

# City of Graham Planning Board

## Meeting Agenda

July 20<sup>th</sup>, 2021 at 6:00 PM  
Council Chambers, Graham City Hall

Meeting Called to Order, Invocation, and Overview of Board and general meeting rules

1. Approve minutes of the May 18, 2021 meeting

2. New Business

- a. CR2101 Gilbreath Multifamily. Application for Conditional Residential from Light Industrial for 484 dwelling units, apartments and townhomes, by Ben Green, Hyconic Holdings LLC. 38 acres, GPINS 8883885270, 8883872722, and 8883886903.
- b. RZ2106 Maple and Mill. Application for rezoning of parcels to B-1 from R-7 by Jerry Smith. Approx. 3.5 acres, GPINS 8884059566, 8884150571, 8884151515, 8884058556, 8884059880, 8884151700, 8884151602.
- c. Development Ordinance Amendments as recommended by City Council
  - i. Special Use Permits- Hearings before the Board of Adjustment, Article 4, Division 7 (Sections 10.137 to 10.148).
  - ii. Special Use Permits- Table of Permitted Uses
  - iii. Extension of the Overlays to City Limits for Highway 87, 49, etc.
  - iv. Overlay for Interstate 40/85 to remove warehousing and solar panels from parcels visible from the interstate
  - v. Reevaluate the Land Use Classifications for all properties for landscaping purposes

3. Old Business

- a. Discussion of Subdivision Ordinances in the City of Graham Development Ordinance, Article VIII (Section 10.335 to 10.357).

4. Public comment on non-agenda items

Adjourn

*A complete agenda packet is available at [www.cityofgraham.com](http://www.cityofgraham.com)*

## PLANNING ZONING BOARD

Tuesday, May 18, 2021

The Planning & Zoning Board held their regular meeting on Tuesday, May 18, 2021 as an Online Zoom Meeting at 7:00 p.m. Board members present were Justin Moody, Bobby Chin, Tony Bailey, and Dean Ward. Eric Crissman, Nathan Perry, and Michael Benesch were absent. Staff members present were Nathan Page and Debbie Jolly. Chair Ward called the meeting to order, gave the Overview of the Board, and general meeting rules.

1. Approval of the May 4, 2021 minutes. A motion was made to approve the minutes by Dean Ward, seconded by Tony Bailey. All voted in favor.
2. New Business
  - a. RZ2105 Poplar Business. Request by Joseph Mena to rezone 608 Poplar Street, 0.15 acres from R-7 (High Density Residential) to B-2 (General Business). GPIN 8874861063.  
Nathan Page gave an overview of the staff report. Mike Hudson spoke on behalf of the land owner for this project. Mr. Hudson answered a few questions for the board. Justin Moody made a motion to approve this is consistent with The Graham 2035 Comprehensive Plan 3.1.2 and 2.3.1. Seconded by Tony Bailey. All voted Aye.
3. Old Business
  - a. Discussion of Subdivision Ordinance in the City of Graham Development Ordinance, Article VIII (section 10.335 to 10.357).

The planning board decided to review this at the next meeting.

4. Public comment on non-agenda items- No one had anything.

Bobby Chin made a motion to adjourn. Seconded Justin Moody. All voted Aye.

No further business the meeting was adjourned at 7:22

Respectfully Submitted,  
Debbie Jolly



# STAFF REPORT

Prepared by Nathan Page, Planning Director

## Gilbreath Multifamily (CR2101)

**Type of Request:** Conditional Rezoning

### Meeting Dates

Planning Board on July 20, 2021

City Council on August 10, 2021

### Contact Information

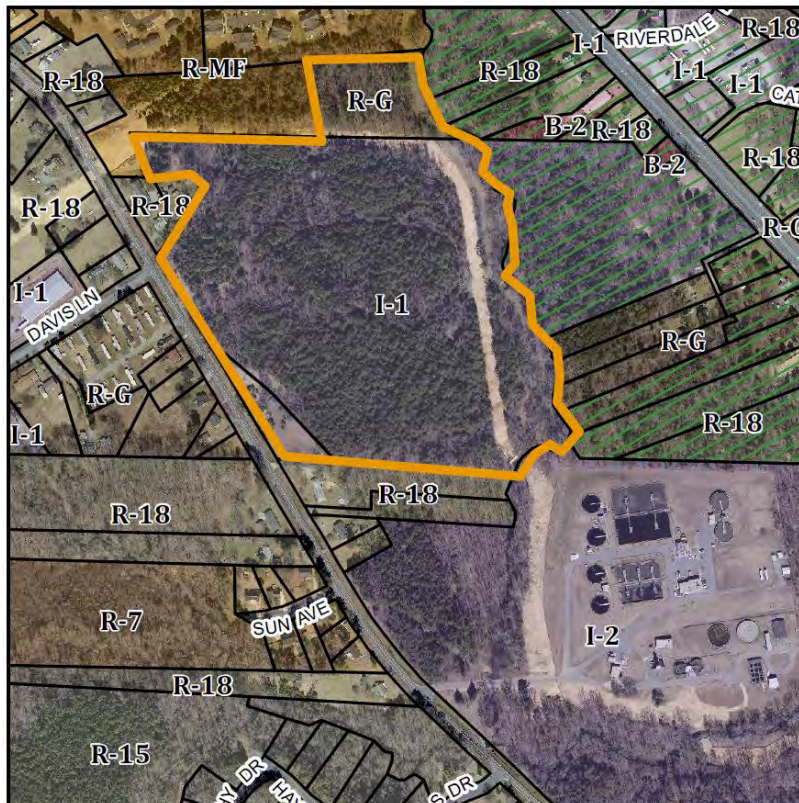
Ben Green, Hyconic Holdings, LLC

[Bgreen613@gmail.com](mailto:Bgreen613@gmail.com) (732) 685-3989

415 Cedar Bridge Ave, Lakewood NJ 08701

## Summary

This is a request to rezone the subject property from I-1 to CR (Conditional Residential). The application is for 57 townhomes for purchase and 396 apartment units for lease. The project is expected to be built out in phases.



### Project Name

Gilbreath Multifamily  
(CR2101)

### Location

E Gilbreath Street

GPIN: 8883886903,  
8883885270, 8883872722

### Size

Approx. 38 acres

### Proposed Density

10 DU/acre

### Current Zoning

Light Industrial (I-1)

### Proposed Zoning

Conditional Mixed-Use  
Residential (CR)

### Surrounding Zoning

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

### Surrounding Land Uses

Mobile Homes, Wastewater  
Treatment, Vacant,  
Apartments, Single Family  
Detached

### Staff Recommendation

Approval

The TRC has met for this item, and all TRC notes are relatively minor, but may result in additional loss of density for this parcel.

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

**Development Type:** Suburban Residential

### Applicable Policies and Recommendations

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, with sufficient capacity for the proposed development.*

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.*

Policy 5.2.1 **Diverse Neighborhoods** Encourage a mix of housing types within Graham, including detached, duplex, multifamily, townhomes, and live-work units. *The proposed layout includes a mix of townhomes and apartments to provide additional options for those wishing to reside in Graham.*

Policy 5.2.2 **Multigenerational Housing** Promote buildings and neighborhood designs that serve multiple age groups simultaneously and meet the needs of young people, families, older adults, and people with disabilities, especially in focus areas and in close proximity to services. *The proposed design would have different options for families of various sizes.*

### Description of Development Type

Suburban Residential

### Development Toolkit Checklist

Located near a major thoroughfare

Predominantly detached single-family homes

Characteristics include porches, sidewalks, street trees, and garages setback from the front of the home

Density of 3-6 DU/acre

New neighborhoods should consider a variety of lot sizes with consistent setbacks along the same street

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### 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 Approval** for the Conditional Rezoning.

The following supports this recommendation:

The proposed project is in conformity with Land Use Patterns (Policy 4.3.1) and housing variety (Policy 5.1.1) of the Graham Comprehensive Plan 2035.





# Application for REZONING or CONDITIONAL REZONING

RECEIVED

JUN 24 2021

PLANNING DEPT.

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

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

## Site

Street Address: 1054 EAST GILBREATH STREET

Tax Map#: 145232, 145233, 145227 GPIN: 808385270 8083672722 8083860503

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 LAND

Total Site Acres: +/-37.87 AC

Property Owner: DGT PROPERTIES, LLC

Mailing Address: 4076 POND ROAD

City, State, Zip: BURLINGTON, NC 27215

## Applicant

☐ Property Owner Other PURCHASER

*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: BEN GREEN, CEO, HYCONIC HOLDINGS, LLC

Mailing Address: 415 CEDAR BRIDGE AVENUE, SUITE #6

City, State, Zip: LAKEWOOD, NJ 08701

Phone # (732) 685-3989

Email: bgreen613@gmail.com

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

Ben Green 6/7/21  
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 Rezoning*, 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:

The purpose of this rezoning request is to rezone 3 existing parcels from their current zoning designation of I-1 and R-G to CZ-R-MF in order to develop a mixed use multi-family development. The development will be comprised of townhomes for purchase and apartments for lease. The proposed development information is the following:

TOWNHOMES (2 story)  
21 Buildings  
42 - 3 bedroom units @ +/- 1,440 sf  
70 - 2 bedroom units @ +/- 1,260 sf  
Total Townhome dwelling units = 112

APARTMENTS (3 story)  
11 full size buildings @ +/- 28,320 sf each  
9 half size buildings @ +/- 14,865 sf each  
Total Apartment dwelling units = 372

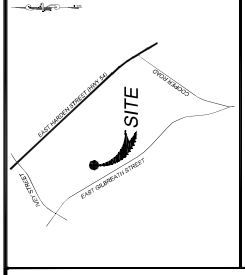
The project is anticipated to be constructed in phases which will be depicted on the construction drawings for the project pending rezoning and sketch plan approval

For Conditional Rezoning, 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#



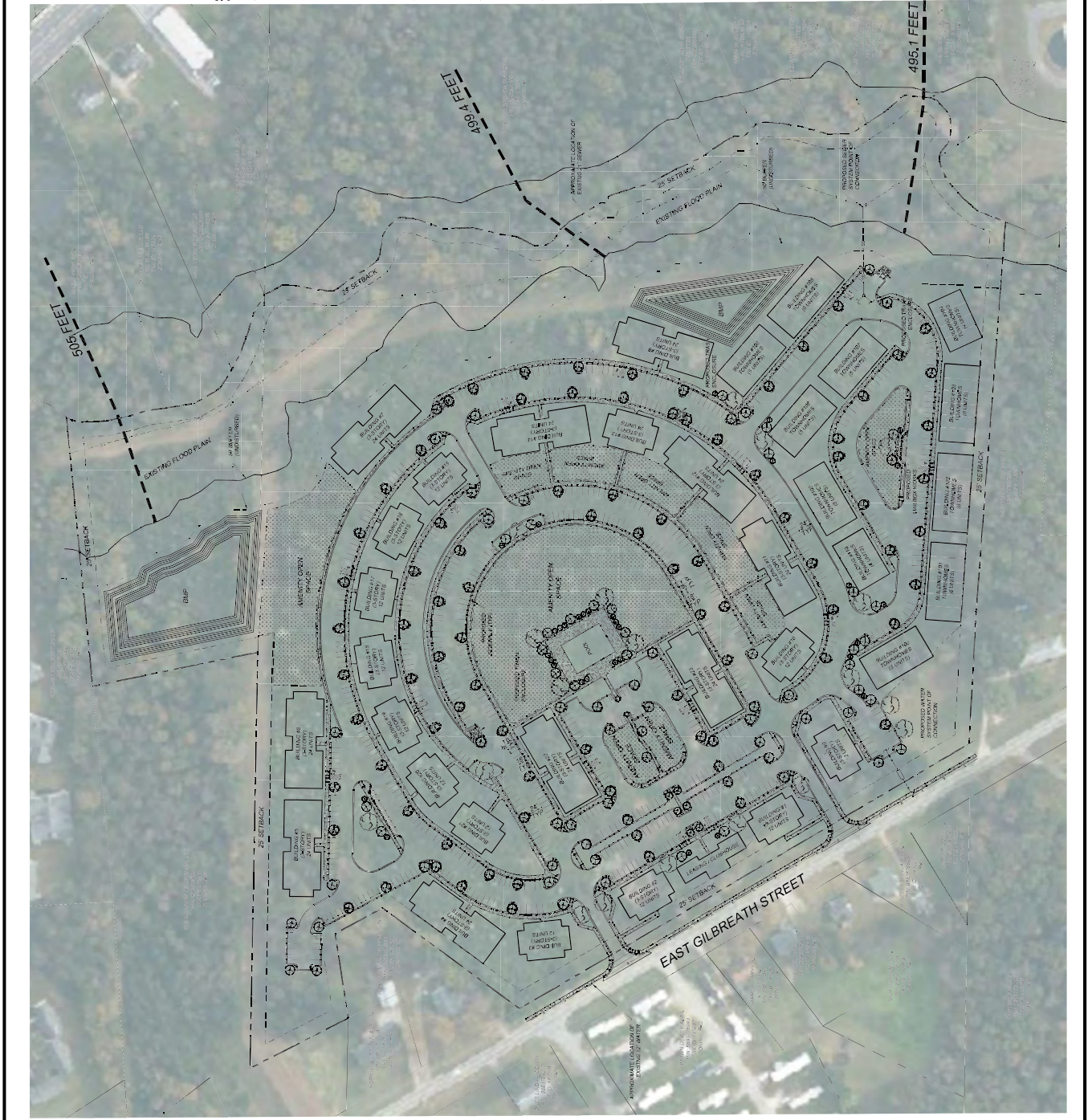


**SITE DATA**

PROPOSED PARCEL ID:	983369270, 983367222, 983369693									
EXISTING ZONING:	M-1 (LIGHT INDUSTRIAL) & R-4 (GENERAL RESIDENTIAL DISTRICT)									
PROPOSED ZONING:	CM-RMF (COMMERCIAL RESIDENTIAL MULTIFAMILY)									
PROPOSED USE:	MIXED USE MULTIFAMILY (TOWNHOMES & APARTMENTS)									
TOTAL UNITS:	<table><tr><th>TOWNHOMES</th><th>APARTMENTS</th></tr><tr><td>3 BEDROOM UNITS = 42</td><td>3 BEDROOM UNITS = TBD</td></tr><tr><td>1 BEDROOM UNITS = 0</td><td>1 BEDROOM UNITS = TBD</td></tr><tr><td>TOTAL UNITS = 112</td><td>TOTAL UNITS = 372</td></tr></table>	TOWNHOMES	APARTMENTS	3 BEDROOM UNITS = 42	3 BEDROOM UNITS = TBD	1 BEDROOM UNITS = 0	1 BEDROOM UNITS = TBD	TOTAL UNITS = 112	TOTAL UNITS = 372	GRAND TOTAL UNITS = 484
TOWNHOMES	APARTMENTS									
3 BEDROOM UNITS = 42	3 BEDROOM UNITS = TBD									
1 BEDROOM UNITS = 0	1 BEDROOM UNITS = TBD									
TOTAL UNITS = 112	TOTAL UNITS = 372									
REQUIRED BUILDING SETBACKS:	<table><tr><td>FRONT SETBACK: 25'</td></tr><tr><td>REAR SETBACK: 25'</td></tr><tr><td>SIDE SETBACK: 25'</td></tr></table>		FRONT SETBACK: 25'	REAR SETBACK: 25'	SIDE SETBACK: 25'					
FRONT SETBACK: 25'										
REAR SETBACK: 25'										
SIDE SETBACK: 25'										
PARKING SPACES REQUIRED:	<table><tr><td>3 BEDROOM UNIT = 2 SPACES</td></tr><tr><td>1 BEDROOM UNIT = 1.5 SPACES</td></tr></table>		3 BEDROOM UNIT = 2 SPACES	1 BEDROOM UNIT = 1.5 SPACES						
3 BEDROOM UNIT = 2 SPACES										
1 BEDROOM UNIT = 1.5 SPACES										
PARKING SPACES PROVIDED:	<table><tr><td>TOWNHOME SPACES = 69 SPACES</td></tr><tr><td>2 ADA SPACES = 91 SPACES</td></tr><tr><td>APARTMENT SPACES = 174 SPACES</td></tr><tr><td>17 ADA SPACES = 746 SPACES</td></tr><tr><td>TOTAL ON-SITE PARKING SPACES PROVIDED = 937 SPACES</td></tr></table>		TOWNHOME SPACES = 69 SPACES	2 ADA SPACES = 91 SPACES	APARTMENT SPACES = 174 SPACES	17 ADA SPACES = 746 SPACES	TOTAL ON-SITE PARKING SPACES PROVIDED = 937 SPACES			
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TOTAL ON-SITE PARKING SPACES PROVIDED = 937 SPACES										
LOT COVERAGE (IMPERVIOUS AREA):	BUILDINGS, HARDSCAPE, PAVEMENT, ETC. = 115.7 AC (41.5%)									
OPEN SPACE REQUIRED:	10% OF TOTAL PARCEL WITHIN BOUNDARY = 13.77 AC (4.5%)									
OPEN SPACE PROVIDED:	<table><tr><td>127.9 AC (LANDSCAPE OPEN SPACES)</td></tr><tr><td>127.9 AC (LANDSCAPE OPEN SPACES)</td></tr><tr><td>151.1 AC (FLOOD PLAIN)</td></tr><tr><td>TOTAL OPEN SPACE PROVIDED = 222.9 AC (55.5%)</td></tr></table>		127.9 AC (LANDSCAPE OPEN SPACES)	127.9 AC (LANDSCAPE OPEN SPACES)	151.1 AC (FLOOD PLAIN)	TOTAL OPEN SPACE PROVIDED = 222.9 AC (55.5%)				
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151.1 AC (FLOOD PLAIN)										
TOTAL OPEN SPACE PROVIDED = 222.9 AC (55.5%)										
PROPOSED STORM SYSTEM:	PRIVATE									
PROPOSED WATER SYSTEM:	PUBLIC (CITY OF GRAHAM)									
PROPOSED SEWER SYSTEM:	PUBLIC (CITY OF GRAHAM)									
PROPOSED POWER SYSTEM:	DUKE ENERGY									

NOTES:

- THE BOUNDARY AND EXISTING TOWNHOMES INFORMATION HAS BEEN OBTAINED FROM ALAMANCE COUNTY GIS DATA SETS.
- BUILDING FOOTPRINTS ARE PRELIMINARY.
- THE PROPOSED DEVELOPMENT SHALL COMPLY WITH THE APPLICABLE BUFFER PLANTING REQUIREMENTS FOR THE APPLICABLE ZONING DISTRICT. BUFFER PLANTS SHALL BE PLACED IN ALL OTHER OPEN SPACE AREAS AS SHOWN.
- EACH TOWNHOME SHALL HAVE ITS OWN WATER METER AND SEWER SERVICE. THE PROPOSED APARTMENTS SHALL BE SERVED BY ONE MASTER METER AND SHALL BE SERVED BY ONE MASTER METER AND SHALL BE SERVED BY ONE MASTER METER AND SHALL BE SERVED BY ONE MASTER METER.
- THE PROPOSED DRIVE (SEE FRONT OF THE LEASING OFFICE) SHALL BE A DRIVEWAY AND ONE-WAY CUT. THE PROPOSED DRIVEWAY WIDTH SHALL BE 12 FEET.
- OPEN SPACE CALCULATIONS REFLECT ALL OPEN SPACE WITHIN THE BOUNDARY.
- PROPOSED CONSTRUCTION SHALL COMPLY WITH CITY OF GRAHAM STANDARD DETAILS AND SPECIFICATIONS.
- THE SITE SHALL COMPLY WITH THE CITY OF GRAHAM BUFFER CRITERIA, STORMWATER CRITERIA AND BUFFER CRITERIA.
- THE SITE SHALL REQUIRE WATER, SEWER, STORMWATER, BUFFER, AND FLOODPLAIN PERMITS.
- THE SITE WILL REQUIRE A CDD ENCROACHMENT AND DRIVEWAY PERMITS.





## 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.*

### **Gilbreath Multifamily (CR2101)**

**Type of Request**  
Conditional Rezoning

**Meeting Dates**  
Planning Board on July 20, 2021  
City Council on August 10, 2021

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

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

[insert additional conditions]

☐ I move to **recommend DENIAL**.

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

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

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

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This report reflects the recommendation of the Planning Board, this the 20<sup>th</sup> day of July, 2021.

Attest:

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Dean Ward, Planning Board Chairman

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Debbie Jolly, Secretary





# STAFF REPORT

Prepared by Nathan Page, Planning Director

## Maple and Market (RZ2106)

**Type of Request:** Rezoning

### Meeting Dates

Planning Board on July 20, 2021

City Council on August 10, 2021

## Contact Information

Jerry Smith

312 North Maple Street

Graham NC 27253

919-667-4222;

jerrybrucesmith1967@gmail.com

## Summary

This is a request to rezone the subject property from R-7 to R-MF. The property currently has a few detached single family homes, some of which are rentals and some are owner-occupied. The homes are served by city streets, water, and sewer. The site is approximately 3.5 acres.



### Location

Maple and Market Streets

### GPIN:

8884059566, 8884150571,  
8884151515, 8884058556,  
8884059880, 8884151700,  
8884151602.

### Current Zoning

Residential (high density) R-7

### Proposed Zoning

Downtown Business B-1

### Overlay District

none

### Surrounding Zoning

R-MF, R-7, I-1, B-2, B-1

### Surrounding Land Uses

Single Family, Multi Family,  
Vacant, and Business

### Size

3.5 acres

### Public Water & Sewer

Yes

### Floodplain

No

### Staff Recommendation

Approval

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

### Applicable Policies;

- **2.2.1 Focused Development.** In order to maintain Graham's affordability and promote growth, the City will facilitate smart growth development by promoting infill development and focused, walkable, and mixed use built environments. *This amendment will allow for greater density adjacent to our downtown properties, creating additional walkable homes and businesses within our downtown.*
- **2.3.1 Downtown.** A vibrant downtown is critical for Graham's economic success. Graham's downtown is a priority when considering incentives, investments, regulations, and marketing. Encourage entertaining options to locate within Graham's downtown. *Permitting this rezoning would relax some of the regulations regarding lot size and setbacks for these properties.*
- **2.3.1 Facilitate Focused Development.** Incentive pedestrian-oriented nodal development consistent with this plan by incentivizing smart growth development... *This rezoning would allow pedestrian oriented development adjacent to the Downtown node.*
- **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 use of this parcel for more homes would allow us to protect more of our valuable green space and agricultural land. It would also allow more efficient use of the existing water and sewer lines, without an additional maintenance burden.*
- **5.1.1 Housing Variety.** Encourage a mix of housing types within Graham to increase choice. These can include single family dwelling units, multi family dwelling units, small units, prefabricated homes, cohousing, and clustered housing. *Given the proximity to the downtown, this is an ideal location for additional housing units.*
- **5.2.2 Multigenerational Housing.** Promote buildings and neighborhood designs that serve multiple age groups simultaneously and meet the needs of young people, families, older adults, and people with disabilities, especially in focus areas and in close proximity to services. *This location is walkable to multiple pharmacies, a grocer, restaurants, and many other businesses. It may allow multiple households to age in place without having to move if they have mobility issues as they age.*

### Planning Type

District

### Development Type

Downtown District

New buildings in downtown should be located no further than 10 feet from the front lot line and should include transparent windows on at least 50% of the first floor façade. Multiple stories and a mix of uses are desirable. The building design should also consider the existing historic architecture throughout downtown.

The downtown district should foster vibrant activity day and night by including diversity in land use, including offices, homes, restaurants, entertainment venues, high quality public gathering spaces, and cultural opportunities. In this way, downtown Graham will be the focal point of the community.

### Staff Recommendation

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

- Rezoning this property would further Policy 2.3.1 and 5.2.2, creating focused development near our downtown that would increase accessibility to amenities to people of all ages and ability levels.





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

## Site

Street Address: 312 N Maple & others

Tax Map#: multiple GPIN: multiple

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: Residential

Total Site Acres: 3.59 acres

Property Owner: Smith Heirs, NJA/NRS Properties, Hasenmiller, Sessoms

Mailing Address: 200 N Main St, Third Floor

City, State, Zip: Graham, NC 27253

## Applicant

☒ Property Owner ☐ Other Please see attached

*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: Jerry Smith

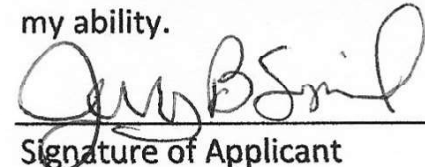
Mailing Address: 312 N Maple St

City, State, Zip: Graham NC 27253

Phone # (919) 667-4222

Email: jerrybrucesmith1967@gmail.com

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



Signature of Applicant

6-11-21

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:

Rezoning of the referenced  
parcels to B1 zoning.

**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#

#### **Reference List of Parcels – Maple & Market**

- 1. NJA PROPERTIES - 207 W Market - Parcel Ref No – 145570**
- 2. NJA PROPERTIES - 203 W Market - Parcel Ref No - 145897**
- 3. NJA PROPERTIES - 302 N Maple St - Parcel Ref No – 145900**
- 4. NRS PROPERTIES - 213 W Market – Parcel Ref No – 145567**
- 5. NORMA SMITH HEIRS – 312 N Maple St – Parcel Ref No – 145571**
- 6. HASENMILLER- 308 N MAPLE ST – Parcel Ref No – 145902**
- 7. SESSOMS – 306 N MAPLE ST – Parcel Ref No – 145901**



## 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.*

### **Maple and Market (RZ2106)**

#### **Type of Request**

Rezoning

#### **Meeting Dates**

Planning Board on July 20, 2021

City Council on August 10, 2021

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

☐ I move to **recommend DENIAL**.

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

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

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

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This report reflects the recommendation of the Planning Board, this the 20<sup>th</sup> day of July, 2021.

Attest:

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Dean Ward, Planning Board Chairman

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Debbie Jolly, Secretary



# STAFF REPORT

Prepared by Nathan Page, Planning Director

## Text Amendment for: Special Use Permits

**Type of Request:** Text Amendment

### Meeting Dates

Planning Board on July 20, 2021

City Council on August 10, 2021

### Contact Information

N/A

### Summary

The City Council has requested the Planning Board evaluate the process for Special Use Permits, with the recommendation that they be sent to the Board of Adjustment to be heard once. Under the current process, the residents of the City have limited input and the City Council has limited discretion for Special Use Permits. In light of this, the current process leaves most residents feeling disconnected from the deliberations regarding these Quasi-Judicial Hearings.

Other jurisdictions in North Carolina have taken the step to evaluate what uses their Table of Permitted Uses has for Special Use Permits, as well as what limitations should be placed upon them (for example, a cell tower may be required to have all property lines as far away as the height of the tower). The Planning Board and Council may remove the requirement for Special Use Permits for all uses without specific standards, or add standards to those uses. For example, Bed and Breakfasts currently require a Special Use Permit in some zones, but have no standards with regards to capacity, parking, etc.

The draft language below places authority to hear and approve or deny the Special Use Permits with the Board of Adjustment, and such hearings only occur once, rather than going before the Planning Board and subsequently the City Council.

### Existing Language:

## DIVISION 7. SPECIAL USES

### Section 10.137 Purpose of special use regulations

Permitting special uses adds flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special use Permit procedure, property uses that would otherwise be undesirable in certain districts can be developed to minimize any undesirable effects they may have on surrounding properties.

### Project Name

Special Use Permits (AM2102)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval

**Section 10.138 Special uses shown in Table of Permitted Uses**

Each use for which a special use permit is required is indicated in the Table of Permitted Uses, by an "S" in the column for a particular zoning district. The "S" indicates that such use may be placed in that zoning district only after a special use permit has been approved by the city council and issued by the zoning enforcement officer.

**Section 10.139 Application for a Special Use Permit**

Applicants for a special use permit are advised to confer with the Planner before formal application for a permit in order to ascertain what information must accompany the formal application. Applications for special use permits shall be submitted to the Planner. Depending on the character and size of the proposed use, a plot plan or a preliminary site plan may be required showing any or all of the following information, in addition to the specific conditions set forth under each special use:

- a. Vicinity map, showing the location of the property in relation to existing and proposed streets, streams, railroads and other major physical features.
- b. Location, size and type of all buildings, existing and proposed, on or near the property.
- c. Grading plan.
- d. Proposed points of vehicle ingress and egress, together with the proposed pattern of internal circulation.
- e. Proposed parking and loading areas.
- f. Landscape plan, showing the number, location, size and name of each plant species; and the proposed ground cover, especially on slopes, banks, and ditches. If the special use permit is approved, the landscape plan shall be carried out within one year of the date of issuance of the certificate of occupancy; landscaping shall be permanently maintained thereafter.
- g. Proposed provision for utilities.
- h. Location, size, height, orientation, and lighting information on all signs.

**Section 10.140 Timing of Submissions**

The applicant must submit the required plans and request for a special use permit on or before the 25<sup>th</sup> day of the month preceding the planning board meeting at which consideration is desired.

**Section 10.141 Role of Planning Board**

The planning board shall review applications for special use permits, together with accompanying plans, maps, and drawings. The planning board may recommend that the city council (1) deny the special use permit, or (2) approve the special use permit subject to the conditions for individual special uses, or (3) approve the special use permit subject to the conditions for individual special uses and other reasonable conditions recommended by the planning board. The planning board may also recommend modifications of the original plans.

**Section 10.142 Role of Historic Resources Commission**

As provided for in Section 10.205, the Historic Resources Commission is authorized to review and comment on special use applications for proposed uses within any historic district or historic landmark.



Recommendations and comments from the commission shall be relayed directly to the City Council for consideration along with the Planning Board's recommendations.

#### **Section 10.143                      Role of City Council**

For each application for a special use permit the City Council shall hold a public hearing, notice of which shall be published in the same manner as required for a hearing on an amendment to this article. When deciding a special use permit, the City Council shall follow quasi-judicial procedures as required by law. At the public hearing the City Council shall review the application for a special use permit, together with accompanying plans, maps, and drawings. Recommendations of the planning board shall be heard. The City Council may (1) deny the special use permit, or (2) grant the special use permit subject to the conditions for individual special uses, or (3) grant the special use permit subject to the conditions specified for each use listed in Section 10.149 (Special uses listed) and to other reasonable conditions the council imposes upon the permit. Subject to S.L 2019-111, Pt. I, the City Council shall not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. The Council shall obtain the applicant or land owner's written consent to conditions related to a special use permit to ensure enforceability. There shall be competent, material and substantial evidence in the record to support the Council's findings of facts and conclusions. No vote greater than a majority vote shall be required for the City Council to issue special use permits. Vacant positions on the City Council and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the City Council' for calculation of the requisite majority.

*(Section 10.143 amended 7/11/2006)*

#### **Section 10.144                      Findings**

In granting a special use permit, the council shall find that all of the conditions listed below have been met, or it shall be denied.

- (1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
- (2) That conditions specific to each use, identified by this Ordinance are complied with.
- (3) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- (4) That the use will not substantially injure the value of adjoining property or that the use is a public necessity.
- (5) That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- (6) That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

#### **Section 10.145                      Conditions added by Council, Limitations**

In granting a Special Use Permit, the Council may designate only those conditions, in addition to those already contained in this ordinance or proposed by the applicant, that will, in its opinion, assure that the

use in its proposed location will be harmonious with the area. Examples of such additional conditions include landscaping or buffer provisions, conditions related to on-premises signage, conditions to reduce traffic congestion and other conditions directly related to the land use impact of the use on the area. The city council may modify the original plans to reflect such conditions which shall be entered into the minutes of the meeting at which the permit is granted.

#### **Section 10.146                      Conditions run with land**

All special use conditions shall run with the land and shall be binding on the original applicants, their heirs, successors and assigns. In voting on a request for a special use permit, a vote by the majority of the City Council membership shall be required to grant the request.

#### **Section 10.147                      Appeal**

No appeal may be taken to the board of adjustment from the action of the city council in granting or denying a special use permit. The city council's action on an application for a special use permit, like the council's action on an application for an amendment to the ordinance, shall be reviewable by the courts as provided by law.

#### **Section 10.148                      Invalidation**

In the event of failure to comply with the plans approved by the city council or with any other condition imposed by the city council upon the special use permit, the permit shall immediately become void and of no effect. No further building permits or certificates of occupancy shall be issued, and completed structures shall be regarded as nonconforming uses. A special use permit shall become null and void 24 months after the date of its issuance unless construction is begun during the twenty-four-month period.

#### **Proposed Language:**

### **DIVISION 7. SPECIAL USES**

#### **Section 10.137                      Purpose of special use regulations**

Permitting special uses adds flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in districts where these uses would not otherwise be acceptable. By means of controls exercised through the Special use Permit procedure, property uses that would otherwise be undesirable in certain districts can be developed to minimize any undesirable effects they may have on surrounding properties.

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- d. Proposed points of vehicle ingress and egress, together with the proposed pattern of internal circulation.
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- f. Landscape plan, showing the number, location, size and name of each plant species; and the proposed ground cover, especially on slopes, banks, and ditches. If the special use permit is approved, the landscape plan shall be carried out within one year of the date of issuance of the certificate of occupancy; landscaping shall be permanently maintained thereafter.
- g. Proposed provision for utilities.
- h. Location, size, height, orientation, and lighting information on all signs.

#### **Section 10.140                      Timing of Submissions**

The applicant must submit the required plans and request for a special use permit on or before the 25<sup>th</sup> day of the month preceding the planning board meeting at which consideration is desired.

#### **Section 10.141                      Reserved.**

#### **~~Section 10.141                      Role of Planning Board~~**

~~The planning board shall review applications for special use permits, together with accompanying plans, maps, and drawings. The planning board may recommend that the city council (1) deny the special use permit, or (2) approve the special use permit subject to the conditions for individual special uses, or (3) approve the special use permit subject to the conditions for individual special uses and other reasonable conditions recommended by the planning board. The planning board may also recommend modifications of the original plans.~~

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#### **Section 10.143                      Role of Board of Adjustment**

For each application for a special use permit the Board of Adjustment shall hold a public hearing, notice of which shall be published in the same manner as required for a hearing on an amendment to this article. When deciding a special use permit, the Board of Adjustment shall follow quasi-judicial procedures as required by law. At the public hearing the Board of Adjustment shall review the application for a special use permit, together with accompanying plans, maps, and drawings. Recommendations of the Historic Resources Commission, if applicable, shall be heard. The Board of Adjustment may (1) deny the special use permit, or (2) grant the special use permit subject to the

conditions for individual special uses, or (3) grant the special use permit subject to the conditions specified for each use listed in Section 10.149 (Special uses listed) and to other reasonable conditions the Board of Adjustment imposes upon the permit. Subject to S.L 2019-111, Pt. I, the Board of Adjustment shall not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. The Board of Adjustment shall obtain the applicant or land owner's written consent to conditions related to a special use permit to ensure enforceability. There shall be competent, material and substantial evidence in the record to support the Board of Adjustment's findings of facts and conclusions. No vote greater than a majority vote shall be required for the Board of Adjustment to issue special use permits. Vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the Board of Adjustment for calculation of the requisite majority.

*(Section 10.143 amended 7/11/2006)*

#### **Section 10.144 Findings**

In granting a special use permit, the Board of Adjustment shall find that all of the conditions listed below have been met, or it shall be denied.

- (1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
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- (3) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- (4) That the use will not substantially injure the value of adjoining property or that the use is a public necessity.
- (5) That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- (6) That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

#### **Section 10.145 Conditions added by Board of Adjustment, Limitations**

In granting a Special Use Permit, the Board may designate only those conditions, in addition to those already contained in this ordinance or proposed by the applicant, that will, in its opinion, assure that the use in its proposed location will be harmonious with the area. Examples of such additional conditions include landscaping or buffer provisions, conditions related to on-premises signage, conditions to reduce traffic congestion and other conditions directly related to the land use impact of the use on the area. The Board of Adjustment may modify the original plans to reflect such conditions which shall be entered into the minutes of the meeting at which the permit is granted.

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No appeal may be taken to the City Council from the action of the Board of Adjustment in granting or denying a special use permit. The Board of Adjustment's action on an application for a special use permit, like the Board's action on an application for an appeal or variance, shall be reviewable by the courts as provided by law.

**Section 10.148                      Invalidation**

In the event of failure to comply with the plans approved by the Board of Adjustment or with any other condition imposed by the Board of Adjustment upon the special use permit, the permit shall immediately become void and of no effect. No further building permits or certificates of occupancy shall be issued, and completed structures shall be regarded as nonconforming uses. A special use permit shall become null and void 24 months after the date of its issuance unless construction is begun during the twenty-four-month period.

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

**Applicable Planning District Policies and Recommendations**

- Not applicable; city-wide.

**Planning District**

All

**Development Type**

All

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**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:

- Placing authority for Special Use Permits with the Board of Adjustment will reduce the number of quasi-judicial hearings before the City Council, thus allowing them to be more engaged in the democratic process of public input and legislative discretion.





## 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.*

### Planning Board Meeting Times (AM2001)

**Type of Request**  
Text Amendment

**Meeting Dates**  
Planning Board on January 21, 2020  
City Council on February 11, 2020

- ☐ I move to **recommend APPROVAL** of the application as presented.
- ☐ I move to **recommend APPROVAL** of the alternative language, as proposed by the Planning Board.
- ☐ 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*.

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

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This report reflects the recommendation of the Planning Board, this the 21<sup>st</sup> day of January, 2020.

Attest:

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Dean Ward, Planning Board Chair

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Debbie Jolly, Secretary