Graham City Council Regular Meeting Agenda September 14, 2021 6:00 p.m.



**CALL TO ORDER:** Mayor Jerry Peterman

### **INVOCATION & PLEDGE OF ALLEGIANCE**

#### **CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST: Mary Faucette**

#### **CONSENT AGENDA:**

- **a.** To approve the minutes of the City Council regular session meeting held on August 10, 2021.
- **b.** To approve a speed limit change from 45 mph to 35 mph for a portion of Jimmie Kerr Road from the southern corporate limit of Graham to the northern corporate limit of Graham.
- **c.** To approve the following tax releases in the amount of \$2,312.06:

CITY OF GRAHAM RELEASE ACCOUNTS				
ЕРТЕМВЕГ	₹			
		N		AMOUNT
ACCT #	YEAR	NAME	REASON FOR RELEASE	RELEASEL
701830	2021	LONG, JOYCE ALLENE	BILLED TO WRONG TAXPAYER	\$1,205.4
0	2021	UNKNOWN	BILLING ERROR TO UNKNOWN ACCOUNT	\$666.2
608275	2021	CRESCO CAPITAL INC	SOLD 2016 FREIGHTLINER 12-29-20	\$330.7
688177	2021	BERGER, DARREN	TRAILER NOT IN CITY OF GRAHAM	\$18.2
686544	2021	BALDWIN, DON	BOATS/JET SKIS NOT IN THE CITY OF GRAHAM	\$11.4
700151	2021	STRATEGIC INTERVENTIONS	IN CITY OF BURLINGTON, NOT GRAHAM	\$6.6
669865	2021	SHARPE, CLINTON POWELL	SOLD BOAT	\$17.4
700583	2021	COBLE, JAMES MICHAEL	ANTIQUE CARS NOT IN THE CITY OF GRAHAM	\$31.3
576158	2021	KICHMAN, RICHARD LEROY JR	BOAT NOT IN THE CITY OF GRAHAM	\$1.2
558965	2021	LOWDER, MELISSA DEE	OVER VALUED BOAT	\$23.2
			TOTAL RELEASES	\$2,312.0

- **d.** To approve the appointment of Planning Director Justin Snyder as a Plat Review Officer and to remove former Planning Director Nathan Page.
- **e.** To approve a resolution authorizing application for CDBG assistance from the State of North Carolina to construct a drinking water distribution project for the replacement of aging and undersized waterlines, water services and fire hydrants in the NW section of the City of Graham.
- **f.** To approve a resolution authorizing an application for Loan Assistance from the State of North Carolina for a drinking water replacement project described as approximately 28,000 linear feet of new ductile iron waterline with service connections, fire hydrant replacement and water service connections.
- **g.** To approve a resolution authorizing application for Loan Assistance from the State of North Carolina for the replacement of the Cooper Road Pump Station.
- **h.** To approve a resolution authorizing application for Grant and Loan Assistance from the State of North Carolina for construction of Wastewater Treatment Plant Improvements and Expansion.

#### **PUBLIC HEARINGS:**

#### **OLD BUSINESS:**

- 1. A public hearing has been scheduled to consider an Annexation Ordinance for a voluntary contiguous annexation to extend the corporate limits of the City of Graham of 52-acres located off Parham Drive and Wildwood Lane as referenced by Alamance County tax identification numbers (GPIN 8883202217, 8883216464, 8883219007, 8883312515). (AN2102)
- 2. A public hearing has been continued to consider an application by Second Partners, LLC, to rezone approximately 51.79 acres located on Truby Drive from I-1, (Light Industrial) to C-MXR, (Conditional Mixed Use Residential) to allow the construction of 528 apartment units (GPIN 8894453334). (Continued from the August 10, 2021, City Council Meeting.) (CR2006) (Petitioner requested this item be withdrawn)
- 3. A public hearing has been continued to consider an application by Travers Webb to rezone approximately 11 acres on Jimmie Kerr Road from I-1, (Light Industrial) to R-MF, (Multifamily Residential) to allow for the construction of apartments at a density of 3 to 6 units per acre (GPIN 8894469497 & 8894469816). (Continued from the August 10, 2021, City Council Meeting.) (RZ2104)
- **4.** A public hearing has been continued to consider an application by Ben Green Hyconic Holdings LLC, to rezone 38 acres on E. Gilbreath Street from I-1, (Light Industrial) and R-G, (General Residential) to C-MXR, (Conditional Mixed Use Residential) to allow for 453 dwelling units, including 396 apartments and 57 townhomes (GPIN 8883885270, 8883872722, 8883886903). (Continued from the August 10, 2021, City Council Meeting.) (CR2101) (9/3/21-Petitioner request item to be tabled)
- 5. A public hearing has been continued to consider a text amendment to the Development Ordinance: Special Use Permits. Development Ordinance Amendments as recommended by City Council regarding Special Use Permits Hearings before the Board of Adjustment, Article 4, Division 7 (Sections 10.137 to 10.148). (Continued from the August 10, 2021, City Council Meeting.) (AM2102)

**PUBLIC COMMENT PERIOD** 

**CITY COUNCIL COMMENTS** 

**CITY STAFF COMMENTS** 

**ADJOURN** 

## CITY OF GRAHAM CITY COUNCIL MEETING MINUTES TUESDAY, AUGUST 10, 2021

The City Council of the City of Graham held a regularly scheduled meeting beginning at 6:00 p.m. on August 10, 2021, in the Council Chambers of the Municipal Building located at 201 South Main Street, Graham, NC.

#### **Council Members Present:**

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

#### **Staff Present:**

Aaron Holland, Interim City Manager Darcy Sperry, City Clerk Bryan Coleman, City Attorney Bob Ward, City Attorney Jeff Wilson, IT Systems Manager Renee Ward, Interim City Clerk Nathan Page, Planning Director

#### **CALL TO ORDER:**

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.

Mayor Peterman stated that Mayor Pro Tem Chip Turner experienced a health issue and would not be present for tonight's meeting.

### CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST: City Clerk Darcy Sperry

Councilmember Jennifer Talley stated that in regards to the Appearance Commission appointment that Zipporah Clark Baldwin was an employee of one of her companies. She stated there was no financial benefit and that Ms. Baldwin worked in a section of the company that plans events. She asked Council if they considered this a conflict of interest.

Mayor Peterman stated that he did not consider this as a conflict of interest and Councilmembers Hall and Wiggins agreed. Councilman Wiggins added that in the wake of grants, there may be concern and that Ms. Baldwin needed to know that before taking office and being sworn-in.

Councilmember Tally also stated that in regards to the Planning Board Recommendations, Item 3b, (Rezoning-Maple and Market) she needed to disclose that she owns adjoining property to the proposed rezoning property.

Mayor Peterman stated that he considered owning adjacent property as a conflict of interest.

Upon motion by Mayor Peterman, seconded by Councilmember Wiggins, it was resolved that Councilmember Talley would be recused from Item 3b (Rezoning-Maple and Market). Ayes: Mayor Peterman, Councilmember Wiggins. Nays: Councilmember Hall. Motion carried 2:1.

Tom Boney, Alamance News, disagreed with Mayor Peterman's motion to recuse Councilmember Talley from considering Item 3b.

Councilmember Talley voiced confusion over being recused and asked if she would be able to speak as a citizen on the rezoning in question if she was barred from voting on the rezoning.

City Attorney Robert Ward stated that it was the Council's discretion to decide if owning property adjacent to the proposed rezoning property was considered a conflict of interest and that if she was recused, she should not be permitted to speak because her role was that of a councilmember.

Mayor Peterman stated that in reference to G.S. 160(D) that Councilmember Ricky Hall should also be recused from Item 3b because of being an employee of Councilmember Talley. Councilmember Hall stated he did not work for Councilmember Talley and that he had never completed an application for employment.

Mayor Peterman rescinded his request asking for Councilmember Hall's recusal.

Mr. Tom Boney, Alamance News, stated that these proceedings were odd and that the Council was going down a rabbit hole by forcing a recusal and not allowing the person in question the right to vote.

#### **OATH OF OFFICE**: Interim City Clerk Renee Ward

City Clerk Darcy Sperry administered the oath of office to Renee Ward to act as Interim City Clerk for the City of Graham, effective August 10, 2021.

#### **CONSENT AGENDA:**

- a. Approval of Minutes from the July 13, 2021, Regular Session meeting.
- b. Approval of Tax Collector's Year End Report.
- c. Approval of 2020 Outstanding Tax Listing.
- d. Approval of the below listed Tax Releases:

CITY OF GRAHAM RELEASE ACCOUNTS				
AUGUST				
ACCT#	YEAR	NAME	REASON FOR RELEASE	AMOUNT RELEASED
680674	2021	PLATINUM RENOVATIONS INC	RELEASE & REBILLED TO CURRENT OWNER	\$113.75
693659	2021	DALIMONTE, FRANK	SCE REMOVED FROM 21 BILL, ADD EXEMPTION BK	\$299.45
700137	2021	ZACHARY, JONATHAN LAVERNE ETAL	RELEASE & REBILLED TO CURRENT OWNER	\$602.66
597413	2021	QUIGLEY, DAVID RAYMOND JR	SOLD PRIOR TO JAN 1, 2021	\$34.32
603973	2021	SYSTEL BUSINESS EQUIPMENT CO	WRONG SCHEDULE, VALUE ADJUSTMENT	\$18.77
678174	2021	REICHENBACH, KENNETH WAYNE	VALUE OF BOAT ADJUSTED	\$3.64
680893	2020	TURNER, BRICE CALDWELL	DID NOT OWN JAN 2020	\$6.38
680893	2021	TURNER, BRICE CALDWELL	DID NOT OWN JAN 2020	\$6.38

e. Approve an Ordinance amendment to CHAPTER 18- STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ARTICLE I- IN GENERAL of the Code of Ordinances to require Historic Resource Commission and Technical Review Committee approval prior to City Council consideration of an Encroachment License request.

# AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING CHAPTER 18, ARTICLE I, Sec. 18-2 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 18-2, which said section reads as follows:

#### Chapter 18 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. – IN GENERAL

Sec. 18-2(e). – Encroachments on streets and public rights-of-way.

#### **Amended Section 18-2(e)**

- e. The city manager or his designee will work with the applicant to help prepare the application for presentation to the City Council. The city staff shall require the application to, and approval from the Historic Resources Commission and Technical Review Committee, if applicable. The city staff may also require the applicant to produce evidence of property ownership sufficient to establish the applicant's authority for the use of any person or entity other than the signatory and/or engineered drawings sufficient to determine the proposed use of the public space.
- **Sec. 2.** That this Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law
- f. Petition for Voluntary Contiguous Annexation for 52 acres located off Parham Drive and Wildwood Lane (GPIN 8883202217, 8883216464, 8883219007, 8883312515) (AN2102):
  - i. Approve Resolution Requesting City Clerk to Investigate Sufficiency.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
FOR 52 ACRES LOCATED OFF PARHAM DRIVE AND WILDWOOD LANE
GPIN# 8883216464, 8883312515, 8883219007, 8883202217 (AN2102)

WHEREAS, a petition requesting annexation of an area described in said petition was received on July 21, 2021, by the Graham City Council; and

WHEREAS, G.S. 160A-31 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.

# ii. Approve Resolution Fixing Date of September 14, 2021 for Public Hearing on Question of Annexation.

RESOLUTION FIXING DATE OF SEPTEMBER 14, 2021, FOR A PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 FOR 52 ACRES LOCATED OFF PARHAM DRIVE AND WILDWOOD LANE GPIN# 8883216464, 8883312515, 8883219007, 8883202217 (AN2102)

WHEREAS, a petition requesting annexation of the 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 at 6:00 pm on September 14, 2021.

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

ALL of that certain piece, parcel or tract of land lying and being in the City of Graham, Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

Beginning at an existing buried stone in the recorded eastern margin of Broadway Drive as shown on a map entitled "Luther R. Shoffner" and recorded in Plat Book 68, Page 85 in the Office of the Register of Deeds of Alamance County, N.C., said point being the recorded northwestern property corner of Grantor (now or formerly) Foust Family Properties, LLC as described and recorded in Deed Book 3520, Page 846 and being Lot 2 as shown on a map entitled "T. Howell Foust" and recorded in said Plat Book 62, Page 71 in said Alamance County Registry), said stone also being the recorded southwestern lot corner of Lot 133 as shown on a map entitled "Broad Acres, Section Seven" and recorded in Plat Book 50, Page 5 in said Alamance County Registry; thence, from said point of beginning, along Grantor's recorded northern property line, said southern lot line of said Lot 133, North 68°26'47" East 290.90 feet to a computed point, said point being the recorded southwestern property corner of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry and also being the recorded southeastern corner of said Lot 133; thence, along said Shoffners western property line and the recorded eastern line of Lots 133, 132A, 90A, 89A and 86A as shown on several maps entitled "Broad Acres, Plat Book 50, Page 5, Plat Book 46, Page 44, Plat Book 23, Page 80 & Plat Book 60, Page 40" in said Alamance County Registry the following seven (7) bearing and distances: 1) North 03°30'29" West 121.69 feet to a point; 2) North 03°31'56" West 110.19 feet to a point; 3) North

01°58'58" East 80.47 feet to a point; 4) North 18°01'03" West 20.92 feet to a point; 5) North 03°21'56" West 100.08 feet to a point; 6) North 02°36'52" West 155.77 feet to a point on the recorded southern margin of Wildwood Drive; 7) thence along the recorded eastern margin of Wildwood Drive North 08°58'27" West 50.49 feet to a point on the recorded northern margin of Wildwood Drive, said point being the recorded northwestern corner of said Martin L. Shoffner and also being a point on the recorded southern property line of (now or formerly) Fields Family Irrevocable Trust, Linnie Fields Jr. & Frances, Trust as described and recorded in Deed Book 2658, Page 823 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Field Family, with a curve to the right, having a radius of 426.31 feet and a chord bearing and distance of South 63°22'23" East 99.77 feet to a new iron pipe; thence, along the recorded western property line of said Shoffner and recorded eastern property line of said Fields the following three (3) bearing and distances: 1) North 10°01'12" East 195.04 feet to a point; 1) North 63°42'26" West 35.51 feet to a point; 3) North 05°20'12" West 218.32 feet to a new iron pipe, said pipe being the recorded northwestern property corner of said Shoffner, the recorded northeastern property corner of said Fields and pipe also being located on the recorded southern property line of (now or formerly) Michael R. Allen as described and recorded in Deed Book 1336, Page 253 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Allen the following five (5) bearing and distances: 1) South 87°33'42" East 167.35 feet to a point; 2) South 87°34'11" East 222.16 feet to a point; 3) South 87°30'54" East 701.29 feet to an existing iron pipe; 4) South 88°12'03" East 58.80 feet to an bent existing iron pipe; 5) South 88°06'57" East 160.00 feet to a new iron pipe, said pipe being the recorded northeastern property corner of said Shoffner and a pipe on the recorded southern property line of (now or formerly) Brian Reid as described and recorded in Deed Book 3674, Page 424 in said Alamance County Registry and also being located on the recorded northern lot line of Lot 16 as shown on a map entitled "B.V. May Property" and recorded in Plat Book 1, Page 117 in said Alamance County Registry; thence, with a new proposed property line for said Shoffner (recorded in Deed Book 3440, Page 381 and Deed Book 2974, Page 539) the following five (5) bearing and distances: 1) South 18°17'26" West 510.28 feet to a new iron pipe, said pipe being located on the recorded northern property corner of (now or formerly) Randy C. Williamson & Theresa P. Williamson as described and recorded in Deed Book 3827, Page 810 and also located on the recorded southern property line of said Shoffner (Deed Book 3440, Page 381 in said Alamance County Registry; 2) South 32°07'09" West 404.33 feet to a new iron pipe, said pipe being located on the southern property line of said Williamson and also being located on the recorded northern property line of said Foust Family Properties, LLC; 3) South 25°03'03" West 400.22 feet to a new iron pipe; 4) South 17°47'19" West 268.10 feet to a new iron pipe; 5) South 20°17'47" West 273.29 feet to an existing iron pipe, said pipe being the recorded northwestern property corner of (now or formerly) Jean Monnett Ross as described and recorded in Deed Book 3618, Page 103 and also known as the recorded northwestern lot corner of Lot 1 as shown on a map entitled "Jean Monnett Ross" and recorded in Plat Book 78, Page 59 in said Alamance County Registry; thence, along with the recorded eastern property line of said Foust Family Properties, LLC and the recorded western property line of said Ross South 16°13'38" East 336.58 feet to a computed point, said point being the recorded southwestern property corner of said Ross, one of the recorded southeastern property corners of said Foust Family Properties, LLC and also being one of the recorded northeastern property corner of (now or formerly) Ivey Thomas Foust & ETAL as described and recorded in Deed

Book 1583, Page 353 in said Alamance County Registry; thence, along with the recorded southern property line of said Foust Family Properties, LLC and the recorded northern property line of said Ivey Thomas Foust & ETAL the following seven (7) bearing and distances as it meanders and bends along the Little Alamance Creek: 1) South 49°35'52" West 102.11 feet to a point; 2) North 74°54'08" West 405.00 feet to a point; 3) North 56°07'08" West 290.00 feet to a point; 4) South 78°20'52" West 184.00 feet to a point; 5) South 68°32'52" West 325.00 feet to a point; 6) South 82°37'52" West 90.00 feet to a point; 5) North 51°51'33" West 50.13 feet to an existing iron pipe tack, said pipe being the recorded southwestern property corner of said Foust Family Properties, LLC and one of the recorded southeastern property corners of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry; thence, along the recorded western property line of said Foust Family Properties, LLC and the recorded eastern property line of said Martin L. Shoffner the following five (5) bearing and distances: 1) North 19°52'02" East 666.29 feet to an existing iron pipe; 2) North 19°48'21" East 185.10 feet to an existing iron pipe; 3) North 02°46'16" East 40.69 feet to an existing iron pipe; 4) with a curve to the left, having a radius of 49.40 feet and a chord bearing and distance of North 41°29'22" East 32.35 feet to a new iron pipe; 5) North 19°49'50" East 25.35 feet to the point of beginning, containing an area of 52.172 acres, more or less.

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 10th day of August, 2021.

- g. Appoint the following to the Appearance Commission with a term expiration of June 30, 2024:
  - i. Zipporah Clark Baldwin
  - ii. Bernadette Konzelmann
  - iii. Carmen Larimore

Upon motion by Councilmember Hall, seconded by Councilmember Wiggins, it was resolved unanimously to approve the foregoing consent agenda.

#### **OLD BUSINESS:**

**a.** <u>Public Hearing</u>: CR2006 Truby Apartments. Request by Second Partners, LLC for Conditional Rezoning for multi-family apartments from Light Industrial for property located on Truby Drive (GPIN 8894453334).

Planning Director Nathan Page stated that the applicant requested that this item be tabled to the next City Council meeting.

Upon motion by Mayor Peterman, seconded by Councilmember Wiggins, it was resolved unanimously to table the rezoning for Truby Apartments to the September 14, 2021, City Council meeting.

**b.** <u>Public Hearing</u>: RZ2104 Jimmie Kerr Multi-Family. Request by Travers Webb for rezoning to R-MF from I-1 for approximately 11 acres on Jimmie Kerr Road (GPIN 8894469497 & 8894469816)

Planning Director Page explained that this was a request to rezone property from I-1, Light Industrial, to R-MF, Residential Multi-Family. He stated that the property was currently vacant, and was surrounded by general business and industrial districts, including a hotel, truck stop, and a packaging facility. The latter two of which signal frequent semi-truck traffic along this portion of Jimmie Kerr Road. He stated that while this request met many of the standards of Graham's 2035 Comprehensive Plan, the potential magnitude of the density of development, unknown site layout, the limited sewer capacity, and the potential traffic issues suggest that this development would be better served by one comprehensive Conditional Zoning.

Councilmember Talley stated she would like to see this item tabled again and that she was not ready to move forward in a positive way.

Mayor Peterman asked if there were any changes made and what was the downside to rezoning this property.

Planning Director Page stated that he was not aware of any changes and that the rezoning may result in more of an impact to sewer and traffic than a Light Industrial rezoning.

Mayor Peterman asked if the plan could go forward if the impact to sewer and traffic was not improved.

Planning Director Page stated that a small industrial use or small multi-family would work for this site. He further stated that without the sewer being resolved, it could not support a large volume water user and without the traffic considerations it would not be able to support a large traffic volume user. He stated that it would be vetted through TRC regardless of the rezoning approval or not. However, it may be beneficial to look at the whole area at one time given the proximity of other developments in the vicinity.

Mayor Peterman opened the public hearing and the following person spoke:

### Mr. George Travers Webb, III - 619 E. Harden St. Graham

Mr. Webb stated that the sewer had no bearing on this rezoning and that this was the key to get this started and to get support to pay for the sewer improvements. He stated that without a rezoning, the traffic studies and requirements could not be completed.

Mayor Peterman closed the public hearing and stated that he agreed with Councilmember Talley that more information was needed.

Upon motion by Councilmember Hall, seconded by Mayor Peterman, it was resolved to table the rezoning to the September 14, 2021, City Council meeting. Ayes: Councilmember Talley, Councilmember Hall, and Mayor Peterman. Nays: Council Member Wiggins. Motion carried 3:1.

#### **RECOMMENDATIONS FROM PLANNING BOARD:**

**a.** Public Hearing: CR2101 Gilbreath Multifamily. Application by Ben Green Hyconic Holdings LLC, for 38 acres to Conditional Residential from Light Industrial for 453 dwelling units, apartments and townhomes (GPIN 8883885270, 8883872722,8883886903)

Planning Director Page stated that the applicant had asked that the rezoning request be tabled to the next meeting in order to meet requests from the Planning Board.

Upon motion by Councilmember Hall, seconded by Councilmember Wiggins, it was resolved unanimously to table the rezoning request to the September 14, 2021, Council meeting.

**b.** Public Hearing: RZ2106 Maple and Market. Application by Jerry Smith for rezoning of parcels (approximately 3.5 acres) to B-1 from R-7 (GPIN 8884059566, 8884150571, 8884151515, 8884058556, 8884059880, 8884151700, 8884151602)

Councilmember Talley stated that she would like to consult with the Municipal Attorney as to whether she could vote on this issue and requested that Council take leniency and consider postponing the rezoning until she could get advice from the School of Government and the Municipal Attorney to determine her voting rights.

Mayor Peterman stated that it would be at the request of the petitioner if they would like to postpone the rezoning. Mayor Peterman asked Mr. Cox to come forward.

Mr. Jason Cox, 200 N. Main Street, Graham, representing the petitioner, stated that he did not have the authority to agree to a continuation. He asked if Council could take a recess while he contacted the petitioner.

Council agreed to allow Mr. Cox to consult with the petitioner, and Council moved ahead to Item C.

After consulting with the petitioner, Mr. Cox stated that the petitioner asked that the rezoning be considered tonight.

Planning Director Page stated that this was a request to rezone the subject property from R-7, Residential High Density, to B-1, Downtown Business. The property currently had 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 and the site was approximately 3.5 acres.

Councilmember Hall asked if the surrounding owners had signed off on this rezoning.

Planning Director Page stated that the owners were part of the application process and they did not have to do an individual signature for each one because this was not a conditional rezoning. He stated that surrounding owners were notified of the rezoning.

Councilmember Talley recused herself from consideration of this item due to conflicts of interest.

Mr. Cox stated that this was a blanket rezoning and that the southwest parcels were currently vacant and in poor condition and would possibly be demolished. He stated that this project would take time and that he expected to be back in front of Council several more times.

Mayor Peterman asked if Mr. Cox knew what would be developed on the property.

Mr. Cox stated they did not know because there would need to be an immiscible amount of feasibility studies, costs, market analysis, engineering, topography, surveying, etc., which would be the next step after the approval of the rezoning. He stated that this would be a two-to-five year project.

Mayor Peterman stated that one of the Planning and Zoning members voted against the request due to the old houses.

Mr. Cox stated that he voiced at the Planning and Zoning meeting that if there was a coalition of stakeholders or an organization that would work with them in relocating the primary large residence he would like to see that happen. He stated that he had restored a number of historic properties and that this residence did matter to him.

Councilmember Wiggins stated that she hoped the house could remain and maybe become a bed and breakfast, but did not know what condition the house was in.

Mr. Cox stated that he did not know the condition of the house. He stated that he would bend over backwards to find a way to relocate the house but he did not know if the house could remain on this property. He stated that because of the time frame he would work with the existing tenants allowing them to stay an additional term before they would be close to doing anything to the property.

The public hearing was opened and the following person spoke:

John Lepri, 531 N. Main Street, Graham, spoke in opposition of the rezoning.

The public hearing was closed.

Upon motion by Councilmember Hall, seconded by Mayor Peterman is was resolved to deny the request for rezoning. Ayes: Mayor Peterman and Councilmember Hall. Nays: Councilmember Wiggins. Motion carried 2:1. Councilmember Talley was recused.

c. <u>Public Hearing</u>: AM2102 Text Amendment Special Use Permits. Development Ordinance Amendments as recommended by City Council regarding Special Use Permits- Hearings before the Board of Adjustment, Article 4, Division 7 (Sections 10.137 to 10.148)

Planning Director Page stated that the Planning Board asked that this issue be tabled to the next Council meeting. Mr. Page introduced the new Senior Planner Cameron West.

Mr. West stated that he was from Elizabethtown and was happy to join the team here at the City of Graham.

Planning Director Page stated that the City Council had 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. He stated that under the current process, the residents of the City had limited input and the City Council had limited discretion for Special Use Permits. He stated that the current process left most residents feeling disconnected from the deliberations regarding Quasi-Judicial Hearings.

Mr. Page further stated that other jurisdictions in North Carolina had taken the step to evaluate what uses their Table of Permitted Uses had 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 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.

Mayor Peterman stated that in respect to Planning and Zoning, we should postpone the recommendation and give the board the opportunity to work on this.

Upon motion by Councilmember Hall, seconded by Mayor Peterman, it was resolved unanimously to table consideration of the proposed text amendment, regarding Special Use Permits, to the September 14, 2021, City Council meeting.

#### **PUBLIC COMMENT PERIOD:**

Mr. Morris Robertson, 3457 Southern High/Mt. Herman Road, Graham, NC, asked Council to consider a columbarium in a portion of property adjacent to its cemetery.

Mayor Peterman stated that the portion in question was not owned by the City of Graham and that he would ask City staff to look into the request.

Councilmember Talley asked if the Cemetery Board had been reorganized.

Mayor Peterman said that they were trying to find out if members were still available to serve.

City Clerk Sperry stated that in 2013, the board was put together as an advisory committee and that it had never been formed as an official board.

Mayor Peterman stated that this committee should be an official board.

Upon motion by Councilmember Hall, seconded by Mayor Peterman it was resolved unanimously to direct staff to create an official Cemetery Board and to grandfather in current members as part of the board if they chose to serve.

#### **STAFF COMMENTS:**

Planning Director Page shared the following:

- Quasi-Judicial Training for Boards/Commission members August 24<sup>th</sup> 1:00pm to 3:30pm at City Hall.
- Legislative Training for Boards/Commission members September 14<sup>th</sup> 5:30pm to 8:00pm at City Hall.
- East Pine Street Sidewalk Project had the last easement acquired, largely due to Rod Payne's exceptional work, dedication, quality, and knowledge which made the property owners comfortable and prepared for the project.
- Jimmie Kerr Road speed limit reduction had been approved by NCDOT, from the City Limits to Cherry Lane, and should be signed soon.

• The intersection of Harden Street and E. Elm Street's final design is underway by NCDOT, and plans should be released soon.

Mr. Jason Cox re-entered the Council Chamber and announced that he was ready to address Council in reference to Planning Board Recommendations, Item b (Maple and Market Rezoning).

Interim City Manager Aaron Holland praised City Clerk Darcy Sperry and Planning Director Nathan Page for their excellent work performed while with the City of Graham and that they would be missed.

City Council also expressed sincere appreciation to Ms. Sperry and Mr. Page for a job well done.

#### **CITY COUNCIL COMMENTS:**

Councilmember Talley announced that a movie company would be filming a movie, Too Little Too Late in the downtown Graham area this month.

**Dockdogs** – National Competition - September 17-19, 2021 in downtown Graham.

**Thursdays at Seven Concert** - August 24<sup>th</sup> - Castaways will be performing.

Councilmember Hall asked City Staff to review a request to extend a sidewalk from Water Street to Parker Street.

Councilmember Talley asked staff to review the policy for downtown events to include notifying downtown business owners of a potential event that may take place in the area of said businesses.

Interim City Manager Holland stated that they could include notifying business owners to the event application process.

**9/11 Commemorative 5K Event** - First Responders Team Cup Kid's Zone, Food Trucks, Band Blood Drive General Information General Information Date: Saturday, September 11, 2021. Event Times: 8:00am – 2:00pm. For All Ages.

#### **ADJOURN:**

Upon motion by Councilmember Hall, seconded by Councilmember Talley, it was resolved unanimously to adjourn. (7:04p.m.)

Renee M. Ward, CMC
Interim City Clerk



SUBJECT:	JIMMIE KERR ROAD SPEED LIMIT REDUCTION
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Approve the Certification of Municipal Declaration to repeal the speed limit and request for concurrence.

#### **BACKGROUND/SUMMARY:**

The City Council directed staff to make a request to the NCDOT that the speed limit along Jimmie Kerr Road be reduced from 45 mph. In order to fulfill this request, NCDOT requires that the following Certificate of Municipal Declaration to Repeal Speed Limits and Request for Concurrence form be approved and completed by the City of Graham. The request would reduce the speed limit from 45 mph to 35 mph for the following described area:

SR 1928 (Jimmie Kerr Road) from the southern corporate limit of Graham, a point 0.50 mile south of I-85, northward to the northern corporate limit of Graham, a point 0.35 mile north of I-85.

#### **FISCAL IMPACT:**

None

#### **STAFF RECOMMENDATION:**

Approval.

#### **SUGGESTED MOTION(S):**

I move we approve the Certification of Municipal Declaration to reduce the speed limit from 45 mph to 35 mph for the described area along Jimmie Kerr Rd.

# Certification of Municipal Declaration To Repeal Speed Limits and Request for Concurrence

Concurring State Ordinance Number: 1000249 Division: 7 County: ALAMANCE Municipality: GRAHAM Type: Municipal Speed Zones Road: SR 1928 Car: 45 MPH Truck: 45 MPH Description: SR 1928 (Jimmie Kerr Road) from the southern corporate limitof Graham, a point 0.50 mile south of I-85, northward to thenorthern corporate limit of Graham, a point 0.35 mile north of I-85. **Municipal Certification** I, Renee M. Ward, Clerk of City of Graham, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 14th day of September, 2021, the repeal of speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit. The said municipal declaration is recorded as follows: Minute Book: Page: Ordinance Number: In witness whereof, I have hereunto set my hand and the municipal seal this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_\_\_\_ (signature) (municipal seal) **Department of Transportation Approval** Title: \_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

# CITY OF GRAHAM RELEASE ACCOUNTS

## **SEPTEMBER**

ACCT#	<u>YEAR</u>	<u>NAME</u>	REASON FOR RELEASE	AMOUNT RELEASED
701830	2021	LONG, JOYCE ALLENE	BILLED TO WRONG TAXPAYER	\$1,205.49
0	2021	UNKNOWN	BILLING ERROR TO UNKNOWN ACCOUNT	\$666.27
608275	2021	CRESCO CAPITAL INC	SOLD 2016 FREIGHTLINER 12-29-20	\$330.73
688177	2021	BERGER, DARREN	TRAILER NOT IN CITY OF GRAHAM	\$18.20
686544	2021	BALDWIN, DON	BOATS/JET SKIS NOT IN THE CITY OF GRAHAM	\$11.46
700151	2021	STRATEGIC INTERVENTIONS	IN CITY OF BURLINGTON, NOT GRAHAM	\$6.66
669865	2021	SHARPE, CLINTON POWELL	SOLD BOAT	\$17.46
700583	2021	COBLE, JAMES MICHAEL	ANTIQUE CARS NOT IN THE CITY OF GRAHAM	\$31.31
576158	2021	KICHMAN, RICHARD LEROY JR	BOAT NOT IN THE CITY OF GRAHAM	\$1.24
558965	2021	LOWDER, MELISSA DEE	OVER VALUED BOAT	\$23.24

TOTAL RELEASES \$2,312.06



SUBJECT:	UPDATE TO REVIEW OFFICERS FOR ALAMANCE COUNTY
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Request the Alamance County Commissioners to appoint Justin Snyder and remove Nathan Page as Review Officers.

#### **BACKGROUND/SUMMARY:**

Alamance County allows municipal staff to review plats for sufficiency with North Carolina's statutory criteria, at the request of the municipality. With the absence of Mr. Page, the City of Graham only has one staff member who is authorized to sign off on plats.

Justin Snyder is duly qualified to review plats for the County, and would allow for an alternative source for approvals when Nathan is out of the office.

#### **FISCAL IMPACT:**

N/A

#### **STAFF RECOMMENDATION:**

Approval.

#### **SUGGESTED MOTION(S):**

Motion to request the Alamance County Board of Commissioners to remove Nathan Page, and appoint Justin Snyder, as a Plat Review Officer.

September 15, 2021

Alamance County Board of Commissioners 124 West Elm Street Graham, NC 27253

### RE: City of Graham Recommended Plat Review Officer Appointment

Dear Chair and Commissioners,

The City of Graham has recently had a resignation which has identified a potential issue for the process of reviewing plats for conformance with the statutory criteria in the State of North Carolina. Justin Snyder is duly qualified to review plats, and meets all requirements for this role. Additionally, as Nathan Page has left the City of Graham, he should no longer be an appointed review officer for our jurisdiction.

The Graham City Council voted unanimously at its September 14, 2021, meeting to recommend the appointment of **Justin Snyder** and removal of Nathan Page as Alamance County Review Officer. Therefore, we formally request the Alamance County Board of Commissioners appoint Mr. Snyder and remove Mr. Page as Plat Review Officers.

Thank you for your consideration in this matter.

Sincerely,

Jerry Peterman Mayor, City of Graham

# RESOLUTION ENDORSING THE APPOINTMENT OF REVIEW OFFICER

WHEREAS, The North Carolina General Assembly in their 1997 Session amended Chapter 47 of the North Carolina General Statutes and required the Board Commissioners of each County, by resolution, to designate by name a person, or persons, experienced in mapping or land records management as Review Officer to review each map and plat before it is presented to the Register of Deeds for recording; and,

# NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF ALAMANCE COUNTY DOTH RESOLVE:

1. That the following persons are hereby rescinded as Review Officers for the County of Alamance and pursuant to N.C.G.S 47-30.2:

#### **Nathan Page**

- 2. That the Clerk to the Board of County Commissioners shall record this Resolution in the Alamance County registry and have it indexed under the Grantor Index in the name of each officer.
- 3. That the Review Officer shall no longer carry out and perform the duties prescribed pursuant to N.C.G.S. 47-30.2.

This 20<sup>th</sup> day of September, 2021.

Chair		
Vice-Chair		
Commissioner		
Commissioner		
Commissioner	 	
Commissioner		

# RESOLUTION ENDORSING THE APPOINTMENT OF REVIEW OFFICER

**WHEREAS**, The North Carolina General Assembly in their 1997 Session amended Chapter 47 of the North Carolina General Statutes and required the Board Commissioners of each County, by resolution, to designate by name a person, or persons, experienced in mapping or land records management as Review Officer to review each map and plat before it is presented to the Register of Deeds for recording; and,

**WHEREAS**, The Alamance County Board of Commissioners endorses the appointment of Justin Snyder as Review Officer.

# NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF ALAMANCE COUNTY DOTH RESOLVE:

- 1. That Justin Snyder is hereby designated Review Officer for the County of Alamance pursuant to N.C.G.S 47-30.2.
- 2. That the Clerk to the Board of County Commissioners shall record this Resolution in the Alamance County registry and have it indexed under the Grantor Index in the name of each officer.
- 3. That the Review Officer shall carry out and perform the duties prescribed pursuant to N.C.G.S. 47-30.2.

This 20th day of September 2021.

Chair		
Vice-Chair		
Commissioner		
Commissioner		
Commissioner	 	



### STAFF REPORT

SUBJECT:	RESOLUTION AUTHORIZING APPLICATION FOR CDBG ASSISTANCE TO
	CONSTRUCT A DRINKING WATER DISTRIBUTION PROJECT
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Approve Resolution authorizing application for CDBG assistance to construct a drinking water distribution project.

#### **BACKGROUND/SUMMARY:**

Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Infrastructure (DWI) was delegated the authority by the state legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363.

The City of Graham has need for and intends to construct a drinking water distribution project described as replacement of aging and undersized waterlines, water services and fire hydrants in the NW section of the City of Graham.

#### **FISCAL IMPACT:**

Mere application for funding has a negligible fiscal impact.

#### **STAFF RECOMMENDATION:**

Approval.

#### **SUGGESTED MOTION(S):**

I move we approve the Resolution Authorizing Application for CDBG Assistance from The State of North Carolina to construct a drinking water distribution project described as replacement of aging and undersized waterlines, water services and fire hydrants in the NW section of the City of Graham.

#### RESOLUTION BY GOVERNING BODY OF APPLICANT

#### WHEREAS,

Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Infrastructure (DWI) was delegated the authority by the state legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363, and

#### WHEREAS,

The <u>City of Graham</u> has need for and intends to construct a drinking water distribution project described as replacement of aging and undersized waterlines, water services and fire hydrants in the NW section of the City of Graham, and

WHEREAS,

The City of Graham intends to request state grant assistance for the project,

#### NOW THEREFORE BE IT RESOLVED, BY THE GRAHAM CITY COUNCIL OF THE (CITY OF GRAHAM):

That <u>City of Graham</u>, the **Applicant**, will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That <u>Aaron T. Holland, Interim City Manager</u>, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the <u>14<sup>th</sup> Day of September 2021</u> at City of Graham Municipal Building, North Carolina.

(Signature of Chief Executive Officer) (Jerry Peterson)
Mayor, City of Graham
(Title)

# **CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting <u>Interim City Clerk</u> of the <u>City of Graham</u> does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the <u>City of Graham City Council</u> duly held on the <u>14<sup>th</sup> day of September 2021</u>; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this <u>14<sup>th</sup> day of September 2021</u>.

(Signature of Recording Officer)
(Renee M. Ward)
Interim City Clerk
internit city cierk
(Title of Recording Officer)



## STAFF REPORT

SUBJECT:	RESOLUTION AUTHORIZING APPLICATION FOR STATE LOANS FOR A DRINKING WATER REPLACEMENT PROJECT
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Approve Resolution authorizing application for State loan assistance for a drinking water replacement project.

#### **BACKGROUND/SUMMARY:**

The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water replacement project. The City of Graham has need for and intends to construct a drinking water replacement project described as approximately 28,000 linear feet of new ductile iron waterline with service connections and fire hydrant replacement and water service connections.

#### **FISCAL IMPACT:**

Mere application for funding has a negligible fiscal impact.

#### **STAFF RECOMMENDATION:**

Approval.

### SUGGESTED MOTION(S):

I move we approve the Resolution Authorizing Application for Loan Assistance from The State of North Carolina for a drinking water replacement project.

#### RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water

Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water  $\frac{1}{2}$ 

replacement project, and

WHEREAS, The <u>City of Graham</u> has need for and intends to construct a drinking water replacement

project described as approximately 28,000 linear feet of new ductile iron waterline with

service connections and fire hydrant replacement and water service connections.

**WHEREAS,** The City of Graham intends to request state loan assistance for the project.

# NOW THEREFORE BE IT RESOLVED, BY THE (GRAHAM CITY COUNCIL) OF THE (CITY OF GRAHAM):

That <u>City of Graham</u>, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Graham to make scheduled repayment of the loan, to withhold from the City of Graham any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That <u>Aaron T. Holland, Interim City Manager</u>, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the <u>14<sup>th</sup> day of September 2021</u>, at City of Graham Municipal Building, North Carolina.

(Signature of Chief Executive Officer) (Jerry Peterson)
(Mayor)

### **CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting Interim City Clerk of the City of Graham does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Graham City Council duly held on the 14th day of September 2021; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September 2021.

(Signature of Recording Officer)
(Renee M. Ward, CMC)
Interim City Clerk
interim City Clerk
(Title)
(Tide)



### STAFF REPORT

SUBJECT:	RESOLUTION AUTHORIZING APPLICATION FOR STATE LOAN ASSISTANCE FOR REPLACEMENT OF COOPER RD PUMP STATION
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Approve Resolution authorizing application for State loan assistance for replacement of the Cooper Road Pump Station.

#### **BACKGROUND/SUMMARY:**

The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project).

The City of Graham has need for and intends to construct a wastewater collection system project described as the replacement of the Cooper Road Pump Station

#### **FISCAL IMPACT:**

Mere application for funding has a negligible fiscal impact.

#### **STAFF RECOMMENDATION:**

Approval.

#### **SUGGESTED MOTION(S):**

I move we approve the Resolution Authorizing Application for Loan Assistance from The State of North Carolina for the replacement of the Cooper Road Pump Station.

#### RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS,

The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project), and

WHEREAS,

The <u>City of Graham</u> has need for and intends to construct a wastewater collection system project described as the replacement of the Cooper Road Pump Station, and

WHEREAS,

The City of Graham intends to request state loan assistance for the project,

# NOW THEREFORE BE IT RESOLVED, BY THE (GRAHAM CITY COUNCIL) OF THE (CITY OF GRAHAM):

That <u>City of Graham</u>, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Graham to make scheduled repayment of the loan, to withhold from the City of Graham any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That <u>Aaron T. Holland, Interim City Manager</u>, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the <u>14<sup>th</sup> day of September 2021</u>, at City of Graham Municipal Building, North Carolina.

(Signature of Chief Executive Officer) (Jerry Peterman)
Mayor, City of Graham
(Title)

# **CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting <u>Interim City Clerk</u> of the <u>City of Graham</u> does hereby certify:
That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of
an application with the State of North Carolina, as regularly adopted at a legally convened meeting of
the ( $\underline{\text{City of Graham City Council}}$ ) duly held on the $\underline{\textbf{14}^{\text{th}}}$ day of September 2021; and, further, that such
resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS
WHEREOF, I have hereunto set my hand this day of2021.
(Signature of Recording Officer)
(Renee M. Ward, CMC)
Interim City Clerk
(Title)



## STAFF REPORT

SUBJECT:	RESOLUTION AUTHORIZING APPLICATION FOR STATE GRANTS AND/OR LOANS FOR GRAHAM WWTP IMPROVEMENTS PROJECT
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

#### **REQUESTED ACTION:**

Approve Resolution authorizing application for State grant/loan assistance for the WWTP improvements and expansion.

#### **BACKGROUND/SUMMARY:**

The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project).

The City of Graham has need for and intends to construct a wastewater treatment works project described as the Graham Wastewater Treatment Plant Improvements and Expansion Project.

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 proposed project will also expand our permitted capacity from 3.5mgd to 5.0mgd, allowing for a 2.5% growth rate until 2040.

#### **FISCAL IMPACT:**

Mere application for funding has a negligible fiscal impact.

#### STAFF RECOMMENDATION:

Approval.

#### **SUGGESTED MOTION(S):**

I move we approve the Resolution Authorizing Application for Grant and Loan Assistance from The State of North Carolina for Construction of Wastewater Treatment Plant Improvements and Expansion.

#### RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS,

The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of (state whether a wastewater treatment works, wastewater collection system, stream restoration, stormwater treatment, drinking water treatment works, and/or drinking water distribution system or other "green" project), and

WHEREAS,

The <u>City of Graham</u> has need for and intends to construct a wastewater treatment works project described as the Graham Wastewater Treatment Plant Improvements and Expansion Project and

WHEREAS,

The City of Graham intends to request state loan or grant assistance for the project,

#### NOW THEREFORE BE IT RESOLVED, BY THE GRAHAM CITY COUNCIL OF THE CITY OF GRAHAM:

That the <u>City of Graham</u>, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Graham to make scheduled repayment of the loan, to withhold from the City of Graham any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That <u>Aaron Holland</u>, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 14<sup>th</sup> day of September 2021, at Graham, North Carolina.

(Signature of Chief Executive Officer) (Jerry Peterman)
Mayor, City of Graham
(Title)

### **CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting Interim City Clerk of the City of Graham does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Graham City Council of the City of Graham duly held on the 14th day of September 2021; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September 2021.

(Signature of Recording Officer)
(Renee M. Ward, CMC)
Interior City of Craham Clark
Interim City of Graham Clerk
/Title of Recording Officer)
(Title of Recording Officer)

# STAFF REPORT

SUBJECT:	ANNEXATION OF 52 +/- ACRES OFF PARHAM AND WILDWOOD
PREPARED BY:	NATHAN PAGE, PLANNING DIRECTOR

#### **REQUESTED ACTION:**

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for 52 acres off Parham Drive and Wildwood Lane.

#### **BACKGROUND/SUMMARY:**

The attached petition seeks the Council's approval for an extension of the corporate limits to include the subject property. The area being considered for annexation is on Parham Drive and Wildwood Lane (Approx. 52 acres). Water lines are adjacent to this location, with Burlington's outfall along the creek to the South. The applicant wishes to tie onto the City's infrastructure.

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:**

Given the high price of recent Windsor home sales, the proposed 114 single family detached homes on 52 acres is likely to be revenue positive for their first 15 years of life.

#### STAFF RECOMMENDATION:

Approval.

#### SUGGESTED MOTION(S):

1. I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 52 +/- acres off Parham Drive and Wildwood Lane.

#### ANNEXATION ORDINANCE

# TO EXTEND THE CORPORATE LIMITS

#### **OF THE**

### CITY OF GRAHAM, NORTH CAROLINA FOR 1342 JIMMIE KERR ROAD (AN2101)

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

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 6:00 P.M. on August 10, 2021, after due notice by publication August 26, 2021; and

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

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

**Section 1.** By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of September 30, 2021:

Beginning at an existing buried stone in the recorded eastern margin of Broadway Drive as shown on a map entitled "Luther R. Shoffner" and recorded in Plat Book 68, Page 85 in the Office of the Register of Deeds of Alamance County, N.C., said point being the recorded northwestern property corner of Grantor (now or formerly) Foust Family Properties, LLC as described and recorded in Deed Book 3520, Page 846 and being Lot 2 as shown on a map entitled "T. Howell Foust" and recorded in said Plat Book 62, Page 71 in said Alamance County Registry), said stone also being the recorded southwestern lot corner of Lot 133 as shown on a map entitled "Broad Acres, Section Seven" and recorded in Plat Book 50, Page 5 in said Alamance County Registry; thence, from said point of beginning, along Grantor's recorded northern property line, said southern lot line of said Lot 133, North 68°26'47" East 290.90 feet to a computed point, said point being the recorded southwestern property corner of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry and also being the recorded southeastern corner of said Lot 133; thence, along said Shoffners western property line and the recorded eastern line of Lots 133, 132A, 90A, 89A and 86A as shown on several maps entitled "Broad Acres, Plat Book 50, Page 5, Plat Book 46, Page 44, Plat Book 23, Page 80 & Plat Book 60, Page 40" in said Alamance County Registry the following seven (7) bearing and distances: 1) North 03°30'29" West 121.69 feet to a point; 2) North 03°31'56" West 110.19 feet to a point; 3) North 01°58'58" East 80.47 feet to a point; 4) North 18°01'03" West 20.92 feet to a point; 5) North 03°21'56" West 100.08 feet to a point; 6) North 02°36'52" West 155.77 feet to a point on the recorded southern margin of Wildwood Drive; 7) thence along the recorded eastern margin of Wildwood Drive North 08°58'27" West 50.49 feet to a point on the recorded northern margin of Wildwood Drive, said point being the recorded northwestern corner of said Martin L. Shoffner and also being a point on the recorded southern property line of (now or formerly) Fields Family Irrevocable Trust, Linnie Fields Jr. & Frances, Trust as described and recorded in Deed Book 2658, Page 823 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Field Family, with a curve to the right, having a radius of 426.31 feet and a chord bearing and distance of South 63°22'23" East 99.77 feet to a new iron pipe; thence, along the recorded western property line of said Shoffner and recorded eastern property line of said Fields the following three (3) bearing and distances: 1) North 10°01'12" East 195.04 feet to a point; 1) North 63°42'26" West 35.51 feet

to a point; 3) North 05°20'12" West 218.32 feet to a new iron pipe, said pipe being the recorded northwestern property corner of said Shoffner, the recorded northeastern property corner of said Fields and pipe also being located on the recorded southern property line of (now or formerly) Michael R. Allen as described and recorded in Deed Book 1336, Page 253 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Allen the following five (5) bearing and distances: 1) South 87°33'42" East 167.35 feet to a point; 2) South 87°34'11" East 222.16 feet to a point; 3) South 87°30'54" East 701.29 feet to an existing iron pipe; 4) South 88°12'03" East 58.80 feet to an bent existing iron pipe; 5) South 88°06'57" East 160.00 feet to a new iron pipe, said pipe being the recorded northeastern property corner of said Shoffner and a pipe on the recorded southern property line of (now or formerly) Brian Reid as described and recorded in Deed Book 3674, Page 424 in said Alamance County Registry and also being located on the recorded northern lot line of Lot 16 as shown on a map entitled "B.V. May Property" and recorded in Plat Book 1, Page 117 in said Alamance County Registry; thence, with a new proposed property line for said Shoffner (recorded in Deed Book 3440, Page 381 and Deed Book 2974, Page 539) the following five (5) bearing and distances: 1) South 18°17'26" West 510.28 feet to a new iron pipe, said pipe being located on the recorded northern property corner of (now or formerly) Randy C. Williamson & Theresa P. Williamson as described and recorded in Deed Book 3827, Page 810 and also located on the recorded southern property line of said Shoffner (Deed Book 3440, Page 381 in said Alamance County Registry; 2) South 32°07'09" West 404.33 feet to a new iron pipe, said pipe being located on the southern property line of said Williamson and also being located on the recorded northern property line of said Foust Family Properties, LLC; 3) South 25°03'03" West 400.22 feet to a new iron pipe; 4) South 17°47'19" West 268.10 feet to a new iron pipe; 5) South 20°17'47" West 273.29 feet to an existing iron pipe, said pipe being the recorded northwestern property corner of (now or formerly) Jean Monnett Ross as described and recorded in Deed Book 3618, Page 103 and also known as the recorded northwestern lot corner of Lot 1 as shown on a map entitled "Jean Monnett Ross" and recorded in Plat Book 78, Page 59 in said Alamance County Registry; thence, along with the recorded eastern property line of said Foust Family Properties, LLC and the recorded western property line of said Ross South 16°13'38" East 336.58 feet to a computed point, said point being the recorded southwestern property corner of said Ross, one of the recorded southeastern property corners of said Foust Family Properties, LLC and also being one of the recorded northeastern property corner of (now or formerly) Ivey Thomas Foust & ETAL as described and recorded in Deed Book 1583, Page 353 in said Alamance County Registry; thence, along with the recorded southern property line of said Foust Family Properties, LLC and the recorded northern property line of said Ivey Thomas Foust & ETAL the following seven (7) bearing and distances as it meanders and bends along the Little Alamance Creek: 1) South 49°35'52" West 102.11 feet to a point; 2) North 74°54'08" West 405.00 feet to a point; 3) North 56°07'08" West 290.00 feet to a point; 4) South 78°20'52" West 184.00 feet to a point; 5) South 68°32'52" West 325.00 feet to a point; 6) South 82°37'52" West 90.00 feet to a point; 5) North 51°51'33" West 50.13 feet to an existing iron pipe tack, said pipe being the recorded southwestern property corner of said Foust Family Properties, LLC and one of the recorded southeastern property corners of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry; thence, along the recorded western property line of said Foust Family Properties, LLC and the recorded eastern property line of said Martin L. Shoffner the following five (5) bearing and distances: 1) North 19°52'02" East 666.29 feet to an existing iron pipe; 2) North 19°48'21" East 185.10 feet to an existing iron pipe; 3) North 02°46'16" East 40.69 feet to an existing iron pipe; 4) with a curve to the left, having a radius of 49.40 feet and a chord bearing and distance of North 41°29'22" East 32.35 feet to a new iron pipe; 5) North 19°49'50" East 25.35 feet to the point of beginning, containing an area of 52.172 acres, more or less.

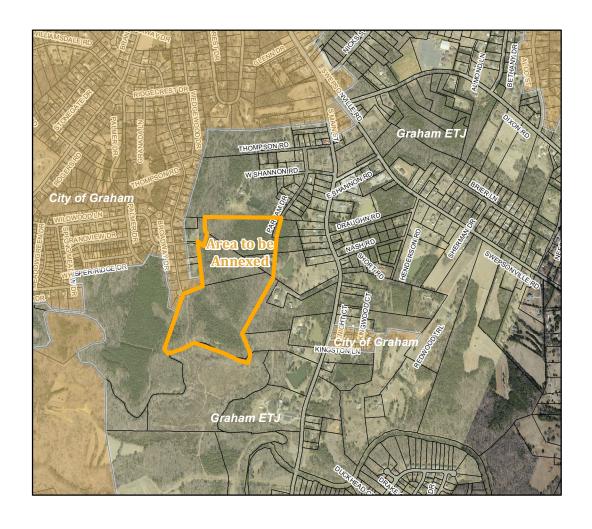
Being all the sam	e property located in	the City of Grahar	n, recorded in the	Alamance Countr	y Register of I	Deeds at
Plat Book	_, Page					

**Section 2.** Upon and after September 30, 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 14<sup>th</sup> day of September 2021.

	Gerald R. Peterman, Mayor
ATTEST:	APPROVED AS TO FORM:
Renee M. Ward, Interim City Clerk	Bryan Coleman, City Attorney



# CERTIFICATE OF SUFFICIENCY FOR 52 ACRES LOCATED OFF PARHAM DRIVE AND WILDWOOD LANE GPIN# 8883216464, 8883312515, 8883219007, 8883202217 (AN2102)

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

I, Renee M. Ward, Interim 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-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Graham, this the 11th day of August, 2021.

Renee M. Ward, Interim City Clerk

# RESOLUTION FIXING DATE OF SEPTEMBER 14, 2021 FOR A PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 FOR 52 ACRES LOCATED OFF PARHAM DRIVE AND WILDWOOD LANE GPIN# 8883216464, 8883312515, 8883219007, 8883202217 (AN2102)

WHEREAS, a petition requesting annexation of the 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 at 6:00 pm on September 14, 2021.

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

ALL of that certain piece, parcel or tract of land lying and being in the City of Graham, Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

Beginning at an existing buried stone in the recorded eastern margin of Broadway Drive as shown on a map entitled "Luther R. Shoffner" and recorded in Plat Book 68, Page 85 in the Office of the Register of Deeds of Alamance County, N.C., said point being the recorded northwestern property corner of Grantor (now or formerly) Foust Family Properties, LLC as described and recorded in Deed Book 3520, Page 846 and being Lot 2 as shown on a map entitled "T. Howell Foust" and recorded in said Plat Book 62, Page 71 in said Alamance County Registry), said stone also being the recorded southwestern lot corner of Lot 133 as shown on a map entitled "Broad Acres, Section Seven" and recorded in Plat Book 50, Page 5 in said Alamance County Registry; thence, from said point of beginning, along Grantor's recorded northern property line, said southern lot line of said Lot 133, North 68°26'47" East 290.90 feet to a computed point, said point being the recorded southwestern property corner of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry and also being the recorded southeastern corner of said Lot 133; thence, along said Shoffners western property line and the recorded eastern line of Lots 133, 132A, 90A, 89A and 86A as shown on several maps entitled "Broad Acres, Plat Book 50, Page 5, Plat Book 46, Page 44, Plat Book 23, Page 80 & Plat Book 60, Page 40" in said Alamance County Registry the following seven (7) bearing and distances: 1) North 03°30'29" West 121.69 feet to a point; 2) North 03°31'56" West 110.19 feet to a point; 3) North 01°58'58" East 80.47 feet to a point; 4) North 18°01'03" West 20.92 feet to a point; 5) North 03°21'56" West 100.08 feet to a point; 6) North 02°36'52" West 155.77 feet to a point on the recorded southern margin of Wildwood Drive; 7) thence along the recorded eastern margin of Wildwood Drive North 08°58'27" West 50.49 feet to a point on the recorded northern margin of Wildwood Drive, said point being the recorded northwestern corner of said Martin L. Shoffner and also being a point on the recorded southern property line of (now or formerly) Fields Family Irrevocable Trust, Linnie Fields Jr. & Frances, Trust as described and recorded in Deed Book 2658, Page 823 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Field Family, with a curve to the right, having a radius of 426.31 feet and a chord bearing and distance of South 63°22'23" East 99.77 feet to a new iron pipe; thence, along the recorded western property line of said Shoffner and recorded eastern property line of said Fields the following three (3) bearing and distances: 1) North 10°01'12" East 195.04 feet to a point; 1) North 63°42'26" West 35.51 feet to a point; 3) North 05°20'12" West 218.32 feet to a new iron pipe, said pipe being the recorded northwestern property corner of said Shoffner, the recorded northeastern property corner of said Fields and pipe also being located on the recorded southern property line of (now or formerly) Michael R. Allen as described and recorded in Deed Book 1336, Page 253 in said Alamance County Registry; thence, along the recorded northern property line of said Shoffner and the recorded southern property line of said Allen the following five (5) bearing and distances: 1) South 87°33'42" East 167.35 feet to a point; 2) South 87°34'11" East 222.16 feet to a point; 3) South 87°30'54" East 701.29 feet to an existing iron pipe; 4) South 88°12'03" East 58.80 feet to an bent existing iron pipe; 5) South 88°06'57" East 160.00 feet to a new iron pipe, said pipe being the recorded northeastern property corner of said Shoffner and a pipe on the recorded southern property line of (now or formerly) Brian Reid as

described and recorded in Deed Book 3674, Page 424 in said Alamance County Registry and also being located on the recorded northern lot line of Lot 16 as shown on a map entitled "B.V. May Property" and recorded in Plat Book 1, Page 117 in said Alamance County Registry; thence, with a new proposed property line for said Shoffner (recorded in Deed Book 3440, Page 381 and Deed Book 2974, Page 539) the following five (5) bearing and distances: 1) South 18°17'26" West 510.28 feet to a new iron pipe, said pipe being located on the recorded northern property corner of (now or formerly) Randy C. Williamson & Theresa P. Williamson as described and recorded in Deed Book 3827, Page 810 and also located on the recorded southern property line of said Shoffner (Deed Book 3440, Page 381 in said Alamance County Registry; 2) South 32°07'09" West 404.33 feet to a new iron pipe, said pipe being located on the southern property line of said Williamson and also being located on the recorded northern property line of said Foust Family Properties, LLC; 3) South 25°03'03" West 400.22 feet to a new iron pipe; 4) South 17°47'19" West 268.10 feet to a new iron pipe; 5) South 20°17'47" West 273.29 feet to an existing iron pipe, said pipe being the recorded northwestern property corner of (now or formerly) Jean Monnett Ross as described and recorded in Deed Book 3618, Page 103 and also known as the recorded northwestern lot corner of Lot 1 as shown on a map entitled "Jean Monnett Ross" and recorded in Plat Book 78, Page 59 in said Alamance County Registry; thence, along with the recorded eastern property line of said Foust Family Properties, LLC and the recorded western property line of said Ross South 16°13'38" East 336.58 feet to a computed point, said point being the recorded southwestern property corner of said Ross, one of the recorded southeastern property corners of said Foust Family Properties, LLC and also being one of the recorded northeastern property corner of (now or formerly) Ivey Thomas Foust & ETAL as described and recorded in Deed Book 1583, Page 353 in said Alamance County Registry; thence, along with the recorded southern property line of said Foust Family Properties, LLC and the recorded northern property line of said Ivey Thomas Foust & ETAL the following seven (7) bearing and distances as it meanders and bends along the Little Alamance Creek: 1) South 49°35'52" West 102.11 feet to a point; 2) North 74°54'08" West 405.00 feet to a point; 3) North 56°07'08" West 290.00 feet to a point; 4) South 78°20'52" West 184.00 feet to a point; 5) South 68°32'52" West 325.00 feet to a point; 6) South 82°37'52" West 90.00 feet to a point; 5) North 51°51'33" West 50.13 feet to an existing iron pipe tack, said pipe being the recorded southwestern property corner of said Foust Family Properties, LLC and one of the recorded southeastern property corners of (now or formerly) Martin L. Shoffner as described and recorded in Deed Book 3440, Page 381 in said Alamance County Registry; thence, along the recorded western property line of said Foust Family Properties, LLC and the recorded eastern property line of said Martin L. Shoffner the following five (5) bearing and distances: 1) North 19°52'02" East 666.29 feet to an existing iron pipe; 2) North 19°48'21" East 185.10 feet to an existing iron pipe; 3) North 02°46'16" East 40.69 feet to an existing iron pipe; 4) with a curve to the left, having a radius of 49.40 feet and a chord bearing and distance of North 41°29'22" East 32.35 feet to a new iron pipe; 5) North 19°49'50" East 25.35 feet to the point of beginning, containing an area of 52.172 acres, more or less.

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 10th day of August, 2021.

Gerald R. Peterman, Mayor

ATTEST:



**Truby Apartments (CR2006)** 

Type of Request: Conditional Rezoning

**Meeting Dates** 

Planning Board on January 19, 2021 City Council on 2/9, 3/9, 4/13, 5/11, 6/8, 7/13, 8/10, & 9/14

\*The applicant has requested the application be withdrawn\*

#### **Contact Information**

Travers Webb <u>trav93@icloud.com</u>, 336-414-7777 619 E Harden Street, Graham NC 27253

# \*Please find the withdrawal request below\*

#### **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. This project would 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.

From: John Burton < john.burton@burtonls.com>

Sent: Tuesday, August 31, 2021 3:26 PM

To: Cameron West

Cc: Amanda Hodierne; Alex Perkins; Jack Burton

**Subject:** Rezoning withdrawal truby drive

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

#### Dear Madame Clerk,

We hereby request the withdrawal of rezoning petition CR2006 "Truby Apartments, Request by Second Partners, LLC", effective immediately. Please let us know if you need any further action on our part to effectuate this request.

Thanks very much,

Second Partners, LLC By: John and Jack Burton

This message, and any associated files, may contain confidential and/or privileged information. If you are not the intended recipient or authorized to receive this for the intended recipient, you must not copy, disclose, use or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by sending a reply e-mail and delete this message. Thank you for your cooperation.

This email has been scanned by the Mailprotector Email Security Filtering System. For more information please visit <a href="https://mailprotector.com/filtering/">https://mailprotector.com/filtering/</a> or <a href="https://scr.cloud/email-hosting-and-security/">https://scr.cloud/email-hosting-and-security/</a>



# 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 152813	<b>Proposed Rezoning or Conditional Rezoning</b>
Street Address:	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:
Total Site Acres: _55 ±	Plane Son Alfacted
Property Owner: 2ND PRETNESS LC  Mailing Address: 2555 ST. JAMES DELVE #408  City, State, Zip: SOUTHPORT NC 28461  Applicant	Please See Attached Conditions
Property Owner Other	
Mailing Address: 0 2489 Willonsha Count	
Phone # 336 - 229 - 2273  Email: 5 h n . Burling Burling LS. Low  have completed this application truthfully and to the hest of	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
Signature of Applicant Date	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	Proposed Development
Street Address: Unaddressed Truby Drive	Project Name: Truby Devre Apartments
Tax Map#: 131432 GPIN: 8894453334	Proposed Zone (if applicable):
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:	Proposed Use(s) (from Sec. 10.135 Table of Permitted  Uses): MF - 22 THESE STORY BUILDING
☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54  Current Use:	Brief description, including information such as number of dwelling units, type of multifamily development, size and number of buildings, and other descriptive information:
Property Owner: Truby Deive Robity, LC	22 Bldgs - 24 mits - 1056
Mailing Address: 1360 Truby Deive	BEDROOMS - SEEKING
City, State, Zip: Than Ziver NC 27258	REZONE FROM I-1 to CR
Phone #	Site Plan Checklist
Applicant and Project Contact	Site Plan Checklist
Name: The LEADS GROW 76  ☐ Property Owner ☑ Engineer/Surveyor	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	Other Requirements
Mailing Address: 505 E. DAVIS STREET  City, State, Zip: BURLINGTON NC 27215  Phone # 336 - 227 - 8724	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
Email: chuffine OBOgmailicon	NCDOT 3-Party Encroachment Agreement, if things such as a sidewalk or utility connection is proposed in the right-of-way
I hereby make application for review of a  Preliminary Final Site Plan.	Flood Elevation Certificate, if there is Special Flood Hazard Area near the development
I have completed this application truthfully and to the best of my ability. I have prepared the site plan in accordance with	Floodplain Development Permit, if development is proposed in a Special Flood Hazard Area
the Site Plan Checklist and have submitted the required plans.	Stormwater Permit, if one or more acres is disturbed
Signature of Applicant Date	Erosion Control Permit from the NC Dept. of Environment and Natural Resources if the land disturbing activity exceeds one acre
Signature of Applicant Date	FOR OFFICE USE ONLY
SUBMIT 4 COPIES AND 1 PDF OF THE SITE PLAN	DEVID# Fee \$

#### <u>Truby Drive Apartments – Proposed Conditional Zoning Conditions</u>

#### (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

From: John Burton < john.burton@burtonls.com>

Sent: Tuesday, August 31, 2021 3:26 PM

To: Cameron West

**Cc:** Amanda Hodierne; Alex Perkins; Jack Burton

**Subject:** Rezoning withdrawal truby drive

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

Dear Madame Clerk,

We hereby request the withdrawal of rezoning petition CR2006 "Truby Apartments, Request by Second Partners, LLC", effective immediately. Please let us know if you need any further action on our part to effectuate this request.

Thanks very much,

Second Partners, LLC
By: John and Jack Burton

This message, and any associated files, may contain confidential and/or privileged information. If you are not the intended recipient or authorized to receive this for the intended recipient, you must not copy, disclose, use or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by sending a reply e-mail and delete this message. Thank you for your cooperation.

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Choose one...

# 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, March 9, 2021, April 13, 2021, May 11, 2021, June 8, 2021, July 13, 2021, August 10, 2021

I move that the application be <b>APPROVED</b> .
<ul> <li>I move that the application be APPROVED with the following conditions.</li> <li>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.</li> <li>[insert additional conditions]</li> </ul>
☐ I move that the application be <b>DENIED</b> .
Choose one
The application is consistent with <i>The Graham 2035 Comprehensive Plan</i> .
The application is not fully consistent with <i>The Graham 2035 Comprehensive Plan</i> .
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 14 <sup>th</sup> day of September 2021.
G. Travers Webb, agent for Second Partners, LLC
This report reflects the decision of the City Council, this the 14 <sup>th</sup> day of September 2021.
Attest:
Gerald R. Peterman, Mayor
Renee M. Ward, CMC, Interim City Clerk



### 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 <b>recommend APPROVAL</b> of the application as presented.
I move to <b>recommend APPROVAL with conditions</b> 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 <b>is consistent</b> with <i>The Graham 2035 Comprehensive Plan</i> .
The application is not fully consistent with <i>The Graham 2035 Comprehensive Plan.</i>
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 19 <sup>th</sup> day of January, 2021.
Attest:
Vec Wad
Dean Ward, Planning Board Chairman
Debbie Jolly, Secretary



Jimmie Kerr Multi-Family (RZ2104)

Type of Request: Rezoning

**Meeting Dates** 

Planning Board on April 20, 2021 City Council on May 11, 2021, June 8, 2021, July 13, 2021, August 10, 2021

#### **Contact Information**

G. Travers Webb, III PO Box 1429, Graham NC 27253 trav93@icloud.com, 336-414-7777

#### **Summary**

This is a request to rezone the property from I-1 to R-MF (residential multi-family). The property currently is vacant, and is surrounded by general business and industrial districts, including a hotel, truck stop, and packaging facility, the latter two of which signal frequent semi-truck traffic along this portion of Jimmie Kerr Road.

While this meets many of the standards of the Graham 2035 Comprehensive Plan, the potential magnitude of the density of development, unknown site layout, the limited sewer capacity, and the potential traffic issues suggest that this development may be better served by one comprehensive Conditional Zoning.



#### Location

Jimmie Kerr Road

GPIN: 8894469497, 8894469816

#### **Current Zoning**

Light Industrial (I-1)

#### **Proposed Zoning**

Residential Multi-Family (R-MF)

#### **Overlay District**

none

#### **Surrounding Zoning**

I-1, I-2, B-2

#### **Surrounding Land Uses**

Light Industrial, Heavy Industrial, General Business, Vacant

#### Size

Approximately 37 acres (approx. 11 ac. within City limits

#### **Public Water & Sewer**

**Limited Sewer Capacity** 

#### Floodplain

No

#### **Staff Recommendation**

Denial

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

#### **Applicable Policies and Recommendations**

- 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 a large housing complex here may result in additional congestion concerns.
  - 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 site would connect to existing city infrastructure, however, we have limited sewer capacity at this location.
  - 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.
  - 2.2.1 Job Development. Provide support and assistance to the business recruitment efforts of the Alamance County Chamber of Commerce, seeking to attract a range of

employment opportunities. The Chamber is actively attempting to recruit businesses like those that would choose to occupy this parcel.

#### <u>Description of Development Type</u>

Residential District (Multi-Family)

This district is intended for multifamily residences to be the principal land use and to create relatively high-density neighborhoods.

#### Appropriate Form

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

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

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

#### **Desired Pattern**

Density of 3 to 6 DU/acre

#### **Staff Recommendation**

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

Rezoning the property would be in consistence with the Mixed Use Commercial District, however
the lack of current municipal resources, and site design considerations support a comprehensive
Conditional Zoning for this site, in accordance with Strategies 2.3.1 and 4.3.1.



# Application for REZONING or CONDITIONAL REZONING

RECEIVED

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

PLANNING DEPT.

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	Proposed Rezoning or Conditional Rezoning
Street Address: 0 Jimmie Kerr Road (S.R. #1928)	Proposed Zoning District(s):
Tax Map#: 152814&152815 GPIN: 8894469497 & 8894469816	☐ R-7 ☐ R-9 ☐ R-12 ☐ R-15 ☐ R-18
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	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:
Total Site Acres: 10.75 Ac in Graham ETJ (37.79 Ac Total)	
Property Owner: Julie Wynn Snead & MAC MOM, L.L.C.	<i>* * *</i>
Mailing Address: 528 N Carr St.	
City, State, Zip: Mebane, NC 27302	
Applicant	
Property Owner Other Contracted 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: G. Travers Webb, III	
Mailing Address: PO Box 1429  Graham, No 27252	For Conditional Paranings this and the second
City, State, Zip: Graham, Nc 27253  Phone # (336) 414-7777  Email: trav93@icloud.com	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.
I have completed this application truthfully and to the best of my ability.  3 25 2	Site Plan Review Application must be attached to this application for Conditional Rezonings
Signature of Applicant Date	Office Use Only. DEVID# 772104



# 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.

Jimmie Kerr Multi-Family (RZ2104)

**Type of Request** 

Rezoning

**Meeting Dates** 

Planning Board on April 20, 2021 City Council on May 11, 2021

I move to <b>recommend APPROVAL</b> 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 <i>The Graham 2035 Comprehensive Plan.</i>
The action is reasonable and in the public interest for the following reasons:  5+rategies 2.3.1, 4.3.1, and 5-1.1
This report reflects the recommendation of the Planning Board, this the 20 <sup>th</sup> day of April, 2021.
Attest:
Vec Wad
Dean Ward, Chair
Debbie Golly
Debbie Jolly, Secretary U



# **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.

#### Jimmie Kerr Multi-Family (RZ2104)

#### **Type of Request**

Rezoning

#### **Meeting Dates**

Planning Board on April 20, 2021 City Council on May 11, 2021, June 8, 2021, July 13, 2021, August 10, 2021, September 14, 2021

Choose one
I move that the application be <b>APPROVED</b> .
I move that the application be <b>DENIED</b> .
Choose one
The application is consistent with <i>The Graham 2035 Comprehensive Plan</i> .
The application is not fully consistent with <i>The Graham 2035 Comprehensive Plan</i> .
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 14 <sup>th</sup> day of September 2021.
Attest:
Gerald R. Peterman, Mayor
Renee M. Ward, CMC, Interim City Clerk



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

Type of Request: Conditional Rezoning

#### **Meeting Dates**

Planning Board on July 20, 2021 City Council on August 10, 2021 September 12, 2021

#### **Contact Information**

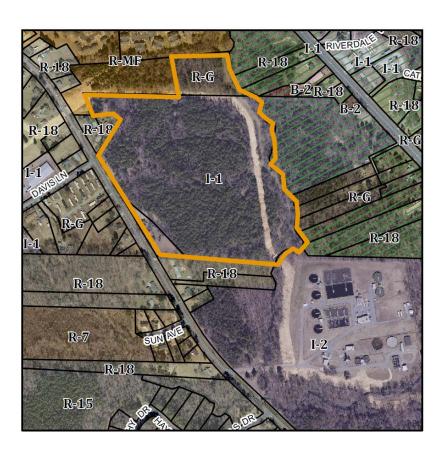
Ben Green, Hyconic Holdings, LLC

<u>Bgreen613@gmail.com</u> (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, prefabricated 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* 

#### **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:

different options for families of various sizes.

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.

#### **Description of Development Type**

Suburban Residential

#### **Development Toolkit Checklist**

Located near a major thoroughfare

Predominantly detached singlefamily 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

### **RECEIVED**



### Application for JUN REZONING or CONDITIONAL REZONING

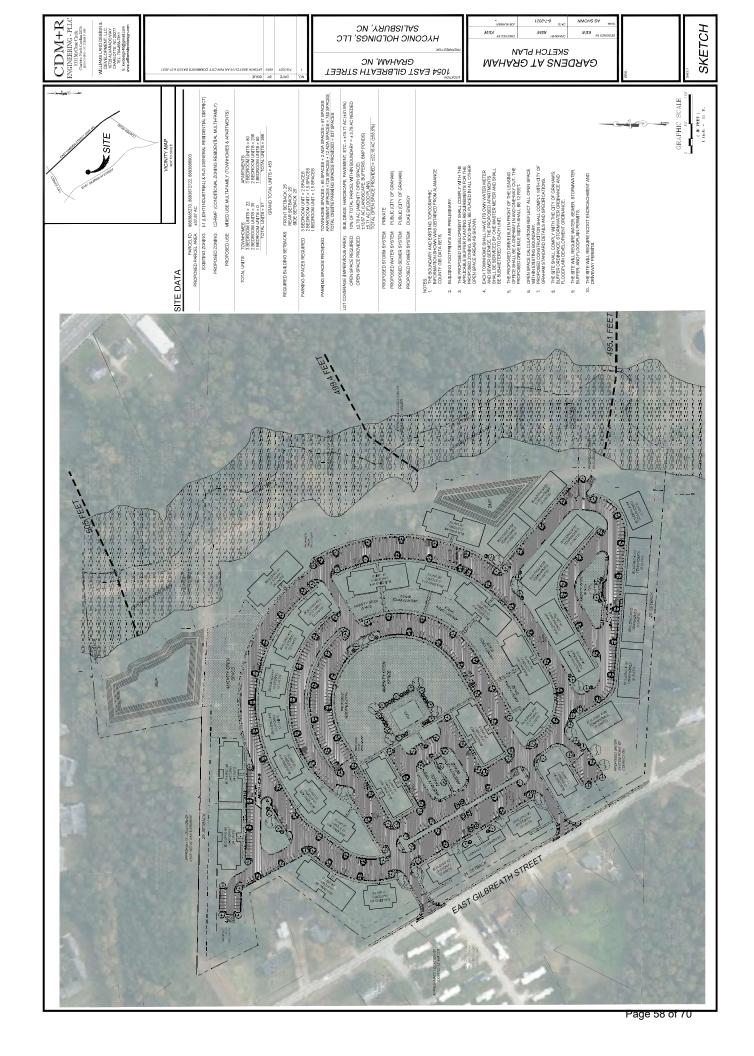
JUN 2 4 2021

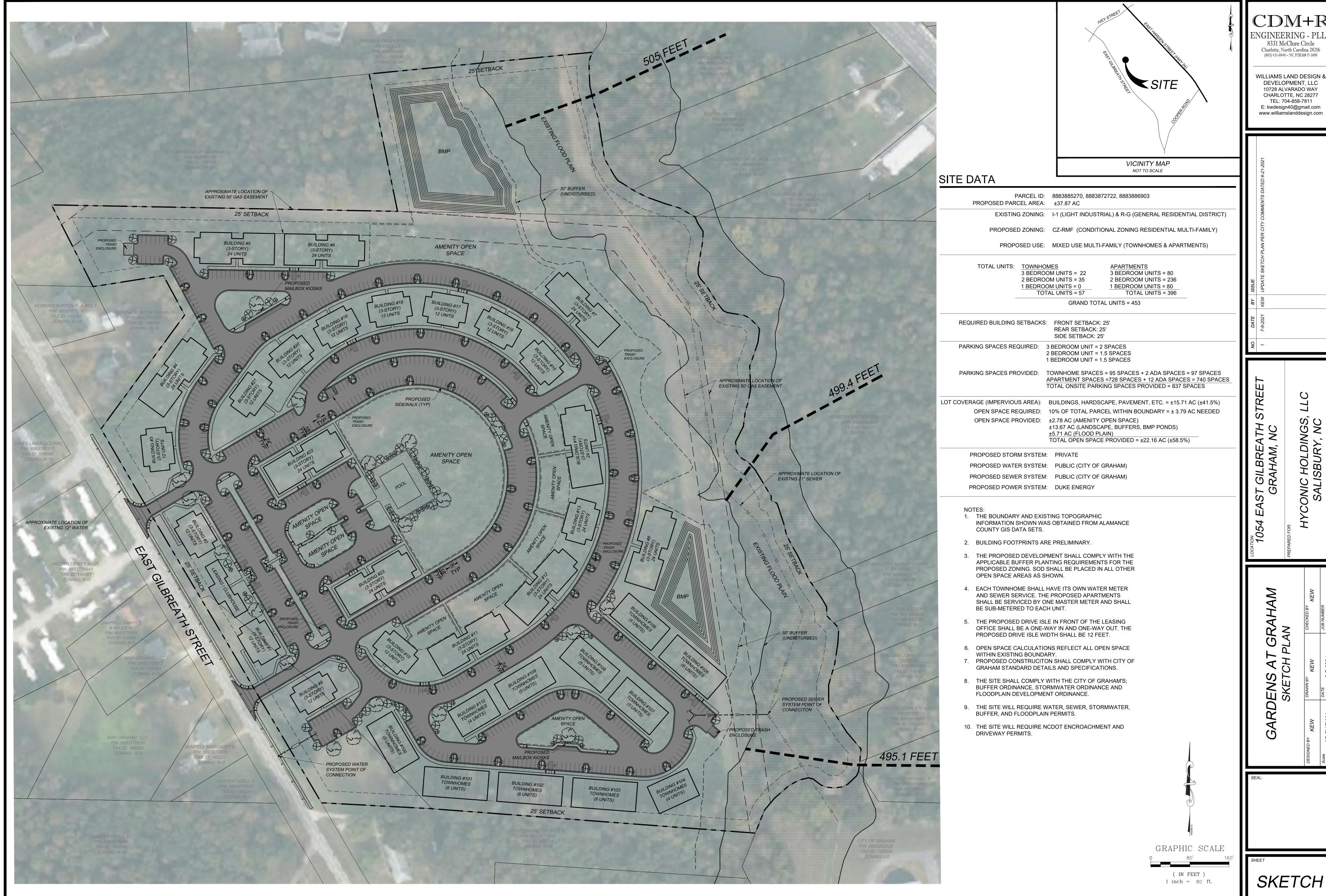
P.O. Drawer 357 201 South Main Street Graham, NC 27253 (336) 570-6705

ANNING DEPT. 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	Proposed Rezoning of Conditional Rezoning
Street Address: 1054 EAST GILBREATH STREET	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:
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	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:
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	TOWNH-OMES (2-story) 21 Buddoom units @ +1-1.440 sf 70 - 2 buddoom units @ +1-1.260 sf 70 - 2 buddoom units @ +1-1.260 sf Total Townhome dwelling units = 112  APARTMENTS (3 story) 11 full size buddings @ +2-4.4.865 sf each 9 half size buddings @ +2-4.4.865 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 panding rezoning and sketch plan approval
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.	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
Signature of Applicant Date	Office Use Only. DEVID#





NGINEERING - PLLO

**SKETCH** 



Debbie Jolly, Secretary

# 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)

<u>Type of Request</u> Conditional Rezoning

Meeting Dates

Planning Board on July 20, 2021 City Council on August 10, 2021

I move to <b>recommend APPROVAL</b> of the application as presented.
I move to <b>recommend APPROVAL with conditions</b> of the application.
[insert additional conditions]
I move to recommend DENIAL.
The application is consistent with <i>The Graham 2035 Comprehensive Plan</i> .
The application is not fully consistent with <i>The Graham 2035 Comprehensive Plan.</i>
The action is reasonable and in the public interest for the following reasons:  5.1.1 Not housely variety nor devesely of neighborhousely
This report reflects the recommendation of the Planning Board, this the 20 <sup>th</sup> day of July, 2021.
Attest:
Dean Ward, Planning Board Chairman
Debbie Golly



# **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.

## Gilbreath Multifamily (CR2101)

### Type of Request

**Conditional Rezoning** 

#### **Meeting Dates**

Planning Board on July 20, 2021 City Council on August 10, 2021 City Council September 14, 2021

Choose one
I move that the application be <b>APPROVED</b> .
<ul><li>I move that the application be APPROVED with the following conditions.</li><li>[insert additional conditions]</li></ul>
I move that the application be <b>DENIED</b> .
Choose one
The application <b>is consistent</b> with <i>The Graham 2035 Comprehensive Plan</i> .
The application is not fully consistent with <i>The Graham 2035 Comprehensive Plan</i> .
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 14 <sup>th</sup> day of September 2021.
Ben Green, agent for DGT Properties LLC
This report reflects the decision of the City Council, this the 14 <sup>th</sup> day of September 2021.
Attest:
Gerald R. Peterman, Mayor
Renee M. Ward, CMC, Interim City Clerk

### **Cameron West**

From: Sent: To: Cc: Subject:	Ben Green Friday, September 3, 2021 10:20 AM Cameron West Kevin Williams Re: Council Meeting
oubject.	No. Council Weeting
[NOTICE: This message original open attachments unless you a	ated outside of the City of Graham, NC mail system <b>DO NOT CLICK</b> on <b>links</b> or are sure the content is safe.]
Cameron,	
Thanks for the reminder.	
In follow up to our conversatio month.	n yesterday, I have decided that I feel it's best to table this application until nex
Please table it one month.	
Please lest me what date and tin agenda items for that meeting.	me this would be rescheduled to. Also, please provide the date and time for the
Thank you	
Ben	
On Fri, Sep 3, 2021 at 9:15 AM	A Cameron West < <a href="mailto:cwest@cityofgraham.com">cwest@cityofgraham.com</a> > wrote:
Good morning Mr. Green,	
Just a reminder that agenda ite	ems for September 14 <sup>th</sup> Council Meeting are due at 12pm on Tuesday the 7 <sup>th</sup> .
I originally thought it was before	fore the end of the day but seems like I may have misspoke.
No rush! Just sending out a co	ourtesy reminder and update on changes.
Thanks!	
	1

Cameron West

City of Graham

Planner

(336)-570-6705

cwest@cityofgraham.com



### 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 City Council on September 14, 2021

**Contact Information** 

N/A

#### **Project Name**

Special Use Permits (AM2102) **Location** 

city-wide

**Current Zoning** 

not applicable

**Proposed Zoning** 

not applicable

**Overlay District** 

not applicable

**Staff Recommendation** 

Approval

#### **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.

#### 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 pen-nit 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.

#### 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 <u>Board of Adjustment</u> 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 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.

#### 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 <u>Board of Adjustment</u> for consideration along with the Planning Board's recommendations.

#### Section 10.143 Role of Board of Adjustment

For each application for a special use permit the Board of Adjustment, supported by staff and counsel, 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 <u>Board of Adjustment</u> 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 <u>Board of Adjustment</u> for calculation of the requisite majority.

(Section 10.143 amended 7/11/2006)

#### Section 10.144 Findings

In granting a special use permit, the <u>Board of Adjustment</u> 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 <u>Board of Adjustment</u>, Limitations

In granting a Special Use Permit, the <u>Board</u> 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 <u>Board of Adjustment</u> 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 <u>Board of</u> Adjustment membership shall be required to grant the request.

#### Section 10.147 Appeal

No appeal may be taken to the <u>City Council</u> from the action of the <u>Board of Adjustment</u> in granting or denying a special use permit. The <u>Board of Adjustment's</u> action on an application for a special use permit, like the <u>Board's</u> action on an application for an <u>appeal or variance</u>, 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 <u>Board of Adjustment</u> or with any other condition imposed by the <u>Board of Adjustment</u> upon the special use permit, the <u>permit</u> 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 City of Graham 2035 Comprehensive Plan and Other Adopted Plans

**Applicable Planning District Policies and Recommendations** 

• Not applicable; city-wide.

Planning District

<u>Development Type</u> All

#### **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 quasijudicial hearings before the City Council, thus allowing them to be more engaged in the democratic process of public input and legislative discretion.



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.

#### **Special Use Permits (AM2102)**

### **Type of Request**

**Text Amendment** 

#### **Meeting Dates**

Planning Board on July 20, 2021 City Council on August 10, 2021 City Council on September 14, 2021

Choose one
☐ I move that the text amendment be <b>APPROVED</b> .
☐ I move that the text amendment be <b>DENIED</b> .
Choose one
The text amendment is consistent with <i>The Graham 2035 Comprehensive Plan</i> .
☐ The text amendment <b>is not fully consistent</b> with <i>The Graham 2035 Comprehensive Plan</i> .
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 14 <sup>th</sup> day of September 2021.
Attest:
Gerald R. Peterman, Mayor
Renee M. Ward, CMC, Interim City Clerk