

Graham City Council
Regular (Virtual) Meeting Agenda
Tuesday, February 9, 2021 @ 6:00 P.M.



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

1. Consent Agenda:

- a. Approve Minutes – January 12, 2021 Regular Session (Virtual)
- b. Approve Minutes – January 27, 2021 Special Session
- c. Approve Tax Refund
- d. Approve Tax Collector's Mid-Year Report
- e. Authorize the City Manager to enter into a Lease Agreement with Carolina Property Holdings for the joint use of the alleyway located at 200 North Main Street
- f. Approve Ordinance Amendment to CHAPTER 20, TRAFFIC AND VEHICLES, ARTICLE V, STANDING, STOPPING AND PARKING of the Code of Ordinances to require the location of the Downtown Residential Parking Permit be placed on rear windshield and establish a \$20 annual permit fee, and update the Rates & Fee Schedule accordingly
- g. Approve Initial Project Budget for the WWTP Upgrades and Expansion Project

2. Old Business:

- a. Public Hearing: AN2007 Middlefield Towns. Annexation Ordinance for Voluntary Non-Contiguous Annexation for 5.5 (+/-) acre lot located at 2048 South Main Street (GPIN 8882397172)
- b. Amendment to CHAPTER 20, ARTICLE V, PARADES, DEMONSTRATIONS AND STREET EVENTS of the Code of Ordinances

3. Recommendations from Planning Board:

- a. Public Hearing: RZ2010 Riverbend Business. Request by G. Travers Webb III to rezone a portion of the property located on East Harden Street from R-MF (Multi-Family Residential) to B-2 (General Business) (GPIN 8884721949)
- b. Public Hearing: CR2006 Truby Apartments. Request by Second Partners, LLC for Conditional Rezoning for multi-family apartments from Light Industrial for property located on (GPIN 8894453334)
- c. Public Hearing: AM2005 R-7 Setbacks. Request by Nathan Page to reduce the setbacks for R-7 front and side yards (Development Ordinance Section 10.245 Table of area, height and yard regulations)

4. First Reading: Ordinance Repealing CHAPTER 10, CEMETERIES and Adding a Revised CHAPTER 10, CEMETERIES to the Code of Ordinances

5. Sesquicentennial Park Discussion

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

7. Session Pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (6): To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting

How to Access the February 9, 2021 Virtual Meeting:

<https://us02web.zoom.us/j/88023859457?pwd=QStZaTh1RURJRjN4TU0rQlNzUUliQT09>

Passcode: 484257

Or iPhone one-tap:

US: +13126266799, 88023859457# or +16465588656, 88023859457#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782

Webinar ID: 880 2385 9457

International numbers available: <https://us02web.zoom.us/j/88023859457?pwd=QStZaTh1RURJRjN4TU0rQlNzUUliQT09>

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, JANUARY 12, 2021
6:00 P.M.**

The City Council of the City of Graham met in virtual session at 6:00 p.m. on Tuesday, January 12, 2021, 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

Mayor Jerry Peterman called the meeting to order and presided at 6:00 p.m. Mayor Peterman gave the invocation and everyone stood to recite the Pledge of Allegiance.

Honorary Proclamation of Commendation & Appreciation:

➤ ***Cary Worthy – Executive Director, Alamance Arts***

Mayor Peterman read a proclamation recognizing outgoing Alamance Arts Executive Director Cary Worthy. Mr. Worthy joined the livestream and Council Members took turns congratulating him on his upcoming retirement. Mr. Worthy thanked everyone for their support.

**Proclamation of Commendation and Appreciation Honoring Cary Worthy's
24 Years Leading Alamance Arts**

WHEREAS Cary Worthy accepted the position of Executive Director with Alamance Arts on May 27, 1997; and

WHEREAS the transition of the location of Alamance Arts from the Firehouse Galleries in downtown Graham to the current location at 213 S. Main St. known as the Captain White House occurred during his initial year in his career; and

WHEREAS under his leadership, public art in our community has increased, with more than 33 pieces of sculpture installed across the county; and

WHEREAS strong community relationships have been established - connecting the arts to local businesses, other non-profit organizations, and to the citizens of the county and beyond; and

WHEREAS greater than 100,000 visitors have traveled to the Captain White House to view national and regional exhibits wherein through the Wooten fund Alamance Arts has presented Seward Johnson's *Man on the Street* in 2006, *Beyond the Frame: Impressionism Revisited* in 2011, Nathan Sawaya's *Art of the Brick* in 2013, George R. Stroemple personal collection of *Chihuly Venetians* and currently displays Seward Jonson's *Embracing Peace* monumental on the front lawn; and

WHEREAS all second graders in Alamance County have the chance to see live theatre; and

WHEREAS local artists and artisan groups have benefitted from the leadership of Cary Worthy for the past 24 years; and

WHEREAS due to his love of the season, the Christmas show at Alamance Arts transforms the entire first floor of the Captain White House into a one-of-a-kind Christmas specialty boutique; and

WHEREAS Cary Worthy is not only the Executive Director of Alamance Arts, but he is a steward in this community serving on several non-profit boards throughout his tenure, always answering the call to provide art or lend a hand and is better known as a kind, gentle, and creative party coordinator extraordinaire.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY OF GRAHAM THAT: Cary be commended for his outstanding public service to the City of Graham.

BE IT FURTHER PROCLAIMED THAT: an expression of appreciation be extended to Mr. Cary Worthy in the form of this Proclamation of Commendation and Appreciation, and be presented to him in person.

This the 12th day of January 2021.

Consent Agenda:

- a. *Approve Minutes – December 8, 2020 Regular Session (Virtual)*
- b. *Approve Clerical Correction to Language in Chapter 20, Article V of the Code of Ordinances of The City of Graham, North Carolina for Parades, Demonstrations and Street Events*
- c. *Approve Fire Protection Automatic Aid Agreement*

- d. *Petition for Voluntary Non-Contiguous Annexation for 5.5 (+/-) acre lot located at 2048 South Main Street (GPIN 8882397172) (AN2007):*
- i. *Approve Resolution Requesting City Clerk to Investigate Sufficiency*
 - ii. *Approve Resolution Fixing Date of Public Hearing on Question of Annexation*

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-58
FOR A 5.5 ACRE LOT AT 2048 S MAIN STREET (AN2007)**

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 14, 2020, by the Graham City Council; and

WHEREAS, G.S. 160A-58 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Graham deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Graham:

That the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

**RESOLUTION FIXING DATE OF FEBRUARY 9, 2021 FOR A PUBLIC HEARING ON QUESTION OF ANNEXATION
PURSUANT TO G.S. 160A-58 FOR A 5.5 ACRE LOT AT 2048 S MAIN STREET (AN2007)**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made; and

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC or by teleconference at 6:00 pm on February 9, 2021.

Section 2. The area proposed for annexation is described as follows:

BEGINNING at a control point located at the NW corner of the property on the eastern right-of-way of NC Highway 87, NC Grid Coordinates N 829,321.87' E 1,883,652.82'; thence along the northern property line S 63°04'47" E a distance of 308.97 feet; thence S 44°07'25" E a distance of 135.17 feet to the northeast corner of the property; thence along the traverse line of a creek, said creek being the eastern property line, S 27°00'35" W a distance of 2.22 feet; thence S 08°20'14" W a distance of 52.23 feet; thence S 26°24'10" E a distance of 25.44 feet; thence S 07°44'10" W a distance of 77.94 feet; thence S 05°18'54" W a distance of 62.38 feet; thence S 26°51'31" E a distance of 53.03 feet; thence S 02°15'06" E a distance of 123.04 feet; thence S 01°45'29" W a distance of 17.22 feet to the southeast corner of the property; thence along the southern property line N 80°28'54" W a distance of 309.98 feet; thence N 80°27'41" W a distance of 259.77 feet to the southwest corner of the property on the eastern right-of-way of NC Highway 87; thence along the said right-of-way N 12°01'33" E a distance of 100.00 feet; thence N 17°21'39" E a distance of 99.66'; thence N 19°20'47" E a distance of 94.42 feet; thence N 19°56'25" E a distance of 280.67 feet to the POINT AND PLACE OF BEGINNING, containing 5.57 acres according to a map by B. L. Scott Land Surveying entitled "Annexation Plat for Slippery Elm Properties LLC", dated December 7, 2020.

Section 3. Notice of the public hearing shall be published once in The Alamance News, a newspaper having general circulation in the City of Graham, at least ten (10) days prior to the date of the public hearing.

Adopted this the 12th day of January, 2021.

Mayor Peterman asked Council Members if they would like to pull any of the items from the Consent Agenda and advised that he would like to pull item “b”.

Council Member Ricky Hall made a motion to approve items “a”, “c” and “d” on the Consent Agenda, seconded by Mayor Pro Tem Chip Turner. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Concerning item “b”, Mayor Peterman deferred to City Manager Frankie Maness. Mr. Maness advised that after consulting with legal counsel, there are revisions to the current Ordinance being considered and recommended tabling this item one month. City Attorney Bryan Coleman echoed Mr. Maness and recommended the motion include delaying the criminal enforcement as well.

Following a discussion between Council Members and staff, Council Member Hall made a motion to approve item “b” on the Consent Agenda. The motion failed to get a second and therefore died. Council Member Melody Wiggins made a motion to move item “b” to next month and suspend criminal enforcement of the Ordinance. Mayor Pro Tem Chip 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.

Audit Presentation by Stout, Stuart, McGowen & King, LLP:

Ms. Patricia Rhodes of Stout Stuart McGowen & King LLP spoke about the City’s audit report for Fiscal Year 2019-2020. Ms. Rhodes spoke favorably about the arrangement that the City maintains with Becky Loy of Cobb Ezekiel Loy & Company. 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.

On behalf of the Council, Mayor Peterman expressed his appreciation to Ms. Rhodes, Ms. Loy, Finance Director Julianne Cordon, Tax Collector Sandy Callahan and Mr. Maness for their efforts.

Recommendations from Planning Board:

- a. **Public Hearing: CR0502b Stillhouse Farms Cheeks. Application by Glenn Patterson to amend the initial Conditional Mixed-Use-Residential (C-MXR) that was approved May 3, 2005, and amended on April 14, 2015 for 15.44 acres on Cheeks Lane (GPIN 8883552739)***

Planning Director Nathan Page explained that this is a request to amend the initial Conditional Mixed-Use-Residential (C-MXR) that was approved May 3, 2005 and amended on April 14, 2015. The site remains vacant today. The intention is to redesign the townhome section from 90 to 110 townhomes.

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

Speaking on behalf of the applicant, Mr. Aaron Hutchens of Summit Design and Engineering Services, 320 Executive Court, Hillsborough joined the livestream and fielded questions about buffers, setbacks and roads from Council Members. With no further questions forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Wiggins made a motion that the application be approved with the following conditions:

- Sidewalk on Cheeks Lane
- Type “A” landscape buffer East of 6 properties
- Final site plan receives TRC approval before certificate of occupancy and/or building permit is issued

She stated this action is reasonable and in the public interest for the following reasons: The approval for an alternative design that retains the existing approval for the quantity of townhomes doesn’t materially affect the vicinity. The approval of CR0502b in alignment with Policy 5.1.1. as well as Strategies 1.1.2. and 4.3.1. Mayor Pro Tem Turner seconded the motion. Mayor Peterman polled the Council Members and all voted in favor of the motion.

b. Public Hearing: CR2005 Colonial Heights. Application by Kye Bunker to rezone 57.29 acres off Lacy Holt Road from Residential District (low density) (R-18) to Conditional Residential (C-R) (GPIN 8873512978 & 8873625474)

Mr. Page explained that this is a request to rezone the two subject properties to C-R, Conditional Residential. The proposal is for single family residential and associated accessory uses. This property was originally reserved for the proposed Southern Loop. The proposed rezoning includes a “maximum number of dwelling units = 200” which would come to a maximum density of 3.5 dwelling units per acre. The developer suggested a 30’ evergreen screen along the Northern, Eastern, and Southern perimeters of the property.

Following a discussion between Council Members and staff concerning surrounding properties, zoning, storm water measures/buffers, density, the proposed gate at Wendy Drive, emergency vehicle access and right-of-ways, Mayor Peterman opened the Public Hearing.

Mr. Kye Bunker of LeoTerra Development Inc., 110 A Shields Drive Kernersville joined the livestream and answered questions from Council Members concerning this request. Mr. Bunker advised that he would be willing to give the City an easement should the Council approve the request with the condition not to connect to Wendy Drive.

The following individuals addressed this agenda item with Council Members via the livestream:

Chip King-2278 Sunberry Dr. Graham	Janice Cashion-1820 Lacy Holt Rd. Graham
Keith Wilson-2363 Council Rd. Graham	Mark McKinney-632 Wendy Dr. Graham
Patty Allen-265 W. Shannon Dr. Graham	Catherine Key-718 Wendy Dr. Graham
Leslie Bullis-2015 Mackenna Dr. Graham	Leslie Melton-182 Robbie Ct. Graham
Lonny Schmid-1826 Robbie Ct. Graham	

City Clerk Darcy Sperry read a public comment received from Ariana Lawrence of 639 Wendy Drive Graham. With no more comments forthcoming, Mayor Peterman closed the Public Hearing.

Following more discussion between Council Members and staff, Council Member Wiggins made a motion that the application be approved with the following conditions:

- Wendy Drive will not be connected, but easements will be given to the City for water/sewer and other utilities as necessary

She stated that 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: The absence of the Southern Loop's corridor has allowed the City of Graham to permit additional development at this location, in alignment with policies 3.2.3, 3.2.1, and 5.2.1. Mayor Peterman seconded the motion. Mayor Peterman polled the Council Members. Ayes: Council Member Wiggins, Mayor Peterman and Mayor Pro Tem Turner. Nays: Council Member Talley and Council Member Hall. Motion carried 3:2.

c. S2006 Colonial Heights. Application by Kye Bunker for a subdivision for up to 200 lots on 57 (+/-) acres off Lacy Holt Road (GPIN 8873512978 & 8873625474)

Mr. Page explained that this is a request to subdivide the approximately 57 acres of the subject property for up to 200 residential lots. The properties are currently vacant. The lots on the end of Wendy and/or Natalie Drive have cul-de-sacs which will need to be returned to a straight street, or left alone, at the discretion of the property owners.

Following a brief discussion between Council Members and staff, 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 allows for improved water quality (Policy 4.3.1) and provides additional neighborhood connections (Policy 3.2.3). 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.

Historic Resources Commission Appointment:

a. Historic Resources Commission – term expires 2024

Mayor Peterman asked each Council Member to nominate a candidate for appointment and explained that following nominations, a vote for appointment would take place.

The following represents the nominations made by Council Members:

Council Member	Applicant
Mayor Peterman	No nomination made
Mayor Pro Tem Turner	Zipporah Clark Baldwin
Council Member Wiggins	Matthew Haley
Council Member Talley	Bonnie Whitaker
Council Member Hall	Bonnie Whitaker

Mayor Peterman narrowed the nomination field to include Matthew Haley and Bonnie Whitaker. The following represents the nominations made by Council Members:

Council Member	Applicant
Mayor Peterman	Matthew Haley
Mayor Pro Tem Turner	Matthew Haley
Council Member Wiggins	Matthew Haley
Council Member Talley	Bonnie Whitaker
Council Member Hall	Bonnie Whitaker

Mayor Peterman made a motion to appoint Matthew Haley to the Historic Resources Commission with a term ending June 30, 2024. Council Member Wiggins seconded the motion. Mayor Peterman polled the Council Members. Ayes: Mayor Peterman, Mayor Pro Tem Turner, Council Member Wiggins and Council Member Talley. Nays: Council Member Hall. Motion carried 4:1.

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

Ms. Patty Allen of 265 West Shannon Drive Graham joined the meeting via livestream and asked Council Members to compel the Planning Board to take action on N.C.G.S., Chapter 160D.

Ms. Sperry read an email received from Ms. "Kait", who wished to remain anonymous, regarding gathering limits included in the City's Parades, Demonstrations and Street Events Ordinance.

Ms. Sperry read an email received from Mr. Barrett Brown of 1045 Camelot Lane Graham requesting that Council consider changing the name of Sesquicentennial Park to Wyatt Outlaw Park. Mayor Peterman thought this to be a good request and asked for a consensus to put this request on next month's agenda. Mayor Pro Tem Turner and Council Member Wiggins agreed that this is something Council should consider. Council Member Hall expressed concern with the structural issues that the current park has, while Council Member Talley spoke of the history behind the creation of Sesquicentennial Park.

Council Member Talley reported that the Jimmie Kerr Bridge is in construction and there is hope it will be completed within 60-90 days.

Council Member Talley advised that Ausley's is complaining about the traffic at SunTrust Bank.

Council Member Talley asked if staff had received any feedback on the new water/sewer rates. Mayor Peterman stated he had heard from a couple while Mr. Maness stated he had not had anyone contact him directly.

Mayor Peterman again this month thanked everyone who helped with the Christmas lights.

At 9:35p.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

**CITY OF GRAHAM
SPECIAL SESSION
WEDNESDAY, JANUARY 27, 2021
2:00 P.M.**

The City Council of the City of Graham met in virtual special session at 2:00 p.m. on Wednesday, January 27, 2021, in the Council Chambers of the Municipal Building located at 201 South Main Street. The public participated remotely 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

Mayor Jerry Peterman called the meeting to order and presided at 2:02 p.m.

Appoint Aaron Holland Interim City Manager:

Mayor Peterman made a motion to appoint Aaron Holland Interim City Manager, seconded by Council Member Melody Wiggins. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Mayor Peterman asked Council Members if they wanted to increase Mr. Holland's current salary of \$112,005, suggesting a 5% increase. Council Member Wiggins made a motion to raise Mr. Holland's salary by 5% effective January 31, 2021. Prior to receiving a second, Council Member Jennifer Talley expressed concern that discussion of salary was taking place in open session and this meeting did not advertise that salary would be discussed. Council Member Wiggins withdrew her motion. By consensus, Council Members agreed to take up the salary discussion at their February meeting.

City Clerk Darcy Sperry administered the Interim City Manager Oath of Office to Mr. Holland.

At 2:13 p.m., Mayor Pro Tem Chip Turner made a motion to adjourn, seconded by Council Member Wiggins. All voted in favor of the motion.

Darcy Sperry, City Clerk

**CITY OF GRAHAM
REFUNDS****FEBRUARY**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR REFUND</u>	<u>REFUND AMOUNT</u>
665934	2020	BLANKS, SALLYE	QUALIFIED FOR HOMESTEAD EXEMPTION	316.95

TOTAL REFUNDS 316.95

City of Graham


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

MID YEAR REPORT

February 2, 2021

	TOTAL PROPERTY VALUATION	RATE	AMOUNT OF LEVY
TAX LEVY - CITY WIDE	1,122,006,096	0.455%	5,105,129.06
<u>DISCOVERIES:</u>			
CURRENT YEAR & PRIOR YEARS WITH VARIOUS TAX RATES	39,194,086		178,333.09
<u>ANNEXATIONS:</u>	317,812		1,446.04
<u>ABATEMENTS:</u>	(823,654)		(3,747.62)
CURRENT LEVY	1,160,694,340		5,281,160.57
OUTSTANDING REAL PROPERTY TAXES:			243,062.98
OUTSTANDING PERSONAL PROPERTY TAXES:			<u>74,443.44</u>
TOTAL OUTSTANDING TAXES			317,506.42
CURRENT YEAR TAXES COLLECTED:			4,963,654.15
TO DATE, THE PERCENT OF CURRENT YEAR COLLECTED:			93.99%

I REQUEST THAT THE DATE BE SET FOR LIEN ADVERTISEMENT ON MARCH 18, 2021 IN THE ALAMANCE NEWS. COST FOR ADVERTISING WILL BE \$4.00 PER PARCEL ADVERTISED AND WILL BE CHARGED ONE TIME TO THE TAXPAYER.

Submitted by Sandy P. Callahan, Tax Collector 



STAFF REPORT

SUBJECT:	LEASE AGREEMENT FOR 200 NORTH MAIN STREET ALLEYWAY
PREPARED BY:	MARY FAUCETTE, DOWNTOWN DEVELOPMENT COORDINATOR

REQUESTED ACTION:

Approve the lease agreement with Carolina Property Holdings for the joint use of the alleyway located at 200 North Main Street.

BACKGROUND/SUMMARY:

A vibrant downtown is critical for the success of any city. The urban design of downtown Graham exhibits many of the characteristics of successful places: Buildings located up to the front of the lot, wide sidewalks, on-street parking, awnings, transparent doors and windows, vertical mixed-use buildings, terminated vistas, and small blocks all make downtown a vibrant and charming pedestrian friendly district.

As referenced in the 2035 Comprehensive Plan, "the downtown district should foster vibrant activity day and night by including a diversity of land use, including offices, homes, restaurants, entertainment venues, high quality public gathering spaces, and cultural opportunities."



This proposal is to enter into a lease agreement with Carolina Property Holdings for the joint use of the alleyway located at 200 North Main Street. In addition to adhering to the 2035 Comprehensive Plan, it also meets the criteria set forth from NC Main Street under both the Design and Economic Vitality pillars.

FISCAL IMPACT:

Graham Recreation and Parks (GRPD) will have a fiscal impact as a result of this project. Expenses will be within the scope of GRPD's budget.

STAFF RECOMMENDATION:

Approve

SUGGESTED MOTION(S):

I make a motion to authorize the City Manager to enter into a Lease Agreement with Carolina Property Holdings for the joint use of the alleyway located at 200 North Main Street.



Alleyway Agreement for Public Use | 200 North Pocket Park

Purpose: To activate an underutilized alleyway, presently on private property, for use as a pocket park for public use at 200 North Main Street, Graham.

Defined Area: The open, non-fenced area, is 2,184 square feet located at 200 North Main Street, hereinafter called the Park.

This is an agreement for shared alleyway use entered into this ___ day of _____, 2021 between CAROLINA PROPERTY HOLDINGS, 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 said alleyway to be deemed as a pocket park, located at 200 North Main Street Graham and used as a private alleyway by Carolina Property Holdings in the City of Graham, County of Alamance and State of NC, hereinafter called the Park, described as the alleyway shown on Exhibit A, representing approximately 19.5' x 112' or 2,184 square feet.

LEASEHOLD AREA

The alleyway area shown on Exhibit A, representing approximately 19.5' x 112' or 2,184 square feet, is leased to the Lessee and shall be available for public use Monday through Sunday 6am – 11pm except when needed by the Lessor for its own events. The Lessor reserves the right to restrict use at any time for corporate events, and Lessor shall attempt to provide reasonable notice to Lessee of any such events.

LEASE TERM

This agreement shall have a 5-year term, beginning on _____, 2021 and ending _____, 31, 2026. Either party can cancel this agreement by giving the other 180-day notice.

AGREEMENT COMMITMENTS: The Lessor and Lessee collectively agree to the following pertaining to the Park;

Lessor:

- Bear expenses at 100% to provide continuous electrical service with a reasonable and sufficient voltage/usage.
- Maintain the alleyway property in a safe and proper condition that will not endanger the public, nor obstruct nor interfere with proper maintenance thereof.
- Jointly maintain Fire Code requiring a ten-foot, unobstructed ingress/egress area around benches, tables, and chairs for pedestrian safety.
- Jointly seek up to two public art installations; expenses to be covered by an agreed amount not to exceed 50% or through the raising of public funds or by way of additional secured funds such as through grant application.

- In general, agrees to reimburse the Lessee for costs incurred in upfitting the Park (not including equipment that may be removed from the Park such as benches, tables, chairs, etc.) if the Lessor ends the agreement, based on the following schedule: 50% of total costs within one year of agreement execution; 40% of total costs within two years of agreement execution; 30% of total costs within three years of agreement execution; 20% of the total costs within four years of the agreement execution; 10% of the total costs within five years of the agreement execution. No reimbursement will be required after five years of the agreement execution.

Lessee:

- Provide equipment and staff for the removal of existing softscape. Furthermore, provide plans for replacement of softscape, identifying the timeline of removal and subsequent installation.
- Bear expenses at 100% affiliated with the purchase, installation and maintenance of replacement softscape.
- Bear expenses at 100% affiliated with the purchase, installation and maintenance of lighting and electrical fixtures
- Bear expenses at 100% affiliated with the repair and maintenance of existing water feature.
- Design and bear 100% of the expenses for the construction, installation and maintenance of a Lessor approved HVAC screen.
- Bear expenses at 100% and install signage, benches, tables, and chairs.
- Bear expenses at 100% associated with the continual maintenance, security, and monitoring of the Park.
- Jointly maintain Fire Code requiring a ten-foot, unobstructed ingress/egress area around benches, tables, and chairs for pedestrian safety.
- Lead the process concerning design and selection of public art installations. Expenses affiliated with any art installations will be addressed during the planning process.

If at any time the Lessor shall require removal of, or changes in, the location of softscape, benches, tables, chairs and/or HVAC screening, the Lessor binds himself, his successors and assigns, to promptly remove or alter the said additions without any cost to the Lessee. All modifications or changes shall be agreed upon by the two parties.

Lessor also binds and obligates himself to maintain the cleanliness and aesthetics of the encroaching facility and surrounding area in a manner that meets or exceeds standards set forth in the City's Code of Ordinances.

SIGNAGE

Lessee shall provide signage, pending written approval of Lessor, designating usage allowances while bearing all expenses. See Exhibit B, representing proposed signage language.

ENFORCEMENT

Compliance with all applicable State and local regulations, codes and ordinances in association with the outdoor common area operation is required. Failure to comply with all applicable laws and regulations shall make the Agreement and associated permits subject to revocation.

COOPERATION

Lessor and Lessee agree to cooperate to the best of their abilities to mutually use the Park 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 Park, except that Lessor will be responsible for providing necessary signage or other notice when the Park 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 Park as is standard for their own business usage. Lessor agrees to name the Lessee as an additional named insured at a minimum of \$1 million on their liability insurance policy for the Lessor's property. Additionally, the Lessee agrees to name the Lessor as an additional insured at a minimum of \$1 million on their liability insurance policy as it relates to the use of the Park.

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 Park 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 Park 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 alleyway.

TERMINATION

If Lessor transfers ownership, or if part or all of the Park is condemned, or access to the Park 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, benches, tables, and chairs 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.

CAROLINA PROPERTY HOLDINGS, Lessor

Date: _____

By: _____

Owner

THE CITY OF GRAHAM, Lessee

Date: _____

By: _____

City Manager

Exhibit A



Exhibit B



DRAFT

STAFF REPORT

SUBJECT:	DOWNTOWN RESIDENTIAL PARKING PERMIT
PREPARED BY:	LIEUTENANT DUANE FLOOD

REQUESTED ACTION:

Amend Code of Ordinances Article V. Sec 20-163 to state that the permit shall be displayed so as to be clearly visible and able to be easily read through the rear windshield of the vehicle, instead of the front windshield and set the fee for such permit at (\$20.00) twenty dollars per permit.

BACKGROUND/SUMMARY:

At the December 2020 Council meeting the City Council approved a new ordinance allowing for a Downtown Parking Permit program within the B-1 (Central Business) district. The ordinance passed with the fee for such permit to be approved at a later date. Based on a review and comparison of similar programs in other cities, it is recommended that this fee be set at (\$20) twenty dollars per permit annually with the permit to set to expire on December 31st. The fee will not be prorated and remain (\$20) twenty dollars no matter when the permit is obtained. This fee would aid in covering the costs of the permit/decal and staff time for processing applications.

Section 20-163 sub-section A. states “While a motor vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible and able to be easily read through the front windshield of the vehicle.” It is recommended that this wording be amended to state “While a motor vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible and able to be easily read through the rear windshield of the vehicle.” Placing the permit/decal in a manner in which it is visible from the rear windshield of the vehicle makes it easier for the permit/decal to be viewed when the vehicle is parked. The majority of the vehicles parked in city lots being parked in a manner in which the rear of the vehicle is facing out.

FISCAL IMPACT:

Nominal.

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move to approve the Ordinance amendment to CHAPTER 20- TRAFFIC AND VEHICLES, ARTICLE V- STANDING, STOPPING AND PARKING of the Code of Ordinances to require the location of the Downtown Residential Parking Permit be placed on rear windshield and establish a \$20 annual permit fee, and update the Rates & Fee Schedule accordingly.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING CHAPTER 20, ARTICLE V, SEC. 20-163 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 amending section numbered 20-163, which said section read as follows:

Chapter 20 – TRAFFIC AND VEHICLES

ARTICLE V. – STANDING, STOPPING AND PARKING

Sec. 20-163. - Downtown area residential parking permit.

A. The holder of a downtown area residential parking permit shall be permitted to stand or park a motor vehicle for which a permit has been issued, within designated lots and spaces. While a motor vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible and able to be easily read through the ~~front~~ rear windshield of the vehicle.

B. A downtown area residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing, or parking of motor vehicles is prohibited or set aside for specified types of vehicles, and shall not exempt the holder from the observance of any traffic regulation other than the storage time limits when parked in designated lots and spaces.

C. While a downtown area residential parking permit shall not guarantee or reserve to the holder thereof a parking space, it does permit the holder permission to park a motor vehicle for which a permit has been issued within a designated residential parking lot or space beyond the storage limitation in Sec. 20-156.

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 _____, 2021.

Mayor

ATTEST:

City Clerk

STAFF REPORT

SUBJECT:	APPROVE PROJECT BUDGET FOR WWTP UPGRADES AND EXPANSION
PREPARED BY:	FRANKIE MANESS, CITY MANAGER

REQUESTED ACTION:

Approval initial project budget for the WWTP Upgrades and Expansion Project.

BACKGROUND/SUMMARY:

Pursuant to our nutrient capacity study completed in 2019, it was concluded that a substantial upgrade to our WWTP is required in order to meet current permit requirements for nutrient removal. The project will also expand our permitted capacity from 3.5mgd to 5.0mgd. In May, City Staff issued a Request for Qualifications seeking a professional engineering firm to assist with the following tasks associated with the project: Grant/Loan Administration, Preparation of Engineering Report and Environmental Information Document to comply with NC DWI requirements, Final Design of the Project, Completion of Bid Documents including Specifications and Design Drawings for the project, Bidding and Recommendation of Award, Construction Observation and Administration, and Construction Closeout. Subsequently the City Council approved a design engineering and bidding contract with Hazen and Sawyer.

FISCAL IMPACT:

The total project is estimated at nearly \$31,000,000 and will likely represent the largest capital expenditure in the history of the City. The State Water Infrastructure Authority has now approved a Clean Water State Revolving Fund (CWSRF) loan for \$7,694,000, with up to 25% of the loan (maximum of \$500,000) as forgivable and the remainder will be repayable at a maximum interest rate of 0.18%. The balance of the funding will come from an Additional Supplemental Appropriations for Disaster Relief Act of 2019 (ASADRA) loan in the amount of \$23,000,000, repayable at a maximum interest rate of 0.18%. In FY 2020-2021, Water and Sewer fees began a 4-year graduated increase to cover future debt service requirements. THIS BUDGET WILL NEED TO BE AMENDED AS THE PROJECT PROCEEDS INTO THE CONSTRUCTION PHASE.

STAFF RECOMMENDATION:

Approval. This project not only satisfies required permit conditions, it will afford the City the ability to accommodate growth for decades to come. In an effort to promote continuity, below is a list of future required actions by Council and/or Staff:

- | | |
|---------------------|--|
| • Undetermined Date | Accept Funding |
| • Undetermined Date | Execute Promissory Note(s) |
| • May 3, 2021 | Engineering Report Approval |
| • November 1, 2021 | Bid and Design Package Submittal |
| • March 1, 2022 | Bid and Design Package Approval |
| • July 1, 2022 | Advertise Project, Receive Bids, Submit Bid Information and Receive Authority To Award |
| • August 1, 2022 | Execute Construction Contract(s) |

SUGGESTED MOTION(S):

I move we approve the initial project budget for the WWTP Upgrades and Expansion Project..

CAPITAL PROJECT ORDINANCE

WWTP UPGRADES AND EXPANSION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby adopted:

Section 1. The Project authorized is WWTP Upgrades and Expansion.

Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Proceeds from Retained Earnings	\$615,000
Proceeds from ASADRA State Loan	\$3,200,000

TOTAL	\$3,815,000
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Section 4. The following amounts are appropriated for this project:

Professional Services	\$3,200,000
Loan Fees	\$615,000

TOTAL	\$3,815,000
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Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.

Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.

Section 7. This ordinance shall take effect upon passage.

This the 9th day of February, 2021.

Jerry Peterman - Mayor

ATTEST:

STAFF REPORT

SUBJECT:	ANNEXATION OF 2048 S MAIN STREET
PREPARED BY:	NATHAN PAGE, PLANNING DIRECTOR/AARON HOLLAND, ASST. CITY MGR

REQUESTED ACTION:

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for 2048 S Main Street

BACKGROUND/SUMMARY:

The 5.5 +/- acre area being considered for annexation is noncontiguous. Sewer and water are available via S Main Street.

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.

FISCAL IMPACT:

Under the current development pattern, assuming the value of the townhomes is comparable to Chandler Village, the neighborhood will provide positive revenues for the first 3 years of development, and subsequently will cost more to maintain than the property provides in revenue.



STAFF RECOMMENDATION:

Approval. While the neighborhood may not be revenue positive, if the property develops at this level and remains a 'donut hole', it could prove difficult to determine services in the future, much like the Valley Drive area.

SUGGESTED MOTION(S):

I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina for the property located at 2048 S. Main Street.

ANNEXATION ORDINANCE
TO EXTEND THE CORPORATE LIMITS
OF THE
CITY OF GRAHAM, NORTH CAROLINA
FOR 2048 S MAIN STREET (AN2007)

WHEREAS, the Graham City Council has been petitioned under G.S. 160A-58 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 February 9, 2021, after due notice by publication on January 28, 2021; and

WHEREAS, the Graham City Council finds that the petition meets the requirements of G.S. 160A-58;

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-58, the following described territory is hereby annexed and made part of the City of Graham as of February 28, 2021:

BEGINNING at a control point located at the NW corner of the property on the eastern right-of-way of NC Highway 87, NC Grid Coordinates N 829,321.87' E 1,883,652.82'; thence along the northern property line S 63°04'47" E a distance of 308.97 feet; thence S 44°07'25" E a distance of 135.17 feet to the northeast corner of the property; thence along the traverse line of a creek, said creek being the eastern property line, S 27°00'35" W a distance of 2.22 feet; thence S 08°20'14" W a distance of 52.23 feet; thence S 26°24'10" E a distance of 25.44 feet; thence S 07°44'10" W a distance of 77.94 feet; thence S 05°18'54" W a distance of 62.38 feet; thence S 26°51'31" E a distance of 53.03 feet; thence S 02°15'06" E a distance of 123.04 feet; thence S 01°45'29" W a distance of 17.22 feet to the southeast corner of the property; thence along the southern property line N 80°28'54" W a distance of 309.98 feet; thence N 80°27'41" W a distance of 259.77 feet to the southwest corner of the property on the eastern right-of-way of NC Highway 87; thence along the said right-of-way N 12°01'33" E a distance of 100.00 feet; thence N 17°21'39" E a distance of 99.66'; thence N 19°20'47" E a distance of 94.42 feet; thence N 19°56'25" E a distance of 280.67 feet to the POINT AND PLACE OF BEGINNING, containing 5.57 acres according to a map by B. L. Scott Land Surveying entitled "Annexation Plat for Slippery Elm Properties LLC", dated December 7, 2020. Recorded at the Alamance County Register of Deeds at Plat Book _____, Page _____.

Section 2. Upon and after February 28, 2021, 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 9th day of February, 2021.

Gerald R. Peterman, Mayor

ATTEST:

APPROVED AS TO FORM:

Darcy L. Sperry, City Clerk

Bryan Coleman, City Attorney



Petition for ANNEXATION

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

To the City Council of the City of Graham, NC:

1. We, the undersigned owners of real property, respectfully request that the area described in paragraph 2 below be annexed into the City of Graham.

☐ If applicable as "income-based": We believe that this petition meets the requirements of G.S. 160A-31(b1).

☐ If applicable as "distressed": We believe that this petition meets the requirements of G.S. 160A-31(j).

2. The area to be annexed is ☐ contiguous, as defined by 160a-31 ☒ non-contiguous, as defined by 160a-58 to the City of Graham and the boundaries of such territory are as follows:

General description of area to be annexed

5.57- ACRE LOT LOCATED AT 2048 S. MAIN ST., GRAHAM, NC 27253
TO BE SUBDIVIDED INTO NEW 32-UNIT TOWNHOUSE DEVELOPMENT.

Attach the following:

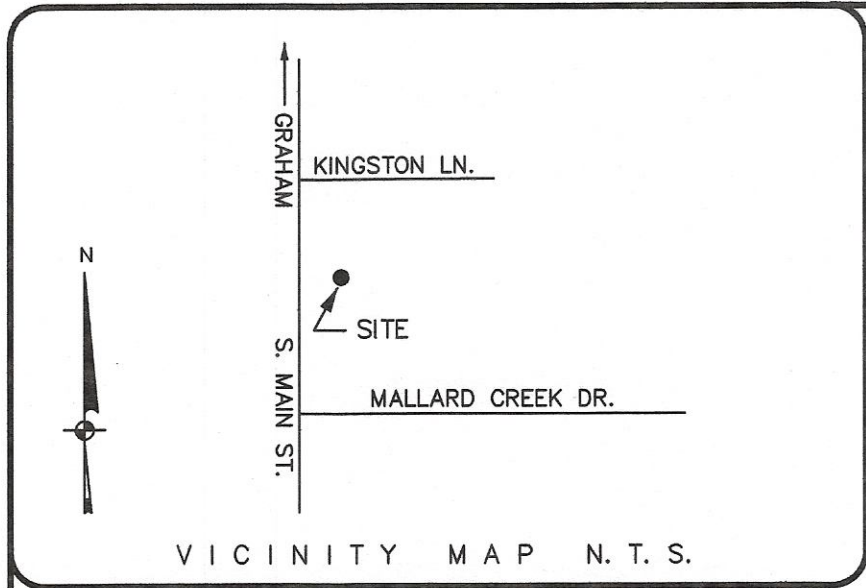
☒ Annexation Plat – 1 paper copy, 2 mylars and 1 pdf. In addition to standard plat information, also include tax map numbers of all parcels and total square miles and acreage of area to be annexed.

☒ Metes and Bounds Description – 1 paper and 1 digital copy

3. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights previously acquired for the property. (If zoning vested rights are claimed, indicate yes below and attach proof.)

Name	Address	Vested rights?	Signature
SLIPPERY ELM, LLC	PO Box 90427, RALEIGH, NC 27675		DocuSigned by: Mitchell J Murphy C9C7BF4A5014450...

attach additional sheets if necessary...



- LEGEND
- LINES SURVEYED
 - - - LINES NOT SURVEYED
 - E.I.P. --- EXISTING IRON PIPE
 - I.P.S. --- IRON PIPE SET
 - C.M.S. --- CONCRETE MONUMENT SET
 - E.C.M. --- EXISTING CONCRETE MONUMENT
 - P.K.S. --- P.K. NAIL SET
 - E.P.K. --- EXISTING P.K. NAIL
 - R/W --- RIGHT OF WAY
 - D.B. --- DEED BOOK
 - P.P. --- POWER POLE
 - O.H.W. --- OVER HEAD WIRE
 - R.R.S. --- RAILROAD SPIKE
 - (1234) --- ADDRESSES

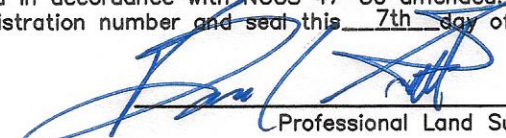
SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBERANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE

- O a. This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.
- O b. This survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land.
- O c. Any one of the following:
1. That the survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;
 2. That the survey is of an existing building or other structure, or natural feature, such as a watercourse; or
 3. That the survey is a control survey.
- O d. 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.
- O e. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in (a) through (d) above.

This parcel is located in the GRAHAM Planning jurisdiction.

NORTH CAROLINA
WAKE COUNTY

I, Barry L. Scott, certify that this plat was drawn under my supervision from (an actual survey made under my supervision)(deed description recorded in Book 3928, page 822, etc.)(other), that the boundaries not surveyed are clearly indicated as drawn from information found in Book SEE, page REF.; that the ratio of position or positional accuracy as calculated is 1:10,000+; that this plat was prepared in accordance with NCGS 47-30 amended. Witness my original signature, registration number and seal this 7th day of December A.D. 2020


Professional Land Surveyor
L9156 NC
Registration Number



ANNEXATION PLAT FOR MIDDLEFIELD TOWNS SUBDIVISION

LOT 1, VILLANE, INC. PROPERTY AS RECORDED IN P.B. 72, PG. 15 A.C.R.

THIS PLAT RECORDED IN B.O.M. / P.B. / P.C. _____, P.G. _____, ALAMANCE COUNTY REGISTRY

B. L. SCOTT
LAND SURVEYING
PROFESSIONAL LAND SURVEYORS
P. O. BOX 12493
RALEIGH, NORTH CAROLINA 27605
TEL: 919/888-0464
JOB NO : 20-12-03

SLIPPERY ELM PROPERTIES, LLC

ANNEXATION PLAT
PROPERTY OF

PIN(S): 8882397172
STATE OF NORTH CAROLINA, U.S.A.

PARCEL(S):
COUNTY: ALAMANCE

TAX MAP:
GRAHAM

ZONED: R-18
TOWNSHIP: GRAHAM

DATE: 12-07-20	REVISION
FIELD BK:	
SURVEYED BY: BLS	
DATE:	

CERTIFICATE OF SUFFICIENCY
FOR 5.5 (+/-) ACRE LOT LOCATED AT 2048 SOUTH MAIN STREET
GPIN# 8882397172 (AN2007)

To the City Council of the City of Graham, North Carolina:

I, Darcy L. Sperry, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by an appointed representative of real property lying in the area described therein, in accordance with G.S. 160A-58.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Graham, this the 6th day of January, 2021.



Darcy L. Sperry, City Clerk



AMENDMENT- PARADES, DEMONSTRATIONS AND STREET EVENTS ORDINANCE

Additional Information Forthcoming

PLANNING ZONING BOARD

Tuesday, January 19, 2021

The Planning & Zoning Board held their regular meeting on Tuesday, August 18, 2020 as an Online Zoom Meeting at 7:00 p.m. Board members present were Dean Ward, Justin Moody, Nate Perry, Eric Crissman, Bobby Chin, Tony Bailey, and Michael Benesch. Staff members present were Nathan Page, Debbie Jolly, and Jeff Wilson. Chairman Ward called the meeting to order, gave the Overview of the Board, and general meeting rules.

1. Approval of the December 15, 2020 minutes. A motion was made to approve the minutes by Eric Crissman seconded by Dean Ward. All voted in favor.
2. New Business
 - a. RZ2010 Riverbend Business. Request by Travers Webb, for rezoning from R-MF (Multifamily Residential) to B-2 (General Business). GPIN 8884721949. Nathan Page presented the project to the Planning Board. George Travers Webb III gave an overview of his project. He answered a few questions for the board. Eric Crissman made a motion to approve as it is consistent with The Graham 2035 Comprehensive Plan. Seconded by Nate Perry. All voted aye.
 - b. CR2006 Trudy Apartments. Request by Second Partners, LLC for Conditional Rezoning for multifamily apartments from Light Industrial. GPIN 8894453334. Mr. Page gave the staff report to the planning board. Presenters for this project are listed below. Each one presented a different aspect of this project. The board had several questions for the applicants about the project. Justin Moody made a motion to approve the application based on conformity with policies 2.2.1 and 5.5.1, consistency with The Graham 2035 Comprehensive Plan and meets with the following conditions : TRC standards, NCDOT study and sewer study meet requirements. Tony Bailey seconded. All voted aye. Bobby Chin made a motion the developer will up fit the Haw River Pump Station to City specification to handle the additional flow, with the ability of City Staff to up fit the proposed sizing at material cost. Michael Benesch seconded. All voted Aye.

John Burton	2849 Willoughby Ct
George Webb IV	129 Hudson Ct
Chad Huffine	505 E Davis St.
 - c. CR2007 Albright Carport. Request by Jane Albright for Conditional Rezoning for accessory structure placed in front and side yard. GPIN 8884230039. Jim Albright 103 Rockriver Rd. spoke on behave of his sister and explained her situation. The board ask to move to item d on the agenda and come back to this item next. Mr. Albright withdrew

this application.

- d. AM2005 R7 Setbacks. Request by Nathan Page to reduce the setbacks for R7 front yards. Development Ordinance Section 10.245 Table of area, height, and yard regulations. Nathan presented to the board. Mr. Crissman made a motion to approve based on The Graham 2035 Comprehensive Plan, 2.3.1, 4.3.1 development ordinance. Dean Ward seconded. Vote 5-2 Tony Bailey and Bobby Chin voted Nay
3. Old Business
 - a. 160D Update Review and Discussion- Attorney still are working on this. Nathan is reaching out to the attorneys to ask about the time frame on this.
4. Public comment on non-agenda items- Bobby Chin made a motion to adjourn. Eric Crissman seconded. All voted Aye.

No further business the meeting was adjourned.

Respectfully Submitted,
Debbie Jolly



STAFF REPORT

Prepared by Nathan Page, Planning Director

Riverbend Business (RZ2010)

Type of Request: Rezoning

Meeting Dates

Planning Board on January 19, 2021

City Council February 9, 2021

Contact Information

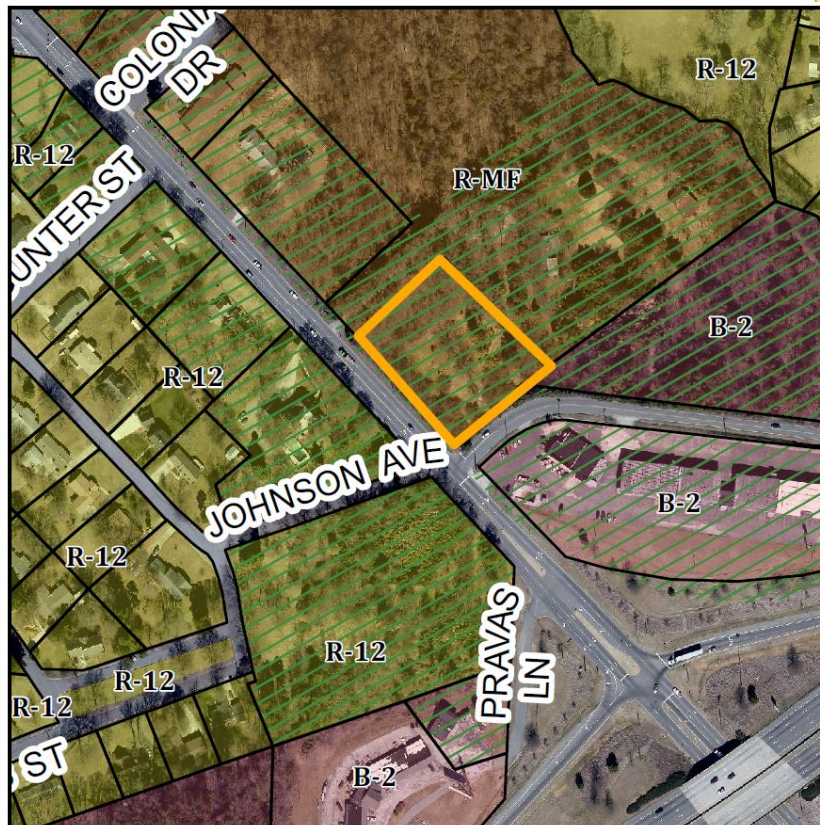
G Travers Webb, III

619 E Harden Street, Graham NC 27253

336-414-7777, trav93@icloud.com

Summary

This property is surrounded by two development types; a large multi-family tract, and suburban residential across Harden Street. This request is to rezone a portion of the property from R-MF to all B-2. The lot is currently vacant. The stated reason for this rezoning request is for "...the entire property covered under one zoning regulation. This rezoning should allow for marketing my property for future development."



Location

E Harden St

GPIN: 8884721949

Current Zoning

Multifamily Residential R-MF

Proposed Zoning

General Business B-2

Overlay District

East Harden St Highway 54

Overlay District

Surrounding Zoning

R-12, R-MF, B-2

Surrounding Land Uses

Single Family Homes,
Multi-Family Homes, Some
Commercial

Size

1.5 (+/-) acres

Public Water & Sewer

Available

Floodplain

No

Staff Recommendation

Approval

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

Planning District: Mixed Use Commercial

Applicable Policies;

- 3.1.2 Safe Access to Businesses and Homes.**
 Limit direct highway access or the number of curb cuts to commercial activities by directing development to proposed regional and village centers and requiring internal connectivity between commercial uses, uniformity in design standards, and rear alley access where feasible. *This property is an identified regional center, and the rezoning would allow for a land use which could support the existing multifamily homes.*

Applicable Strategies;

- 1.1.5 Discourage Strip Development.** Discourage strip development along transportation arteries and proposed interstate interchanges by directing these commercial activities to proposed activity centers. *This parcel is in the vicinity of an Interchange Regional Node, on a high volume traffic route. The residential density in the vicinity also lends itself to additional retail and service industries.*
- 2.3.1 Facilitate focused development.** Incentivize pedestrian-oriented nodal development consistent with this plan by incentivizing smart growth development. *Rezoning this property lot to B-2 would reinforce the goals of pedestrian-oriented nodal development and smart growth development while discouraging commercial strip developments.*

Development Type

Mixed Use Commercial

Buildings located no further than 15 feet from the front lot line

3-5 story building heights

Sidewalks, small block lengths, on-street parking, transparent windows on >50% of front façade

A mix of uses is desirable, including retail, commercial, office, multifamily residential, and institutional uses

Built to a human scale

Staff Recommendation

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

- The adjacent multifamily developments, the quantity of vehicle traffic, and the size of the Highway 54 corridor suggest that a business may be better suited to this site than additional apartments, in alignment with strategies 1.1.5, 2.3.1 and policy 3.1.2.



Application for REZONING or CONDITIONAL REZONING

RECEIVED

DEC 29 2020

PLANNING DEPT

P.O. Drawer 357
101 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 25th of each month. Applicants are encouraged to consult with the *City of Graham Development Ordinances* and the City Planner.

Site

Street Address: NC Hwy #54 East & Riverbend Road

Tax Map#: 147457 GPIN: 8884721949

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-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I

Overlay District, if applicable:

☐ Historic ☐ S Main St/Hwy 87 ☒ E Harden St/Hwy 54

Current Use: Vacant

Total Site Acres: 5.64 Acres+-

Property Owner: G. Travers Webb, III

Mailing Address: 619 E Harden Street

City, State, Zip: Graham, NC 27253

Applicant

☒ Property Owner Other WEBB + ASSOC.

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: G. Travers Webb, III

Mailing Address: 619 E Harden Street

City, State, Zip: Graham, NC 27253

Phone # (336) 414-7777

Email: trav93@icloud.com

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

Signature of Applicant

Date

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-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I

Describe the purpose of this rezoning request. *For Conditional Rezonings*, 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:

I would like the Entire property covered under one zoning regulation. This rezoning should allow for marketing my property for future development.

For Conditional Rezonings, 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 Rezonings

Office Use Only. DEVID#



PLANNING BOARD Recommendation & 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. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

**Riverbend Business
(RZ2010)**

Type of Request
Rezoning

Meeting Dates
Planning Board on January 19, 2021
City Council on February 9, 2021

☒ I move to **recommend APPROVAL** of the application as presented.

☐ I move to **recommend DENIAL**.

☒ The application is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

The action is reasonable and in the public interest for the following reasons: The plan will develop and allow increased density.

This report reflects the recommendation of the Planning Board, this the 19th day of January, 2021.

Attest:

Dean Ward

Dean Ward, Planning Board Chairman

Debbie Jolly

Debbie Jolly, Secretary



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.

Riverbend Business (RZ2010)

Type of Request
Rezoning

Meeting Dates
Planning Board on January 19, 2021
City Council on February 9, 2021

Choose one...

☐ I move that the application be **APPROVED**.

☐ 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:

This report reflects the decision of the City Council, this the 9th day of February, 2021.

Attest:

Gerald R. Peterman, Mayor

Darcy L. Sperry, City Clerk



STAFF REPORT

Prepared by Nathan Page, Planning Director

Truby Apartments (CR2006)

Type of Request: Conditional Rezoning

Meeting Dates

Planning Board on January 19, 2021

City Council on February 9, 2021

Contact Information

Travers Webb

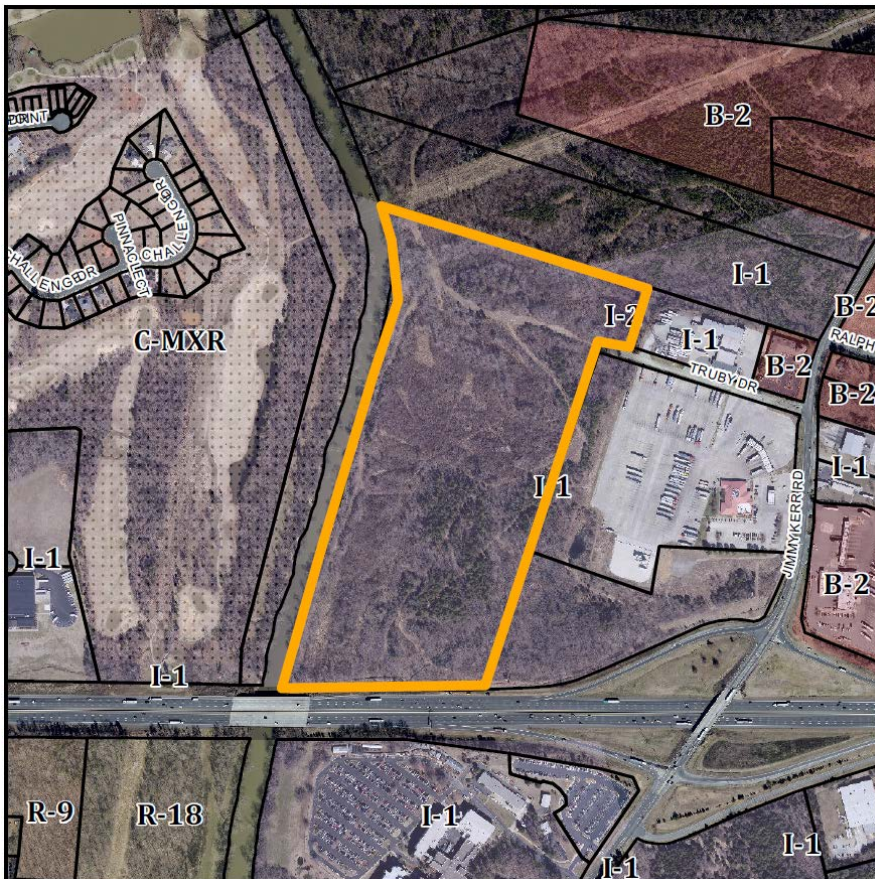
trav93@icloud.com, 336-414-7777

619 E Harden Street, Graham NC 27253

Summary

This is a request to rezone the subject property from I-1 to CMXR (Conditional Mixed Use Residential). The application is for 22 buildings, with 24 units per building for a total of 1056 bedrooms. A list of proposed conditions was included:

- 1.) Access via Truby and an easement
- 2.) Meet all TRC/NCDOT/Etc standards
- 3.) Meet Graham multifamily standards
- 4.) Include office, clubhouse, pool, recreation areas
- 5.) Three story, mix of one, two, and three bedrooms



Project Name

Truby Apartments (CR2006)

Location

Truby Drive

GPIN: 8894453334

Size

Approx. 52 acres

Proposed Density

10 DU/acre

Current Zoning

Light Industrial (I-1)

Proposed Zoning

Conditional Mixed-Use
Residential (CMXR)

Surrounding Zoning

CMXR, I-2, I-1, Haw River's
Jurisdiction

Surrounding Land Uses

Truck Stop, Haw River, vacant
land.

Staff Recommendation

Denial, pending clarification

The TRC is currently reviewing the site plan for comments, which will be completed prior to the Planning Board meeting. However, the TRC noted that existing downstream sewer capacity is insufficient for the development at the Haw River Pump Station. Additionally, there are capacity concerns from NCDOT and the TRC for traffic considerations due to congestion on Jimmie Kerr Road. The TRC recommends denying this item until such time as these issues have been fully evaluated by the City and addressed by the developer.

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

Development Type: Interchange Regional Node

Applicable Policies and Recommendations

Strategy 2.3.1 Facilitate Focused Development Incentivize pedestrian-oriented nodal development consistent with this plan by incentivizing smart growth development. The City could choose to utilize some of the following methods; Expedited permit review, deferred tax payments, covering some building expenses, Low-interest loans, providing infrastructure, flexible and innovative regulations, Small area plans. *Additional density in the vicinity of the interchanges may result in more focused development patterns with less sprawl. However, traffic patterns in this location are already troublesome and the construction of such a large apartment complex here may result in additional congestion concerns.*

Strategy 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. *Water and sewer services already exist in this area. Are no extensions of the existing public sewer main, however this would be installed by the developer and be a small fraction of the maintenance costs for a single-family residential development of comparable size. There is limited pump station capacity downstream from this site, and the developer may enter into an agreement to participate in the upfit of that pump station.*

Policy 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 multifamily development will provide additional housing choice for those residing or wishing to reside in Graham.*

Description of Development Type

Interchange Regional Node

Like the downtown regional node, interchange nodes serve a market within and beyond the extent of Graham's planning area.

Appropriate Form

0.3 to 0.5 FAR

Desired Pattern

Industrial districts should have limited setbacks between the front of the property line and adjacent industrial uses in order to use land and infrastructure efficiently. These uses should be heavily buffered from residential neighborhoods, parks and open space, and streams. Such areas should follow orderly development patterns and seek to maintain minimal adverse environmental impacts.

Staff Recommendation

Based on *The Graham 2035 Comprehensive Plan* and the *City of Graham Development Ordinance*, and the developments compliance with the Graham Development Ordinance, staff **recommends Denial** of the Conditional Rezoning. However, if the Council issues approval, it should be **with the following conditions(s)**:

- **All recommended, and required, improvements of a Traffic Impact Analysis be constructed by the developer.**

- **The developer will upfit the Haw River Pump Station to City specifications to handle the additional flow, with the ability of City Staff to upfit the proposed sizing at material cost.**

The following supports this recommendation:

While proposed project is in conformity with infill development (Policy 2.2.1) and housing variety (Policy 5.1.1) of the Graham Comprehensive Plan 2035, the capacity issues for traffic congestion and sanitary sewer must be solved before approval can be issued for this project.



Application for REZONING or CONDITIONAL REZONING

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 25th of each month. Applicants are encouraged to consult with the *City of Graham Development Ordinances* and the City Planner.

Site 152813

Street Address: UNAD. TRUBY DRIVE

Tax Map#: 152813 GPIN: 8894453334

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-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I

Overlay District, if applicable:

☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54

Current Use: VACANT

Total Site Acres: 55 ±

Property Owner: 2ND PARTNERS LLC

Mailing Address: 2555 ST. JAMES DRIVE #403

City, State, Zip: SOUTHPORT NC 28461

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-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I

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:

Please See Attached
Conditions

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: John Burton

Mailing Address: 2489 Willoughby Court

City, State, Zip: Burlington NC 27215

Phone # 336 - 229 - 2273

Email: John.Burton@BurtonLS.com

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

Signature of Applicant

12-17-20

Date

For Conditional Rezonings, 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#



Application for SITE PLAN REVIEW

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

A site plan must be approved before any building, structure or parking facility is constructed, installed, expanded or extended. Also, several types of development activity require a preliminary site plan as part of the application process, including conditional rezonings, multifamily development, manufactured home parks and telecommunications towers. When completing this application, applicants are encouraged to consult with the *City of Graham Development Ordinances* and the City Planner for the requirements specific to the development.

Site

Street Address: Unaddressed Truby Drive
Tax Map#: 131432 GPIN: 8894453334
Current Zone(s): ☐ R-MF ☐ R-G ☐ Other R ☐ Cond.
☐ O-I ☐ B-1 ☐ B-2 ☐ B-3 ☒ I-1 ☐ I-2
Overlay District, if applicable:
☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54
Current Use: VACANT - WOODS
Property Owner: Truby Drive Realty, LLC
Mailing Address: 1360 Truby Drive
City, State, Zip: HAW RIVER NC 27258
Phone # _____

Applicant and Project Contact

Name: THE LEAPS GROUP PC
☐ Property Owner ☒ Engineer/Surveyor
Other _____
Mailing Address: 505 E. DAVIS STREET
City, State, Zip: BURLINGTON NC 27215
Phone # 336-227-8724
Email: chuffine08@gmail.com

I hereby make application for review of a

☒ Preliminary ☐ Final Site Plan.

I have completed this application truthfully and to the best of my ability. I have prepared the site plan in accordance with the Site Plan Checklist and have submitted the required plans.

Charles D. Huff 12-23-2020
Signature of Applicant Date

SUBMIT 4 COPIES AND 1 PDF OF THE SITE PLAN

Proposed Development

Project Name: Truby Drive Apartments
Proposed Zone (if applicable): C-R
Proposed Use(s) (from Sec. 10.135 Table of Permitted Uses): MF - 22 THREE STORY BUILDINGS

Brief description, including information such as number of dwelling units, type of multifamily development, size and number of buildings, and other descriptive information:

22 Bldgs - 24 units - 1056
BEDROOMS - SEEKING
REZONE FROM I-1 to CR

Site Plan Checklist

This application **must be accompanied** by a site plan, which may include one or more sheets to provide sufficient detail for review. **See the back of this application for a checklist of items that should be shown on the site plan, as applicable.**

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
- ☐ **NCDOT 3-Party Encroachment Agreement**, if things such as a sidewalk or utility connection is proposed in the right-of-way
- ☐ **Flood Elevation Certificate**, if there is Special Flood Hazard Area near the development
- ☐ **Floodplain Development Permit**, if development is proposed in a Special Flood Hazard Area
- ☐ **Stormwater Permit**, if one or more acres is disturbed
- ☐ **Erosion Control Permit** from the NC Dept. of Environment and Natural Resources if the land disturbing activity exceeds one acre

FOR OFFICE USE ONLY

DEVID#	Fee \$
--------	--------

Truby Drive Apartments – Proposed Conditional Zoning Conditions

(draft 12-23-2020)

The following conditions are proposed with the conditional zoning request for the:
55 Acre Parcel ID 8894453334 located in Graham, Alamance County, North Carolina.

- 1) Access to the project will be from the existing public right of way at Truby Drive and via improvements within the existing easement as referenced on the attached site plan and submitted plat of easement. A street section within the access easement will be paved and not less than 26' wide with provisions for resident traffic and safety vehicles.
- 2) The project proposes to comply with the City of Graham technical review process including obtaining a technical review committee approval and obtaining proper water, sanitary sewer, erosion control, NCDOT and stormwater permits.
- 3) The project proposes to conform to the current City of Graham development ordinance as published as it pertains to density, open space, landscaping and buffering requirements for Multi-family developments and as shown on the attached site plan.
- 4) The project proposes to provide an onsite office, clubhouse, pool, recreational areas, and walking trails similar to those presented on the attached conditional zoning plan submitted with these conditions.
- 5) Proposed Use as follows:
22 Three Story Multifamily Buildings with the following distribution:
24 units per building
528 units
Unit Distribution:
1 bedroom 25% = **132** Bedrooms
2 bedroom 50% = **528** Bedrooms
3 bedroom 25% = **396** Bedrooms
1056 total Bedrooms

1 Multi-use accessory building for office, pool, fitness, administrative use
1 Pool
Outdoor passive recreation amenities
Outdoor active recreation amenities

AFFIDAVIT OF OWNER CONSENT

If the Owner(s) of the subject property is giving authorization for another person to apply for Conditional Zoning on their property, this affidavit must be completed and signed by all recorded owners of the property/ This affidavit also conveys the authority for the Representative to agree, in writing, to conditions placed upon the property by the Graham City Council pursuant to NC SL 2019-111, Pt. I.

The persons listed below hereby appear before a Notary Public and swear and affirm that they are the legal owners of the described property and give further authorization to

George Travers Webb of Webb + GSSO.
(Name of Representative) (Name of Company)

To submit a Petition for Zoning Map Change to Conditional Zoning to agree to conditions requested by the City of Graham Council for my (our) property from

I-2 to Conditional C/R
(Current Zoning District) (Proposed Zoning District)

And to offer use and/or standard restrictions as a part of the request for a Conditional Zoning.

Signature of Owner(s)

Alamance County PIN

8894453334

Amel G. McNeal
for

State of North Carolina

County of Brunswick

Sworn to and subscribed before me the 6 day of January, 2021

Notary Public in and for the State of North Carolina. My commission expires 6-6-21

Marsha Britt Rechichar Marsha Britt Rechichar
Notary Public Printed



Seal

PARCEL DATA

Alamance County Tax Information (Per Alamance County GIS)
Parcels Included in this Project:

Parcel 1:
GFM#: 8894453334
Parcel ID: 131432
Property Address: Unaddressed, Graham, North Carolina
Township: Graham Township
Zoning Jurisdiction: Graham
Deed Reference: DB 1407, Pg 254

Current City of Graham Zoning: I-1 Light Industrial

Proposed Zoning: City of Graham CXMR

528 Apartment units proposed in 22 Buildings

Portions of the site are location with the 100 year flood plain FEMA Panel:
3710889400K

Proposed water and sewer connections to The City of Graham Municipal
System are requested.

Proposed Zoning Conditions attached to the Submittal Application

Alamance Community College
P.O. Box 8000
Graham, NC 27253

PID 152801

PROPOSED DEVELOPMENT DATA:

22 Apartment (Multi-Family) Buildings
having 24 units per building
25% Three bedroom (3x132=396)
50% Two bedroom (2x264=528)
25% One bedroom (1x132=132)
Total Bedrooms: 1,188
Office / Administration / Clubhouse Building 6,200 sf.
One proposed dog park
Two proposed play areas

Proposed Sewer Demands:
1,188 x 120 gpd / bdm = 126,720 gpd
6,200 sf 25gpd / 100sf. = 1,550 gpd
A 2,600 sf. pool is proposed

Apartment Building Envelope Data:
Proposed Building Envelope 60'w x 160'L x 60'h

SITE DATA:

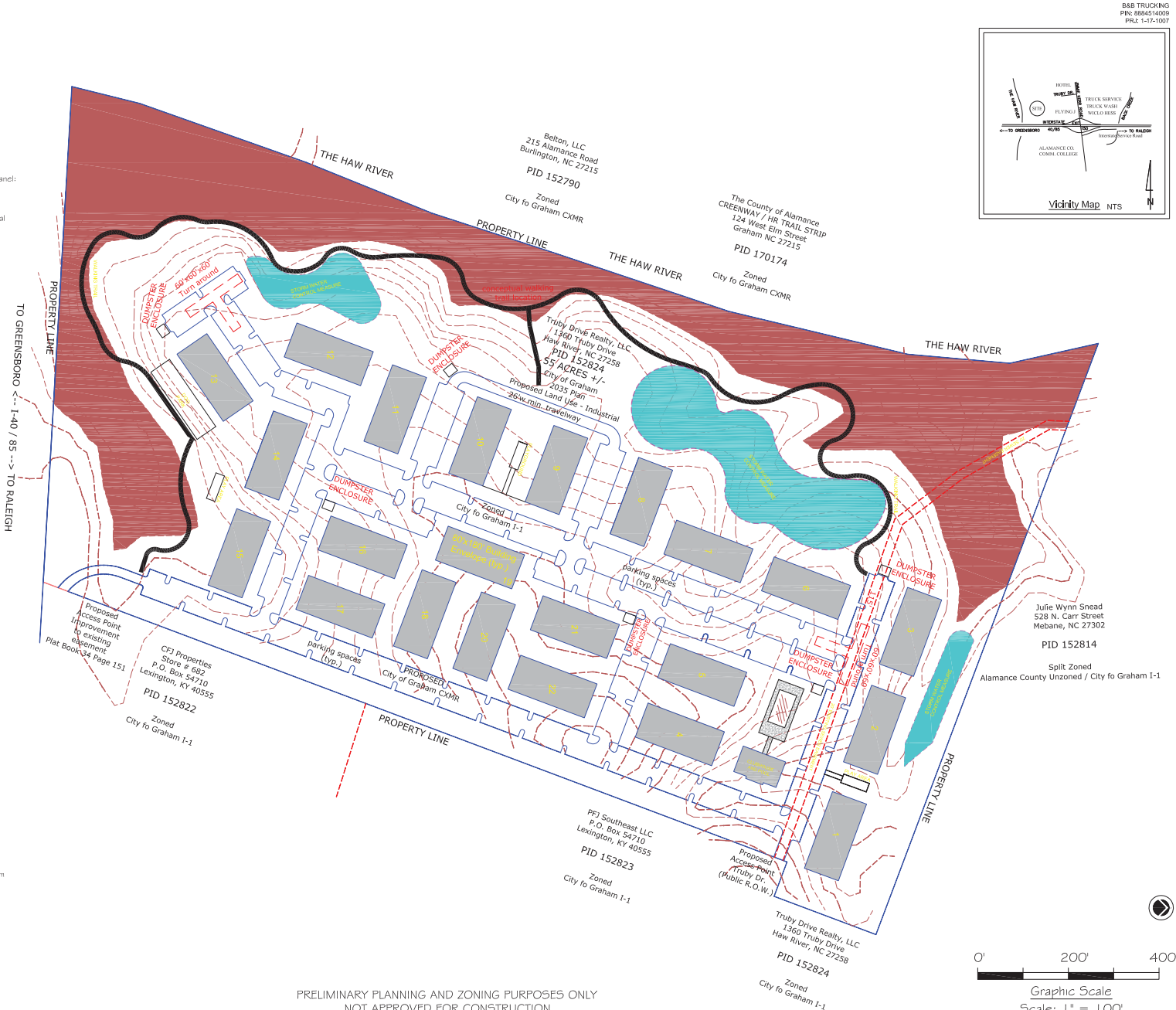
Existing Use: Vacant Woods
Proposed Use: Multi-Family Residential
Total Property Area: 55 Acres ±

River Basin: Cape Fear
Receiving Water: The Haw River

Boundary obtained from a plat obtained at the Alamance County registry
Plat Book: 0044 Page: 118 as prepared by Wayne Perry, RL5
Topographic information obtained from Alamance County GIS data.
Existing Conditions are wooded and the site is encumbered by City of Graham
Sanitary Sewer easements and others. Water service is in Truby Drive.

Plan Prepared for:
Mr. John Burton
1360 Truby Drive
Graham, NC 27253
Contact: 336-269-2261

CALL BEFORE YOU DIG! ITS THE LAW
ULOCO North Carolina One Call Center
1-800-632-4949



PRELIMINARY PLANNING AND ZONING PURPOSES ONLY
NOT APPROVED FOR CONSTRUCTION

12-21-2020
1" = 100'
TMT/CDH
1-20-1040
12-21-2020
CDH
Charles D. Huffine
C-1938
TRUBY DRIVE
MULTI-FAMILY SITE
THE L.E.A.D.S. GROUP, P.A.
140 EAST DAVID STREET
SUITE 200
RALEIGH, NC 27601
Land Engineering And Development Services



PLANNING BOARD Recommendation & 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. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

Truby Apartments (CR2006)

Type of Request
Conditional Rezoning

Meeting Dates
Planning Board on January 19, 2021
City Council on February 9, 2021

☐ I move to **recommend APPROVAL** of the application as presented.

☒ I move to **recommend APPROVAL with conditions** of the application.

The developer will upfit the Haw River Pump Station to City specifications to handle the additional flow, with the ability of City Staff to upfit the proposed sizing at material cost.

☐ I move to **recommend DENIAL**.

☒ The application is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

The action is reasonable and in the public interest for the following reasons: 2.2.1, 5.5.1,
the project will comply with and meet all TRC standards,
including an NCDOT study and sewer
study. _____

This report reflects the recommendation of the Planning Board, this the 19th day of January, 2021.

Attest:

Dean Ward

Dean Ward, Planning Board Chairman

Debbie C Jolly

Debbie Jolly, Secretary



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.

Truby Apartments (CR2006)

Type of Request
Conditional Rezoning

Meeting Dates
Planning Board on January 19, 2021
City Council on February 9, 2021

Choose one...

- ☐ I move that the application be **APPROVED**.
- ☐ I move that the application be **APPROVED with the following conditions**.
- The developer will upfit the Haw River Pump Station to City specifications to handle the additional flow, with the ability of City Staff to upfit the proposed sizing at material cost.
 - [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:

These conditions voluntarily consented to by the petitioner, this the 9th day of February, 2021.

G. Travers Webb, agent for Second Partners, LLC

This report reflects the decision of the City Council, this the 9th day of February, 2021.

Attest:

Gerald R. Peterman, Mayor

Darcy L. Sperry, City Clerk



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 R-7 Yard Depth

Type of Request: Text Amendment

Meeting Dates

Planning Board on January 19, 2021

City Council on February 9, 2021

Contact Information

Nathan Page

201 S Main Street, Graham NC 27253

npage@cityofgraham.com,

(336) 570-6705

Summary

Staff has applied for an amendment to our Development Ordinance to reduce the front yard setback to 15 feet, as well as the side yard setback to 5 feet for the R-7 Zoning District.

Prior to 1958, there were not required front yards, at which time the front yard was set to 25' for most residential properties. This created a number of non-conforming structures, primarily located on lots which are now zoned R-7, as those typically coincide with the older housing stock in the City.

In 1967, the front yard setback was enlarged to 30', for the R-7 district, where it has remained today. However, this causes a significant number of existing structures to not be compliant with City of Graham regulations, preventing the construction of a small covering over the front door or other structure that would infringe upon the existing setbacks. In some cases, more than 50% of the structure is within this setback, most often in the vicinity of Oneida Mill.

Staff believes that a 15 foot front- yard setback would be sufficient for all city-required infrastructure. However, it is recommended that the existing "Note 9" be removed if this amendment is approved, as it would have homes within 5 feet of the front property line, which may be difficult for the installation of necessary utility and transportation connections.

The following amendments to the Development Ordinance are proposed:

Project Name

Residential Setbacks
(AM2005)

Location

city-wide

Current Zoning

not applicable

Proposed Zoning

not applicable

Overlay District

not applicable

Staff Recommendation

Approval

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 (1)(2)(2a)
R-15 (See Section 10.249)	40 (See Note 9)	10	20 (See Note 2)	20 (1)(2)(2a)
R-12 (See Section 10.249)	30 (See Note 9)	10	20 (See Note 2)	20 (1)(2)(2a)
R-9	30 (See Note 9)	8	15 (See Note 2)	20 (1)(2)(2a)
R-7	30 (See Note 9)	8	15 (See Note 2)	20 (See Notes 1, 2, and 2a)
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 for single-family and two-family dwelling; (See Notes 1, 2, and 2a) 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 for single and two family dwelling (See Notes 1, 2, and 2a; For multifamily, see Sec. 10.247

Note 9. On any street except South Main Street (North Carolina Highway 87), Harden Street (North Carolina Highway 54), Elm Street, Hanover Road, East Gilbreath Street, Pine Street. South Maple Street to Gilbreath Street, and South Marshall Street, the minimum required front yard depth shall be 10 feet less than shown herein if:

- a. The average front yard depth of the two closest dwellings fronting on the same side of the street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth, or
- b. The average front yard depth of all dwellings fronting on the same street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth.

		Minimum Yard Size (Feet From Property Line)		
Zoning District	Yard Depth Front	Side Yard Width	Side Yard Width Abutting Street	Rear Yard Depth
R-18 (See Section 10.249)	40 (See Note 9)	15	20 (See Note 2)	20 (1)(2)(2a)
R-15 (See Section 10.249)	40 (See Note 9)	10	20 (See Note 2)	20 (1)(2)(2a)
R-12 (See Section 10.249)	30 (See Note 9)	10	20 (See Note 2)	20 (1)(2)(2a)
R-9	30 (See Note 9)	8	15 (See Note 2)	20 (1)(2)(2a)
R-7	15	5	15 (See Note 2)	20 (See Notes 1,2, and 2a)
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 for single-family and two-family dwelling; (See Notes 1,2, and 2a) 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 for single and two family dwelling (See Notes 1,2, and 2a; For multifamily, see Sec. 10.247

Note 9. On any street except South Main Street (North Carolina Highway 87), Harden Street (North Carolina Highway 54), Elm Street, Hanover Road, East Gilbreath Street, Pine Street. South Maple Street to Gilbreath Street, and South Marshall Street, the minimum required front yard depth shall be 10 feet less than shown herein if:

- a. The average front yard depth of the two closest dwellings fronting on the same side of the street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth, or
- b. The average front yard depth of all dwellings fronting on the same street and within 500 feet of the lot in question is 10 or more feet less than the indicated minimum front yard depth.

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 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 setbacks may have a negative effect on the construction of smart growth neighborhoods, while also increasing the existing number of nonconforming structures which are costlier to insure and rebuilt.*

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 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 R7 lots.



PLANNING BOARD Recommendation & 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. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

R-7 Setbacks (AM2005)

Type of Request

Text Amendment

Meeting Dates

Planning Board on January 19, 2021
City Council on February 9, 2021

☒ I move to **recommend APPROVAL** of the application as presented.

☐ I move to **recommend DENIAL**.

☒ The application is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

The action is reasonable and in the public interest for the following reasons: _____ The
amendment complies with policy 2.3.1 and 4.3.1 of the 2035
Comprehensive Plan. _____

This report reflects the recommendation of the Planning Board, this the 19th day of January, 2021.

Attest:

Dean Ward

Dean Ward, Planning Board Chair

Debbie Jolly

Debbie Jolly, Secretary



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.

R-7 Setbacks (AM2005)

Type of Request

Text Amendment

Meeting Dates

Planning Board on January 19, 2021

City Council on February 9, 2021

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:

This report reflects the decision of the City Council, this the 9th day of February, 2021.

Attest:

Gerald R. Peterman, Mayor

Darcy L. Sperry, City Clerk



STAFF REPORT

SUBJECT:	CHAPTER 10 CEMETERIES ORDINANCE
PREPARED BY:	FRANKIE MANESS, CITY MANAGER

REQUESTED ACTION:

Amend Code of Ordinances to repeal Chapter 10 and replace it with an updated version.

BACKGROUND/SUMMARY:

The City owns and operates two public cemeteries, Graham Memorial Park and Linwood Cemetery. The City also manages a perpetual care fund as a nonexpendable trust. Both the cemeteries and the trust fund are regulated by Chapter 10 of our Code of Ordinances. Currently, Graham Memorial Park is the only cemetery where new grave sales are taking place and availability is very limited for non-resident sales. The proposed replacement ordinance is highlighted by:

- Removes the misleading term of “Cemetery Deed” and replaces it with “Grave Certificate”;
- Better accommodates the uptick in requests for cremation graves;
- Prepares the regulations for the future introduction of columbariums or mausoleums;
- Allows subsequent interment of cremated remains in a conventional burial;
- Establishes regulations for abandoned unused graves;
- Provides for sale of graves in Linwood Cemetery.
- Provides hundreds of new graves available to both residents and non-residents.

FISCAL IMPACT:

Nominal, however it’s been several years since fees have been updated and will need to be revisited.

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move to approve the Ordinance Repealing Chapter 10 and Adding a Revised Chapter 10, to the Code Of Ordinances of the City Of Graham, North Carolina For Cemeteries.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, REPEALING CHAPTER 10 AND ADDING A
REVISED CHAPTER 10, TO THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA FOR
CEMETERIES**

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

Sec. 1. That Chapter 10 of the Code of Ordinances, City of Graham, North Carolina, is hereby repealed in its entirety.

Sec. 2. That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by adding the revised Chapter 10 – Cemeteries, to read as follows:

Chapter 10 - CEMETERIES

ARTICLE I. - IN GENERAL

Sec. 10-1. - Definitions.

For the purposes of this article:

Cemetery means any burial park for earth, columbarium or mausoleum interments, owned or operated by the City of Graham, specifically Graham Memorial Park and Linwood Cemetery.

(1) Graham Memorial Park: Located at 1204 E. Gilbreath St. Sec. 10-55. through 10-58.

(2) Linwood Cemetery: Located at 321 E. Elm St. Sec. 10-78. through 10-81.

Cremated remains, as used herein, refers to the pulverized ashes returned after a deceased person has been cremated by a state-certified crematorium.

Cremation grave applies to a space reserved only for the interment of the cremated remains of a single human body, whether located in the designated cremation section or within other sections. In instances where a regular, full size grave has been designated as a cremation grave, that grave may be subdivided into two symmetrical burial spaces, front and back, to accommodate two separate cremation burials. These subdivided graves are still limited to only one regulation grave marker. Any information pertinent to burials in these graves must be limited to this single marker.

Grave applies to a space of sufficient size to accommodate one adult interment.

Grave Certificate applies to the original conveyance (Deed or Certificate of Burial Right) given by the City of Graham to the original purchaser.

Infant grave, a space reserved for the interment of the remains of a single human baby, whether located in a designated 'baby' section or, when available, within other sections of the cemetery. This includes the 'cremation' section.

Interment means the permanent disposition of the remains of a deceased person by cremation, entombment or burial.

Lot applies to numbered divisions as shown on the recorded plat, each of which consists of two or more graves.

Lot marker means a concrete, ceramic, metal marker or marker of other suitable material used by the city to locate corners of the lot.

Management means the properly designated agents and employees of the City of Graham.

Marker means a memorial flush with the ground.

Memorial includes a monument, marker, tablet, headstone, private mausoleum or tomb for a family or individual use, tombstone, coping, lot enclosure, surface burial vault, urn and crypt and niche plates.

Monument includes a tombstone or memorial of granite or other materials, which shall extend above the surface of the ground.

Owner includes only the person named on the purchase agreement and, upon full payment of said agreement, on the original Deed or Certificate of Ownership.

Owner's Declaration of Reservation means the document executed by the owner in the presence of the management, designating and specifying the person entitled to burial in the lot or grave for which a Grave Certificate is held.

Resident or residents means any person or persons whose permanent home address is within the Graham city limits or:

- (1) Any current or former employee with 15 years active service shall be charged the same rate as a Graham resident for a cemetery grave for themselves and spouse, even if they are a nonresident of the City of Graham; and
- (2) Heirs of any employee of the city who dies while carrying out duties on the job shall have the option to receive a free grave within any city cemetery.

Section means the major divided areas within the cemetery.

(Code 1983, § 5-1; Ord. of 2-1-2000; Ord. of 9-1-2009)

State Law reference— Definitions as to cemeteries, G.S. 65-48.

Sec. 10-2. - Damage—Cemeteries.

No person shall in any way disturb any grave; deface, pull up or remove anything put or placed to mark a grave or for the ornamentation thereof, or any paling or wall around a grave; or shall remove any plant, post or timbers in any cemetery, except by order or with the permission of the management.

(Code 1983, § 5-2; Ord. of 2-1-2000)

Sec. 10-3. - Same—Graves; shrubs; trees.

No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure or thing placed in the cemeteries or any fence, railing or other work for the protection of or ornamentation of any tomb, monument, gravestone or other structure aforesaid, or for the ornamentation or protection of any cemetery, or shall unlawfully and willfully destroy, cut, break, remove or injure any tree, shrub or plant that may have been planted or that may be growing in any cemetery, or commit any other depredation within the limits of any cemetery, unless authorized in writing by management.

(Code 1983, § 5-3; Ord. of 2-1-2000)

Sec. 10-4. - Same—Flowers.

No person shall wantonly or willfully injure or destroy any flowers, either wild or cultivated, in any cemetery.

(Code 1983, § 5-4; Ord. of 2-1-2000)

Sec. 10-5. - Disturbing fixtures.

No person shall unlawfully and willfully disturb or remove any vase, jardinière or other receptacle for flowers or shrubs, or any other thing placed on or by any grave for the ornamentation thereof.

(Code 1983, § 5-5; Ord. of 2-1-2000)

Sec. 10-6. - Discharge of firearms.

No firearms shall be permitted within the cemetery except when in the possession of law enforcement or military personnel or on special permit.

(Code 1983, § 5-6; Ord. of 2-1-2000)

Sec. 10-7. - Sale of merchandise.

No person shall sell, or offer for sale, any article of merchandise, or any fruit, drink or beverage, or anything of value within the limits of any cemetery.

(Code 1983, § 5-7; Ord. of 2-1-2000)

Sec. 10-8. - Use as playground.

No person shall use any part of any cemetery as a playground.

(Code 1983, § 5-8; Ord. of 2-1-2000)

Sec. 10-9. - Use as thoroughfare.

No person shall use any cemetery as a common thoroughfare or public way.

(Code 1983, § 5-9; Ord. of 2-1-2000)

Sec. 10-10. - Automobiles generally.

Automobiles shall not be driven through the grounds of any cemetery at a greater rate of speed than 15 miles per hour and must always be kept on the right-hand side of the cemetery roadway. Automobiles are not allowed to park or to come to a stop in front of an open grave unless such automobiles are in attendance at a funeral. Automobiles are not permitted to drive or park except on paved areas.

(Code 1983, § 5-10; Ord. of 2-1-2000)

State Law reference— Speed restrictions, G.S. 160A-141.

Sec. 10-11. - Driving over walks or drives.

No person shall drive any carriage, wagon or other vehicle over any walks or drives of any cemetery, or allow any such vehicle to stand thereon, if forbidden by the cemetery management.

(Code 1983, § 5-11; Ord. of 2-1-2000)

Sec. 10-12. - Where interments made.

No person shall bury or inter a human corpse except in a cemetery regulated by this article or in a licensed private cemetery. The scattering of ashes or cremated remains is strictly prohibited except in a designated area.

(Code 1983, § 5-12; Ord. of 2-1-2000)

Sec. 10-13. - Size and price of lots.

The classification, sizes and prices of lots in cemeteries shall be fixed from time to time by the city council. A current schedule thereof shall be kept on file in the office of the city clerk and is hereby referred to and incorporated in this section by reference as fully as though set forth herein in full.

(Code 1983, § 5-13; Ord. of 2-1-2000)

Sec. 10-14. - Work on lots—Permission required.

No person shall do any work of any kind in any cemetery on any lot without first notifying management, and presenting to management an order in writing, authorizing the bearer thereof to do such work.

(Code 1983, § 5-14; Ord. of 2-1-2000)

Sec. 10-15. - Same—Supervision.

No person authorized to do the work mentioned in section 10-14 shall do the same in such manner as to interfere with the walks, decoration or general arrangement of a cemetery, except with the permission of the person in charge thereof and under his supervision.

(Code 1983, § 5-15; Ord. of 2-1-2000)

Sec. 10-16. - Fences.

No person shall be allowed to put up any fence or other enclosure around any grave in any cemetery.

(Code 1983, § 5-16; Ord. of 2-1-2000)

Sec. 10-17. - Interments and disinterments generally.

All interments, disinterments and removals of graves shall be subject to the general laws of the state in addition to the rules and regulations established by this chapter.

(Code 1983, § 5-17; Ord. of 2-1-2000)

Sec. 10-18. - Disinterment; permit.

No person shall disinter the remains of any human body without first having obtained written permission from the county health department for such disinterment.

(Code 1983, § 5-18; Ord. of 2-1-2000)

State Law reference— Disinterments, G.S. 65-13.

Sec. 10-19. - Interment orders.

The cemetery management shall issue an interment order before any grave is dug or burial made in any cemetery. The interment order shall show grave ownership, grave number, name of the interred, funeral service used (if any) and date issued.

(Code 1983, § 5-20; Ord. of 2-1-2000)

Sec. 10-20. - Additional regulations.

The management of any such facility is hereby authorized to establish additional cemetery regulations. The regulations shall be filed in the office of the city clerk and shall be considered as a part of this chapter.

(Code 1983, § 5-21; Ord. of 2-1-2000)

Sec. 10-21. - Agreement between city and lot owners.

The cemetery purchase agreement, Grave Certificate and the owner's Declaration of Reservation (if any), this chapter and any amendments thereto constitute the entire agreement between the city and the owner of any lot or grave in the cemetery.

(Code 1983, § 5-36; Ord. of 2-1-2000)

Sec. 10-22. - Modifications; amendments.

Special cases may arise in which the literal enforcement of any rule in this article may impose unnecessary hardship. The management of any such facility, therefore, reserves the right, without notice, to make exceptions, suspensions or modifications in any of these rules and regulations when, in its judgment, the same appear advisable; and such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such rule.

(Code 1983, § 5-37; Ord. of 2-1-2000)

Sec. 10-23. - Admission to cemetery.

- (a) The management may compel all persons driving motor vehicles into any cemetery to bring such vehicles to a full stop at the intersection next to the park entrance.
- (b) No person shall enter the cemetery grounds or use any of the cemetery facilities if the management may reasonably deem said person to be acting in a disorderly manner.

(Code 1983, § 5-38; Ord. of 2-1-2000)

Sec. 10-24. - Transfer; assignment.

- (a) *Bequest of lot or grave.* Heirs or Power of Attorney to the original owner of an unused grave may use the grave in accordance with Sec. 10-56 (c) and Sec. 10-80 (c) or may, with the approval of the city, sell or transfer burial rights to another individual as long as all criteria are met.
- (b) *Consent of city.* No transfer or assignment of any lot or grave or interest therein shall be valid without the consent in writing of the management, and such transfer or assignment must be filed in the office of the city clerk upon forms provided by the city. The original Grave Certificate must be surrendered at the time application for transfer is made.

- (c) *Transfer of option.* The city will refuse to consent to a transfer of any option to purchase where a balance of the purchase price is still owing to the city.
- (d) *Transfer charges.* All transfers of ownership in lots or graves shall be subject to a charge to be paid to the city when the transfer is recorded.
- (e) *Purchase by city.* In the event the original lot owner moves or heir to the owner (see Sec. 10-56 (c) and Sec. 10-80 (c) wishes to sell their lot back to the City, the city may buy back said lot at one half of the current per-grave price for city residents.
- (f) The amounts referred to in subsections (d) and (e) of this section shall be fixed by the city council and kept on file in the office of the city clerk.

(Code 1983, § 5-39; Ord. of 2-1-2000)

Sec. 10-25. - Interments, etc.

- (a) *Time; charges; procedure.* All interments, disinterments and removals must be made at the time and in the manner set forth by management and upon payment of such charges as may be determined by the city council.
- (b) *Application for interment.* In the absence of the owner's Declaration of Reservation, the management shall have the right to refuse interment in any grave and to refuse to open any burial space for any purpose, except upon written application by the grave owner of record made out on forms provided by the management and duly filed in the office of the management.
- (c) *Location of interment space.* When instructions regarding the location of an interment space in a lot cannot be obtained, or when such instructions are indefinite, or when, for any reason, the interment space cannot be opened where specified, the management may, in its discretion, open such interment space in such part of the lot as the management may deem best under the circumstances, so as to avoid delaying the funeral; and in such case, neither the city nor any of its employees shall be liable for any error in failing to open the interment space in the proper location.
- (d) *Orders given by telephone.* The management shall not be held responsible for any order given by telephone or for any mistake resulting from the want of precise and proper instructions as to the particular space, size and location in a lot where interment is desired.
- (e) *Correction of errors.* Management shall have the right to correct any error made by the city, either in making interment, disinterment or removal, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and conveying in lieu thereof other interment property of equal value and similar location insofar as may be possible, or by refunding the amount of money paid on account of the purchase of the grave. In the event such error shall involve the interment of the remains of any person in a different location, the management shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be transferred in lieu thereof.
- (f) *Delays in interments caused by protests.* Neither the city nor any of its employees shall be liable for any delay in the interment or where there has been a failure to comply with the rules and regulations. The management shall be under no duty to recognize any protests of interments unless such protests shall be in writing and shall have been filed in the office of the management.
- (g) *Responsibility for identity or embalming.* The management shall not be liable for interment permit nor for the identity of any body sought to be interred or cremated, nor shall the management be liable in any way for the embalming of any body.
- (h) *Grave paid for.* No interment shall be permitted in any lot or grave in any cemetery, nor shall any memorial be placed thereon, where the purchase price of the lot or grave has not been paid in full.
- (i) *Interment of more than one body.* Not more than one body, or the remains of more than one body, shall be interred in one grave or vault, except in the case of a mother and her newborn infant, unless such grave or vault has been purchased with the written agreement that more than one body or the

remains of more than one body may be interred therein, or unless management has given its written consent thereto; nor shall interment be permitted unless proper identification shall be made of such interment on one individual or single memorial or marker. A grave of a conventional burial may be reopened to allow the additional interment of cremated remains on top of or beside of an existing burial container. Said cremated remains shall be interred in the smallest container available as to not interfere with the existing vault. Additional financial criteria must be met for second right to interment as set forth in the fee schedule.

- (j) *Interment in church or lodge lot.* Where a lot is owned by a church, lodge or other society, interment shall be limited to the actual members of the organization and their husbands and wives and to immediate members of the family or members of the organization, unless otherwise provided in the Grave Certificate.
- (k) *Interment in vaults, grave liners or cremation containers.* All interments must be made in vaults, grave liners or cremation containers of cave-resistant, non-deteriorating material. Should a grave sink or settle, the city has the right to remove the sod and refill the grave without asking or receiving permission of the lot owner.

(Code 1983, § 5-41; Ord. of 2-1-2000)

Sec. 10-26. - Disinterments, removals generally.

- (a) *Removal for profit.* Removal of a body by the heirs of an original grave or lot owner, to the end that such lot or grave may be sold for profit, or removal contrary to the expressed or implied wishes of the original owner of such lot or grave is forbidden.
- (b) *Authorized removal.* A body or the remains thereof may be removed from its original lot or grave to a larger or better lot or grave in the cemetery in cases in which there has been an exchange or purchase for that purpose.
- (c) *Care in removal.* The management shall exercise reasonable care in making a removal, but it shall assume no responsibility or liability for damage to any casket or burial case sustained in making such removal.
- (d) *Payment of service charges.* All charges for services in connection with any interment, disinterment or removal must be paid at the time of the issuance of the order for interment, disinterment or removal.

(Code 1983, § 5-42; Ord. of 2-1-2000)

State Law reference— Disinterments and removal of graves, G.S. 65-13.

Sec. 10-27. - Control of work.

- (a) *Work done by city.* All grading, landscape work and improvement of any kind; all care of graves; all planting, trimming, cutting and removal of trees, shrubs and herbage; all openings and closing of graves; and all interments, disinterments and removals shall be made by the city or a contractor authorized by management.
- (b) *Improvements.* All improvements or alterations of lots or graves in the cemetery shall be under the direction of, and subject to, the consent, satisfaction and approval of the management. Should same be made without written consent, the city shall have the right to remove, alter or change such improvements or alterations at the expense of the grave owner, or in any event, at any time, when, in management's judgment, they become unsightly.

(Code 1983, § 5-43; Ord. of 2-1-2000)

Sec. 10-28. - Decoration of graves.

- (a) *Floral arrangements and receptacles.* Only one floral arrangement or decoration shall be allowed per grave unless the marker has provisions for additional vases. Arrangements shall be securely clipped on a marker or placed in a receptacle which meets the requirements described in subsections (a)(1) and (2) of this section and shall be placed on or beside the grave marker or monument so as to not hinder the maintenance of the grounds.
 - (1) *Approved receptacles for cemeteries.* All receptacles must be of sufficient weight and of substantial construction to be self-supporting as no bricks, wire, rocks, metal rods or stakes for additional support will be allowed. Receptacles must be constructed of cast bronze, precast concrete, stamped or extruded aluminum, granite, marble or other rock and shall not be constructed of grass, wire, wood or ferrous metals. Receptacles should be set on the marker not exceeding 12 inches in height and nine inches in width.
 - (2) *Approved receptacles for memorial parks.* Approved receptacles shall be limited to cast bronze vase and ring units not exceeding 12 inches in height or nine inches in width set on granite or a precast concrete base set flush with the ground. The vase may be incorporated into the design of an approved individual or family marker. In circumstances where a vase was not incorporated into the original design of the marker, a vase in compliance with the provisions in subsection (a)(1) of this section and this subsection (a)(2) with a supporting granite or precast concrete base not exceeding 12 inches on any side set flush with the back of the original marker may be added.
- (b) *Prohibited ornaments.* The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass cases, wood cases, balloons, banners, Christmas trees, upright and free-standing floral arrangements except at the time of interment shall not be permitted, and the city shall have the right to remove and dispose of such items. An authentic United States flag not exceeding 8½ by 11 inches may be placed in the receptacle.
- (c) *Removal of decorations.* All grave decorations shall become the property of the city at the time of placement. All arrangements placed on the grave at the time of interment, except for one arrangement meeting the specifications for floral arrangements and receptacles as contained herein, shall be removed and discarded by the eighth day following burial. The city shall have authority to remove all floral arrangements, flowers, weeds, trees, shrubs, plants or herbage of any kind from a cemetery or memorial park when, in the opinion of the city such becomes unsightly, dangerous, detrimental or diseased or otherwise does not conform to standards herein. The city shall not be responsible or liable for arrangements or decorations placed on a grave.
- (d) *Christmas decorations.* Special arrangements not exceeding 36 inches in height and otherwise in compliance with requirements for receptacles shall be allowed for Christmas during the time period from December 1 through January 10. No holes may be dug in the ground and any decoration which is displaced by wind or weather shall be removed and discarded by the city. Special arrangements shall be removed by January 10 and all other Christmas flowers shall be removed by March 1. The city shall have the right to remove and discard any such items remaining after dates for removal.
- (e) *Special Holidays honoring our Veterans.* A single United States flag not exceeding 8½ by 11 inches may be placed on the grave of a veteran during the Memorial and Veterans Day holidays and any other holiday established to honor our veterans.

(Code 1983, § 5-44; Ord. of 2-1-2000; Ord. of 4-6-2004; Ord. of 11-2-2004)

Sec. 10-29. - Roadways; replatting.

The right to enlarge, reduce, replat and/or change the boundaries or grading of the cemetery, or of sections not already developed, from time to time, including the right to modify and/or change the locations of or remove or regrade roads, drives and/or walks or any parts thereof, is hereby expressly reserved. The right to lay, maintain and operate or alter or change, pipelines and/or gutters for sprinkling systems, drainage, etc., is also expressly reserved, as well as is the right to use cemetery property not sold to individual lot owners for cemetery purposes, including the interring and preparing for interment of dead human bodies, or for anything necessary, incidental or convenient thereto. The city reserves to

itself, and to those lawfully entitled thereto, a perpetual right of ingress and egress over graves for the purpose of passage to and from other graves.

(Code 1983, § 5-45; Ord. of 2-1-2000)

Sec. 10-30. - Conduct of persons.

- (a) *Walkways, etc.* Persons within the cemetery grounds shall use only the avenues, walks, alleys and roads; and any person injured while walking on the grass, or while on any portion of the cemetery other than the avenues, walks, alleys or roads, shall in no way hold the city liable for any injuries sustained.
- (b) *Trespassers on graves.* Only the grave owner and relatives shall be permitted on the cemetery grave. Any other person thereon shall be considered as a trespasser, and the city shall owe no duty to said trespasser to keep the property or memorial thereon in a reasonably safe condition.
- (c) *Children.* Children under 15 years of age shall not be permitted within the cemetery, or its buildings, unless accompanied by an adult or proper persons to take care of them.
- (d) *Flowers, etc.* All persons are prohibited from gathering flowers, either wild or cultivated, or breaking trees, shrubbery or plants, or feeding or disturbing the birds or animal life within the cemetery.
- (e) *Refreshments.* No person shall be permitted to bring food or refreshments within the cemetery.
- (f) *Lounging on grounds.* Unauthorized persons shall not be permitted to sit or to lounge on any of the grounds, graves or markers in the cemetery.
- (g) *Loud talking.* No loud talking shall be permitted on the cemetery grounds within hearing distance of funeral services.
- (h) *Rubbish.* The throwing of rubbish on the drives and paths, or on any part of the grounds, is prohibited, except in receptacles for waste material that may be located in the cemetery.
- (i) *Bicycles; motorcycles.* No bicycles or motorcycles shall be admitted to the cemetery except such as may be in attendance at funerals or on business.
- (j) *Peddling; soliciting.* Peddling of flowers or plants or soliciting the sale of any commodity, other than by the city, is prohibited within the confines of the cemetery.
- (k) *Notices; advertisements.* No signs, notices or advertisements of any kind shall be allowed in the cemetery unless placed by the management.
- (l) *Dogs.* Dogs shall not be allowed on the cemetery grounds.
- (m) *Decorum.* There should be strict decorum observed at all times within the cemetery grounds, whether embraced in these rules or not, as no improprieties shall be allowed, and the manager shall have power to prevent improper assemblages.
- (n) *Management to enforce rules.* Management is hereby empowered to enforce all rules and regulations, and to exclude from any cemetery any person violating the same. The management shall have charge of the grounds and buildings, including the conduct of funerals, traffic, employees, lot owners and all visitors and at all times shall have supervision and control of all persons in the cemetery.

(Code 1983, § 5-46; Ord. of 2-1-2000)

Sec. 10-31. - Fees; gratuities; commissions.

No persons, while employed by the city, shall receive any fee, gratuity or commission in regard to the cemetery, except from the city, either directly or indirectly, under penalty of immediate dismissal.

(Code 1983, § 5-47; Ord. of 2-1-2000)

Sec. 10-32. - Protection against loss.

The city shall take reasonable precaution to protect grave owners and the burial rights of grave owners within the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and, especially, from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or order of any military or civil authority, whether the damage is direct or collateral, other than as provided in this chapter.

(Code 1983, § 5-48; Ord. of 2-1-2000)

Sec. 10-33. - Change of grave owner's address.

It shall be the duty of the grave owner to notify the management of any change in post office address. Notice sent to a grave owner at the last address on file in the office of the cemetery shall be considered sufficient and proper legal notification.

(Code 1983, § 5-49; Ord. of 2-1-2000)

Sec. 10-34. - Abandonment of Unused Grave.

- (a) *Abandonment of Unused Grave.* When a grave space in the cemeteries described in Sec 10-1(a) remains without any interment or reassignment therein for 100 years, and no heir of the purchaser is known, the grave shall be deemed abandoned and revert back to the City when conditions as set out in subsections (b) and (c) of this section have been complied with.
- (b) *Certified Letter.* Prior to abandonment, in an effort to contact relatives of the grave owner, a certified letter shall be sent to the last known address of the owner.
- (c) *Publication of Notice of Abandonment.* The City Council shall give authorization for notice of forfeiture published once a week for four consecutive weeks on the City of Graham maintained web site and, when available, in local newspapers. If no heir of the purchaser or assignee appears within 30 days from the last publication, then the grave space shall revert back to the City.
- (d) *Replacement of Abandoned Grave.* If, when a grave space has been reclaimed by the City, an heir to the original owner comes forward to claim said grave space, the heir shall submit proof of ownership in the form of the original Grave Certificate. The City then shall reinstate burial rights of abandoned grave, substitute a different grave or refund original purchase price.

Sec. 10-35. - Cemeteries perpetual care fund.

- (a) *Definition.* The term "perpetual care" means the cutting of grass upon lots in the cemeteries described in subsection (b) of this section at reasonable intervals, the pruning of shrubs and trees that may be placed by the city, the general preservation of the lots, grounds, walks, roadways, boundaries and structures, to the end that such grounds shall remain and be reasonably cared for as cemetery grounds forever. The term "perpetual care" shall in no case be construed as meaning the maintenance, repair or replacement of any grave markers placed upon lots or grave spaces, the planting of flowers or ornamental plants; the reconstruction of any bronze, marble, granite or concrete work on any section or lot or any portion or portions thereof in the cemetery, mausoleum or other buildings or structures, caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or by order of any military or civil authority, whether the damage be direct or collateral, other than that as provided in this section.

- (b) *Established.* A fund, known as the cemeteries perpetual care fund, shall be established for the purpose of perpetually caring for and beautifying the city cemeteries. The city may accept gifts and bequests to the fund upon such terms as the donor may prescribe.
- (c) *Management of fund.* The principal of the fund shall be invested in the same manner as other city funds. Principal is defined as income from the sale of cemetery plots.
- (d) *Expenditure of income.* Perpetual care expenditure shall be limited to the income received from the investments of the fund with no part of the principal being expended.

([Ord. of 4-14-2015](#))

Secs. 10-36—10-54. - Reserved.

ARTICLE II. - GRAHAM MEMORIAL PARK

Sec. 10-55. - Memorial work.

- (a) *General.* Monuments or stones of any kind, or enclosures, shall not be permitted. Only bronze tablets or markers shall be allowed, and they must be set level with the ground, at the end closest to, and with the written text facing, the drive, sidewalk or walkway on which the lot is located. All memorials must be set flush with the ground and with the lay of the land. The installer is not permitted to alter the existing grade in an effort to obtain a level site. No berming is permitted. The foundation must be placed by a reputable company approved by the city. Only family markers may be set to embrace two or more graves. Unless otherwise specified, the head of a grave shall be at the drive, sidewalk or walkway. No memorial of any kind shall be placed on any grave or portion of grave that is not paid for in full.
- (b) *Bronze marker installation.* All bronze markers are to be placed by a reputable company approved by the city. No marker shall be placed without the prior issuance of a marker permit and receipt of applicable permit fees by the city. Any marker will be removed which does not comply with the standard rules and regulations of the cemetery. Installation arrangements may also be made through the office of the cemetery management. All applicable fees must be paid prior to the installation of a memorial.
- (c) *Bronze memorials.* To preserve uniformity, style, grade and workmanship of bronze memorials, all such memorials shall be of the manufacture of such bronze material as is approved by the city, and such standard design and material prescribed by the city, specifications of which are available for inspection in the office of the management. The fee for installation of memorials by the city, or by any other reputable company approved by the city, shall be kept on file in the office of the city clerk. All bronze tablets, markers or memorials, no matter the size, shall have a minimum of four (4) mounting bosses cast into them so as to accept 3/8" bronze mounting studs.
- (d) *Metal generally.* No metal other than standard bronze as prescribed by the management shall be permitted in any lot.
- (e) *Standard specifications.* The following standard specifications are directed to the notice of manufacturers of bronze grave markers intended for placement in the cemetery (all markers, tablets or memorials are subject to the approval of the management prior to placement and acceptance, or rejection shall be based upon the specifications contained herein):
 - (1) *Dimensions.* Overall outside dimensions shall be as follows:
 - a. Family memorial:
 - 1. Width, not less than 12 nor more than 24 inches.
 - 2. Length, not less than 24 nor more than 60 inches.
 - b. Individual or single markers:
 - 1. Width, not less than 12 nor more than 18 inches.
 - 2. Length, 24 inches.
 - c. Baby memorials:
 - 1. Width, not less than 6 nor more than 10 inches.
 - 2. Length, not less than 12 nor more than 20 inches
 - d. Cremation memorials only:
 - 1. Width, not less than 5 and ½ and no more than 6 inches.
 - 2. Length, not less than 8 and ½ and no more than 12 inches.
 - e. Approved bronze memorial vases may be substituted for any individual, baby or cremation marker if the vase does not exceed the maximum dimensions of the marker it is replacing.

Vases must be of the same material, craftsmanship and finish as other acceptable memorial work.

(2) *Materials.*

- a. Standard of quality. Bulletin No. 172-A of the United States Bureau of Standards on the subject of statuary bronze.
- b. Proportions of materials as follows: 88 percent copper, ten percent tin, two percent zinc (a variation not exceeding three percent is permissible on each above material, providing a minimum of two percent zinc must be used); all virgin metals must be used and mixed to a uniform alloy at proper temperature.
- c. No other alloys of metals or combinations of materials are acceptable.
- d. All memorials installed are required to have a minimum 3/8 inch mounting studs. This includes cremation and baby memorials.

(3) *Craftsmanship.*

a. *General requirements.*

1. Markers shall be free from sand holes, pits and/or other imperfections which mar the appearance of and/or impair the usefulness and stability of the finished markers.
2. All ornaments shall be clean and sharp, and all edges shall be true and accurate to the standard dimensions defined herein.

b. *Lettering.*

1. Lettering shall be carefully spaced and accurately set in line, both vertically and horizontally.
2. Names, dates, inscriptions and emblems shall be arranged so as to result in an artistic and neat-appearing plate.
3. The style of lettering should be preferably round-faced classic, V-shaped classic or flat-faced classic. Other types of lettering are subject to approval.

(4) *Finish.* General requirements are as follows:

- a. All castings shall be free from seals, sand, pinholes and pits.
- b. All ornamentation, face of letters and background shall be hand-chased, hand-tooled and burnished appropriately for a memorial tablet.
- c. Matching of approved color and texture as per sample.
- d. No colored lacquer or lacquer-carrying pigment shall be used.

(5) *Base.* Markers must be placed upon a base that is not more than four inches longer, and not more than four inches wider than the marker, and a minimum of four inches in thickness. In cases where a vase is mounted through the granite base, the width of that base may extend enough to accommodate that vase and its mounting base plus two inches. The vase is to be centered at the top of the marker.

- a. The base must be set in a bed of no less than two inches of granite screenings, concrete mix or other compactable material.
- b. The base may be concrete "poured in place" as long as the overall outside dimensions of the base are the same as the overall outside dimensions of the marker placed upon it (with no visible border).

(6) *Vase.* The vase shall be made of the same quality of craftsmanship and material as the marker. The vase shall be centered left to right towards the top of the marker. Any deviation from this standard is subject to approval by cemetery management.

(Code 1983, § 5-50; Ord. of 2-1-2000; Ord. of 6-4-2004)

Sec. 10-56. - Burial rights of lot and grave owners.

- (a) *Grave Certificate.* Upon receipt of payment in full for any lot, the city shall execute and deliver to the purchaser or purchasers a Grave Certificate, granting to such purchasers and their heirs and assigns, the exclusive right of interment in said lot, subject to the rules and regulations contained in this chapter and in any amendments hereto which may hereafter be adopted by the city council.
- (b) *Right of interment under owner's Declaration of Reservation.*
 - (1) At the time of the purchase of a lot or grave, or at any time thereafter during the lifetime of the purchaser or transferee, and in accordance with these rules and regulations, the owners of any such lot or grave may present their Grave Certificate and may file in the office of the management a Declaration of Reservation, therein specifically designating the persons entitled to be buried in any or all of the graves in the lot.
 - (2) No other person may be buried in any grave designated by the owner in the Declaration of Reservation except by an amended Declaration of Reservation executed by the owner and filed in the office of the management.
 - (3) The owner of any lot may in the Declaration of Reservation limit the persons entitled to be buried in said lot to those persons designated in the Declaration of Reservation.
 - (4) In the event that the owner shall fail to designate burial rights as to each grave in said lot, or shall fail to limit burials in said grave to those designated in the Declaration of Reservation, then, as to the graves not designated, the right of burial shall be as provided in subsection (c) of this section.
 - (5) Upon application by any person for interment of a body in a given grave, the burden of proof as to the identity of the person to be interred rests upon the applicant; and no liability shall be incurred by the management or the city as the result of a false statement in the application, but the management shall make reasonable effort to see that only persons entitled to be buried in a given grave are so interred.
- (c) *Interment in absence declaration.* In the absence of a Declaration of Reservation by the registered owner of a lot, the right of interment shall be in the following order:
 - (1) One grave shall be reserved for the owner and one for the owner's surviving spouse, if any.
 - (2) The remaining graves in said lot shall be held in trust by the city for burial of the following persons in the order of their death, and a request for burial, to wit:
 - a. Children of the owners and their respective spouses.
 - b. Lineal descendants of the owners and their respective spouses.
 - c. Parents of the owners.
- (d) *Vested rights of lot owners.* The burial rights in all lots and graves conveyed shall be presumed to be the sole and separate privilege of the persons named as grantees in the Grave Certificate, in accordance with these rules and regulations; provided, however, that the husband or wife shall have a vested right of interment of his or her body in any burial grave conveyed to the other, which shall continue as long as he or she shall remain the husband or wife or the grave owner, or shall be his or her wife or husband at the time of such grave owner's demise. No conveyance or transfer shall divest the husband or wife of any owner of his or her vested right of interment without the joinder therein executed by the spouse and filed in the office of the management.
- (e) *Alienability of cemetery grave.* All lots, the use of which has been conveyed in a Grave Certificate, are indivisible. Whenever an interment of the remains of a member, or of a relative of a member, of the family of the recorded owner, or of the recorded owner, is made in a lot, the lot thereby becomes inalienable and shall be held as the family lot of the owner, except as otherwise provided by the owner's Declaration of Reservation.

(f) *Residency as related to Graham Memorial Park.*

- (1) Graves are sold based on the permanent residency of the purchasers and the permanent residency of the persons designated in the Declaration of Reservation as having rights of interment.
 - (2) Any grave not designated under the Declaration of Reservation shall be considered purchased for the interment of a nonresident, and the prices shall be in accordance with the current cemetery fee schedule at the time of purchase.
 - (3) Graves purchased by and/or designated to residents, but later designated for use by a nonresident, shall be subject to fees for transfer from resident to nonresident as reflected on the cemetery fee schedule current at the time of the transfer.
 - (4) Graves purchased at nonresident rates shall not qualify for any refund should a decision be made to inter the remains of a resident at a later date.
 - (5) Graves shall be sold to individual persons only and not to businesses.
 - (6) Registered funeral services may purchase graves at-need or pre-need as an agent of the persons intended for interment therein, but the cemetery purchase agreement shall be made out in the name of those persons, and the cost of said graves shall reflect that of those person's residency status.
- (g) *Payment terms.* The first grave purchased by an individual must be for the interment of the purchaser and must be paid for in full at the time of purchase. Subsequent graves purchased may be financed for a period not to exceed 24 months at no interest, and after having made an initial payment of not less than 25 percent of the total price of those graves.
- (h) *Transfer of Right of Interment of cemetery grave.* Upon proper application, the surviving heir(s) of the owner or executor for the owner's estate may convey, transfer or sell said rights to another by completing the proper forms to be filed in the office of the management.

(Code 1983, § 5-51; Ord. of 2-1-2000)

Sec. 10-57. - Section C, cremation section.

- (a) Interments made in the cremation section shall be for cremated remains and, subject to the approval of management, the remains of newborns and infants.
- (b) All graves sold in this section shall be sold in an organized sequence.
- (c) In certain instances, where a grave has been tested and deemed unfit for an adult sized vault interment, the management may, at its discretion designate that grave to be a "cremation grave," subject to the same regulations as those in the cremation section with respect to burials. In such instances, the management will make a clear designation of the same on cemetery maps, in the cemetery database, and on cemetery documents such as Agreements, Grave Certificates and Declarations of Reservation.

(Code 1983, § 5-52; Ord. of 2-1-2000; Ord. of 9-1-2009)

Sec. 10-58. – Residency Required, Sections 9, 11, 12 and future development.

- (a) Sales and interments within sections 9, 11 and 12 and future sections, columbariums or mausoleums developed within the cemetery shall be limited to residents of the city only.
- (b) The management reserves the right to make exceptions to subsection (a) of this section in situations where management deems prudent, unusual or where extenuating circumstances exist involving residential status. (Example: retirement homes, long-term health care, homeless etc.) Under such

circumstances, the management shall allow one grave and one interment on behalf of said former resident, and one grave and one interment for the surviving spouse.

(Code 1983, § 5-53; Ord. of 2-1-2000)

Secs. 10-59—10-77. - Reserved.

ARTICLE III. – LINWOOD CEMETERY

Sec. 10-78. Memorial (Bronze) work.

- (a) *General.* All memorials must be set flush with the ground and with the lay of the land. The installer is not permitted to alter the existing grade in an effort to obtain a level site. No berming up around the memorial. The foundation must be placed by a reputable company approved by the city. Only family markers may be set to embrace two or more graves. The head of a grave in Linwood Cemetery shall be at the west end of the grave. No memorial of any kind shall be placed on any grave or portion of grave that is not paid for in full. No grave marker shall be set as to encroach upon another owner's grave space, unless prior written permission has been granted by that owner.
- (b) *Bronze markers.* All bronze markers are to be placed by a reputable company approved by the city. No marker shall be placed without the prior issuance of a marker permit and receipt of applicable permit fees by the city. Any marker will be removed which does not comply with the standard rules and regulations of the cemetery.
- (c) *Bronze memorials.* To preserve uniformity, style, grade and workmanship of bronze memorials, all such memorials shall be of the manufacture of such bronze material as is approved by the city, and such standard design and material prescribed by the city, specifications of which are available for inspection in the office of the management. The fee for installation of memorials by the city, or by any other reputable company approved by the city, shall be kept on file in the office of the city clerk. All bronze tablets, markers or memorials, no matter the size, shall have a minimum of four (4) mounting bosses cast into them so to accept 3/8" bronze mounting studs.
- (d) *Installation.* The foundation must be placed by a reputable monument company approved by the city. Installation arrangements may also be made through the office of the cemetery management. All applicable fees must be paid prior to the installation of a memorial.
- (e) *Metal generally.* No metal other than standard bronze as prescribed by the management shall be permitted.
- (f) *Standard specifications.* The following standard specifications are directed to the notice of manufacturers of bronze grave markers intended for placement in the cemetery (all markers, tablets or memorials are subject to the approval of the management prior to placement and acceptance, or rejection shall be based upon the specifications contained herein):

(1) *Dimensions.* Overall outside dimensions shall be as follows:

- a. Family memorial:
 - 1. Width, not less than 12 nor more than 24 inches.
 - 2. Length, not less than 24 nor more than 60 inches.
- b. Individual / single markers:
 - 1. Width, not less than 12 nor more than 18 inches.
 - 2. Length, 24 inches.
- c. Baby memorials:
 - 1. Width, not less than 6 nor more than 10 inches.
 - 2. Length, not less than 12 nor more than 20 inches
- d. Cremation memorials only:
 - 1. Width, not less than 5 ½ and no more than 6 inches.
 - 2. Length, not less than 8 ½ and no more than 12 inches.
- e. Approved bronze memorial vases may be substituted for any individual, baby or cremation marker if the vase does not exceed the maximum dimensions of the marker it is replacing. Vases must be of the same material, craftsmanship and finish as other acceptable memorial work.

(2) *Materials.*

- a. Standard of quality. Bulletin No. 172-A of the United States Bureau of Standards on the subject of statuary bronze.

- b. Proportions of materials as follows: 88 percent copper, ten percent tin, two percent zinc (a variation not exceeding three percent is permissible on each above material, providing a minimum of two percent zinc must be used); all virgin metals must be used and mixed to a uniform alloy at proper temperature.
- c. No other alloys of metals or combinations of materials are acceptable.
- d. All memorials installed are required to have a minimum 3/8" mounting studs. This includes cremation and baby memorials.

(3) *Craftsmanship.*

a. *General requirements.*

- 1. Markers and vases shall be free from sand holes, pits and/or other imperfections which mar the appearance of and/or impair the usefulness and stability of the finished markers or vases.
- 2. All ornaments shall be clean and sharp, and all edges shall be true and accurate to the standard dimensions defined herein.

b. *Lettering.*

- 1. Lettering shall be carefully spaced and accurately set in line, both vertically and horizontally.
- 2. Names, dates, inscriptions and emblems shall be arranged so as to result in an artistic and neat-appearing plate.
- 3. The style of lettering should be preferably round-faced classic, V-shaped classic or flat-faced classic. Other types of lettering are subject to approval.

(4) *Finish.* General requirements are as follows:

- a. All castings shall be free from seals, sand, pinholes and pits.
- b. All ornamentation, face of letters and background shall be hand-chased, hand-tooled and burnished appropriately for a memorial tablet.
- c. Matching of approved color and texture as per sample.
- d. No colored lacquer or lacquer-carrying pigment shall be used.

(5) *Base.* Markers must be placed upon a base that is not more than four inches longer, and not more than four inches wider than the marker, and a minimum of four (4) inches in thickness for flush set markers and twelve (12) inches thick for raised markers. In cases where a vase is mounted through the granite base, the width of that base may extend enough to accommodate that vase and its mounting base plus two inches. The vase is to be centered at the top of the marker.

- a. The base must be set in a bed of no less than two inches of granite screenings, concrete mix or other compactable material.
- b. The base may be concrete "poured in place" as long as the overall outside dimensions of the base are the same as the overall outside dimensions of the marker placed upon it (with no visible border).

(6) *Vase.* The vase shall be made of the same quality of craftsmanship and material as the marker. The vase shall be centered left to right towards the top of the marker. Any deviation from this standard is subject to approval by Cemetery management.

(Code 1983, § 5-50; Ord. of 2-1-2000; Ord. of 6-4-2004)

Sec. 10-79. Stone work: Monuments, Head Stones and Foot Stones.

- (a) *General.* Upright monuments and flat foot markers or head stones of marble or granite are allowed. Bronze tablet markers with a granite or marble base will also be allowed. Graves located on the west side of a lot, markers must be set on the east end of the grave. Graves located on the east side of the lot, markers must be set on the west end of the grave. All markers are to be set with the written text facing the grave. The monuments must be placed by a reputable company approved by the city. Only family markers may be set to embrace two or more graves. No memorial of any kind shall be placed on any grave or portion of grave

that is not paid for in full. No grave marker shall be set as to encroach upon another owner's grave space, unless prior written permission has been granted by that owner. The head of a grave in Linwood Cemetery shall be at the west end of the grave.

- (b) *Additional footstones:* Only a government supplied veterans' marker may be installed in addition to any other marker installed on an individual grave. A footstone is required to be made of granite or granite base with bronze tablet and set flush with the ground, with the lay of the ground. It shall be set on the inward edge of the grave. A vase is not allowed with this footstone.
- (c) *Upright Family Monuments:* In a "family lot", consisting of four (4) or more opposing grave spaces, an upright family monument may be installed. It shall be set on the inward side of the lot, centered, dividing the opposing grave spaces. The addition of an individual grave marker is also allowed. The individual markers must be set facing east or west, at the end of the grave with the written text facing the walkway. A footstone is required to be made of granite or granite base with bronze tablet and set flush with the ground, with the lay of the ground. A vase is not allowed with this footstone.
- (d) *Stonework.* The following standard specifications are directed to the notice of manufacturers and suppliers of stonework. Any deviation from this standard is subject to the approval of the management prior to placement, or rejection shall be based upon the specifications contained herein:

(1) *Dimensions.* Overall outside dimensions shall be as follows:

- a. Upright Family memorial:
 - 1. Base:
 - a. Width, Not wider than 17" +/- 1"
 - b. Length, Not longer than 60" +/- 2"
 - c. Height, Not taller than 12" +/- 2"
 - 2. Die:
 - a. Width, Not wider than 8" +/- 2"
 - b. Length, Not longer than 48" +/- 2"
 - c. Height, Not higher than 30" +/- 2"
- b. Upright Individual memorial:
 - 1. Base:
 - a. Width, Not wider than 13" +/- 1"
 - b. Length, Not longer than 37" +/- 2"
 - c. Height, Not higher than 12" +/- 2"
 - 2. Die:
 - a. Width, Not wider than 6" +/- 1"
 - b. Length, Not longer than 25" +/- 2"
 - c. Height, Not higher than 27" +/- 2"
- c. Raised Family memorial:
 - 1. Base:
 - a. Width, Not less than 12 nor more than 18" +/- 1"
 - b. Length, Not less than 12 nor more than 60" +/- 3"
 - c. Height, Not higher than 12" +/- 2"
- d. Raised Individual memorial:
 - 1. Base:
 - a. Width, Not wider than 16" +/- 2"
 - b. Length, Not longer than 24" +/- 2"
 - c. Height, Not higher than 12" +/- 2"
- e. Flush Family memorial:
 - 1. Base:
 - a. Width, Not less than 12 nor more than 18" +/- 1"
 - b. Length, Not less than 12 nor more than 60" +/- 3"
 - c. Thickness, Not less than 4" nor more than 6"
- f. Flush Individual memorial:
 - 1. Base:
 - a. Width, Not wider than 16" +/- 2"
 - b. Length, Not longer than 24" +/- 2"
 - c. Thickness, Not less than 4" nor more than 6"

(2) *Materials.*

- a. Granite
- b. Marble

(3) *Craftsmanship.*

- a. *General requirements.* Quality workmanship performed by professional craftsman
- b. *Lettering.* No language that may be considered offensive.

(Code 1983, § 5-50; Ord. of 2-1-2000; Ord. of 6-4-2004)

Sec. 10-80. Burial rights of lot and grave owners.

- (a) *Grave Certificate.* Upon receipt of payment in full for any lot, the city shall execute and deliver to the purchaser or purchasers a Grave Certificate of Ownership, granting to such purchasers and their heirs and assigns, the exclusive right of interment in said lot, subject to the rules and regulations contained in this chapter and in any amendments hereto which may hereafter be made by the city council.
- (b) *Right of interment under owner's Declaration of Reservation.*
 - (1) At the time of the purchase of a lot or grave, or at any time thereafter during the lifetime of the purchaser or transferee, and in accordance with these rules and regulations, the owners of any such lot or grave may present their Grave Certificate and may file in the office of the management a Declaration of Reservation, therein specifically designating the persons entitled to be buried in any or all of the graves in the lot.
 - (2) No other person may be buried in any grave designated by the owner in the Declaration of Reservation except by an amended Declaration of Reservation executed by the owner and filed in the office of the management.
 - (3) The owner of any lot may in the Declaration of Reservation limit the persons entitled to be buried in said lot to those persons designated in the Declaration of Reservation.
 - (4) In the event that the owner shall fail to designate burial rights as to each grave in said lot, or shall fail to limit burials in said grave to those designated in the Declaration of Reservation, then, as to the graves not designated, the right of burial shall be as provided in subsection (c) of this section.
 - (5) Upon application by any person for interment of a body in a given grave, the burden of proof as to the identity of the person to be interred rests upon the applicant; and no liability shall be incurred by the management or the city as the result of a false statement in the application, but the management shall make reasonable effort to see that only persons entitled to be buried in a given grave are so interred.
- (c) *Interment in absence declaration.* In the absence of a Declaration of Reservation by the registered owner of a lot, the right of interment shall be in the following order:
 - (1) One grave shall be reserved for the owner and one for the owner's surviving spouse, if any.
 - (2) The remaining graves in said lot shall be held in trust by the city for burial of the following persons in the order of their death, and a request for burial, to wit:
 - a. Children of the owners and their respective spouses.
 - b. Lineal descendants of the owners and their respective spouses.
 - c. Parents of the owners.
- (d) *Vested rights of lot owners.* The burial rights in all lots and graves conveyed shall be presumed to be the sole and separate privilege of the persons named as grantees in the Grave Certificate, in accordance with these rules and regulations; provided, however, that the husband or wife shall have a vested right of interment of his or her body in any burial grave conveyed to the other, which shall continue as long as he or she shall remain the husband or wife of the grave owner, or shall be his or her wife or husband at the time of such grave owner's demise. No conveyance or transfer shall divest the husband or wife or any owner of his or her vested right of interment without the joinder therein executed by the spouse and filed in the office of the management.
- (e) *Alienability of cemetery grave.* All lots, the use of which has been conveyed in a Grave Certificate, are indivisible. Whenever an interment of the remains of a member of the family of the recorded owner is made in a lot, the lot thereby becomes inalienable and shall be held as the family lot of the owner, except as otherwise provided by the owner's Declaration of Reservation.
- (f) *Transfer of Grave Certificate of cemetery grave.* Upon proper application, the surviving heirs of the owner or executor for the owner's estate may convey, transfer or sell said rights to another by completing the proper forms to be filed in the office of the management.

(g) *Residency as related to Linwood Cemetery.*

- (1) Graves are sold based on the permanent residency of the purchasers and the permanent residency of the persons designated in the Declaration of Reservation as having rights of interment.
 - (2) Any grave not designated under the Declaration of Reservation shall be considered purchased for the interment of a nonresident, and the prices will be reflected as such in accordance with the current cemetery fee schedule at the time of purchase.
 - (3) Graves purchased by and/or designated to residents, but later designated for use by a nonresident, shall be subject to fees for transfer from resident to nonresident as reflected on the cemetery fee schedule current at the time of the transfer.
 - (4) Graves purchased at nonresident rates shall not qualify for any refund should a decision be made to inter the remains of a resident at a later date.
 - (5) Graves shall be sold to individual persons only and not to businesses.
 - (6) Registered funeral services may purchase graves at-need or pre-need as an agent of the person(s) intended for interment therein, but the cemetery purchase agreement shall be made out in the name of those persons, and the cost of said graves shall reflect that of those person's residency status.
- (h) *Payment terms.* The first grave purchased by an individual must be for the interment of the purchaser and must be paid for in full at the time of purchase. Subsequent graves purchased may be financed for a period not to exceed 24 months at no interest, and after having made an initial payment of not less than 25 percent of the total price of those graves.

(Code 1983, § 5-51; Ord. of 2-1-2000)

Sec. 10-81. Reserved

Sec. 3. That this Ordinance shall be in full force and effect on February 9, 2021, as provided by law

This the _____ day of _____, 2021.

Mayor

ATTEST:

City Clerk