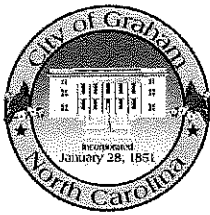
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### Staff Recommendation

Based on *The Graham 2035 Comprehensive Plan*, staff recommends **approval with conditions** of the rezoning. The following supports this recommendation:

- In accordance with Policies 2.2.1 and 5.1.1, and Strategies 4.3.1 and 5.2.1, this rezoning will permit additional density upon a lot in a walkable region of town.

Recommended Conditions: The parcel be considered Land Use Classification 3 for the purposes of future landscaping.



# Application for REZONING or CONDITIONAL REZONING

PLANNING DEPT.

SEP 11 2019

RECEIVED

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

This application is for both general district rezonings and conditional rezonings. Applications are due on the 25<sup>th</sup> of each month. Applicants are encouraged to consult with the *City of Graham Development Ordinances* and the City Planner.

## Site

Street Address: 111 Albany St.  
Tax Map#: 134759 GPIN: 8874850468  
Current Zoning District(s):  
 R-7  R-9  R-12  R-15  R-18  
 R-MF  R-G  C-R  C-MXR  
 B-1  B-2  B-3  C-B  C-MXC  
 O-1  C-O-1  I-1  I-2  C-1  
Overlay District, if applicable:  
 Historic  S Main St/Hwy 87  E Harden St/Hwy 54  
Current Use: Dwellings, Contractors Office  
Total Site Acres: 0.25 acres ±  
Property Owner: Helen D Long Heirs  
Mailing Address: 4205 Alloway Place  
City, State, Zip: Fayetteville NC 28303

## Proposed Rezoning or Conditional Rezoning

Proposed Zoning District(s):  
 R-7  R-9  R-12  R-15  R-18  
 R-MF  R-G  C-R  C-MXR  
 B-1  B-2  B-3  C-B  C-MXC  
 O-1  C-O-1  I-1  I-2  C-1

Describe the purpose of this rezoning request. *For Conditional Rezoning*s, also specify the actual use(s) intended for the property (from Sec. 10.135 Table of Permitted Uses) along with other descriptive or pertinent information, such as number of dwelling units, type of multifamily development, square footage and number of buildings:

Two duplex dwellings for a total of 4 dwellings, and a commercial property to be used for offices, contractor's office, or small retail establishment.

## Applicant

Property Owner  Other \_\_\_\_\_

*Application for Conditional Rezoning may only be initiated by the owner of a legal interest in all affected property, any person having an interest in the property by reason of written contract with owner, or an agent authorized in writing to act on the owner's behalf. If the applicant for Conditional Rezoning is other than the Property Owner, documentation in compliance with the preceding statement must be provided in order for this application to be complete.*

Name: J. KENNETH THOMAS  
Mailing Address: 4205 Alloway Place  
City, State, Zip: FAYETTEVILLE NC 28303  
Phone #: 910 308 8424  
Email: JTHOMAS@YANDEX.COM

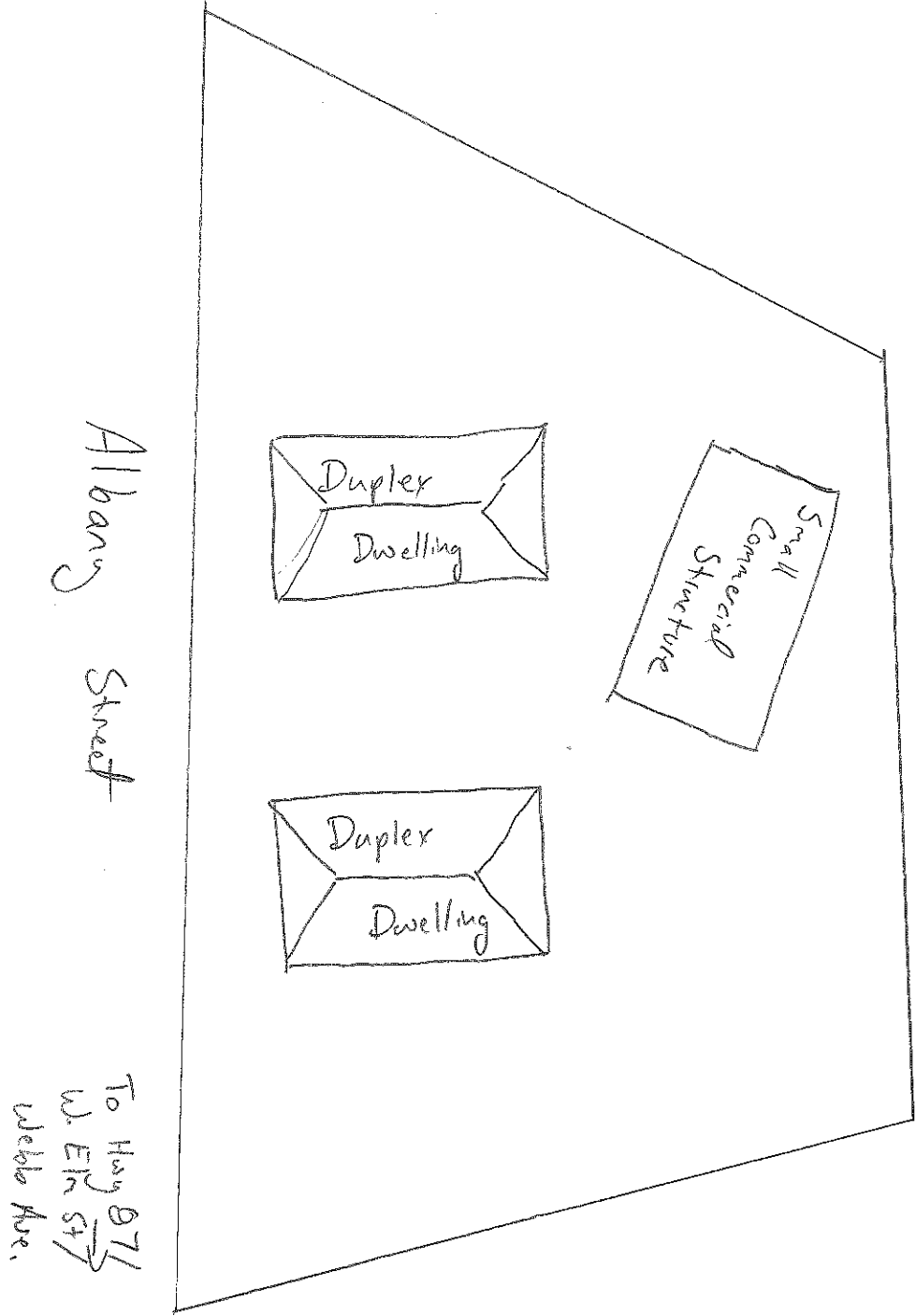
I have completed this application truthfully and to the best of my ability.

J. Kenneth Thomas 9/11/19  
Signature of Applicant Date

**For Conditional Rezoning**s, this application must be accompanied by a Preliminary Site Plan and supporting information specifying the actual use(s) and any rules, regulations or conditions that, in addition to predetermined ordinance requirements, will govern the development and use of the property.

Site Plan Review Application **must be attached** to this application for Conditional Rezoning

Office Use Only. DEVID# CR1902





## City Council Decision & Statement of Consistency

*Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. When adopting or rejecting any zoning amendment, the City Council shall also approve a statement describing whether its action is consistent with the "The Graham 2035 Comprehensive Plan" and briefly explaining why the City Council considers the action taken to be reasonable and in the public interest. The Planning Board shall provide a written recommendation to the City Council, but a comment by the Planning Board that a proposed amendment is inconsistent with the "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council. If the City Council approves, this rezoning shall be effective upon written consent to the conditions herein described.*

**Albany Business (CR1902)**  
**Type of Request**  
Conditional Rezoning  
**Meeting Dates**  
Planning Board on October 15, 2019  
City Council on November 5, 2019

*Choose one...*

- I move that the application be **APPROVED**.
- I move that the application be **APPROVED with the following conditions**.
  - The parcel be considered Land Use Classification 3 for the purposes of future landscaping.
  - [insert additional conditions]
- I move that the application be **DENIED**.

*Choose one...*

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

*State reasons...*

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

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These conditions voluntarily consented to by the petitioner, this the 5<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
J. Norman Thomas, Executor of Helen D. Long Heirs

This report reflects the decision of the City Council, this the 5<sup>th</sup> day of November, 2019.

Attest:

\_\_\_\_\_  
Gerald R. Peterman, Mayor

\_\_\_\_\_  
Darcy L. Sperry, City Clerk

## Nathan Page

---

**From:** Jim Way <Jim@schooldev.us>  
**Sent:** Tuesday, October 15, 2019 11:08 AM  
**To:** Nathan Page  
**Subject:** Re: Special Use Permit Application - Alamance Community School

[**NOTICE:** This message originated outside of the City of Graham, NC mail system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Nathan,

Please accept this e-mail as notification to rescind our SUP Application for the Cherry Lane School site property ID 8894906303 submitted by SH Alamance, LLC.

Please respond as acknowledgement of receiving this.

[Jim Way](#)



Cell: 702-528-1514 - [jim@schooldev.us](mailto:jim@schooldev.us)

Main Office: 3114 E. Lion Lane - Suite 300 - Salt Lake City, UT 84121 - P: 801-278-0800

Raleigh Office: 2144 Page Rd. - Suite 204 - Durham, NC 27703

---

**From:** Nathan Page <npage@cityofgraham.com>  
**Date:** Monday, October 14, 2019 at 9:22 AM  
**To:** Jim Way <Jim@schooldev.us>  
**Subject:** RE: Special Use Permit Application - Alamance Community School

Jim,  
I'll be in the office and am free to meet between 11 and 2:30.

Nathan

---

**From:** Jim Way [mailto:Jim@schooldev.us]  
**Sent:** Monday, October 14, 2019 8:49 AM



# STAFF REPORT

Prepared by Nathan Page, Planning Director

**Text Amendment for: Section 10.245 Area, Height, and Yard Regulations** to change the setbacks for the Rear Yard Depth

**Type of Request:** Text Amendment

**Meeting Dates**

Planning Board on October 15, 2019

City Council on November 5, 2019

## Summary

Rocky Long has applied for an amendment to our Development Ordinance to reduce rear yard setbacks to 20 feet.

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

## Contact Information

Rocky Long

1867 Challenge Drive

Graham NC, 27253

rlong2309@gmail.com

### Project Name

Residential Rear Setbacks  
(AM1905)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval

**Existing Language:****Section 10.245 Area, Height, and Yard Regulations**

Zoning District	Yard Depth Front	Minimum Yard Size (Feet From Property Line)		Rear Yard Depth
		Side Yard Width	Side Yard Width Abutting Street	
R-18 (See Section 10.249)	40 (See Note 9)	15	20 (See Note 2)	20% of the lot depth (1)(2)
R-15 (See Section 10.249)	40 (See Note 9)	10	20 (See Note 2)	20% of the lot depth (1)(2)
R-12 (See Section 10.249)	30 (See Note 9)	10	20 (See Note 2)	20% of the lot depth (1)(2)
R-9	30 (See Note 9)	8	15 (See Note 2)	20% of the lot depth (1)(2)
R-7	30 (See Note 9)	8	15 (See Note 2)	20% of the lot depth (See Notes 1 and 2)
R-MF	30 for single family and two family dwellings; 25 for multi-family dwellings (See Note 9)	8 for single-family and two family dwellings. For multifamily, 25 feet minimum, see Sec. 10.247	15 for single-family and two family dwellings. For multifamily, 25 feet minimum, see Sec. 10.247	20% of the lot depth for single-family and two-family dwelling; (See Notes 1 and 2) For multi-family, 25 feet minimum, see Sec. 10.247.
R-G (See Notes 3, 9)	30 for single family and two family dwellings; 25 for multi-family dwellings (See Note 9)	8 for single and two family dwellings. For multifamily, see Sec. 10.247	15 for single and two family dwellings. For multifamily, see Sec. 10.247	20% of the lot depth for single and two family dwelling (See Notes 1 and 2;  For multifamily, see Sec. 10.247



**Proposed Language:****Section 10.245 Area, Height, and Yard Regulations**

Zoning District	Yard Depth Front	Minimum Yard Size (Feet From Property Line)		Rear Yard Depth
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R-G (See Notes 3, 9)	30 for single family and two family dwellings; 25 for multi-family dwellings (See Note 9)	8 for single and two family dwellings. For multifamily, see Sec. 10.247	15 for single and two family dwellings. For multifamily, see Sec. 10.247	20 for single and two family dwelling (See Notes 1 and 2;  For multifamily, see Sec. 10.247

## Conformity to The Graham 2035 Comprehensive Plan and Other Adopted Plans

**Develop a compact, mixed-use, and focused pattern of growth.** Graham will focus compact development in well-defined areas in order to increase the viability of regional transit, preserve open space, rural areas, and environmentally sensitive lands, efficiently provide public services and infrastructure, and promote infill development and redevelopment. *The relaxation of the rear yard setbacks will likely lead to more neighborhood diversity and larger structures built on existing lots.*

**Strategy 2.3.1 Facilitate Focused Development.** Incentivize pedestrian-oriented nodal development consistent with this plan by incentivizing smart growth development... *The requirement for large rear-yard setbacks may have a negative effect on the construction of smart growth neighborhoods.*

### Planning District

All

### Development Type

All

**Policy 4.3.1 Land Use Patterns.** Promote development of efficient land use patterns to allow continued quality and efficiency of water systems. Discourage the extension of water service into areas that are not most suitable for development. *The reduction in required rear yards may allow for more dense development, allowing for more efficient water supply systems.*

### Applicable Planning District Policies and Recommendations

- Not applicable; city-wide.

### Staff Recommendation

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

- The 2035 Plan, in Strategy 2.3.1, as well as Policy 4.3.1, recommends reducing setback requirements for residential lots.

## Nathan Page

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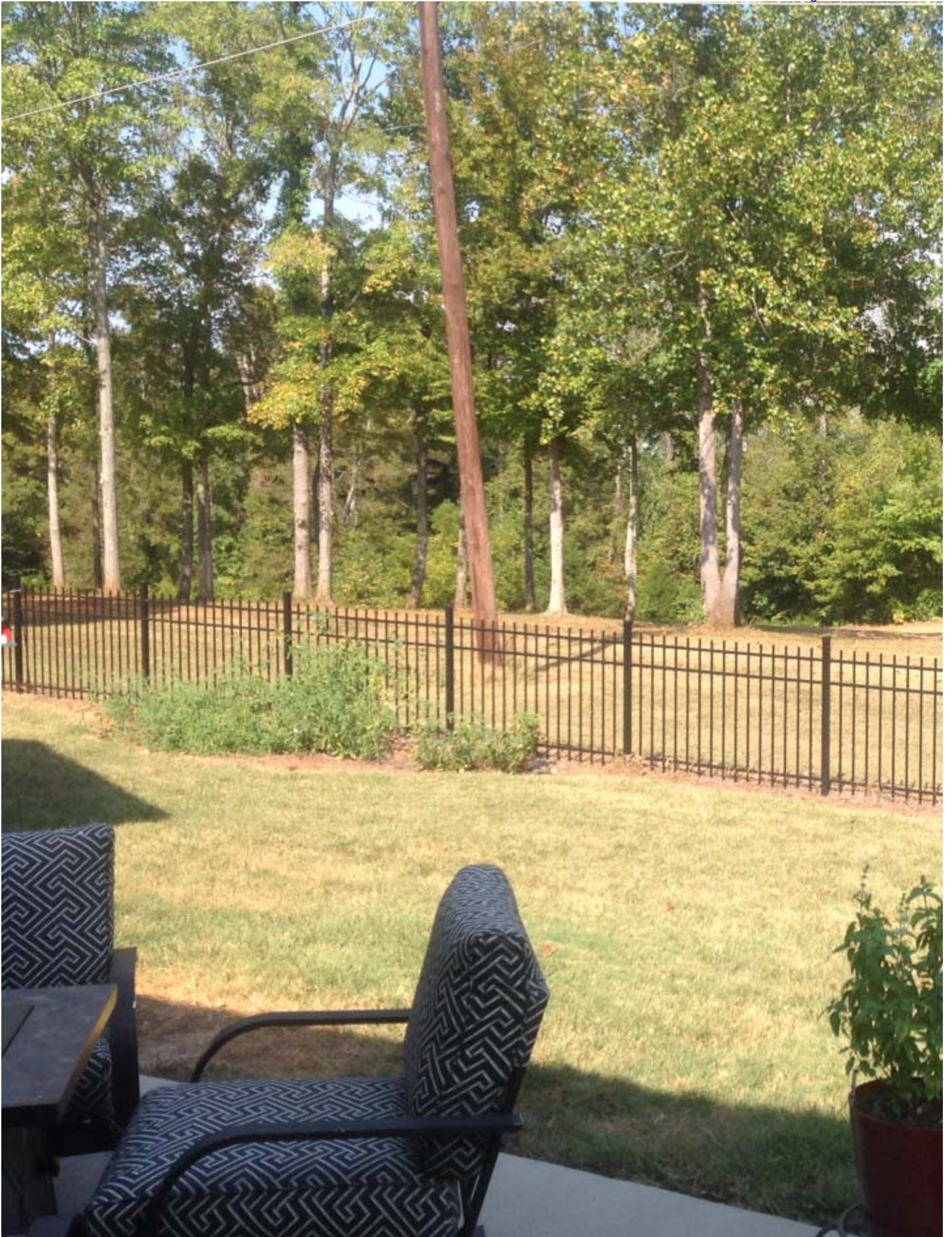
**From:** Rocky Long <rlong2309@gmail.com>  
**Sent:** Friday, September 27, 2019 3:52 PM  
**To:** Nathan Page  
**Subject:** Request to amend set back requirements in the City of Graham

[NOTICE: This message originated outside of the City of Graham, NC mail system -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

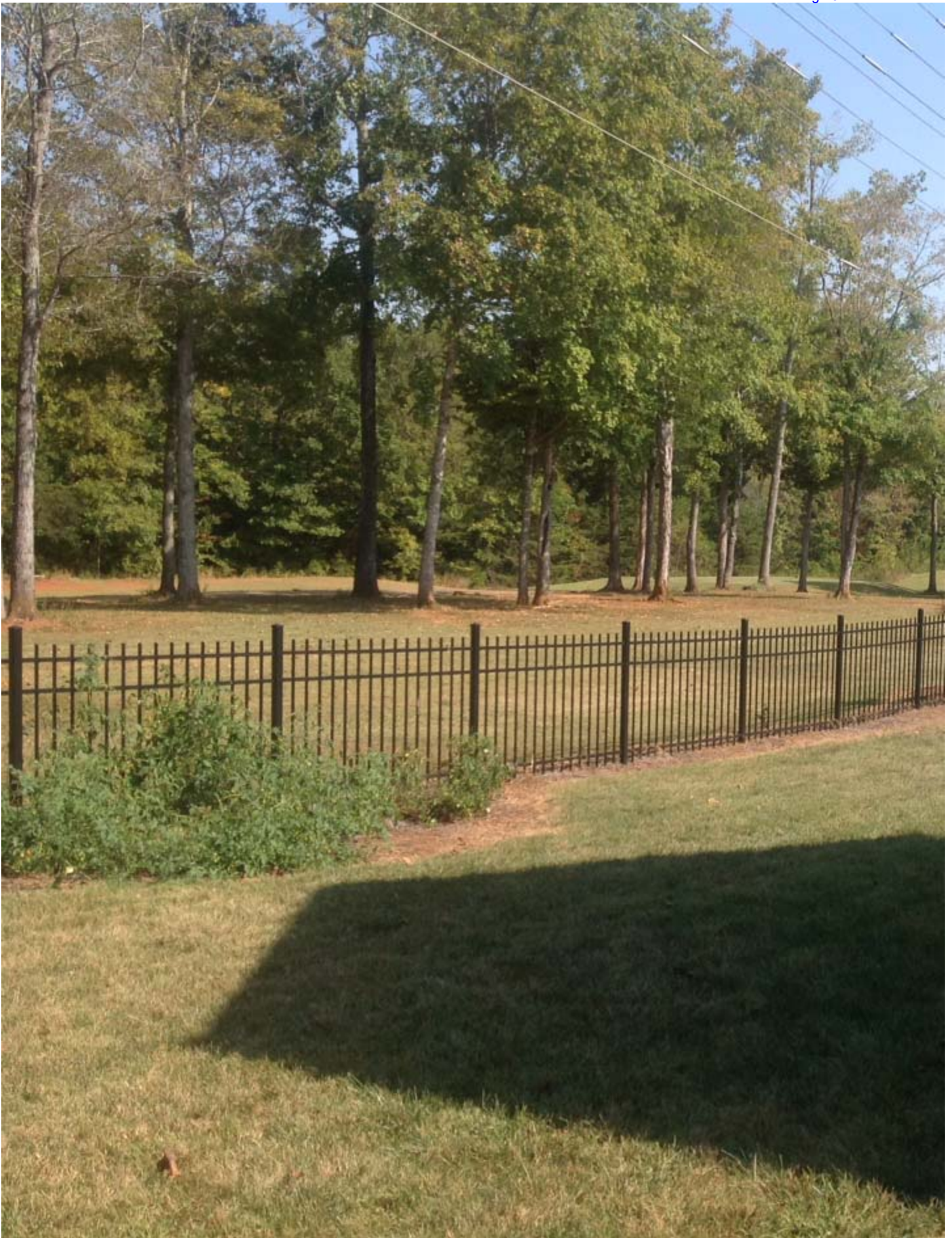
Mr. Page

I am requesting the City of Graham to amend the rear setback requirements to a finite number of 20 feet instead of a percentage of lot depth. I have attached several photos of my rear yard for reference. The current setback is 26 feet

















## City Council Decision & Statement of Consistency

*Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. When adopting or rejecting any zoning amendment, the City Council shall also approve a statement describing whether its action is consistent with the "The Graham 2035 Comprehensive Plan" and briefly explaining why the City Council considers the action taken to be reasonable and in the public interest. The Planning Board shall provide a written recommendation to the City Council, but a comment by the Planning Board that a proposed amendment is inconsistent with the "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.*

### Residential Rear Setbacks (AM1905)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on October 15, 2019

City Council on November 5, 2019

Choose one...

I move that the text amendment be **APPROVED**.

I move that the text amendment be **DENIED**.

Choose one...

The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

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This report reflects the decision of the City Council, this the 5<sup>th</sup> day of November, 2019.

Attest:

\_\_\_\_\_  
Gerald R. Peterman, Mayor

\_\_\_\_\_  
Darcy L. Sperry, City Clerk

## STAFF REPORT

SUBJECT:	BOARDS AND COMMISSIONS ORDINANCE
PREPARED BY:	FRANKIE MANESS, CITY MANAGER

### REQUESTED ACTION:

Approve Ordinance Amending Various Sections of the Code of Ordinances as it relates to Boards and Commissions.

### BACKGROUND/SUMMARY:

The City of Graham Volunteer Boards and Commissions Task Force commenced a study of our Boards and Commissions in July. The task force has met on several occasions and have started to formulate recommendations. Among the first recommendations from the task force is an ordinance that provides general regulation of our Boards and Commissions. The task force identified that the City currently lacks a general ordinance to guide our boards and commissions leaving a requirement for specific legislation for each current and future board. It should be noted that the proposed general ordinance is silent to residency requirements, leaving residency requirements to specific ordinances. Also, the general ordinance would allow for sub-committees such as the Hall of Fame Board in which the commission recommends being a function of the Recreation and Parks Commission rather than an independent board.

Additionally, the Task Force has identified recommended amendments specific to other boards as outlined below:

**Tree Board:** Amendments to increase membership to seven (7) total and establish a City Council liaison;

**Graham Historical Museum Advisory Board:** Amendment to codify in our Ordinances the establishment of the Board and require members to be residents of the City. Previously ETJ members were allowed.

**Recreation and Parks Commission:** Clarify there are seven (7) members and a City Council liaison. Clarify the voting eligibility of the liaison.

### FISCAL IMPACT:

None.

### STAFF RECOMMENDATION:

Approval, on behalf of the Volunteer Boards and Commission Task Force

### SUGGESTED MOTION(S):

I make a motion to approve the first reading of the Ordinance amending various sections related to boards and commissions of the Code of Ordinances of the City of Graham, North Carolina.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING  
VARIOUS SECTIONS RELATED TO BOARDS AND COMMISSIONS OF THE CODE OF  
ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA**

The City Council of the City of Graham, North Carolina, does ORDAIN:

**Sec. 1.** That CHAPTER 2, ARTICLE II, DIVISION 3- BOARDS AND COMMISSIONS of the Code of Ordinances of Graham, North Carolina, is hereby amended with the addition of the following sections, to read as follows:

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**SEC. 2. \_\_. – Applicability**

The provisions of this division shall apply to each board and commission created and appointed by the City Council. Provisions unique to a specific board or commission may be provided for in this or other ordinance applicable to said board or commission.

**SEC. 2. \_\_. – Nominations to office; Term.**

Except where specific provision is made for the creation or term of office of a board or commission by ordinance requiring an exception to this section or by laws of the State or the United States:

- (a) The city council shall appoint all members and alternates of boards and commissions;
- (b) The term of office of such members and alternates shall be three (3) years with original appointments so as to provide for the expiration of less than half of the members each year;
- (c) Members shall be eligible to serve for not more than two (2) consecutive full terms. Members may be eligible for reappointment following a 12-month hiatus. For purposes of this limitation, initial terms of whatever duration set out above shall be deemed full terms. Thereafter, anyone appointed to complete a vacancy on a board or commission of greater than eighteen (18) months duration shall be deemed to have served a full term.
- (d) Provided applicants are not available to fill the vacancies, then City Council in its discretion may extend the term of a current member for a term of one (1) year and such other one (1) year terms until candidates are available for service and are duly appointed by the City Council.

**SEC. 2. \_\_. – Expiration of terms of office of members appointed by the council.**

The date of the expiration of the term of office of the members and alternates of all boards and commissions appointed by the City Council shall be June thirtieth. Terms of new members, other than those appointed to fill a vacancy, shall begin July first. All members shall hold office until their successors are appointed and qualified.

**SEC. 2. \_\_. – Removal of Members; Absenteeism.**

A member of any board or commission of the city may be removed by the council for just cause. If a member of a board or commission has two (2) unexcused absences in a 12-month period, they shall be considered to be removed from the board. The position may be declared vacant and a successor appointed.

**Sec. 2-\_\_ – Vacancies in membership.**

The council shall fill any vacancy in the membership of any board or commission.

**Sec. 2-\_\_ – Concurrent service.**

An individual shall be eligible to serve on not more than (2) city boards or commissions at any one time.

**2-\_\_ – Compensation.**

Members of boards and commissions shall serve without pay. Members may be reimbursed for actual expenses incidental to the performance of their duties in accordance with existing City of Graham policies.

**Sec. 2-\_\_.** – **Organizational Meeting - Officers.**

Each city board and commission shall conduct an organizational meeting each July or next meeting following July to elect a chair and a vice chair, establish a regular meeting schedule and appoint a secretary to record minutes. Meeting schedules shall be filed in the office of the City Clerk.

**Sec. 2-\_\_.** – **Committees.**

Boards and commissions may establish any temporary or permanent committees. In addition, boards and commissions may seek advice and assistance from citizens and from professional sources, pending authorization by the City Council if funding is required.

**Sec. 2-\_\_.** – **Rules and Quorum.**

Except as otherwise provided by ordinance, the procedure of each city board and commission shall be governed by the latest edition of Robert's Rules of Order.

A quorum shall consist of a majority of the actual members of the board or commission, excluding vacant seats. A quorum shall be required for any board or commission to conduct a meeting or take action.

**Sec. 2-\_\_.** – **Voting, Advocacy, Monetary Interest**

No member of a Board or Commission may discuss, advocate or vote on any matter in which he or she has a separate, private or monetary interest, either direct or indirect, and no member may discuss before the city council or its boards or commissions any matter which has been, is or will be considered by the board or commission on which he or she serves, and in which he or she has a separate, private or monetary interest either direct or indirect. Any member who violates this provision may be subject to removal from the board or commission.

**Sec. 2-\_\_.** – **Place of meetings; meetings public.**

All regular and special meetings of boards and commissions shall be published and held in accordance with North Carolina Open Meetings Laws.

**Sec. 2-\_\_.** – **Time of regular meetings.**

Regular meetings shall be held on such days and at such hours as determined in the organizational meeting.

**Sec. 2-\_\_.** – **Staff and technical services.**

Boards and commissions may request from the City Council necessary staff or technical services.

**Sec. 2-\_\_.** – **Records and Reports.**

Each city board and commission shall keep a complete and accurate record of all its proceedings, and subsequently submit its minutes to the city clerk. Boards and commissions shall make an annual report to the city council.

**Sec. 2-\_\_.** – **Fiscal restraint.**

Each city board or commission shall make no expenditure or contract any indebtedness for which the city shall be liable without the approval of the city council.

**Sec. 2.** That CHAPTER 2, ARTICLE II, DIVISION 3- TREE BOARD of the Code of Ordinances of Graham, North Carolina, is hereby amended to read as follows:

**Sec. 2-58.** - **Tree board.**

- (a) *Created; composition; qualifications.* There is hereby created a tree board for the city, which shall consist of seven (7) city residents. A member of the City Council shall serve on the Tree Board concurrent with their term of office on the City Council. As liaison to the Tree Board, the council member shall not have a vote. The city horticulturist shall be the staff liaison and serve as an ex-officio member of the board.

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**Sec. 3.** That CHAPTER 2, ARTICLE II, DIVISION 3- BOARDS AND COMMISSIONS of the Code of Ordinances of Graham, North Carolina, is hereby amended with the addition of the following sections, to read as follows:

**Sec. 2-60. - Graham Historical Museum Advisory Board.**

The Graham Historical Museum Advisory Board is hereby established to serve as an advisor to the City Council as it relates to the operation of the City's Historical Museum and artifacts housed therein. The Board shall be appointed by the City Council and consist of seven (7) city residents. The mission of the Graham Historical Museum Advisory Board is to:

- (a) Create an environment that displays artifacts in a well-organized and visually appealing setting;
- (b) Catalog items stored and displayed in the Graham Historical Museum;
- (c) Maintain records by serving as administrator for current gifts and contributions of artifacts relevant to Graham's history;
- (d) Serve as responsible stewards and representatives of the Graham Historical Museum;
- (e) Encourage community involvement by promoting the Museum through educational programs, special events, and partnerships with local businesses, civic organizations and City government.

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**Sec. 4.** That CHAPTER 14, ARTICLE II, DIVISION 2- RECREATION AND PARKS COMMISSION of the Code of Ordinances of Graham, North Carolina, is hereby amended to read as follows:

**Sec. 14-55. - Membership; appointment; terms.**

The Commission shall be comprised of seven members and a member of the City Council as liaison. Membership of the commission shall consist of seven (7) residents of the city who shall serve terms of office of three (3) years. The member of the City Council shall serve their term concurrent with their term of office on the City Council. As a liaison to the commission, the Council member shall not have a vote.

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**Sec. 5.** That this Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# STAFF REPORT

SUBJECT:	ORDINANCE FOR CROSS CONNECTION AND BACKFLOW PREVENTION PROGRAM
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

## REQUESTED ACTION:

Amend Code of Ordinances to add language for a Cross Connection and Backflow Prevention Program.

## BACKGROUND/SUMMARY:

An update to the State of North Carolina's Administrative Code (15a NCAC 18c. 0406) mandates an amendment to our Code of Ordinances to add language to address cross connections and backflow prevention. The purpose of this ordinance is to establish a backflow prevention program to protect our drinking water from pollution and/or contamination that can occur from backpressure or backsiphonage from non-potable sources. Cross Connections between potable water systems and non-potable sources are a significant threat to water quality and to the health of the public water supply.

In addition, the Federal Safe Drinking Water Act requires public drinking water systems to protect public water supplies from pollution and contamination. The EPA provides a model program on which the draft program the staff has provided is based. Other jurisdictions within the area have already taken the necessary steps to adopt the appropriate language including Mebane which is a partner with our water treatment operations. City staff recognizes that without proper protection devices, cross-connections can occur that can contaminate and endanger the public water supply.

## FISCAL IMPACT:

Costs incurred from the implementation of this program will be absorbed by the approved operating budget.

## STAFF RECOMMENDATION:

Approval. This ordinance is designed to maintain the safety and potability of the water in the City of Graham public water system by establishing rules and procedures to prevent the pollution and contamination of public drinking water by backflow from any non-potable source.

## SUGGESTED MOTION(S):

I move to approve the Ordinance amendment to CHAPTER 13- UTILITIES, ARTICLE II- CONNECTIONS of the Code of Ordinances to add language to establish a Cross Connection and Backflow Prevention Program.



**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, ADDING CHAPTER 13, ARTICLE II, SEC. 13-44 TO 13-56 TO THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA**

The City Council of the City of Graham, North Carolina, does ORDAIN:

**Sec. 1.** That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by adding sections 13-44 to 13-56, which said section read as follows:

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**Sec. 13-44.- CROSS CONNECTION CONTROL**

- A. Purpose: The purpose of this cross-connection control ordinance is:
1. To protect the public potable water supply of the City of Graham from the possibility of contamination or pollution, due to back siphonage or backpressure, by isolation within the consumer's private water system such contaminants or pollutants, which could backflow into the public water system.
  2. To define the authority of the City of Graham as the water purveyor entitled to eliminating all cross-connections, new or existing, within its public water system.
  3. To provide a continuing inspection program of cross-connections, which may be installed in the future.
  4. This Ordinance will comply with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C), and the North Carolina State Building Code (Volume II Plumbing) as they pertain to cross-connections with the public water supply.
- B. Responsibility: City of Graham
1. The City of Graham will be primarily responsible for preventing any contamination or pollution of the public water system. This responsibility begins at the point of origin of the public water supply, includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system. The Backflow Administrator shall exercise vigilance to ensure that the consumer/customer has taken the proper steps to protect the public potable water system.
  2. When it has been determined that a backflow protection assembly is required for the prevention of contamination of the public water system, the Backflow Administrator shall

notify the owner, in writing, of any such building or premises, to correct within a time set by this ordinance, any plumbing installed or existing that is in violation of this ordinance.

3. After surveying the private water system, the Backflow Administrator will select an approved backflow prevention assembly required for containment control to be installed at service entrance.
  4. Prior to the installation of any backflow prevention assembly, the owner of the private water system must be notified that the installation of a backflow prevention assembly may create a closed system, and as a result thermal expansion may occur. Under such circumstance, the customer must understand and assume all liability and responsibilities for that phenomenon.
- C. Responsibility: Customer
1. The customer has the responsibility of preventing contaminants and pollutants from entering the customer's private water system or the public water system operated by the City of Graham. The customer, at his own expense, shall install, operate, and maintain all backflow prevention assemblies specified within this ordinance.
  2. If a tenant customer does not maintain the private water system and has no authority to bring the system into compliance with the provisions of this ordinance the City of Graham may assert any available action against the owner to assure the private water system is brought into compliance with this ordinance.

## **Sec. 13-45.- DEFINITIONS**

*Air Gap Separation:* An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water from any source to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air gap separation shall be at least double the diameter of the supply pipe. In no case shall the air gap separation be less than one inch. An approved air gap separation is an effective method to prevent backflow and shall be considered as a backflow prevention assembly.

*Atmospheric Vacuum Breaker:* A device used to prevent back-siphonage which is designed so as not to be subject to static line pressure.

*Back Pressure:* Any elevation of pressure in the down stream piping system caused by pumps, elevation of piping, or steam and/or air pressure above the supply pressure at the point of consideration which would cause a reversal of the normal direction of flow.

*Back Siphon age:* A reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

*Backflow Prevention Administrator:* An employee of the City designated by the City Utilities Director to administer and enforce the provisions of this ordinance.

*Backflow Prevention Assembly – Approved:* An assembly that has been investigated and approved by the City of Graham Utilities and has been approved to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Assoc. (AWWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.

*Backflow:* Any reverse flow of water, gas or any other liquid substance or combination into the public water system from any source due to an unprotected cross-connection.

*Certified Tester:* Any individual person who has proven his/her competency to test, repair and overhaul backflow prevention assemblies. This person must hold a certificate of completion from a certified training program in the testing and repair of backflow prevention assemblies and cross connection control.

*Consumer\Customer:* Any person, firm, or corporation using or receiving water from the City of Graham public water system.

*Containment:* The prevention of backflow from a private water system by an approved, properly functioning backflow prevention assembly which is installed, operated and maintained in accordance with the provisions of this ordinance.

*Contamination:* An impairment of the quality of the water to a degree, which creates an actual hazard to the public health through poisoning or through the spread of disease.

*Cross Connection:* Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluids, gas or substance which could be harmful or hazardous to the potable water system.

*Double Check Valve Assembly (DCVA):* An assembly composed of two single, independently acting, approved check valves, including tightly closing shut-off valves located at each end of the device and suitable connections for testing the water tightness of each check valve.

*Double Check-Detector Valve Assembly (DCDA):* An assembly composed of an approved double check valve assembly with a bypass water meter and a meter-sized approved double check valve device. The meter shall register accurately for very low flow rates and shall register all flow rates.

*Hazard-Degree:* The evaluation of a hazard within a private water system as moderate or severe.

*Hazard-Severe:* An actual or potential threat of contamination to the public water system or to a customer's potable water system that could cause serious illness or death.

*Hazard-Imminent:* An actual threat of contamination to the public water system that could cause serious illness or death.

*Hazard-Moderate:* One that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations of the drinking water supply.

*Health Hazard.* The term "health hazard" shall mean an actual or potential threat of contamination of a physical, chemical, biological, pathogenic or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health. Examples of waterborne health hazards include but are not limited to:

*Physical* - radioisotopes/radionuclides;

*Chemical* - lead, mercury and other heavy metals, organic compounds, other toxins and hazardous substances;

*Biological* - microorganisms and pathogens like cryptosporidium, typhoid, cholera and E. coli.

*Pollution:* An impairment of the quality of the water to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect such water for domestic use.

*Potable Water:* Water from any source which has been approved for human consumption by the appropriate agency of the State of North Carolina, City of Graham and/or Local Health Agencies.

*Pressure Vacuum Breaker:* An assembly suitable for continuous pressure, to be used to provide protection against backsiphonage.

*Private Water System:* Any water system located on the customer's premise, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

*Public Water System:* The potable water system owned and operated by the City of Graham. This system includes all distribution mains, lines, pipes, connections, storage tanks, and other facilities conveying potable water to the service connections of each customer.

*Reduced Pressure Zone Assembly:* An approved, properly functioning assembly containing two, independently acting check valves with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly must include properly located test cocks and tightly closing shut-off valves at each end of the assembly. This assembly is designed to protect against a severe hazard.

*Residential Dual Check (RDC):* A "residential dual check valve" is an assembly, without test cocks or ports, containing two independently operating spring loaded, poppet type check valves, in series, which can be easily removed and replaced. This assembly is suitable for installation in a water meter vault or pit, below ground.

*Service Connection:* The terminal end of a service connection from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.

*Used Water:* Any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

*Water Purveyor:* Owner or operator of a public potable water system providing an approved water supply to the public.

*Water Supply-Auxiliary:* Any water supply on or available to the customer's premises other than the purveyor's approved public potable water supply. The auxiliary water may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, etc., and used or objectionable.

*Water Supply-Unapproved:* Any water supply, which has not been approved for human consumption by the State of North Carolina, Department of Environmental Quality, Water Resources Division, Public Water Supply Section.

#### **Sec. 13-46.- RIGHT OF ENTRY**

Authorization:

1. Upon presentation of proper credentials and identification any authorized representative from the City of Graham shall have the right to enter any building, structure or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed upon him/her by this ordinance. Those duties may include sampling and testing of water, or inspection and observation of all piping systems connected to the public water supply. Refusal to allow these representatives to enter for these purposes will result in the disconnection of water service.
2. On request, the consumer shall furnish to the water purveyor any pertinent information regarding the water supply system on such property where cross-connection and backflow are deemed possible. [N.C. State Plumbing Code Appendix D104.2.3]

#### **Sec. 13-47.- ELIMINATION OF CROSS-CONNECTIONS**

Unprotected Cross-Connection Prohibited:

1. No water service connection to any private water system shall be installed or maintained by the City of Graham unless the water supply is protected as required by this ordinance and other applicable laws. Service of water to any premises shall be discontinued by the City of Graham if a backflow assembly, required by this ordinance, is not installed, tested, and maintained or if a backflow assembly has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will be restored after all such conditions or defects are corrected.

2. No customer shall allow an unprotected cross-connection to be made or to remain involving the customer's private water system.
3. No connection shall be made to an unapproved auxiliary water supply unless the public water supply is protected against backflow by an approved backflow assembly, appropriate to the degree of hazard.
4. No customer shall fail to maintain in good operating condition any backflow prevention assembly, which is part of the customer's private water system and is required by this ordinance.
5. No customer shall fail to submit to the City of Graham any record, which is required by this ordinance.

### **Sec. 13-48.- INSTALLATION**

Installation and testing of backflow prevention assembly:

1. The purpose of this section is to require that all water flowing from the public water system, must flow through an approved backflow prevention assembly and that each backflow prevention assembly be properly located, installed, maintained and tested so that the backflow prevention assembly is effective in protecting the public water system from any possible contamination or pollution.
2. The installation or replacement of a backflow prevention assembly for domestic water use shall only be performed by a licensed plumber or utility contractor. The installation or repair of a backflow prevention assembly on a dedicated fire sprinkler service shall be performed by a licensed fire sprinkler contractor or utility contractor. All backflow prevention assemblies shall be tested by a certified Backflow Technician authorized by the City of Graham. Repairs to a backflow prevention assembly on a dedicated fire sprinkler system may only be performed by a fire sprinkler contractor.
3. All new construction plans and specifications which will directly affect the City of Graham Water System, and/or required by the North Carolina Building Code, the North Carolina Department of Environmental Quality (NCDEQ), and City or County Planning and Zoning Offices, shall be made available to the City of Graham Backflow Administrator for review, approval and to determine the degree of hazard.
4. All existing facilities zoned commercial or industrial and have existing water services with the City of Graham Water System and requesting Certificate of Occupancy from the City or County Planning and Zoning offices, shall be inspected for compliance of backflow and cross-connection control prevention. Any facility not having backflow protection or changing the degree of hazard shall be brought into compliance before the Backflow Administrator may release Certificate of Occupancy.
5. All backflow prevention assemblies must be installed and maintained on the customer's premises as part of the customer's private water system at or near the service connection and before the service line is connected to any other pipes except as authorized by the water purveyor.



6. If it has been determined that a backflow prevention assembly cannot be installed at the meter service or other outside location, the Backflow Administrator may allow the assembly to be installed just inside the building.
7. Any branch of plumbing installed on a private water system that may be of a greater hazard than the supply line, (example: Chemical induced irrigation or fire systems, pump systems, etc.) shall be protected with a reduced pressure zone assembly.
8. All backflow prevention assemblies shall be installed in accordance with the Backflow and Cross-Connection Specifications furnished by the City of Graham and/or the manufacturer's instructions, whichever is most restrictive.
9. All double check valve assemblies, 2 inch or larger, must be installed in a watertight drainable pit wherever below ground installation is necessary in accordance with the Backflow and Cross-Connection Specifications furnished by the City of Graham. If a drain can not be provided, the assembly must be installed above ground.
10. Double check valve assemblies may be installed in a vertical position with prior approval from the Backflow Administrator provided the flow of water is in an upward direction.
11. Reduce pressure principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances (pit installations are prohibited).
12. Any customer installing a reduced pressure zone (RPZ), pressure vacuum breaker (PVB), double check-detector assembly (DCDA) or double check valve assembly (DCVA) shall provide the following information on forms provided by the city to the Backflow Administrator within ten (10) days of installation: service address, owner, date of installation, type of assembly, manufacturer, model, and serial number.
13. No service shall be completed until the Backflow Administrator has been provided information or has surveyed the private water system to determine the degree of hazard and make a determination of a backflow prevention assembly to be installed to protect the public water supply.
14. The Backflow Administrator must approve each backflow assembly required by this ordinance. Specifications for backflow assemblies are furnished by the City of Graham. Any unapproved backflow assemblies must be replaced within a time set by the Administrator, with an approved backflow assembly.
15. If it has been determined that a customer must install a backflow prevention assembly, the Backflow Administrator will provide the customer with a letter of notification. The following time periods shall be set forth for the installation of the specified assemblies:

Health Hazard	60 days
Non-Health Hazard	90 days
16. If an imminent hazard or unreasonable threat of contamination or pollution to the public water system is detected, the Backflow Administrator may require the installation of the

required backflow assembly immediately or within a shorter time period than specified in Sub-Section 13-48.15.

### **Sec. 13-49.- TESTING AND REPAIR**

Testing and repair of backflow prevention assemblies:

1. Testing and repair of backflow prevention assemblies shall be made by a certified backflow prevention technician approved by the Backflow Administrator. Such tests are to be conducted annually or at a frequency established by the Backflow Administrator. A certified backflow prevention technician shall perform any testing and the test results shall be submitted to the Backflow Administrator on an approved form within thirty (30) business days after the completion of any testing. If a repair is found necessary on an assembly, it must be re-tested. A complete duplicate copy of any repair shall be sent to the Backflow Administrator within thirty (30) days of completion of the repair. Each customer must maintain a complete copy of any tests or repairs.
2. Each backflow prevention assembly must function properly at time of installment. The customer will be required to test each assembly within ten (10) days following installation at his expense. A certified backflow prevention technician shall conduct the test and the results shall be submitted to the Backflow Administrator on an approved form.
3. Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing, or routine inspection by the consumer or by the Backflow Administrator, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:  

Health Hazard Facilities - 7 days  
Non-Health Hazard Facilities - 21 days
4. All backflow prevention assemblies with test cocks are required to be tested annually or at a frequency established by the Backflow Administrator.
5. All certified backflow prevention technicians must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the Backflow Administrator. All test equipment shall be registered with the Backflow Administrator and shall be checked for accuracy annually (at a minimum), calibrated if necessary, and certified as to such accuracy/calibration, employing a calibration method acceptable to the Backflow Administrator.
6. It shall be unlawful for any consumer or certified backflow prevention assembly tester to submit any record to the Backflow Administrator which is false or incomplete in any material respect. It shall be unlawful for any consumer or certified tester to fail to submit to the Backflow Administrator any record which is required by this Ordinance. Such violations may result in any of the enforcement actions outlined in Section 13-56 of this Ordinance.
7. All rubber components must be replaced every five (5) years or as often as needed.

8. If a customer does not wish for water service to be interrupted when a backflow assembly is tested, repaired, or replaced, a parallel installation must be made, at the customer's expense, using an approved assembly of the same degree of hazard. The parallel line may be of the same size or smaller.
9. No service shall be completed until the Backflow Administrator has been provided information or has surveyed the private water system to determine the degree of hazard and make a determination of a backflow prevention assembly to be installed to protect the public water supply.
10. Any customer making any modification to the private system's configuration or use of, which may change the degree of hazard, shall notify the Backflow Administrator before any modification is made. If the Backflow Administrator determines that such modification requires a different backflow prevention assembly, that assembly must be installed before the modification is made.

### **Sec. 13-50.- SEVERE HAZARD FACILITIES AND METHODS OF CORRECTION**

All severe hazard facilities must have an approved reduced pressure principle assembly as a minimum containment device.

1. Severe hazard facilities include, but are not limited to: any private water system used or designed pump or which may become pressurized for use with a booster for any reason to the extent that back pressure may occur; any private water system which contains water which has been or is being re-circulated; a building with five or more stories above ground level; brewery; car wash with recycling system; bottling plant; chemical plant; dentist's office; dry cleaning plant; fertilizer plant; film laboratory; fire sprinkler or standpipe system with chemical additives; hospital, clinic, medical building; irrigation system with chemical additives; laboratory; commercial laundry (except self-service laundry); metal processing plant; morgue or mortuary; nursing home; pharmaceutical plant; power plant; swimming pool; sewage treatment plant; tire manufacturer; veterinary hospital or clinic; restaurants; battery manufacturers; exterminators and lawn care companies; dairies; canneries; dye works; recycling facilities.
2. If the Backflow Administrator does not have sufficient access to every portion of a private water system to permit the complete evaluation of the degree of hazard associated with such private water system, an approved reduced pressure principle assembly must be installed.
3. All assemblies and installations shall be subject to inspection and approval by the City of Graham Backflow Administrator.
4. Filling of tanks/tankers or any other container from a City of Graham owned fire hydrant is strictly prohibited unless it has been equipped with the proper meter and backflow protection. At which point the City of Graham will issue a permit for that tank/tanker or container. Any unauthorized connection to a fire hydrant is considered an illegal cross-connection to the public water system and will be subject to fines.

**Sec 13-51.- MODERATE HAZARD**

All moderate hazard facilities must have a double check valve assembly as a minimum containment device.

1. Moderate hazard facilities include, but are not limited to: fire sprinkler systems without booster pump facilities or chemical additives; connections to tanks, lines and vessels that handle non-toxic substances; lawn sprinkler systems without chemical injection or, booster pumps; all industrial and most commercial facilities not identified as high hazard facilities.
2. All single family residential homes will be considered a moderate hazard and shall have a minimum of a dual check valve device installed at the meter service.
3. If no other backflow prevention assembly is specified a double check valve assembly must be installed on all private water systems.
4. Only a backflow prevention assembly offering a greater degree of protection may be installed in place of a specified assembly required by this ordinance.

**Sec 13-52.- IMMINENT HAZARD**

If it has been determined a customer's private water system has an imminent hazard; such customer must install a backflow prevention assembly specified by the Backflow Administrator and this ordinance. This assembly must be installed within twenty-four (24) hours of notification from the Administrator. If the customer fails to install the specified assembly within the allowed time limit, water service to the customer's private water system will be terminated and may be subject to specified civil penalties. In the event the Backflow Administrator is unable to notify the customer in twenty-four (24) hours of determining an imminent hazard exists the Backflow Administrator may terminate water service until the specified assembly is installed. These actions may be carried out under the Safe Drinking Water Act (Title XIV Section 1431) and the N.C. State Plumbing Code (appendix D104.2.6).

**Sec. 13-53.- LAWN IRRIGATION SYSTEMS**

- A. All proposed lawn irrigation systems will be served through a separate meter and must have a double check valve assembly as a minimum containment device.
- B. Only a backflow prevention assembly offering a greater degree of protection may be installed in place of a specified assembly required by this ordinance.

**Sec. 13-54.- FIRE SPRINKLER SYSTEMS**

- A. All unmetered fire sprinkler systems without booster facilities or chemical additives must have a double check-detector check valve assembly as a minimum containment device.

- B. All unmetered fire sprinkler systems with a booster facility or chemical additives must have a reduced pressure principle-detector assembly as a minimum containment device.

**Sec. 13-55.- NOTICES:**

Notice of Contamination of Pollution:

1. In the event the customer's private water system becomes contaminated or polluted the customer shall notify the City of Graham immediately.
2. In the event a customer has reason to believe that a backflow incident has occurred between the customer's private water system and the public water system the customer must notify the City of Graham immediately in order that appropriate measures may be taken to isolate and remove the contamination of pollution.

**Sec. 13-56.- VIOLATIONS:**

A. Notification of Violation:

1. A written notice must be presented to any customer/person who has been found to be in violation of any part of this ordinance.
2. Such notice must explain the violation and give the time period within which the violation must be corrected. The time period set to correct a violation shall not exceed thirty (30) days after receiving notice unless otherwise specified. If the violation has been determined by the Backflow Administrator to be an imminent hazard the customer shall be required to correct the violation immediately.
3. In the event a customer is found in violation of this ordinance and fails to correct the violation in a timely manner, or to pay any civil penalty or expense assessed under this section, water service will be terminated.
4. Any person violating any part of this ordinance must reimburse the City of Graham for any expenses in repairing damage to the public water system caused by any violation and any expenses incurred for investigating a violation.

B. The violation of any section of this ordinance may result in the assessment of a civil penalty listed as followed:

1. Unprotected cross connection involving a private water system, which has an imminent hazard-\$1000 per day not to exceed \$10,000.
2. Unprotected cross connection involving a private water system which is of a moderate or severe hazard-\$500.
3. Submitting false records or failure to submit records, which are required by this ordinance-\$500.
4. Failure to test or maintain backflow prevention assemblies as required-\$100 per day.

C. Reduction of Penalty:

1. The Backflow Administrator may reduce or dismiss any civil penalty imposed under this section if the Backflow Administrator has determined that the person charged with the violation has no past history of violation in a timely manner as set by the Backflow Administrator.
2. No civil penalty shall be reduced if it has been determined the violation was intentional.

D. Right of Appeal:

Any person aggrieved by a decision or assessment of a civil penalty by the Backflow Administrator may appeal the decision or assessment of civil penalty by mailing a written notice of appeal to the City Manager, setting forth the bases, reasons, or providing other submissions that support changing or modifying such decision and/or reducing and eliminating any assessed civil penalty. The written appeal must be received within 15 days of the date notice of the penalty.

A hearing shall be conducted by the City Manager within 15 days after the receipt of any appeal.

Any aggrieved person shall be required to attend said hearing and will be provided an opportunity to be heard and present evidence regarding the appeal.

The City Manager shall render a final decision on any appeal within 20 days of the date of said hearing.

The decision of the City Manager shall be subject to Superior Court review of the proceedings in the nature of certiorari. Superior Court review of City Manager's decision shall be heard in the Superior Court of Alamance County. Petition for review by Superior Court of Alamance County shall be filed with the Clerk of Superior Court of Alamance County within 30 days after the decision of the City Manager is served by certified on the aggrieved party.



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**Sec. 2.** That this Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law

This the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk