

City of Graham City Council
Regular Meeting Agenda
November 09, 2021
6:00 p.m.



- I. CALL TO ORDER:** Mayor Jerry Peterman
- II. INVOCATION & PLEDGE OF ALLEGIANCE**
- III. CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST:** Darby Terrell, City Clerk
- IV. CONSENT AGENDA:**
 - a. To approve the minutes of the October 12, 2021 and October 22, 2021, City Council regular and special sessions.
 - b. To adopt the playUNITED inclusion policy for Recreation and Parks for staff training, facility improvements, program planning, and reporting in order to create and promote inclusion for all members of the community.
 - c. To approve the following tax releases in the amount of \$1,069.66:

CITY OF GRAHAM RELEASE ACCOUNTS				
NOVEMBER				
ACCT#	YEAR	NAME	REASON FOR RELEASE	AMOUNT RELEASED
674787	2021	JEANNE W OWEN LIFE ESTATE	QUALIFIED FOR HOMESTEAD EXEMPTION	\$284.16
6205	2021	BLACK, KAY S	QUALIFIED FOR HOMESTEAD EXEMPTION	\$369.41
383837	2021	FALCON INDUSTRIES INC	OUT OF BUSINESS IN 2019	\$12.77
667917	2021	PRIMO WATER CORP	DOUBLE BILLED WITH ACCT #491370	\$8.60
699233	2021	ABBOTT LABORATORIES INC	NOT IN CITY OF GRAHAM	\$178.39
658918	2021	CIT BANK N A	VALUE CORRECTIONS	\$216.33

- V. OLD BUSINESS:**
 1. 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-R, (Conditional Residential) to allow for 46 townhomes and 118 single family lots (GPIN 8883885270, 8883872722, 8883886903). (Tabled from the October 12, 2021, City Council Meeting.) (CR2101)
 2. 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 October 12, 2021, City Council Meeting.) (AM2102)

VI. NEW BUSINESS

1. North Carolina General Assembly Senate Bill 300 (Session Law 2021-18), mandates local governments to amend their Code of Ordinances regarding ordinances that impose criminal penalties to mirror what has been signed into law by Governor Cooper. The City attorneys and staff have made changes and ask Council to consider adopting these amendments to the City of Graham Code of Ordinances to be compliance with Senate Bill 300.

VII. PUBLIC COMMENT PERIOD

VIII. CITY COUNCIL COMMENTS

IX. CITY STAFF COMMENTS

X. ADJOURN

**CITY OF GRAHAM
CITY COUNCIL MEETING MINUTES
TUESDAY, OCTOBER 12, 2021**

The City Council of the City of Graham held a regularly scheduled meeting beginning at 6:00 p.m. on October 12, 2021, in the Council Chamber of the Municipal Building located at 201 South Main Street, Graham, NC.

Councilmembers Present:

Mayor Jerry Peterman
Mayor Pro Tem Chip Turner- *Absent*
Councilmember Melody Wiggins
Councilmember Jennifer Talley
Councilmember Ricky Hall

Staff Present:

Aaron Holland, Interim City Manager
Renee Ward, Interim City Clerk
Bryan Coleman, City Attorney
Bob Ward, City Attorney - *Absent*
Justin Snyder, Planning Director
Darby Terrell, City Clerk

CALL TO ORDER:

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

Mayor Peterman, announced Mayor Pro Tem Chip Turner was feeling well and wished him a quick recovery.

CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST AND OATH OF OFFICE:

Interim City Clerk Renee Ward administered the oath of office to Darby Terrell as the City Clerk for the City of Graham, effective October 12, 2021.

There were no conflicts of interested reported.

WASTE WATER TREATMENT PLANT- PROJECT UPDATE:

Interim City Manager Aaron Holland, introduced Hazen & Sawyer representatives, Mr. Colin Beck, 1343 Rodessa Run, Raleigh, NC, presented the update to the City Council.

Mr. Beck stated Council that the project was to allow the Waste Water Treatment Plant to increase capacity, improve treatment and reliability of the plant, and to insure wet weather resiliency for the plant. Mr. Beck reminded Council that a grant from the North Carolina Department of Environmental Quality (NCDEQ) of \$30,694,000, would be used towards funding this project. Mr. Beck then explained that previous comments from NCDEQ on requirements to update the plant would cost roughly five million dollars more, and with NCDEQ granted full funding of the extra expenses. Mr. Beck stated that due to current circumstances there was an increase in the overall cost of the project that would add roughly ten million dollars more for the total cost of the project. Mr. Beck stated that Hazen & Sawyer had submitted a new application on September 30, 2021, for the exact funding needed, and they were confident that NCDEQ would grant the additional amount to the City. He stated a decision by NCDEQ would not be made until March of 2022.

Mr. Beck stated Council, that there would be a design meeting with the City staff in November. Mr. Beck explained the next steps after March 2022. Mr. Beck stated the Council of the tentative schedule for next year, they expect to start advertising for the project in April 2022, have an accepted bid in June 2022, and the construction in August of 2022.

Councilmember Talley asked Mr. Beck if he anticipated any other additional costs. Mr. Beck responded saying that Hazen & Sawyer does not currently anticipate any additional costs due to the bidding climate, but they would be watching closely on the building materials costs.

Mayor Peterman inquired about the lifespan of the Waste Water Treatment Plant, and would this be discussed again in the near future. Mr. Beck answered that most building infrastructure had a lifespan of 20 years.

CONSENT AGENDA:

- a. To approve the minutes of the September 14, 2021, City Council regular session meeting.
- b. To approve an Engineering Contract #2 by Alley, Williams, Carmen & King, in the amount of \$340,500, which are fully reimbursable through the NCDEQ State Loan and Water Infrastructure Fund Grant, for the Boyd Creek Pump Station.
- c. To approve administrative edits the Development Ordinance pursuant to Sections 10.4(A) and (B) to correct grammar, spelling, punctuation, numbering, capitalization, and other non-substantive changes to. These changes are non-substantive and do not change the meaning of the ordinance. (To view the updated Development Ordinance follow the link <https://www.cityofgraham.com/ordinances/>)
- d. To approve a Sewer Disconnection Policy for delinquent “sewer only” accounts.
- e. To award a contract, in the amount of \$275,000, to Stewart-Cooper-Newell Architects for design services for the proposed fire station project.
- f. To approve a Sanitary Sewer Permitting Policy to limit the accumulation of wastewater permitted at State mandated flows per bedroom (Paper Flow) which impacts available wastewater treatment and pump station capacity in order to maintain capacity for future projects.
- g. To approve Water and Wastewater System Extension and Connection policy to extend its water and wastewater systems to better serve the needs of the citizens of Graham as well as those who desire to connect to the City’s water and wastewater system.
- h. To approve the following tax releases in the amount of \$2,580.33:

CITY OF GRAHAM RELEASE ACCOUNTS				
OCTOBER				
ACCT #	YEAR	NAME	REASON FOR RELEASE	AMOUNT RELEASED
11892	2021	KEYSTONE GROUP INC	DISCOVERED NEW 2021 OWNER, RELEASE BUILDER	\$1,074.40
469640	2021	COBLE, REVOCABLE LIVING TRUST	QUALIFIED FOR HOMESTEAD EXEMPTION	\$180.71
684791	2021	GRANGER, CHARLES H	QUALIFIED FOR HOMESTEAD EXEMPTION	\$356.07
697205	2021	MABE, STEPHEN GLENN	BOAT LOCATED IN BURLINGTON	\$9.38
699210	2021	STUDION ELM INC	BUSINESS LOCATED IN SAXAPAHAW	\$104.52
700133	2021	GRAHAM EXPRESS WASH LLC	TAX DOUBLE BILLED	\$855.25
TOTAL RELEASES				\$2,580.33

Mayor Peterman asked for a motion to approve a, b, c, d, f, and h, of the consent agenda. Councilmember Hall moved, and Councilmember Talley seconded. The motion passed unanimously.

Councilmembers pulled consent agenda item e and g to discuss further.

CONSENT AGENDA ITEM (g):

Councilmember Talley inquired about consent agenda item g. Interim City Manager Holland explained that this policy was a formalized version of the current policy being used by staff, which was very similar to the City of Mebane's due to both cities having sewer connections. Mr. Holland explained that with Council approval staff could now provide this policy to citizens.

Councilmember Hall moved to approve consent agenda item g, seconded by Councilmember Talley, motion passed unanimously.

CONSENT AGENDA ITEM (e):

City Council asked questions on consent agenda item e, Fire Chief Tommy Cole, for an update on the proposed fire station project.

Chief Cole informed Council on the progress of a new fire station. He stated that the staff Stewart-Cooper-Newell Architects for the design of the new station based on their experience with building modern-day fire stations, and in repurposing old city buildings. Chief Cole stated that completion of the design would be in early spring.

Mayor Peterman motioned to approve consent agenda item e, seconded by Councilmember Wiggins, motion passed unanimously.

OLD BUSINESS:

ITEM 1: REZONING – E. GILBREATH STREET

A public hearing had 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) (Planning Board has requested this item to be tabled to the November 9, 2021, City Council Meeting)

City Council discussed following the recommendation to table this item as requested from the Planning Board.

Councilmember Hall motioned that we postponed one and two, seconded by Councilmember Talley. During discussion Councilmember Wiggins disagreed and Mayor Peterman asked to act one at a time.

Councilmember Hall corrected the motion to postpone motion one, carrying the second from Councilmember Talley. The motion carries unanimously.

ITEM 2: SPECIAL USE PERMITS – TEXT AMENDMENT TO DEVELOPMENT ORDINANCE

A public hearing had 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) (Planning Board has requested this item to be tabled to the November 9, 2021, City Council Meeting)*

Councilmember Wiggins expressed concern about the length of time it had taken Council to approve this item. She stated the desire to give staff time to review the Special Use's and Special Use permit process, back to Council with a recommendation. Council discussed this option. Planning Director, Justin Snyder stated the Council that they could pull it, and when it was ready it would need to go through the process advertising process.

Councilmember Wiggins moved to pull Item 2 and delay it to allow staff the opportunity to work on it. Mayor Peterman seconded the motion. The motion was denied by a vote of 3 to 1. Noes Mayor Peterman, Councilmembers Hall and Talley.

Councilmember Hall moved to follow the Planning Boards request of tabling the request. Mayor Peterman seconded the motion. The motion passed 3 to 1. Noes, Councilmember Wiggins.

PUBLIC COMMENT PERIOD

There were no public comments.

CITY COUNCIL COMMENTS

Councilmember Hall asked if the old hosiery mill located on Parker Street and ask to board up windows due to receiving complaints from citizens. Planning Director Justin Snyder informed Council that staff would contact the owner and determine if there are any policy violations.

Councilmember Talley stated Council of one of the advisory committees' discussions about the practice of the pledge of allegiance and an invocation at the beginning of meetings. After a brief discussion Councilmember Talley asked Council for a consensus to have a policy to allowing boards and commissions

to include pledge of allegiance and an invocation. All members consented and agreed with Councilmember Talley.

Councilmember Talley gave updates on the City's Pumpkin Bash and ALCOVets events.

Mayor Peterman stated the Veterans Day Parade, would be held on Saturday, November 13, 2021, at 10:00 am.

CITY STAFF COMMENTS

Interim City Manager stated City Council of the Police Department's Community Survey. Mr. Holland offered staff's condolences to the family of Grace Baldwin, who served on several boards for the City and was very involved with the community.

Mary Faucette, Economic Development Coordinator, gave updates to Council on upcoming events and highlighted Neyra, a company that opened in Graham just three years ago, on their collaboration with Graham Recreation and Parks Department. She explained the company approached the department with the idea of resurfacing tennis courts at Cooke Park as a community service project. Neyra employees, along with the GRPD staff, had been resurfacing six tennis courts over the last several weeks. In addition to resurfacing the courts, they are adding permanent Pickle Ball lines to two of the courts. All work is expected to be completed this week. She also stated the Council about the new entrance sign and newly planted pink weeping cherry tree located in memory of Mickey Cheek.

- Historical Resources Commission (HRC) awarded Façade Grants
- October 14 the Graham High School Homecoming Parade downtown will be started at 6:00 p.m.
- October 23, Alamance County Car Show from 8:00 a.m. to 2:00 p.m.
- October 29, Pumpkin Bash event 6:00 p.m. to 9:00 p.m.
- October 21, Vision Forum at The Graham Mill, from 6:00 p.m. to 8:00 p.m.

CLOSED SESSION:

City Council would considered a Closed Session pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (6), to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

The Council decided not to go into Closed Session.

ADJOURN:

Upon motion Mayor Peterman, seconded by Councilmember Hall, and it resolved unanimously to adjourn. (6:39 p.m.)

Darby Terrell, City Clerk

CITY OF GRAHAM
CITY COUNCIL SPECIAL MEETING MINUTES
FRIDAY, OCTOBER 22, 2021

The City Council of the City of Graham held a special meeting beginning at 11:00 a.m. on October 22, 2021, in the Council Chamber of the Municipal Building located at 201 South Main Street, Graham, NC.

Councilmembers Present:

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

Staff Present:

Aaron Holland, Interim City Manager
Darby Terrell, City Clerk
Bryan Coleman, City Attorney
Bob Ward, City Attorney - *Absent*
Lorrie Andrews, Human Resources Director

CALL TO ORDER:

Mayor Jerry Peterman called the meeting to order and presided at 11:00 a.m. Mayor Peterman offered the invocation and everyone stood to recite the Pledge of Allegiance.

CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST:

Darby Terrell, City Clerk, asked Council to report any conflicts of interest. There were no conflicts of interest reported.

CLOSED SESSION:

City Council considered going into a Closed Session pursuant to N.C.G.S. §. 143-318-11 (a) (6), to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

Mayor Peterman stated the following staff and other non-council members would be attending the Closed Session:

- Aaron Holland, Interim City Manager
- Lorrie Andrews, HR Director
- Billy Clayton, Administrator of Police Department
- Megan Garner, Candidate
- Darby Terrell, City Clerk
- Bryan Coleman, City Attorney

Councilmember Ricky Hall motioned to go into closed session, Mayor Pro Tem Chip Turner seconded, the motion was approved. The Council moved to a Closed Session at 11:03 a.m.

Councilmember Melody Wiggins motioned to open the Public Meeting, Mayor Pro Tem Turner seconded, the motion was approved. The Public Session opened back up at 12:23 p.m.

NEW BUSINESS:

ITEM 1: CONTRACT- NEW CITY MANAGER

Mayor Peterman made the following statement, “We have discussed the position of City Manager and have extended an offer of employment and contract to Ms. Megan Garner, effective November 15, 2021.” The Mayor Peterman motioned the above statement, Councilmember Wiggins seconded the motion, and it was approved unanimously.

PUBLIC COMMENT PERIOD

Tom Boney, Alamance News, asked for a copy of the contract between the City of Graham and Ms. Megan Garner. Mr. Boney also asked if Ms. Garner had accepted the position.

Bryan Coleman, City Attorney, informed Mr. Boney that since the contract had been approved, Mr. Boney would receive a copy of the contract. Aaron Holland, Interim City Manager, also informed Mr. Boney that only the contract terms had been approved on both sides and that Ms. Garner would need to sign the approved contract.

CITY COUNCIL COMMENTS

Councilmember Jennifer Talley welcomed Ms. Garner to the City of Graham.

ADJOURN

Councilmember Ricky Hall motioned to adjourn at 12:34 a.m., Mayor Pro Tem Chip Turner seconded the motion, the motion passed.

Darby Terrell, City Clerk



STAFF REPORT

SUBJECT:	GRPD'S PLAY UNITED INCLUSION POLICY
PREPARED BY:	BRIAN FAUCETTE, DIRECTOR OF RECREATION AND PARKS

REQUESTED ACTION:

Adopt the playUNITED Inclusion Policy.

BACKGROUND/SUMMARY:

As recommended in the recently adopted Graham Recreation and Park's (GRPD) 2020 Master Plan, the GRPD has developed a policy to assist staff in the development of programs and facilities. playUNITED will focus the Department's efforts to create and promote inclusion for all members of the community across all public spaces, places, facilities, and programs the department manages. The policy highlights staff training, facility improvements, program planning, and reporting.

FISCAL IMPACT:

Current operating funds used to provide staff training will be sufficient to maintain adequate inclusion training for staff. Current operating funds used to provide programs and special events will be sufficient to include inclusive elements. Future Capital Improvement Projects to build new facilities, purchase new equipment, and/or to replace/maintain aging equipment and facilities will reflect costs to include inclusive elements but those requests should not increase as a direct result of the inclusive equipment. As additional requests for service are received from the public, the GRPD will absorb costs into the current operating budget. As with all other GRPD facilities and programs, future budget requests will be evaluated to reflect the needs of the community.

STAFF RECOMMENDATION:

Adoption

SUGGESTED MOTION(S):

I move we adopt the playUNITED Inclusion Policy.



playUNITED

INCLUSION POLICY



Introduction

The Graham Recreation and Parks Department (GRPD) is committed to creating and promoting inclusion across all spaces, places, facilities and programs the department manages. The inclusion policy entitled playUNITED will guide the GRPD when developing facilities and programs, and establishing supporting practices to ensure everyone has access to the benefits of quality parks and recreation.

playUNITED Goals

playUNITED outlines GRPD's approach to ensuring inclusive environments and equitable opportunities for all community members in parks and recreation programs.

This policy ensures that:

- Community members utilizing GRPD facilities, programs and services have equitable and appropriate access, regardless of ability, race, age, sexual orientation, gender identity, religion or country of origin.
- GRPD staff, community partners and stakeholders engage in the support of all community members and promote inclusive behaviors in parks, recreation facilities and other GRPD managed spaces throughout the community.
- GRPD staff, community partners and stakeholders engage in the support of all community members and promote inclusive behaviors in recreation programs managed by the City.
- GRPD establishes and maintains an organizational infrastructure for management, oversight, implementation, and communication about and monitoring of the policy and its established goals and objectives.
- GRPD will continuously measure and seek to improve inclusive practices.

playUNITED applies to all participating community members, staff, and facilities which comprises the Graham Recreation and Parks Department system and programs.

Staff Training

GRPD staff will regularly participate in trainings grounded in effective training models using evidence-based content. Training will be comprehensive (covers multiple topics), based on credible research and delivered by qualified personnel. All new staff members will be quickly oriented to inclusive policies and practices.

The GRPD Inclusive Training Plan will include a minimum of 150 total hours of training per year for all staff. Fulltime staff members will each receive a minimum of 10 hours of training per year and part-time staff working more than 40 total hours will each receive a minimum of 3 hours of training. Trainings will address issues related to providing services (with a focus on recreation) for historically marginalized communities.

Trainings will include educational sessions at various conferences and workshops provided by the National Recreation and Parks Association, the North Carolina Recreation and Parks Association, Recreation Resources Service, local health care organizations and foundations and online resources.

At a minimum, topics will address:

- Respect and Civility
- Unconscious bias
- Cultural competency
- Sensitivity
- Preventing Discrimination and Harassment
- Creating an Inclusive Workspace

Organizational Support

GRPD and staff will establish organizational supports that create a social environment (including positive relationships among staff, youth, families and community) that encourages all to be inclusive. This includes:

Staff

Demonstrating an attitude of inclusion, including nondiscriminatory language and actions

Determining and addressing any potential unintended outcomes of activities, programs or parks to ensure they do not limit participation based on ability, age, sexual orientation, identity, religion or country of origin

Providing educational materials about inclusion to all constituents at community events

Sharing and discussing practices during community meetings

Agency

Developing an advisory group and/or community network of groups that support inclusive behaviors in the community

Assessing agency hiring practices to ensure staff is representative of the diverse community and is an equal-opportunity employer

Communications

Providing positive messages about diversity and inclusion through written and verbal messaging, posters, pictures and books

Facilities

Developing a plan to renovate GRPD facilities to meet minimum ADA standards where appropriate

Ensuring all new playgrounds will feature inclusive elements with playgrounds in the community and regional parks featuring a minimum of 50% inclusive elements

Reasonable Accommodations for Programs

GRPD will work with interested participants to create reasonable accommodations through a Request for Services procedure (website, printed applications, etc.). Requests should be submitted at the time of registration and/or four (4) weeks prior to the program start date. Certain accommodations, such as a program companion, require a minimum of eight (8) weeks.

Examples of accommodations the GRPD may provide:

- Allowing service animals in programs;
- Altering rules of games/activities, as long as it does not fundamentally alter the purpose of the game/activity;
- Relocating the game/activity from a non-accessible facility to an accessible facility;
- Providing assisted listening devices
- Providing additional staff
- Providing enhanced medication support as outlined in the GRPD Medication Policy

This is not an exhaustive list of accommodations the GRPD will provide. When an accommodation is requested, we will work with the potential participant and any necessary additional service providers to enable successful participation. The GRPD will not provide service which are personal in nature such as feeding, toileting, or the changing of clothes. We also do not provide services that are invasive in nature such as catheterization or g-tube feeding. However, we will allow the person who requires such services to bring a personal care attendant, at no additional charge, to enable participation

Environmental Support

When appropriate, the GRPD will establish environmental supports and practices that promote inclusion. Examples of environmental supports include:

- Program adaptation for inclusion, depending on the individual needs and abilities of participants
- One-on-one trained staff support throughout the program
- Language interpretation, including but not limited to:
 - Sign language interpreters or language translation services
 - Audio/visual support
 - Large-print signage
- Accessible transportation
- Built environment enhancements, including modified equipment and ramps
- Gender-neutral restrooms and changing rooms
- Culturally sensitive program hours
- Signage and additional facility enhancements (artwork, murals, etc.) that promote diversity and inclusion

Continuous Measurement and Improvement

GRPD will work to continuously improve our diversity, equity and inclusion efforts, measuring the effectiveness of this policy through staff and community qualitative and quantitative feedback through meetings, community engagement events, public forums, surveys, and monitoring economic and health indicators. GRPD will establish a communications

plan for reporting on progress. The playUNITED report will be released to the public and posted on the GRPD website (www.grahamrecreationandparks.com) biannually beginning in July, 2023.

GRPD will monitor the following indicators to track progress of inclusive efforts:

- Does our agency communicate a vision that values the participation of all people as members of the community?
- Does our agency's improvement plan include inclusive practices with action steps to support implementation?
- Is there adequate, regularly scheduled, ongoing planning time for agency staff to collaborate on inclusive programs and events?
- Does our agency engage the entire community by providing multiple opportunities and modes for participating?
- Are there professional development opportunities for staff regarding inclusive strategies and supports?
- Are community members from targeted populations engaged in programing, utilizing facilities and taking part in future planning conversations?

Long-term indicators:

- Are there improvements in health (physical, social, mental) outcomes across targeted populations?

Resources

GRPD recognizes this policy is an ever-evolving resource and aims to keep it updated on a biannual basis. For more on diversity, inclusion, and equity, we encourage staff and community members to visit www.grahamrecreationandparks.com or the National Recreation and Park Association's *Parks for Inclusion* website, www.nrpa.org/ParksForInclusion.

Glossary

The following definitions are recognized for historically marginalized audiences, including those with physical or cognitive disabilities, the LGBTQ+ community, racial and ethnic minorities, and new Americans (refugees and immigrants).

Individuals with a disability include those with:

- Hearing difficulty (e.g., deaf or having serious difficulty hearing)
- Vision difficulty (e.g., blind or having serious difficulty seeing, even when wearing glasses)
- Cognitive difficulty (e.g., because of a physical, mental or emotional problem, difficulties remembering, concentrating or making decisions)
- Ambulatory difficulty (e.g., having serious difficulty walking or climbing)
- Self-care difficulty (e.g., having difficulty bathing or dressing)
- Independent living difficulty (e.g., because of a physical, mental or emotional problem, having difficulty doing errands alone, such as visiting a doctor's office or shopping)

LGBTQ community (Lesbian, Gay, Bisexual, Transgender, Queer), defined as:

- Lesbian: A woman who is attracted to other women.
- Gay: A man who is attracted to other men.
- Bisexual: An individual who is attracted to both genders.
- Trans: An umbrella term that seeks to incorporate individuals whose gender identities do not match their biological sex, for example, someone who is born male-bodied and identifies as a woman.
- Queer or Questioning: Individuals who experience fluidity in their experience of sexuality or gender and, therefore, do not identify strictly as LGB or T. The term 'Queer' can also include those who do not identify as either gender.

Racial/Ethnic communities, as defined by the U.S. Census Bureau, are composed of several different race categories — black, American Indian, Asian, Pacific Islander, other, and two or more races. Hispanics are also considered a minority, although Hispanic or Latino, is defined by the U.S. Census Bureau as an ethnicity rather than as a race. Other considerations include religious communities.

New Americans include immigrants, refugees and/or noncitizens living in America

CITY OF GRAHAM
RELEASE ACCOUNTS

NOVEMBER

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
674787	2021	JEANNE W OWEN LIFE ESTATE	QUALIFIED FOR HOMESTEAD EXEMPTION	\$284.16
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383837	2021	FALCON INDUSTRIES INC	OUT OF BUSINESS IN 2019	\$12.77
667917	2021	PRIMO WATER CORP	DOUBLE BILLED WITH ACCT #491370	\$8.60
699233	2021	ABBOTT LABORATORIES INC	NOT IN CITY OF GRAHAM	\$178.39
658918	2021	CIT BANK N A	VALUE CORRECTIONS	\$216.33

TOTAL RELEASES \$1,069.66



STAFF REPORT

Prepared by Justin Snyder, Planning Director

Gilbreath Multifamily (CR2101)

Type of Request: Conditional Rezoning

Meeting Dates

Planning Board on October 19, 2021

City Council on October 12, 2021 (tabled); City

Council on November 9, 2021

Contact Information

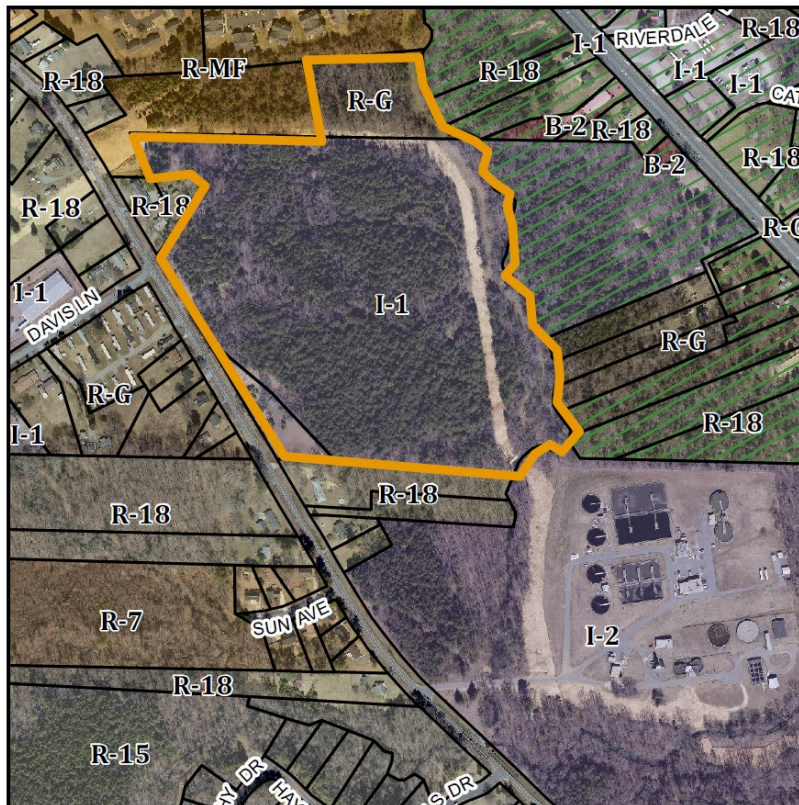
Ben Green, Hyconic Holdings, LLC

Bgreen613@gmail.com (732) 685-3989

415 Cedar Bridge Ave, Lakewood NJ 08701

Summary

This is a request to rezone the subject property from I-1 to C-MXR (Conditional Mixed-Use Residential). The application has been revised from its original configuration of 57 townhomes and 396 apartments. It now is designed for 46 townhomes and 118 single-family lots. The project is expected to be built out in phases. Staff is supportive of this design where the higher density is clustered in the center with the less dense, single-family units located on the perimeter. This has been continued from the October 12, 2021, City Council meeting due to the extent of proposed changes from the original plan.



Project Name

Gilbreath Multifamily
(CR2101)

Location

E Gilbreath Street

GPIN: 8883886903,
8883885270, 8883872722

Size

Approx. 38 acres

Proposed Density

4.3 DU/acre

Current Zoning

General Residential (R-G) &
Light Industrial (I-1)

Proposed Zoning

Conditional Residential (C-R)

Surrounding Zoning

R-18, R-G, R-MF, I-2

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. One of the main notes is that this development needs to provide a street stub-out to the property to the northwest of this site for future connectivity, if feasible.

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

Development Type: Suburban Residential

Applicable Policies and Recommendations

Strategy 4.3.1 **Land Use Patterns** Promote development of efficient land use patterns to allow continued quality and efficiency of water systems. Discourage the extension of water service into areas that are not most suitable for development. *Water and sewer services already exist in this area, with sufficient capacity for the proposed development.*

Policy 5.1.1: **Housing variety** Encourage a mix of housing types within Graham to increase choice. These can include single family dwelling units, multifamily dwelling units, small units, pre-fabricated homes, co-housing, and clustered housing. *This mixture of townhomes and single-family homes 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 single family lots to provide additional options for those wishing to reside in Graham.*

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

Description of Development Type

Suburban Residential

Development Toolkit Checklist

Located near a major thoroughfare

Predominantly detached single-family homes

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

Density of 3-6 DU/acre

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

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** of the rezoning to Conditional Residential (C-R) conditioned upon satisfying all TRC requirements and the recommended conditions from the Planning Board as follows:

1. A dog park shall be provided on site.
2. Landscaping in the buffer shall be appropriate to the buffer and shall be in accordance with City standards.
3. Street trees from the recommended planting list shall be provided as well as lot trees for each lot.
4. Playground equipment shall be provided.
5. A walking trail shall be provided adjacent to the river with a dedicated public access easement, and it shall connect to the internal sidewalk network.
6. A street stub-out shall be provided to the lot to the north of this site if feasible.

The following consistency statement supports this recommendation:

The proposed project is consistent with the Land Use Patterns (Policy 4.3.1), Housing Variety (Policy 5.1.1), Diverse Neighborhoods (Policy 5.2.1) and Multigenerational Housing (Policy 5.2.2) sections of the *Graham 2035 Comprehensive Plan*.



PLANNING BOARD Recommendation & Statement of Consistency

Per NCGS 160A-383, zoning regulations shall be made in accordance with an adopted comprehensive plan and any other officially adopted plan that is applicable. The Planning Board shall advise and comment on whether the proposed amendment is consistent with "The Graham 2035 Comprehensive Plan" and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with "The Graham 2035 Comprehensive Plan" shall not preclude consideration or approval of the proposed amendment by the City Council.

**Gilbreath Multifamily
(CR2101)**

Type of Request
Conditional Rezoning

Meeting Dates
Planning Board on October 19, 2021
City Council on November 9, 2021

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

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

[insert additional conditions]

☐ I move to **recommend DENIAL**.

1. A dog park shall be provided on site.
2. Landscaping in the buffer areas shall be appropriate to those areas.
3. Street and lot trees shall be provided for each lot.
4. A walking trail shall be provided along the entire eastern boundary adjacent to the river. A public easement shall be recorded over the trail and it shall connect to the sidewalks.

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

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

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

The plan is consistent with Strategies 4.3.1, 5.1.1, 5.2.1, and 5.2.2 in the Graham 2035 Comprehensive Plan.

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

Attest:

Dean Ward, Planning Board Chairman

Debbie Jolly, Secretary



Application for SITE PLAN REVIEW

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

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

Site

Street Address: 1054 EAST GILBREATH STREET

Tax Map#: 145232, 145233, 145227 GPIN: 8883885270, 8883872722, 8883886903

Current Zone(s): ☐ R-MF ☒ R-G ☐ Other R ☐ Cond.
☐ O-I ☐ B-1 ☐ B-2 ☐ B-3 ☒ I-1 ☐ I-2

Overlay District, if applicable:

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

Current Use: VACANT LAND

Property Owner: +/-37.87 AC

Mailing Address: DGT PROPERTIES, LLC

City, State, Zip: 4076 POND ROAD

Phone # BURLINGTO, NC 27215

Applicant and Project Contact

Name: BEN GREEN

☐ Property Owner ☐ Engineer/Surveyor

Other PURCHASER

Mailing Address: 415 CEDAR BRIDGE AVENUE, SUITE #6

City, State, Zip: LAKEWOOD, NJ 08701

Phone # (732) 685-3989

Email: bgreen613@gmail.com

I hereby make application for review of a

☒ Preliminary ☐ Final Site Plan.

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


Signature of Applicant

9/20/2021

Date

Proposed Development

Project Name: GILBREATH MIXED RESIDENTIAL

Proposed Zone (if applicable): C-R

Proposed Use(s) (from Sec. 10.135 Table of Permitted Uses): SINGLE FAMILY AND TOWNHOMES

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

THE PROPOSED +/-37.87 ACRE DEVELOPMENT WILL BE COMPRISED OF APPROXIMATELY 20 AC OF SINGLE FAMILY HOMES (118 LOTS TOTAL) AND APPROXIMATELY 3.6 AC OF TOWNHOMES (46 TOWNHOMES TOTAL) WITH THE REMAINING ACREAGE IN ROADS, HARDSCAPE, LANDSCAPE, BMP'S, OPEN SPACE, AND FLOOD PLAIN.

Site Plan Checklist

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

Other Requirements

☒ **NCDOT Driveway Permit**, if a new or relocated driveway is proposed on a NCDOT road, or for existing driveways if the use of the property is changing

☒ **NCDOT 3-Party Encroachment Agreement**, if things such as a sidewalk or utility connection is proposed in the right-of-way

☒ **Flood Elevation Certificate**, if there is Special Flood Hazard Area near the development

☒ **Floodplain Development Permit**, if development is proposed in a Special Flood Hazard Area

☒ **Stormwater Permit**, if one or more acres is disturbed

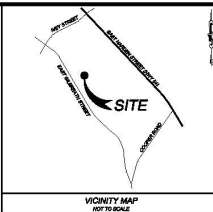
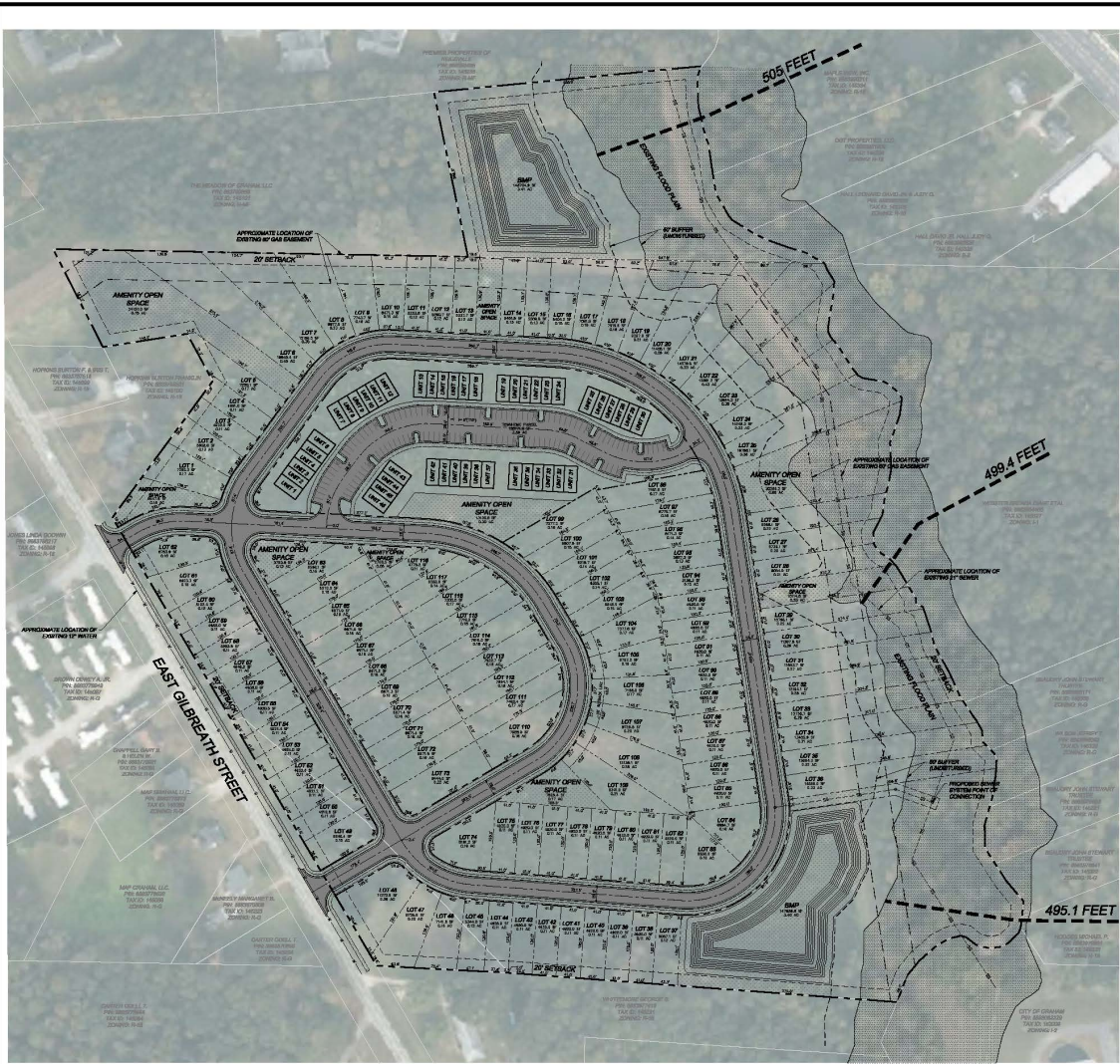
☒ **Erosion Control Permit** from the NC Dept. of Environment and Natural Resources if the land disturbing activity exceeds one acre

FOR OFFICE USE ONLY

DEVID#

Fee \$

SUBMIT 4 COPIES AND 1 PDF OF THE SITE PLAN

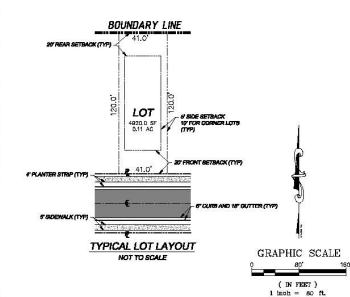


CDM+R
ENGINEERING - PLLC
8311 McCaskey Circle
Charlotte, NC 28217
TEL: 704.488.7911
E: kmcaskey@cdm+r.com
www.cdm+r.com

WILLIAMS LAND DESIGN &
DEVELOPMENT, LLC
1025 ALHAMBRA WAY
CHARLOTTE, NC 28217
TEL: 704.488.7911
E: kmcaskey@cdm+r.com
www.cdm+r.com

SITE DATA	
PARCEL ID:	080200027L 080307372L 080308002
PROPOSED PARCEL AREA:	1.11 AC
EXISTING ZONING:	I-1 (LIGHT INDUSTRIAL) & R-6 (GENERAL RESIDENTIAL DISTRICT)
PROPOSED ZONING:	O-R (CONDITIONAL RESIDENTIAL)
PROPOSED USE:	MIXED USE RESIDENTIAL (SINGLE FAMILY LOTS AND TOWNHOMES)
TOTAL UNITS:	SINGLE FAMILY: 118 TOWNHOMES: 46
GRAND TOTAL UNITS:	164 UNITS
REQUIRED BUILDING SETBACKS:	FRONT SETBACK: 20' REAR SETBACK: 20' SIDE SETBACK: 20'
PARKING SPACES PROVIDED:	TOWNHOME SPACES = 122 SURFACE PARKING SPACES SINGLE FAMILY LOTS = 2 OFF-STREET PARKING SPACES TOTAL SPACES PROVIDED = 350
INFILTRATION AREA:	AREA OF TOWNHOMES: 1.11 AC AREA OF SINGLE FAMILY LOTS: 1.11 AC
OPEN SPACE PROVIDED:	AREA OF TOWNHOMES: 1.11 AC AREA OF SINGLE FAMILY LOTS: 1.11 AC

- PROPOSED STORM SYSTEM: PRIVATE
PROPOSED WATER SYSTEM: PUBLIC (CITY OF GRAHAM)
PROPOSED SEWER SYSTEM: PUBLIC (CITY OF GRAHAM)
PROPOSED POWER SYSTEM: DUKIE ENERGY
- NOTES:
1. THE BOUNDARY AND EXISTING TOPOGRAPHIC INFORMATION SHOWN WAS OBTAINED FROM ALAMANCE COUNTY GIS DATA SETS.
2. BUILDING FOOTPRINTS ARE PRELIMINARY.
3. THE PROPOSED DEVELOPMENT SHALL COMPLY WITH THE APPLICABLE BUFFER PLANTING REQUIREMENTS FOR THE PROPOSED ZONING. 500' SHALL BE PLACED IN ALL OTHER OPEN SPACE AREAS AS SHOWN.
4. EACH TOWNHOME SHALL HAVE ITS OWN WATER METER AND SEWER SERVICE.
5. OPEN SPACE CALCULATIONS REFLECT ALL OPEN SPACE WITHIN EXISTING BOUNDARY.
6. PROPOSED CONSTRUCTION SHALL COMPLY WITH CITY OF GRAHAM STANDARD DETAILS AND SPECIFICATIONS.
7. THE SITE SHALL COMPLY WITH THE CITY OF GRAHAM'S BUFFER ORDINANCE, STORMWATER ORDINANCE AND FLOODPLAIN DEVELOPMENT ORDINANCE.
8. THE SITE WILL REQUIRE WATER, SEWER, STORMWATER, BUFFER, AND FLOODPLAIN PERMITS.
9. THE SITE WILL REQUIRE EROSION CONTROL AND DRIVEWAY PERMITS.



1054 EAST GILBREATH STREET
GRAHAM, NC

HYCONIC HOLDINGS, LLC
SALISBURY, NC

**MIXED USE RESIDENTIAL
DEVELOPMENT
SKETCH PLAN**

DATE: 8-20-2021
BY: J. MCASKEY
CHECKED BY: J. MCASKEY
APPROVED BY: J. MCASKEY

SKETCH



CARLISLE
ELEVATION B

MEREDITH
ELEVATION B

MEREDITH
ELEVATION A

MEREDITH
ELEVATION C

CARLISLE
ELEVATION A

Bellewood | Carolina Collection
THE FROST



Elevation C



Elevation A



Elevation B



EVERYTHING'S
INCLUDED®



THE FROST

Bellewood
Carolina Collection

Approx. 2,577 sq. ft.

5 bedrooms

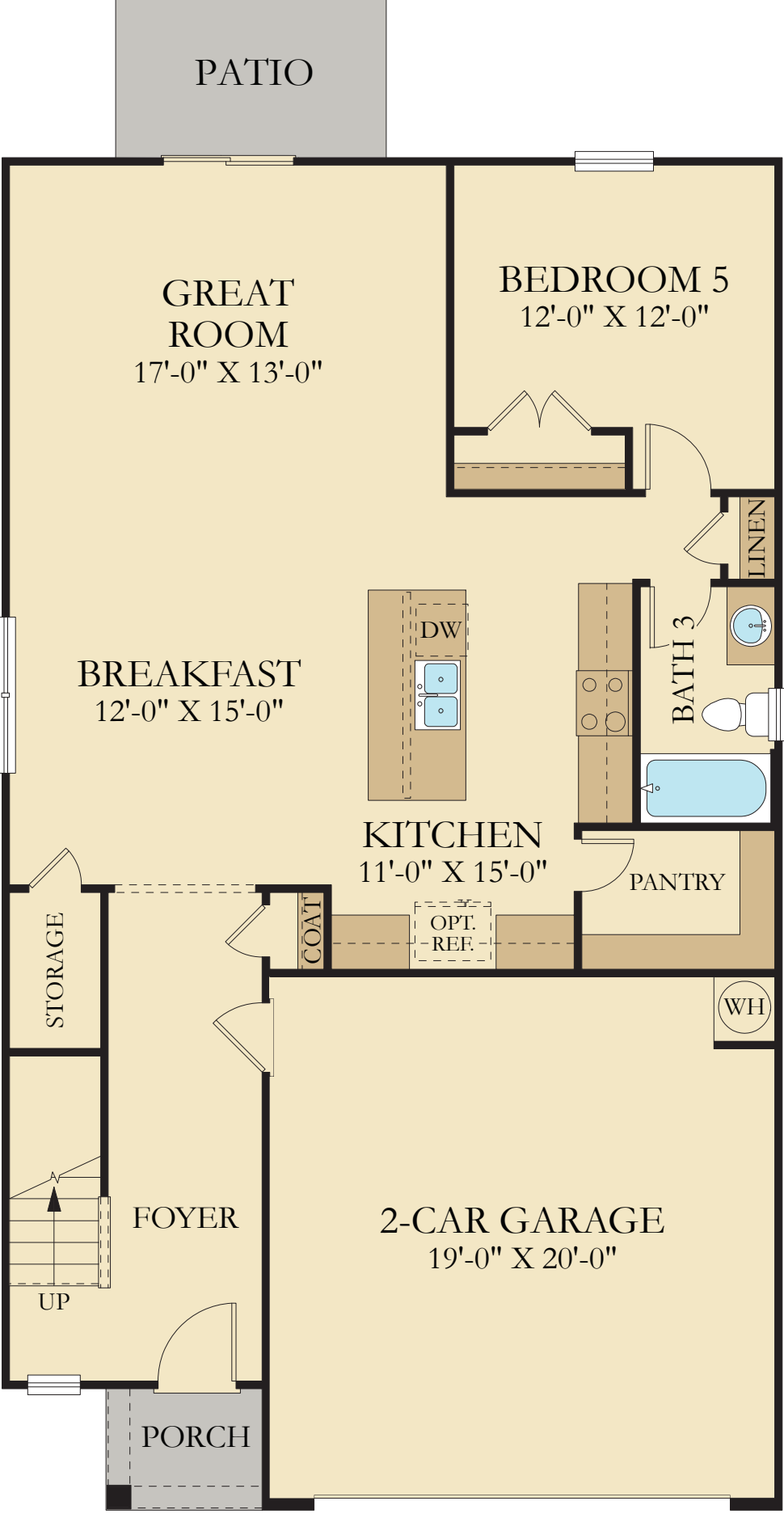
3 bathrooms

2 car garage



EVERYTHING'S
INCLUDED®

Lennar.com



FIRST FLOOR



SECOND FLOOR

Bellewood | Carolina Collection

THE DICKENSON



Elevation C



Elevation A



Elevation B



EVERYTHING'S
INCLUDED®



THE DICKENSON

Bellewood
Carolina Collection

Approx. 2,213 sq. ft.

5 bedrooms

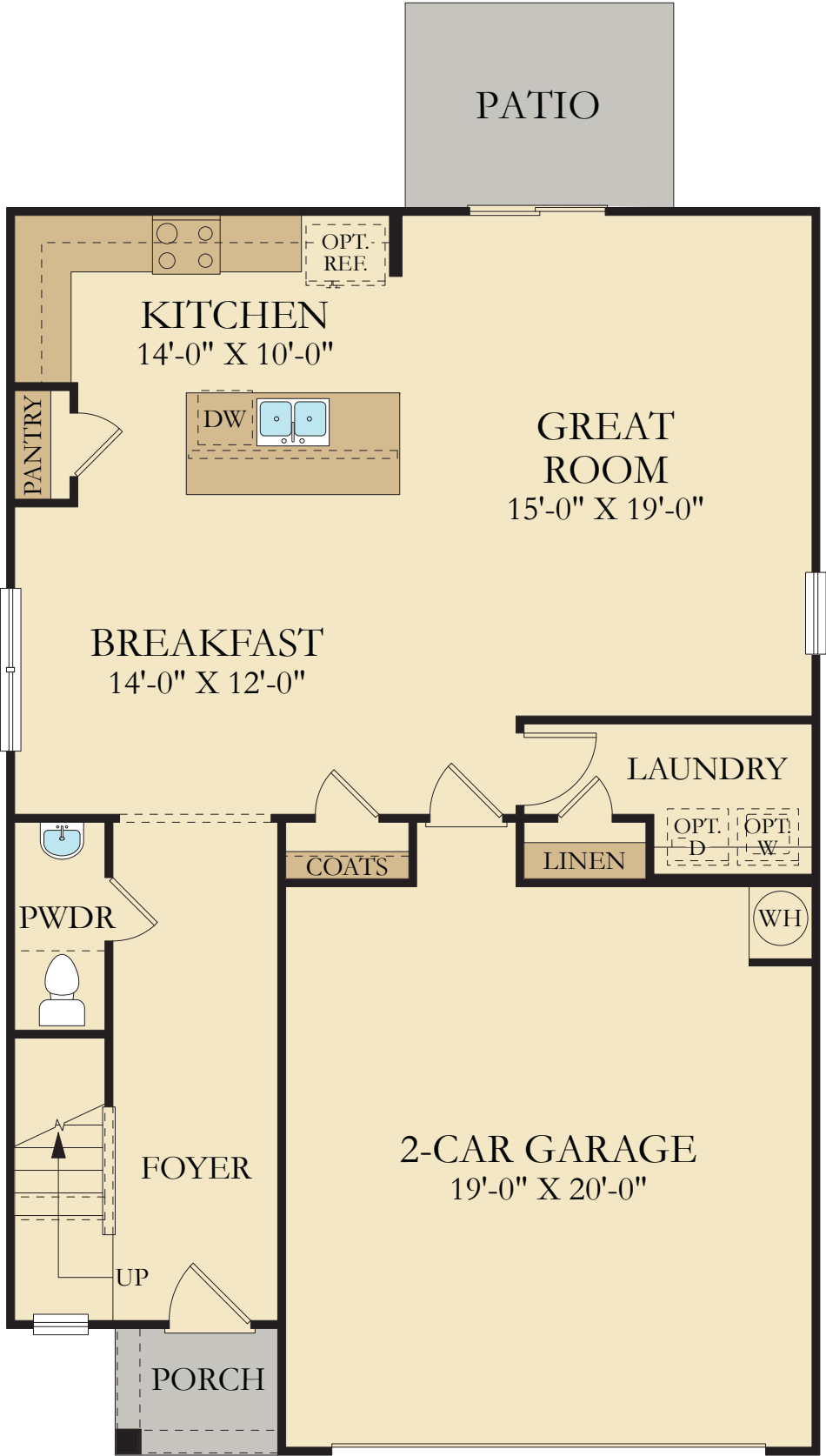
2.5 bathrooms

2 car garage

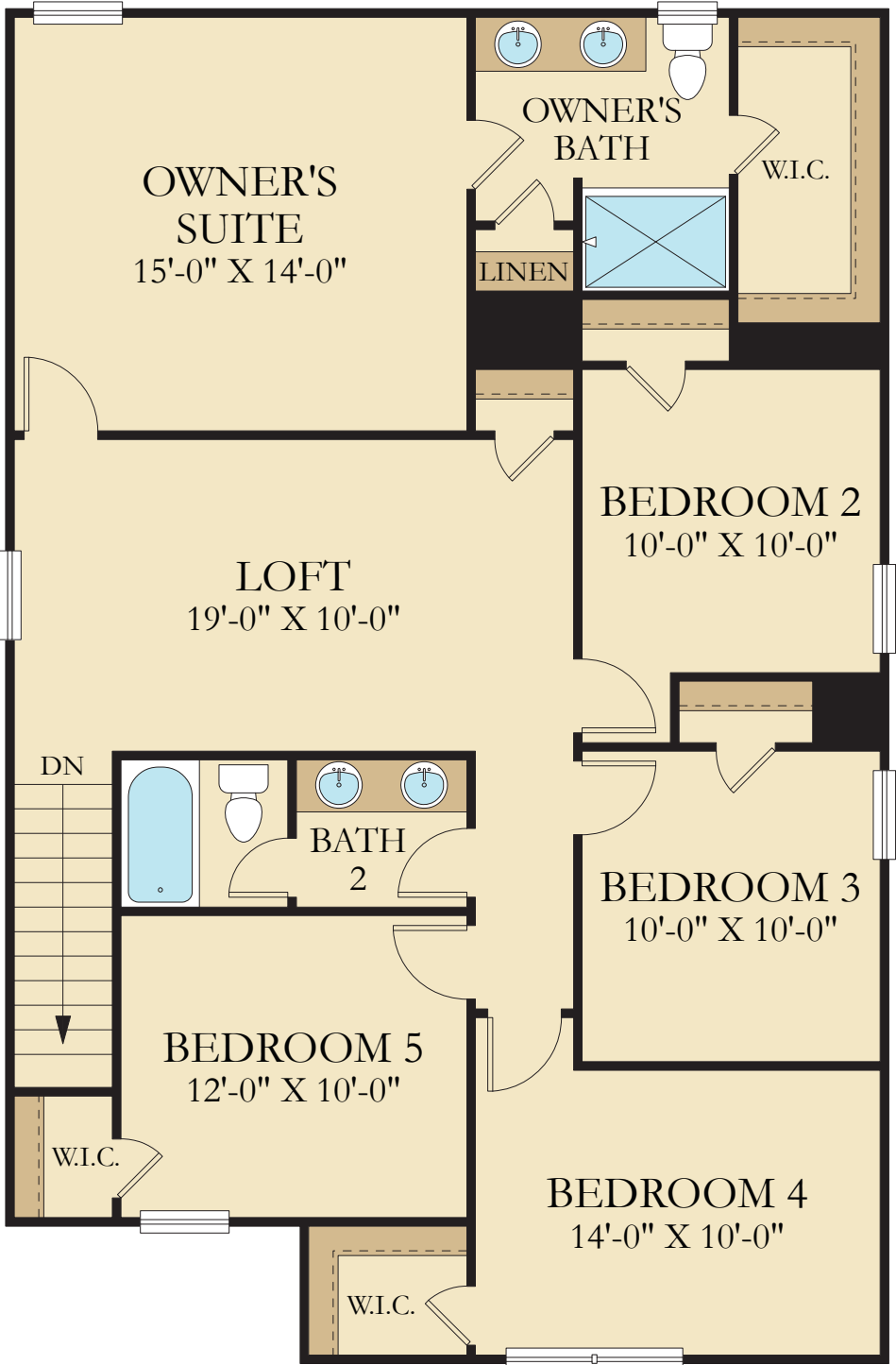


EVERYTHING'S
INCLUDED®

Lennar.com



FIRST FLOOR



SECOND FLOOR

Bellewood | Carolina Collection

THE CRANE



Elevation C



Elevation A



Elevation B

SECOND FLOOR

Bellewood | Carolina Collection

THE BUTLER



Elevation C



Elevation A



Elevation B

THE BUTLER

Bellewood
Carolina Collection

Approx. 1,403 sq. ft.

3 bedrooms

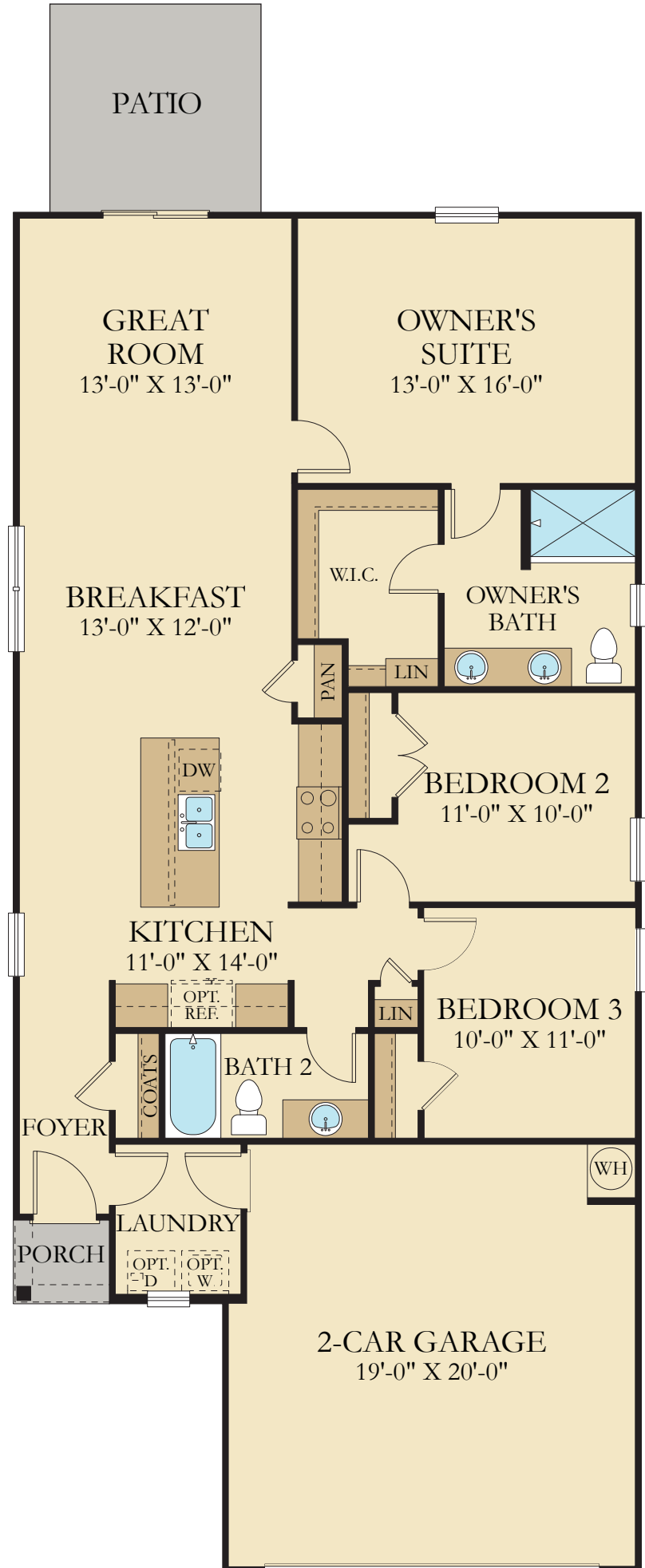
2 bathrooms

2 car garage



EVERYTHING'S
INCLUDED®

Lennar.com





PLANNING BOARD Recommendation & Statement of Consistency

Per NCGS 160D-701, 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.

Special Use Permits (AM2102)

Type of Request

Text Amendment

Meeting Dates

Planning Board on 7/20, 8/17, 9/21, 2021

City Council on 8/10, 9/14, 10/12, 2021

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

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

N/A

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

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

N/A

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

Attest:

Dean Ward
Dean Ward, Planning Board Chair

Debbie Jolly
Debbie Jolly, Secretary



STAFF REPORT

Prepared by Justin Snyder, Planning Director

Text Amendment for: Special Use Permits

Type of Request: Text Amendment

Meeting Dates

Planning Board on July 20, 2021, August 17, 2021, September 21, 2021, October 19, 2021
City Council on August 10, 2021, September 14, 2021, October 12, 2021

Contact Information

N/A

Summary

The City Council has requested the Planning Board evaluate the process for Special Use Permits, with the recommendation that they be sent to the Board of Adjustment to be heard. 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. 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. The Planning Board, in its final review of the proposed amendment, decided that it would be prudent to have its own legal counsel on retainer to represent the Board in all quasi-judicial cases involving a special use permit. Staff agrees that this is a best practice, and that it should be incorporated into the text with funding set aside to retain outside legal counsel for these hearings.

Existing Language:

Project Name

Special Use Permits (AM2102)

Location

city-wide

Current Zoning

not applicable

Proposed Zoning

not applicable

Overlay District

not applicable

Staff Recommendation

Approval

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 25th day of the month preceding the planning board meeting at which consideration is desired.

Section 10.141 Role of Planning Board

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

Section 10.142 Role of Historic Resources Commission

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

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

Section 10.143 Role of City Council

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

(Section 10.143 amended 7/11/2006)

Section 10.144 Findings

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

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

Section 10.145 Conditions added by Council, Limitations

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

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

Section 10.146 Conditions run with land

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

Section 10.147 Appeal

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

Section 10.148 Invalidation

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

Proposed Language:

DIVISION 7. SPECIAL USES

Section 10.137 Purpose of special use regulations

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

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 Board of Adjustment 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 25th 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 Board of Adjustment 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 independent legal 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 Board of Adjustment shall review the application for a special use permit, together with accompanying plans, maps, and drawings. Recommendations of the Historic Resources Commission, if applicable, shall be heard. The Board of Adjustment may (1) deny the special use permit, or (2) grant the special use permit subject to

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

(Section 10.143 amended 7/11/2006)

Section 10.144 Findings

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

- (1) That all applicable regulations of the zoning district in which the use is proposed are complied with.
- (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 Board of Adjustment, Limitations

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

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 Board of Adjustment membership shall be required to grant the request.

Section 10.147 Appeal

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

Section 10.148 Invalidation

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

Conformity to The Graham 2035 Comprehensive Plan and Other Adopted Plans

Applicable Planning District Policies and Recommendations

- Not applicable; city-wide.

Planning District

All

Development Type

All

Staff Recommendation

Based on *The Graham 2035 Comprehensive Plan*, other jurisdictions and best practices, **staff recommends approval of the text amendment**. The following supports this recommendation:

- Placing authority for Special Use Permits with the Board of Adjustment will reduce the number of quasi-judicial hearings before the City Council, thus allowing them to be more engaged in the democratic process of public input and legislative discretion. It also makes sense that the Planning Board, which acts as the Board of Adjustment in the quasi-judicial setting, would be better suited to conduct quasi-judicial proceedings. Staff will next work with the Planning Board and City Council on the uses subject to this process.

Staff would ask that the City Council in its motion, include a provision to authorize the City Manager to retain an outside legal firm for occasional representation at meetings where special use permits, appeals, and/or variances are heard to protect the City's legal and financial interests.



GRAHAM
NORTH CAROLINA

STAFF REPORT

SUBJECT:	SB 300 CODE OF ORDINANCE CHANGES
PREPARED BY:	AARON HOLLAND, INTERIM CITY MANAGER

REQUESTED ACTION:

Amend Code of Ordinances to reflect changes as a result of Senate Bill 300 (Session Law 2021-18).

BACKGROUND/SUMMARY:

Governor Roy Cooper signed a comprehensive criminal justice reform package into law in September. This package, commonly referred to as Senate Bill 300, is a wide-ranging piece of legislation that creates new databases, requires additional background checks, and prohibits the imposition of criminal penalties for certain local government ordinances. The City attorneys and staff were tasked the past month with identifying which ordinances were affected and made necessary changes to those that imposed criminal penalties. The changes are mandatory to continue the ability to apply criminal penalties to certain ordinance violations.

FISCAL IMPACT:

N/A

STAFF RECOMMENDATION:

Approval.

SUGGESTED MOTION(S):

I move to approve the first reading of Ordinance amendments to CHAPTER 1- GENRAL PROVISIONS, CHAPTER 2- ADMINISTRATION, CHAPTER 6- BUILDINGS AND BUILDING REGULATIONS, CHAPTER 8- BUSINESSES, CHAPTER 12- OFFENSES AND MISCELLANEOUS PROVISIONS, CHAPTER 13- UTILITES, CHAPTER 18- STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, and CHAPTER 20- TRAFFIC AND VEHICLES of the Code of Ordinances as identified in the attached memo from the City Attorney.

Law Offices of
WARD & COLEMAN

Patterson Building
344 Maple Avenue
P.O. Box 1683
Burlington, NC 27215

Phone# (336) 222-8056

Fax# (336)228-6610

November 2, 2021

To: Interim City Manager, Aaron Holland
From: Ward and Coleman

Re: Code Amendments (Senate Bill 300)

As you are aware, Senate Bill 300 adopted by the General Assembly on August 25, 2021 requires that the City of Graham make certain changes in the Code of Ordinances and Development Ordinances as set forth in our memorandum dated October 1, 2021.

As stated in this memorandum, the City's ordinances may be enforced by making violations of ordinances a misdemeanor or an infraction as set forth in 160A-175. However, 160A-175, as amended by SB 300, has stated that certain ordinances may not be enforced by imposing a criminal penalty. If the enforcement provisions impose a criminal penalty, those sections must be repealed. It appears however, the City may make violations of these ordinances an infraction and impose a civil penalty for any violation thereof.

In this connection you discussed this matter with the Department Heads, who identified and submitted recommended changes to comply with Senate Bill 300.

Having discussed and exchanged emails with many of the Department Heads we are recommending certain amendments to Graham's Code of Ordinances and Development Ordinances. As interpretations of Senate Bill 300 evolve and as precedent may be rendered, other amendments may be necessary and will accordingly be addressed. In any event at this point copies of these amendments are attached and are ready for consideration of adoption by the City Council and recommendation by the Planning Board. It is recommended that these ordinances be adopted twice to comply with G.S. 160A-175(b).

Please advise if there are any questions.

ORDINANCE AMENDING CODE OF ORDINANCES OF GRAHAM

WHEREAS, by Senate Bill 300 (Session Law 2021-18) The General Assembly of North Carolina mandated certain changes to municipal ordinances; and

WHEREAS, to comply with said law the City Council of the City of Graham desires to adopt certain changes to the Code of Ordinances; and

WHEREAS, the Code of Ordinances is hereby amended by the repeal of certain codes and the rewriting of and restatement of certain codes; and

WHEREAS, said amendments to the City of Graham's Code of Ordinances are hereinafter more specifically set forth as follows:

CHAPTER 1

Chapter 1 of the Code of Ordinances

Chapter 1 entitled GENERAL PROVISIONS, Sec. 1-12. Penalty; continuing violations is hereby REPEALED and REWRITTEN to read.

Sec. 1-12 General Penalty; continuing violations

Enforcement of City Code: In the event that an ordinance makes a section of this code unlawful, unless specifically set forth, no criminal penalty may be imposed therefore, and that unless otherwise specified for each violation of this Code of Ordinances, any violation thereof shall be an infraction and subject violators to \$50.00 civil penalty and the other enforcement provisions of G.S. 160A-75.

Section 1-13 Penalty not exclusive

That subsection (b) Sec. 1-13-Penalty not exclusive is REWRITTEN to read:

(b) In the event any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the City and otherwise provided by law.

CHAPTER 2

Chapter 2 entitled ADMINISTRATION, Section 2-122. Interfering with police is hereby AMENDED to read as follows:

Sec. 2-122 Interfering with police: Add the following sentence to the end of this section: Violators are subject to the provisions of N.C.G.S. 14-4 and may be found guilty of a Class 3 misdemeanor punishable upon conviction by a fine not exceeding \$500.00.

CHAPTER 6

Chapter 6 entitled BUILDINGS AND BUILDING REGULATIONS

That **Sec. 6-106-** Violations, penalty as authorized by G.S. 14-4 to provide criminal penalties, is hereby READOPTED AND RATIFIED and shall remain in full force and effect.

CHAPTER 8

BUSINESSES

Sec. 8-44 Same-Failure to Pay

This section is hereby amended by REPEALING the portion of the last sentence of this section as follows: “the tax collector shall swear out a warrant before some magistrate or judge in the county for the violation of the provisions of this article and as provided in this article.”

TEMPORARY OUTDOOR SALES

Sec. 8-346

The first sentence of this section is hereby REPEALED in its entirety.

CHAPTER 12

Chapter 12 entitled OFFENSES AND MISCELLANEOUS PROVISIONS

That Sec. 12-73-Special Nuisance; graffiti as authorized by G.S. 14-4 to provide criminal penalties is hereby READOPTED AND RATIFIED and shall remain in full force and effect.

CHAPTER 13

Chapter 13 entitled UTILITIES.

That Sec. 13-84(b)-Tampering with water or sewer systems; penalties generally as authorized by G.S. 14-4 to provide criminal penalties is hereby READOPTED AND RATIFIED and shall remain in full force and effect.

CHAPTER 18

Chapter 18 entitled STREETS, SIDEWALKS AND OTHER PUBLIC PLACES.

That Sec. 18-8 as authorized by G.S. 14-4 to provide criminal penalties is hereby READOPTED AND RATIFIED and shall remain in full force and effect.

CHAPTER 20

Chapter 20 entitled TRAFFIC AND VEHICLES.

That Sec. 20-185(b)Violations of this article as authorized by G.S. 14-4 to provide criminal penalties is hereby READOPTED AND RATIFIED and shall be in full force and effect.

CIVIL PENALTIES:

COMPLIANCE WITH SENATE BILL 300

That all sections of this Code of Ordinances authorizing civil penalties are hereby RATIFIED AND READOPTED in the amounts as set forth in each affected ordinance and shall remain in full force and effect.

EFFECTIVE DATE:

That this Ordinance shall become effective upon adoption.