

**CITY OF GRAHAM
VIRTUAL SESSION
TUESDAY, SEPTEMBER 8, 2020
6:00 P.M.**

The City Council of the City of Graham met in virtual session at 6:00 p.m. on Tuesday, September 8, 2020, via livestreaming media.

Council Members Present:

Mayor Jerry Peterman
Mayor Pro Tem Chip Turner
Council Member Melody Wiggins
Council Member Jennifer Talley
Council Member Ricky Hall

Staff Present:

Frankie Maness, City Manager
Aaron Holland, Assistant City Manager
Darcy Sperry, City Clerk
Bryan Coleman, City Attorney
Nathan Page, Planning Director
Jeff Wilson, IT Systems Manager
Mary Faucette, Downtown Development Coordinator

Mayor Jerry Peterman called the meeting to order and presided at 6:16 p.m. Mayor Peterman gave the invocation and everyone stood to recite the Pledge of Allegiance.

Consent Agenda:

- a. *Approve Minutes – August 11, 2020 Regular Session (Virtual)*
- b. *Approve Tax Releases*

CITY OF GRAHAM RELEASE ACCOUNTS				
SEPTEMBER				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
608275	18-19	CRESO CAPITAL INC	BPP HAD NOT BEEN DEPRECIATED	131.57
678740	2020	MIXON, MITCHELL ALEXANDER	DID NOT OWN JAN 1	19.46
692162	2020	OLIVER, GORDON	BILLED TO NEW OWNER PER PARK OPERATOR	53.24
679190	2020	CARROLL, DEBRA F	QUALIFIED FOR HOMESTEAD EXEMPTION	\$368.42
556168	2020	TAYLOR, BOBBY	QUALIFIED FOR DISABLED VETERANS EXCLUSION	\$204.75

- c. *Approve Resolution Setting Deadline for Agenda Packet Items*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA TO ADOPT A DEADLINE FOR ITEMS TO BE PLACED IN THE AGENDA PACKET FOR THE REGULAR MONTHLY MEETING

WHEREAS, in 2016, City Council directed staff to establish a deadline for items to be included in the City Council agenda packet; and

WHEREAS, staff established an informal deadline of the Wednesday prior to the City Council's regularly scheduled monthly meeting; and

WHEREAS, timely submission of information will afford accurate preparation of materials;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Graham hereby adopts, by way of this resolution, a deadline for submission of agenda items of 5:00pm on the Tuesday before the regularly scheduled monthly meeting of the City Council of the City of Graham, North Carolina.

ADOPTED this the Eighth day of September, 2020.

Mayor Peterman asked Council Members if they would like to pull any of the items from the Consent Agenda. Council Member Jennifer Talley asked to pull item "c".

Council Member Ricky Hall made a motion to approve items "a" and "b" on the Consent Agenda, seconded by Council Member Melody Wiggins. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Concerning item "c", Council Member Talley questioned the process for placing items on the agenda. Council Member Hall made a motion to approve item "c" on the Consent Agenda, seconded by Council Member Talley. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Old Business/Recommendations from Planning Board:

- a. **Public Hearing: AN2003 1455 East Harden Street. Annexation Ordinance for Voluntary Contiguous Annexation for 6.37 acres located at 1455 East Harden Street (GPIN 8893072659)***

Assistant City Manager Aaron Holland explained that the petitioner seeks Council approval for an extension of the corporate limits to include the subject property. He added that water is available at this location, and the applicant wishes to tie onto the City water lines. The annexation process has multiple steps. Following a public hearing, approval of an Annexation Ordinance is the final step for Council in the annexation process. Staff recommends approval.

Mayor Peterman opened the Public Hearing and with no comments forthcoming, he closed the Public Hearing.

Council Member Wiggins made a motion to approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 1455 East Harden Street, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion.

ANNEXATION ORDINANCE
TO EXTEND THE CORPORATE LIMITS
OF THE
CITY OF GRAHAM, NORTH CAROLINA
FOR 1455 E HARDEN STREET (AN2003)

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

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 6:00 P.M. on September 8, 2020, after due notice by publication on August 20, 2020; and

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

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of September 30, 2020:

A certain tract or parcel of land situated in Graham Township, Alamance County, North Carolina, adjoining the lands of NC Highway 54 (E. Harden Street), City of Graham and Michael P Hodges and wife Brenda B. Hodges and being more particularly described as follows:

Beginning at an existing iron pin in the southern margin of the 120 feet right of way of NC Highway 54 (E. Harden Street) and in the western line of the City of Graham; running thence along and continuous with the existing corporate limits line of the City of Graham S 5° 49' 00" W 178.23 feet to an existing iron pin, corner with the City of Graham; running again along and continuous with the northern corporate limits line of the City of Graham, N 88° 27' 00" W 551.88 feet to an existing iron corner pin in the property line of the City of Graham, continuing with the City of Graham N 87° 42' 00" W 401.42 feet to an existing iron pin in the property line of the City of Graham, continuing with the City of Graham N 87° 42' 00" W 223.70 feet to an existing iron pin in the property line of the City of Graham, continuing with the City of Graham and the eastern boundary of Michael P Hodges and wife Brenda B Hodges, N 67° 30' 31" E 827.12 feet to an existing iron pin, continuing again with Hodges, N 83° 53' 02" E 35.15 feet to an existing iron pin, corner of Hodges, continuing again with Hodges N 60° 22' 57" E 170.18 feet to an existing iron pin corner with Hodges in the southern margin of the 120 feet right of way of NC Highway 54(E. Harden Street); thence along the southern margin of the 120 feet right of way of NC Highway 54(E. Harden Street) S 42° 41' 58" E 12.00 feet to an existing iron pin; running thence again with the southern margin of the 120 foot right of way of NC Highway 54(E. Harden Street), S 42° 48' 33" E 351.87 feet to the point of beginning and containing 6.37 acres ± (0.0099 square miles) and being an extension of the City of Graham Corporate Limits.

The foregoing description was taken from a map prepared by Boswell Surveyors, Inc. dated 5/21/2020 entitled Final Plat, Voluntary Satellite Annexation Corporate Limits Extension City of Graham.

Section 2. Upon and after September 30, 2020, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Graham and shall be entitled to the same privileges and benefits as other parts of the City of Graham. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

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

Adopted this, the 8th day of September, 2020.

b. Public Hearing: Riley's Meadow (GPIN 8893856817 & 8893762882)

- i. AN2002 Riley's Meadow. Annexation Ordinance for Voluntary Non-Contiguous Annexation for 77 acres located on Jim Minor Road*

Mr. Holland explained that this is a request to extend the corporate limits of the City of Graham, North Carolina, for two lots off Jim Minor Road. He added the 77 +/- acre area being considered for annexation is noncontiguous. While sewer is near the lot, the applicant anticipates extending municipal water service to the location. Mr. Holland advised that the annexation process has multiple steps. Following a public hearing, approval of an Annexation Ordinance is the final step for Council in the annexation process. Staff recommends approval.

Council Member Talley asked Planning Director Nathan Page to go through the list of conditions the Planning Board recommended. Mr. Page advised that conditions cannot be placed on annexations and that the list she was referring to was for the zoning request that will be presented to Council if annexation is approved.

With no further questions forthcoming, Mayor Peterman opened the Public Hearing. The following individuals addressed Council Members via the livestream:

Patty Allen-265 W. Shannon Dr. Graham	Kim Minter-1906 Jimmie Kerr Rd. Haw River
Tony Tate-5011 Southpark Dr. Ste. 200 Durham	Michael White
Eric Crissman-208 Albright Ave. Graham	Brent Gonet-2033 Atlas Dr. Haw River

Mayor Peterman closed the Public Hearing. Council Member Talley asked staff about fire ratings, fire radius, school capacity, City services and police services. Council Member Wiggins inquired about what the developer could do with this property should annexation not be approved.

With no further comments forthcoming, Council Member Wiggins made a motion to approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for two lots, making up approximately 77 acres off Jim Minor Road, seconded by Mayor Pro Tem Chip Turner. Mayor Peterman polled the Council Members and all voted in favor of the motion.

ii. CR2002 Riley's Meadow. Application by Tony Tate for initiation of zoning for 77 acres off Jim Minor Road

Mr. Page explained this is a request to initiate zoning upon the subject property as Conditional Residential. The proposed use of the property is for 393 dwelling units, with a mixture of townhomes and single-family detached units. He added that while the site is within the identified NCCP, the location of the park and the existing residential density on Atlas Drive suggest that this location may be better served by residences than an industrial complex. Mr. Page further explained that open space has been provided internal to the site, as well as to protect the wetlands and streams upon the site. This development is across the street from the Graham Regional Park, which has recently opened the second phase. Staff recommends approval. Mr. Page presented a video submitted by the developer.

Council Member Talley advised that she has heard push back from the realtors heard in the video. She expressed concern with density, setbacks, fire safety, open space, water runoff, building materials and traffic impact. Following a brief discussion between Council Member Wiggins and Mr. Page about Technical Review Committee's role in development, Mayor Peterman opened the Public Hearing.

The following individuals addressed Council Members via the livestream:

Patty Allen-265 W. Shannon Dr. Graham	Kim Minter-1906 Jimmie Kerr Rd. Haw River
Janell Woody-2065 Atlas Dr. Haw River	Angela Willis-1408 N. Jim Minor Rd. Haw River
Andrew Cagle-1322 N. Jim Minor Rd. Haw River	Brent Gonet-2033 Atlas Dr. Haw River
Don Freeman-2025 Atlas Dr. Haw River	Tony Tate-2011 Southpark Dr. Ste. 200 Durham
Scott Gollnick-2001 Atlas Dr. Haw River	

With no further comments from the public forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Talley asked Mr. Tate about home price point, school and traffic impact studies and building materials, open space and additional storage units. She asked Mayor Peterman about fire safety. Mayor Pro Tem Turner asked about turn lanes and street maintenance. Mayor Peterman stated that he believes this property has to come with density for the City not to lose money. Staff encouraged Council to use The 2035 Graham Comprehensive Plan to fend off any potential lawsuits. Mayor Peterman asked Mr. Tate if amenities could be included in phase I of the development. Mr. Tate stated that they could be put in within the first 12 months. Council Member Hall inquired about off street parking. City Clerk Darcy Sperry read a public comment she received via email from Stephanie Wood.

With no further questions forthcoming, Council Member Wiggins made a motion that the application be approved with the following conditions:

- A minimum of 5-foot setbacks
- The pool and cabana would be completed with the first phase;

Council Member Wiggins added 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 in consistence with Policy 3.2.4, 5.2.1, and Strategy 4.3.1 of The Graham 2035 Comprehensive Plan. Mayor Pro Tem Turner seconded the motion. Mayor Peterman polled the Council Members. Ayes: Council Member Wiggins, Mayor Pro Tem Turner and Mayor Peterman. Nays: Council Member Talley and Council Member Hall. Motion carried 3:2.

c. S2002 Riley's Meadow. Application by Tony Tate for subdivision for 77 acres off Jim Minor Road

Mr. Page stated that approval of this request is a formality, as this meets the standard of the conditional zoning just approved. He explained this is a request to subdivide the approximately 77 acres of the subject property for approximately 400 residential lots. The properties are across the road from the Graham Regional Park.

With no comments forthcoming, Council Member Talley made a motion to deny, seconded by Council Member Hall. Mayor Peterman polled the Council Members. Ayes: Council Member Talley and Council Member Hall. Nays: Mayor Peterman, Mayor Pro Tem Turner and Council Member Wiggins. Motion failed 2:3.

Council Member Wiggins made a motion that the application be approved, the application is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: Allowing a subdivision in this location removes households from the potential hard from floodways (Policy 4.3.1), and protects greenspace (3.2.1) and promotes a greenway trail system (4.2.1). Mayor Pro Tem Turner seconded the motion. Mayor Peterman polled the Council Members. Ayes: Council Member Wiggins, Mayor Pro Tem Turner and Mayor Peterman. Nays: Council Member Talley and Council Member Hall. Motion carried 3:2.

d. Public Hearing: Cherry Creek (GPIN 8893465385, 8893762882, 8893587021, 8893682433 & 8893585808)

- i. AN2004 Cherry Creek. Annexation Ordinance for Voluntary Non-Contiguous Annexation for 21.619 acres located on Sugar Ridge Road and Jimmie Kerr Road*
 - ii. CR2003 Cherry Creek. Application by Tony Tate for rezoning and initiation of zoning for 70 (+/-) acres off Sugar Ridge Road and Jimmie Kerr Road*
- e. S2004 Cherry Creek. Application by Tony Tate for subdivision for 70 (+/-) acres off Sugar Ridge Road and Jimmie Kerr Road***

Mr. Holland advised that the City had received notification by Mr. Tate asking that items “d” and “e” be postponed for one month.

Council Member Wiggins made a motion to postpone this for one month, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Mayor Peterman called for a 15-minute recess.

f. Public Hearing: Text Amendments

- i. AM2003 Multifamily Setbacks. Request by Dennis Euliss to reduce the triangle setbacks for multifamily structures*

Mr. Page explained that Dennis Euliss has applied for an amendment to our Development Ordinance to change the spacing calculations for multifamily developments. Mr. Page briefly explained how calculations are currently done. Mr. Page added that Mr. Euliss proposes that in addition to the 25-foot setback from exterior property lines, all multifamily structures shall be no less than 25 feet from other dwelling structures and no closer than five feet to accessory structures.

Following a brief discussion between Council Members and staff, Mayor Peterman opened the Public Hearing. With no comments forthcoming, he closed the Public Hearing.

Council Members agreed that amending this language would help with fire fall, and the need to update some of our older Ordinances. Council Member Hall made a motion that the text amendment be approved with the following language:

- Section 10.247 Building Spacing Requirements for Multifamily Residential Buildings (Townhouses, Condominiums and Apartments)
- In addition to the 25 foot setback from exterior property lines, all multifamily structures shall be no less than 25 feet from other dwelling structures, not to be less than three-quarters of the height, and no closer than 5 feet to accessory structures (e.g. garages, clubhouses, etc.)

Council Member Hall added the text amendment is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reason: That it is public safety of our firefighters. Mayor Pro Tem Turner seconded the motion. Mayor Peterman polled the Council Members and all voted in favor of the motion.

ii. AM2004 Residential Setbacks. Request by Mike Campbell to reduce the rear yard setbacks for residential lots

Mr. Page explained that this request is for an amendment to our Development Ordinance to reduce the rear yard setback from 20 feet to 15 feet.

Council Members and staff briefly discussed the Planning Board's suggestion that the applicant apply for a variance. Mr. Page referred to the definition of a variance and advised that in this particular case, a variance should not be granted.

With no further comments forthcoming, Mayor Peterman opened the Public Hearing.

The following individual addressed Council Members via the livestream:

Patty Allen-265 W. Shannon Dr. Graham

With no further comments forthcoming, Mayor Peterman closed the Public Hearing. Council Members continued their discussion about setbacks, variances and the fact that Council had lowered the setback to 20 feet approximately a year ago. Council Members expressed concern for changing ordinances to suit one property owner while Mr. Maness advised that many of our ordinances are antiquated and need a comprehensive look.

Council Member Talley made a motion that the text amendment be denied, the text amendment is not fully consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: It is not reasonable to change the setback at this time. We just changed the setback last year and do not believe we need to do it again. Council Member Hall seconded the motion. Ayes: Council Member Talley, Council Member Hall and Mayor Peterman. Nays: Mayor Pro Tem Turner and Council Member Wiggins. Motion carried 3:2.

Requests & Petitions from Citizens:

a. Request by Travis Laughlin to close the 100 block of West Elm Street from 10 a.m. – 5 p.m. on Saturday, October 3, 2020 for a block party celebrating the life & legacy of Wyatt Outlaw

Downtown Development Coordinator Mary Faucette explained this request is being made to coincide with a celebration planned to take place in both Sesquicentennial Park and the 100 block of West Elm Street. Mr. Laughlin along with Alamance Arts, Down Home Alamance and others are coordinating a family-friendly block party activating visual and performing arts to uplift the story and lasting impact

of the life of Wyatt Outlaw. Mrs. Faucette spoke about the Covid-19 restrictions the State is under and recommends postponement of this event.

Council Members expressed concern with the restrictions we are currently under, with Mayor Peterman and Council Member Wiggins saying they hope that when this event does take place, it will attract 1,000 people or more.

With no further discussion forthcoming, Mr. Laughlin joined the livestream. Mr. Laughlin stated that he understands we are all facing the Covid challenge. He told Council that he is looking forward to bringing this event to Graham at some point in the future. Mr. Laughlin thanked Mrs. Faucette for her time and transparency throughout this process.

Mayor Peterman made a motion to ask the organizers of this event to postpone this event until a time when it will fit in the government's guidelines, seconded by Council Member Wiggins. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Issues Not on Tonight's Agenda (Public Comment Period):

Mr. Anthony Pierce of 2009 Atlas Drive Haw River asked for assistance in getting the road closed at North Jim Minor Road and Kimrey Road re-opened. Mayor Peterman asked staff to reach out to NCDOT.

Mr. Jeff Leimberger of 213 North Melville Street Graham asked that the City's Covid-19 information on the website be updated.

Council Member Talley expressed concern about City Hall still being closed to the public during this pandemic. Mr. Maness advised that all City offices are still running without interruption and the City is doing everything in their power to mitigate the spread of Covid-19.

At 10:10 p.m., Council Member Hall made a motion to adjourn, seconded by Council Member Wiggins. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Darcy Sperry, City Clerk