

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

The City Council of the City of Graham met in regular session at 7:00 p.m. on Tuesday, December 3, 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  
Council Member Jennifer Talley  
Council Member Ricky Hall

**Also Present:**

Frankie Maness, City Manager  
Aaron Holland, Assistant City Manager  
Darcy Sperry, City Clerk  
Bryan Coleman, City Attorney  
Nathan Page, Planning Director

Mayor Jerry Peterman called the meeting to order and presided at 7:00 p.m. Graham Police Chief Jeff Prichard gave the invocation and everyone stood to recite the Pledge of Allegiance.

**Honorary Recognition:**

➤ **Kris Kloepping**

Ms. Michelle Wells, Executive Director of the NC Recreation and Parks Association (NCRPA), Mr. Keith Jenkins, President of the NCRPA Board of Directors and Mr. Aaron Davis, NCRPA Board of Directors Member presented City of Graham Athletics Supervisor Kris Kloepping with the 2019 NCRPA Young Professional Award. Mr. Kloepping thanked the City of Graham and the NCRPA for this award.

**Old Business:**

***a. Approve Minutes – November 5, 2019 Regular Session***

Mayor Pro Tem Lee Kimrey asked that the statement made by Mr. Chuck Talley be included in the minutes. The statement is as follows: Key stakeholders should have more power in what's being said than anybody in the City. With no discussion forthcoming, Mayor Pro Tem Kimrey made a motion to approve the minutes with the addition. Council Member Melody Wiggins seconded the motion and all voted in favor of the motion.

***b. Accept the offer to purchase of \$100 submitted by Timothy & Laurinda Krotish for surplus property***

City Manager explained that at last month's meeting, Council was informed that the City had received an offer of \$100 to purchase surplus City property. Council approved a resolution to start the upset bid process.

Mr. Maness advised that the upset bid process has concluded and no additional offers were received. Staff recommends approval of the sale of this property to Timothy and Laurinda Krotish for \$100.

Mayor Pro Tem Kimrey asked Mr. Maness if this was an old right of way. Mr. Maness stated that this actually was an old parcel and the right of way was extracted from that parcel and this is the remnants of that parcel. He added that this property is a NCDOT right of way and approval will cure a landlocked parcel.

With no further discussion forthcoming, Council Member Griffin McClure made a motion to accept the offer of \$100 submitted by Timothy & Laurinda Krotish for surplus City property on S. Main and E. Moore Street, more particularly described as GPIN #8883361185, Parcel ID: 144382 and authorize the City Manager, City Attorney and City Clerk to effectuate the sale. Council Member Chip Turner seconded the motion and all voted in favor of the motion.

***c. Second 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***

Mr. Maness explained that this is the second reading of the proposed ordinance that provides general regulation and some specific regulation with the Tree Board, the Historical Museum Advisory Board and the Recreation Commission. He added that the changes made by Council at the first reading are included in tonight's proposed ordinance.

Following a brief discussion about term limits and how federal rules supersede local rules, Mayor Peterman opened the discussion to the floor.

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

Jennifer Talley – 808 Sideview St. Graham	Tom Boney – The Alamance News
---	-------------------------------

With no further comments forthcoming, Mayor Peterman closed the discussion to the floor. Council Members discussed the concern Mrs. Talley brought up concerning language in the proposed ordinance that would allow commissions to create other commissions. Mayor Pro Tem Kimrey suggested that changing committees to sub-committees throughout the proposed ordinance would clear that up. Council Member Wiggins stated that to remain consistent, we need to add sub-committee throughout all of our ordinances.

With no further discussion forthcoming, Council Member Wiggins made a motion to approve the second reading of the Ordinance amending various sections related to boards and commissions of the Code of Ordinances of the City of Graham, North Carolina with the recommended change in terminology to sub-committee throughout the ordinances. Council Member McClure seconded the motion. Ayes: Council Member Wiggins, Council Member McClure and Mayor Pro Tem Kimrey. Nays: Mayor Peterman and Council Member Turner. Motion carried 3:2.

***d. Audit Presentation***


Ms. Patricia Rhodes of Stout Stuart McGowen & King LLP spoke about the City's audit report for Fiscal Year 2018-2019. Ms. Rhodes spoke favorably about the arrangement that the City maintains with Becky Loy of Cobb Ezekiel Loy & Company and Stout Stuart McGowen & King LLP.

She further stated that all operating funds yielded a surplus for the year, no findings were found and the City received an unmodified opinion – the cleanest and best opinion one can receive. Ms. Rhodes added that there were no difficulties or disagreements with management during this audit.

Mayor Peterman expressed his appreciation to Ms. Rhodes, Ms. Loy, Finance Officer Julianne Cordon, the Finance Department staff and Mr. Maness for their efforts.

### **Acceptance of Certificate the Abstract of Canvassing from the Alamance County Board of Elections:**

Council Member Chip Turner made the motion to accept the Acceptance of Certificate the Abstract of Canvassing from the Alamance County Board of Elections, seconded by Mayor Pro Tem Lee Kimrey. All voted in favor of the motion.



**2019 MUNICIPAL ELECTION**  
**11/05/2019**  
**ABSTRACT OF VOTES**  
**FOR**  
**ALAMANCE COUNTY, NORTH CAROLINA**


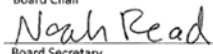
---

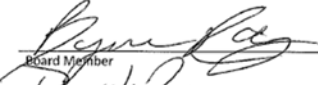
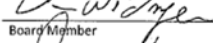
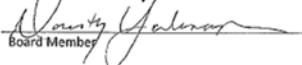
**INSTRUCTIONS**  
 The county board shall prepare abstracts of all the ballot items in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the city or town clerk for the municipality and the State Board of Elections. The State Board of Elections shall forward the original abstract it receives to the Secretary of State (GS § 163A-1173)

---

**STATE OF NORTH CAROLINA**  
**COUNTY OF ALAMANCE**  
 The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, held as above stated, do hereby certify that the attached is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office or referendum named, the name of each person or choice voted for, their party affiliation (where applicable), and the number of votes cast for each person or choice for the item named.

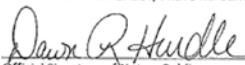
This is the 15th day of November, 2019.

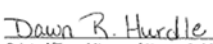
  
 Board Chair  
  
 Board Secretary

  
 Board Member  
  
 Board Member  
  
 Board Member

This day personally appeared before me, Bernard Ambacher, Chairman of the County Board of Elections, who being duly sworn, says the abstract of votes herein contained is true and correct, according to the returns made to said Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this 15th day of November, 2019.

  
 Official Signature of Notary Public

  
 Printed/Typed Name of Notary Public

My Commission Expires: 4-7-2024

**DAWN R HURDLE**  
 NOTARY PUBLIC  
 ALAMANCE COUNTY, NC  
 My Commission Expires 4-7-2024

(Seal)

11/15/19 11:39 AM

## Municipal Election

	0007_GIBSONVILLE ALDERMEN										0008_GRAHAM MAYOR			
	P a u l  D e a n	S t e v e  H a r r i s o n	Y v o n n e  M a i s l a n d	C l a r e e n c e	A - O v e r d	M a r k  S h e p h e r d	P a u l  T h o n p s o n	W R I T E - I N	O V E R  V O T E S	U N D E R  V O T E S	J e r r y  P e t e r s o n	W R I T E - I N	O V E R  V O T E S	U N D E R  V O T E S
935 BOONE 5	4	2	2	2	3	1	2	0	2					
93W WEST BOONE	155	158	254	227	240	255	4	0	138					
964 GRAHAM 4											355	9	0	31
96E EAST GRAHAM											256	10	0	31
96N NORTH GRAHAM											146	2	0	24
96S SOUTH GRAHAM											192	5	0	22
103 MELVILLE 3											5	0	0	0
13 HAW RIVER											0	0	0	0
TOTALS	159	160	256	229	243	256	6	0	140	954	26	0	10	10

11/15/19 11:29 AM

## Municipal Election

4 of 6

[illegible]

Mayor Pro Tem Lee Kimrey stepped down at 7:40 p.m.

Mayor Peterman presented exiting Mayor Pro Tem Kimrey with a key to the City as well as a framed picture with commemorative plaque indicating the years he has served the City of Graham as Mayor Pro Tem and Council Member on the City Council. Former Mayor Pro Tem Kimrey stated that there has been no greater honor than serving his community. He stated that since his time on this Council, within this City he has found himself surrounded by some of the most dedicated, talented and gifted people that anyone could ever find anywhere. While addressing the audience, former Mayor Pro Tem Kimrey added that it has been a privilege to serve them and thanked them for giving him the opportunity.

Council Member McClure stepped down at 7:49 p.m.

Mayor Peterman presented exiting Council Member McClure with a key to the City as well as a framed picture with commemorative plaque indicating the years he has served the City of Graham as Council Member on the City Council. Former Council Member McClure thanked the City of Graham for allowing him to serve.

He applauded the efforts of City staff and thanked the Council Members he has served alongside. He encouraged staff and the future Council to look into adding a Public Information Officer and investing in public transportation. He concluded by thanking his wife and daughters.

### **Organizational Meeting of Council:**

- a. City Clerk Darcy Sperry administered the Oath of Office to Re-Elected Mayor Peterman.*
- b. Superior Court Judge Tom Lambeth administered the Oath of Office to Newly Elected City Council Member Jennifer Talley.*
- c. Superior Court Judge Tom Lambeth administered the Oath of Office to Newly Elected City Council Member Ricky Hall.*
- d. Mayor Peterman nominated Council Member Turner as Mayor Pro Tem, seconded by Council Member Hall. All voted in favor of the nomination.*
- e. Ms. Sperry administered the Oath of Office to Newly Elected Mayor Pro Tem Chip Turner.*
- f. The Council discussed the regular meeting schedule. Council Member Talley made the motion to move the regular session meeting to 6:00 p.m. on the second Tuesday of each month, seconded by Mayor Pro Tem Turner. All voted in favor of the motion.*

### **Consent Agenda:**

- a. Approve Tax Releases*

CITY OF GRAHAM RELEASE ACCOUNTS				
DECEMBER				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
20099	2019	BELLSOUTH TEL CO	VALUE INCORRECT, (NEW BILL WILL BE \$8018.70)	8,047.84
107141	2019	CANON FINANCIAL SERVICES INC	STATE PP SCHEDULE CHANGED VALUE DECREASED	17.57
648047	2019	SALEM LEASING CORP	TRUCK LISTED IN DURHAM	\$432.14
674787	2019	JEANNE OWEN LIFE ESTATE	QUALIFIED FOR HOMESTEAD EXEMPTION	\$284.16

- b. Approve Resolution Declaring Intent to Lease City-Owned Surplus Real Property Located at 211 S. Main Street Pursuant to G.S. 160A-272*
- c. Approve Resolution to rename Colonial Drive to Granite Mill Drive*

Council Member Hall made a motion to approve the Consent Agenda, seconded by Council Member Talley. All voted in favor of the motion.

## **Recommendations from Planning Board:**

- 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)***

City Attorney Bryan Coleman read the following statement:

*This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.*

*The Council's discretion is limited. The Council must base its decision upon competent, relevant, and substantial evidence in the record. It is a decision that must be based on the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.*

*This meeting is open to the public. However, participation is limited. Parties with standing have rights to present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the City Council. General witness testimony is limited to facts, no opinions. For certain topics, this Council needs to hear opinion testimony from expert witnesses. These topics include predictions about impacts on property values and predictions about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.*

*Witnesses must swear or affirm their testimony. At this time, all individuals who intend to provide witness testimony are asked to come up and be sworn in.*

Ms. Sperry administered the oath to the following individuals:

Bradford Deaton – 1400 Battleground Ave. Ste. 207 Greensboro	T. Eugene Mustin – 621 Eugene Ct. Ste. 100 Greensboro
Steve Sumner – 414 Old Farm Rd. Graham	Deborah Wagner – 411 Old Farm Rd. Graham
Scott Pickard – 101 Southwood Ct. Graham	Dawnaly Dax – 110 Palmetto Ct. Graham
Francis Walsh – 404 Aspen Ct. Graham	Nathan Page – 201 S. Main St. Graham
Brenda Stanton – 104 Southwood Ct. Graham	Jacqueline Dunkle – 510 Winesap Dr. Graham
Marty Unger – 514 Winesap Dr. Graham	Dana Scott – 412 Old Farm Rd. Graham
Kirstin Trowbridge – 604 Old Farm Dr. Graham	Laurie Pickard – 101 Southwood Ct. Graham
Bobby Minor – 315 Old Farm Dr. Graham	

Mr. Coleman instructed Mayor Peterman to pole the council for any bias or fixed opinions, conflicts of interest, ex-parte communications, or site visits.

Mayor Peterman disclosed that he has seen Steve Sumner's video several times but does not think that will cause him any problems with making a decision. Council Members agreed that Mayor Peterman would not have to recuse himself.

Mayor Pro Tem Turner disclosed that he has seen the same video and has ridden by the site a couple of times. He does not think that will cause him any problems with making a decision. Council Members agreed that Mayor Pro Tem Turner would not have to recuse himself.

Council Member Talley disclosed that prior to being elected, she had talked to several residents and had been to the site and spoken to the Pickard's. She stated that she feels she can listen to what the developer and citizens say tonight. Council Member Talley stated that it is pretty much cut and dry based on the six criteria. Council Members agreed that Council Member Talley would not have to recuse herself.

Council Member Hall disclosed that prior to being sworn in, he did hear from residents. He added that he has no bias towards any of the property owners or the developer. Council Members agreed that Council Member Hall would not have to recuse himself.

Planning Director Nathan Page explained this is a request for a Special Use Permit for a Townhouse Dwelling for property located on Moore Street. 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. He added the original plan for Southwood Townhomes was also 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. Mr. Page explained that the developer has agreed to the following concessions during the Planning Board Meeting on November 19, 2019:

- Sidewalk, curb, and gutter on both sides of the street for the whole development.
- Planting buffer between the existing and proposed townhomes.
- Accommodate construction times from 7 AM to 5PM.
- White PVC railings, doors, blinds, and windows for townhomes on Southwood Drive
- Trim, Gutters, garage doors and fascia to match the existing townhomes on Southwood Drive
- Gables are ok with Southwood as long as they match existing
- Southwood roofs have same color and are architectural shingles
- Appropriate draining and water control piped in where reasonable
- Parking pads to accommodate 2 cars in addition to garage space(s)
- Planting on border to show divisions between Moore Street and space to accommodate placement of 2<sup>nd</sup> Southwood Townhomes sign on the new build site
- Construction traffic to come through Moore Street

Council Member Wiggins asked Mr. Page if the developer has added and agreed to those things tonight and they are part of the motion. Mr. Page said yes, unless they are further amended.

Mr. Brad Deaton of 1400 Battleground Avenue Ste. 207 Greensboro, stepped forward to address the Council. Mr. Deaton is the developer for this proposed project. He stated that they have been thru several months of process to get to this point. They began the project with 61 units on this site. They had five different meetings with residents and while they could not address all of the concerns, they addressed many of the concerns. The plan submitted to the Planning Board and before Council calls for 54 units, comprised of two, three and four unit buildings. Mr. Deaton stated that they created more space between units and this plan transitions better from the single family to a multifamily townhome product. Mr. Deaton explained that there are two parts to this project. One is the continuation of Southwood Townhomes. He stated that there are characteristics, restrictions and things that they have done to specifically address concerns from the residents of Southwood Townhomes.

Mr. Deaton stated for the balance of the project, they have dealt with primarily the residents along Old Farm on both sides of the property. Mr. Deaton provided a recap of each meeting with the residents.

Mr. Deaton went on to explain that after the Planning Board meeting, he went back and looked at the plans to determine if they are proposing a development that fits in the neighborhood. He feels it does. He is proposing a similar product with the same style unit, same style home. He added that his Special Use request is for exactly what is in place. Mr. Deaton stated they proposed to have two parking spaces in front of each unit in the driveway and every unit will have a garage. They would be providing an infill development that connects existing roads and existing projects. He stated that there is already a lot of people that live in this area. He does not feel that the incremental increase in the number of units and density will affect the overall area. Mr. Deaton advised that they internally have done a competitive market analysis. Based on that study, the active closed price point for this area averaged \$191,000. The two unit types they are proposing will range from \$180,000 to \$225,000. Mr. Deaton concluded by stating he feels this will increase tax base, it will provide alternate and obtainable housing for current and future residents and will complete the long-term project that has been in existence.

Council Member Talley asked Mr. Deaton about the number of units proposed, parking spaces, building materials and crawlspace versus slab foundation. Additionally, she asked Mr. Deaton about safety issues he has addressed concerning the retention ponds. Mr. Deaton explained that pond space has yet to be designed but will conform to NC standards and those standards required by the City of Graham. Council Member Talley also inquired about the HOA. Mr. Deaton advised that they have reviewed Southwood's HOA and they are willing to work with legal to have the proposed eight units brought into Southwood's HOA.

Mayor Pro Tem Turner asked Mr. Deaton about driveways, parking, and ribbon pavement from Moore Street. Additionally, he asked about stormwater problems and if stormwater would be piped into the ponds. Mr. Deaton stated it would be piped into the ponds. Mayor Pro Tem Turner also asked about fencing for the retention ponds. Mr. Deaton said four foot fencing is currently proposed, but he would be willing to go to five foot.

Mayor Peterman commended the neighbors for asking about on street parking, which slows down our garbage trucks and fire trucks. He asked about wrapping the side of the units proposed for Southwood in brick. Mr. Deaton advised that their proposed units run straight across and do not have a stagger to them like those in Southwood. Mayor Peterman inquired about a five foot black fence, with Mayor Pro Tem Turner stating he would not mind a six foot fence.

Ms. Dana Scott of 412 Old Farm Road Graham stepped forward to address the Council. Ms. Scott stated the request is not fully consistent with the Graham Development Ordinances, nor the 2035 Comprehensive Plan. Ms. Scott provided Power Point slides (Exhibit A) which she had highlighted various sections of Graham's Development Ordinance and Comprehensive Plan. She expressed concern with retention ponds, walking safety, the number of proposed units, injure value of property and the already long car line on Moore Street for South Graham Elementary. She asked Council to deny this request. Mayor Peterman stated that this was Ms. Scott's interpretation of our Ordinances and Comprehensive Plan and that her testimony was opinion. Mayor Peterman addressed some of Ms. Scott's concerns.

Ms. Kirsten Throwbridge of 604 Old Farm Road Graham stepped forward to address the Council. She expressed concern for the current vegetation, stormwater issues, density, impervious surfaces and the location of the retention ponds. She asked Council to deny this request.

Ms. Laurie Pickard of 101 Southwood Court Graham stepped forward to address the Council.



She presented Council with a copy of a list of items submitted to the developer on September 6, 2019 (Exhibit Q), which included all brick construction and raised foundations. She read the list of items into evidence. She added that a few of the items on this list were granted in September 1997 at a City Council meeting. Ms. Pickard submitted into evidence copies of the front and back of the existing Southwood Townhome units (Exhibit Q). She expressed concern with the proposed property lines and exterior maintenance for the new units. Ms. Pickard stated she does appreciate the willingness of the developer to add a sidewalk to help with safety.

Mr. Bobby Minor of 315 Old Farm Drive Graham stepped forward to address the Council. Mr. Minor presented Council Members with literature regarding retention ponds (Exhibit R). He asked the Council to keep the R-12 restrictions in place. He stated that he feels single family homes are better suited in this community. He reiterated concerns for the retention ponds, traffic and schools. He expressed concern with the Planning Ordinance and the Comprehensive Plan. He expressed concern with the vote taken by the Planning Board. Mr. Minor also expressed concern for overcrowding schools.

Ms. Brenda Stanton of 104 Southwood Court Graham stepped forward to address the Council. She stated that it is her understanding that when Southwood was built, it was built in stages by a variety of different developers who were able to meet the requirements of Southwood.

Ms. Jacqueline Dunkle of 510 Winesap Drive Graham stepped forward to address the Council. She expressed concern with the proposed additional parking taking away grass in the front yards. She stated that the investor who bought the property in 2017 knew that it was zoned R-12. She stated that Mr. Deaton told a small group of residents “you’re better off working with me because the City of Graham wants this”. Ms. Dunkle added that the residents do not want this project. She mentioned the Planning Board’s vote 4:3 for denial.

Mr. Marty Unger of 514 Winesap Drive Graham stepped forward to address the Council. He expressed concern with walkability, the number of homes proposed for Moore Street, traffic, mailbox kiosks, garbage container placement and pickup congestion.

Ms. Debra Wagner of 411 Old Farm Road Graham stepped forward to address the Council. She stated she bought her property for the privacy by the trees surrounding it. She expressed concern about crime, traffic, people walking to Sheets and not safe for children to play.

Mr. Steve Sumner of 414 Old Farm Road Graham stepped forward to address the Council. He referenced Mr. Deaton’s statement comparing density to Southwood. Mr. Sumner expressed concern for the increased traffic with 250 homes already approved behind his neighborhood and the additional traffic with this development, believing it creates a bottleneck with traffic. He expressed concern with the retention ponds and water runoff hitting his backyard. Entered into evidence was a video of flooding due to stormwater runoff (Exhibit C).

Mr. Frank Walsh of 404 Aspen Court Graham stepped forward to address Council. Mr. Walsh mentioned the Planning Board voting disapproval. He expressed concern with residents being at a disadvantage because they are not experts. He expressed concern with slab versus crawlspace. Mr. Walsh also stated that conditions two, four, five and six have not been met. He asked Council to deny this request.

At 9:55 p.m., Mayor Peterman called for a ten minute recess. At 10:07 p.m., Mayor Peterman reconvened the Quasi-Judicial Public Hearing.

Following a recap of concerns presented by residents, Mayor Peterman gave Mr. Deaton the opportunity for rebuttal. Mr. Deaton stated that staff has supported the project and that it meets the requirements.

He spoke of the quality of slab construction and there being no difference between crawlspace, raised slab and slab construction. Mr. Deaton stated that the project will have to meet City of Graham design criteria. He added that the Ordinance allows for this type of use in this type of zoning in this location. Mr. Deaton states that they are not asking for anything that the Ordinance does not allow for them to ask for. They are proposing a project that is similar to a residential product that is already there.

Council Member Talley asked if there are certain concessions residents asked for that he is not willing to meet. Mr. Deaton stated that all brick construction would be expensive to build, making it difficult to hit the price point their market research provided. He reiterated that they have met most of what was expressed as concerns. Mr. Deaton spoke of the desired master down they are proposing for some of the units. Council Member Talley asked about slab versus crawlspace construction. Mr. Deaton stated he does not want to create a problem with drainage that already exists with the Southwood crawlspaces, per the residents. Mr. Deaton stated that with slab construction, they will have to grade the site to allow for water collected to be conveyed to a drainage system. He added that there is not a whole lot of difference between slab versus crawlspace as far as how stormwater is dealt with. Council Member Talley asked Mr. Deaton about the lots from front to back. Mr. Deaton that the property a townhome sits on can vary in size with regards to what property is owned by the homeowner. The townhomes he is proposing will still allow for the purchaser to own the land underneath the townhome and will increase the common area maintained by the HOA.

With no further comments forthcoming, Mayor Peterman closed the public input portion of the Quasi-Judicial Public Hearing.

Mayor Pro Tem Turner expressed concern with existing drainage issues and the retention ponds.

Council Member Hall stated he lives in a slab foundation house and has had no problems with drainage. He spoke of slab construction being handicap accessible and that homes in his neighborhood are all built on a slab foundation and are selling within a 90 day period.

Council Member Talley asked Mr. Page if anyone has looked at developing this parcel. Mr. Page stated he does not recall anyone looking at it. Mayor Peterman stated that there was a plan submitted to continue Southwood before the fall of the economy. Council Member Talley referenced page 31 of the The 2035 Plan which calls for predominately detached single family homes. Mr. Page read that section for the record. Council Member Talley also referenced where the Plan calls for garages to be set back from the front of the home and desired to not be in front of the home.

She expressed concern with three cars on each lot, as well as, the safety of stormwater measurements. Mayor Peterman stated that even with R-12, they would have to put the ponds in. Mr. Page stated that probably due to the grade, you would have to put in two ponds. Council Member Talley stated she believes residents have a reasonable expectation when they buy a home and make that investment, they will get something similar and harmonious to what they have now. She believes that if a developer wants to change that zoning, he needs to meet all of the criteria in accordance with the Findings of Fact. She added that she appreciates the developer making the concessions he has, but feels there are other concessions that need to be made. Council Member Talley asked staff if anyone knew why in 1997 they limited the Southwood townhomes to two bedrooms. Mr. Page stated he has reviewed the record but has not been able to determine a reason for it.

Council Member Wiggins spoke of this governmental body having to rule based on facts and not based on their heart. She asked Mr. Page if Council were to approve this tonight, what would it permit the developer to do next. Mr. Page explained that if this were to be approved tonight, the developer would have to go through the Technical Review Committee (TRC) process before any construction could take place. He estimated that the TRC process could take almost nine months.

He added that Mr. Deaton would have to have a State permit to clear the land. Council Member Wiggins spoke of the numerous concerns expressed tonight being ironed out before this would go to the TRC. Council Member Wiggins and Mr. Page spoke of the various entities that make up the TRC.

Mr. Coleman reiterated State Law requires the Council to make their decision based on competent material and substantial evidence. He advised that State Law requires that you do not consider opinion unless it is an expert opinion. Mr. Coleman suggested Council go through the six conditions included in the draft Findings of Fact and Conclusions.

---

#### **Findings of Fact and Conclusions of Law**

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

**Council Members unanimously agreed that this has been met.**

2. Conditions specific to each use, identified by the Development Ordinance, are complied with.

**Council Members unanimously agreed that this has been met.**

3. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.

**Mayor Peterman and Mayor Pro Tem Turner expressed concern with the proposed retention ponds. Council Member Wiggins stated that she believes this condition has been met. Council Member Hall stated that he believes this condition has been met. Council Member Talley stated that she believes this condition has not been met. Mayor Peterman referenced the evidence presented with regards to the death rate of children associated with retention ponds for reason to deny.**

4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.

**Mayor Peterman expressed concern with putting townhomes next to single family homes and how that would affect the values of the single-family homes. Council Member Wiggins stated that she believes this condition has been met. Council Member Talley expressed concern that going from brick to vinyl would affect the value of the homes. Council Member Hall stated he was undecided.**

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.

**Mayor Peterman stated that he believes this condition has been met. Council Member Turner expressed concern with this condition. Council Member Talley stated that she believes that there was a reason the townhomes were limited to two bedrooms in 1997. She stated that she thinks those people have a reasonable expectation to keep that consistent going forward. Mayor Peterman stated that no evidence was presented and the 1997 plans cannot be used as an argument. Council Member Talley stated that The 2035 Plan calls for suburban residential which speaks to it to be predominately detached single family homes. Council Member Hall agreed that this condition has been met.**

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.

**Mayor Peterman and Council Member Wiggins stated that they believe this condition has been met. Council Member Turner expressed concern with vehicle circulation. Council Member Talley stated that The 2035 Plan states that it is desirable that automobile parking in the suburban residential section be located on the street and behind homes with ingress and egress via rear alleys. She stated that she does not believe this condition has been met. Council Member Hall stated he does not believe this condition has been met.**

Mr. Boney expressed concern with the procedure by which Council Members are deliberating this case. Mayor Peterman advised that Council is doing this the right way. Mr. Coleman advised that this is to preserve the record.

With no further deliberation forthcoming, Council Member Talley made a motion that the application be denied. Additionally she moved to adopt the Findings of Fact of Law presented in the staff report with the following revisions: We do not find that the use will not materially endanger the public health or safety if location where proposed and developed. She added that the application is not fully consistent with The Graham 2035 Comprehensive Plan for the following reasons: Principle uses are to be predominately detached single family homes. I do not believe the submission as submitted by the developer meets this criteria. Mayor Pro Tem Turner seconded the motion. Ayes: Council Member Talley, Mayor Pro Tem Turner, Mayor Peterman and Council Member Hall. Nays: Council Member Wiggins. Motion carried 4:1.

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

Mr. Kimrey of 104 West Elm Street stepped forward and stated that now that the new Council has been seated, he assumes that the City will launch a full investigation into the allegations made against him regarding misappropriation of City funds and corruption.

He added that looks forward to the results of this investigation so he may clear his name, or have the opportunity to represent himself in a court of law where evidence and fact determine results, and not in a court of public opinion.

Mr. Kimrey urged Mayor Peterman to begin this investigation immediately. He concluded by saying he looks forward to the results and thinks the citizens of Graham deserve to know what the truth is. Mayor Peterman challenged the staff to look into this.

Mr. Page expressed concern for our current Special Use Permit process and encouraged Council to look into amending what requires a Special Use Permit. He believes there should be no communication between Council Members and residents during the Special Use Process. Mayor Peterman asked Mr. Page to look into what other towns are doing and report back to Council next month.

Mr. Boney expressed concern with Mr. Page's statement regarding communication during the Special Use Permit process. Mr. Coleman stated that the standard is to avoid ex-parte communication at all possible.

Mayor Pro Tem Turner thanked former Mayor Pro Tem Kimrey and Council Member McClure for their service to the City.

Council Member Talley stated she does think citizens are at a disadvantage when going up against developers in general during Special Use Permit process. She said she has asked the City Attorney to draft something that can be handed out to residents informing them of the Special Use process. She stated that this Council is going to do everything they can to arm the citizens to be able to advocate for themselves and know that when you come here you can structure your argument based on the six items regarding a Special Use Permit. Council Member Talley stated she appreciates people taking time out of their busy lives to come participate in local government. She reminded everyone of the Graham Christmas Parade this Saturday and the tree lighting ceremony on Sunday.

Mr. Maness informed Council Members of the recent passing of Richard Ray. Mr. Ray was a Water Plant Operator and Mr. Maness wanted his service to be documented in our minutes for all time. He asked that everyone keep Richard's family in your thoughts and prayers.

Mayor Peterman advised that the Grand Marshall for the Christmas Parade is long time Graham advocate, Robert Sykes.

At 11:12 p.m., Council Member Hall made a motion to adjourn, seconded by Mayor Pro Tem Turner. All voted in favor of the motion.

---

Darcy Sperry, City Clerk