

# City of Graham City Council

## Regular Meeting Agenda

### January 11, 2022

### 6:00 p.m.



**CALL TO ORDER:** Mayor Jennifer Talley

**INVOCATION & PLEDGE OF ALLEGIANCE**

#### **SPECIAL PRESENTATIONS:**

Graham Recreation and Parks 2021 9/11 Commemorative 5k Check and First Responders Team Cup Trophy Presentation:

- Check Presentation to Children of Fallen Heroes
- Trophy Presentation to Graham Fire Department

#### **CONSENT AGENDA:**

- To approve the minutes of the December 13, 2021, and December 14, 2021, Special Meeting and Regular Meeting sessions.
- To approve the following tax releases for \$503.08:

CITY OF GRAHAM RELEASE ACCOUNTS				
JANUARY				
ACCT #	YEAR	NAME	REASON FOR RELEASE	AMOUNT RELEASED
36779	2021	WHITESELL, CHARLES VICTOR	BOAT BILLED ON REAL ESTATE BILL AND SEPARATELY	\$227.80
384548	2021	WELLS FARGO FINANCIAL LEAS	VALUE CORRECTION	\$15.24
69068	2020	STATE FARM MUTUAL AUTO INS	ASSETS DOUBLE BILLED	\$98.68
69068	2021	STATE FARM MUTUAL AUTO INS	ASSETS DOUBLE BILLED	\$65.13
667366	2021	HABITAT FOR HUMANITY	EXEMPT PROPERTY	\$68.25
658671	2021	HUNTINGTON TECHNOLOGY FINANCE	ASSETS DOUBLE BILLED	\$27.98

#### **PUBLIC HEARINGS:**

- Voluntary Contiguous Annexation- 78.12 acres located on Cherry (AN2103)-** A public hearing has been scheduled to consider a voluntary contiguous annexation containing 78.12 acres on Cherry Lane, GPIN 8893686572 & 8894906303. (Staff requests that this item be tabled to the February 8, 2022, Council meeting.)
- Voluntary Contiguous Annexation- 37.85 acres on Governor Scott Farm Road (AN2104)-** A public hearing has been scheduled to consider a voluntary contiguous annexation containing 37.85 acres on Governor Scott Farm Road, GPIN 8893886609. (Staff requests that this item be tabled to the February 8, 2022, Council meeting.)
- Voluntary Contiguous Annexation- 9.10 acres on Cherry Lane (AN2105)-** A public hearing has been scheduled to consider a voluntary contiguous annexation containing 9.10 acres on Cherry Lane, GPIN 8893796670. (Staff requests that this item be tabled to the February 8, 2022, Council meeting.)

4. **Rezoning- 200 S. Marshall Street (RZ2108)-** A public hearing has been scheduled to consider an application by Lee Kimrey, to rezone 0.50 acres of property, on 200 South Marshall Street, from Office Institutional (O-I) to Central Business (B-1). (GPIN 8884233706) (Planning Board approved the rezoning at its December 21, 2021, regular meeting)
5. **Special Uses Permit Amendment (AM2102)-** A public hearing has been continued to consider the process for Special Use Permits with the recommendation that special use permits will be referred to the Board of Adjustment for consideration. The City Council asked for this to be moved to the January 11, 2021 meeting for the new Council to review. (Continued from December 14, 2021, City Council meeting) (Planning Board approved the amendments at its October 12, 2021, regular meeting)
6. **Amendments- Development Ordinance for Table of Permitted Uses and Notes (AM2103)-** A public hearing has been continued to consider a text amendment to the Development Ordinance re-classifying existing permitted uses and changes in the Notes to the Table of Permitted Uses. (Sections 10.135 to 10.149) (Planning Board approved the amendments at its November 16, 2021, regular meeting)
7. **Amendment- Development Ordinance- Waiting Period on Denied Rezoning's (AM2105)-** A public hearing has been scheduled to consider a process for an applicant to re-apply for a rezoning following a denial from City Council. (Section 10.84, part b) (Planning Board approved the amendments at its December 21, 2021, regular meeting)
8. **Administrative Modifications- Development Ordinance (AM2106)-** A public hearing has been scheduled to consider an amendment to the Development Ordinance as recommended by the UNC School of Government and pursuant to N.C.G.S. 160D-705(c), to allow staff to make administrative modifications to approved special use permits assuring all zoning requirements are met. (Planning Board approved the amendments at its December 21, 2021, regular meeting)
9. **Amendment- Development Ordinance- Article X (10) (AM2107)-** A public hearing has been scheduled to consider an amendment to Article X (10) Section 10.398 to 10.399, Signage, to allow larger entry signage for multifamily, multi-use developments containing residential units, and major subdivisions. (Planning Board approved the amendments at its December 21, 2021, regular meeting)
10. **Amendment- Development Ordinance- Open Space Provisions (AM2108)-** A public hearing has been scheduled to consider an amendment to Sections 10.249.2 to 10.249.6 regarding open space provisions. (Planning board approved the amendments at its December 21, 2021, regular meeting)

#### **PUBLIC COMMENT PERIOD**

#### **CITY STAFF COMMENTS**

#### **CITY COUNCIL COMMENTS**

#### **ADJOURN**

**CITY OF GRAHAM**  
**CITY COUNCIL SPECIAL MEETING MINUTES**  
**MONDAY, DECEMBER 13, 2021**

The City Council of the City of Graham held a special meeting beginning at 6:00 p.m. on December 13, 2021, in the Council Chamber of the Municipal Building located at 201 South Main Street, Graham, NC.

**Council Members Present:**

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

**Staff Present:**

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Darby Terrell, City Clerk  
Bob Ward, City Attorney  
Bryan Coleman, City Attorney- *absent*

**CALL TO ORDER:**

Mayor Jerry Peterman called the meeting to order and presided at 6:00 p.m.

**INTRODUCTION TO COUNCIL MEETING PROCEEDINGS**

Mayor Peterman welcomed Council Members Elect Bobby Chin and Joey Parsons. Mayor Peterman reviewed meeting proceedings and the organization of special meetings.

**REVIEW OF DECEMBER 14, 2021 REGULAR SESSION AGENDA**

Mayor Peterman discussed how the organization of the new City Council would take place. He then reviewed agenda items the former Council members would act upon. He asked City Clerk Darby Terrell to add the administering the Code of Ethics before the approval of minutes and the Old Business item the former Council would be voting on. All agreed to add the Code of Ethics statement. Mayor Pro Tem Chip Turner and Council member Melody Wiggins then exited the meeting.

Mayor Peterman handed the meeting over to Mayor-Elect Jennifer Talley to review agenda items with the newly elected Council members. Mayor-Elect Talley suggested a 20-minute recess, after the oath of office was administered, for photos and greeting visitors in attendance. Council members Elect agreed to a recess.

Council discussed the process of filling the vacant City Council member seat. Mayor-Elect Talley suggested a questionnaire for those interested in serving to complete and submit for consideration. Ms. Talley also suggested having Option A, the motion and vote method on interested candidates, until Council reached a majority vote on a candidate.

Tom Boney, Alamance News, asked staff and Council what options they were choosing from by deciding how to fill the vacancy.

City Manager, Megan Garner, stated the legal experts suggested two options at the UNC School of Government used by most local governments when filling a vacant seat. Megan Garner said Option A was the motion-and-vote method, and Option B was the motion-and-ballot method.

Tom Boney, Alamance News, asked if Council would be able to see how many applicants they received before deciding on how to vote.

Bob Ward, City Attorney, answered that, yes, legally they could see how many people applied and then decide how to choose the next council member. However, they should announce what procedure they will be using beforehand on how they would decide who would be taking the vacant seat.

Mayor-Elect Talley, began reviewing agenda items. She asked the City Clerk, Darby Terrell to include the correct language for motions on each agenda item for the new Council members.

Mayor Peterman asked if he needed to be present for the Audit Report since the Mayor is automatically on the Audit Committee for the City of Graham. Bob Ward, City Attorney, said he does not need to be present. The Council members discussed accepting the report and asking for public comment.

Council discussed the consent agenda and how the going off Council proceeded to vote on those items. Mayor Peterman did inform the new Council that these were mostly non-controversial items that did not need to be discussed, but Council members could pull any items off if they had questions for staff.

Tom Boney, Alamance News, asked if the annexation items on the December 14, 2021 agenda have any addresses. Or if they have any more descriptions on which parcels these properties are being discussed.

Aaron Holland, Assistant City Manager, answered that the listed properties do not receive addresses until further in the annexation process.

Mayor-Elect Talley suggested tabling New Business Item E, so the new Council members will have more time to review the proposed changes.

Council and staff discussed Item F, the Rezoning on East Harden street. Mayor-Elect Talley asked if the representative will be present and if staff was aware of their efforts to reach out to the adjacent property owners. Darby Terrell, City Clerk answered that Mr. Chad Huffines was the representative, and it was more than likely he would be present. Aaron Holland, Assistant City Manager answered that he wasn't aware of Mr. Huffines or Maple View Inc's efforts to contact the adjacent property owners.

Mayor-Elect Talley suggested tabling the Planning and Board of Adjustment vacant seat appointment item to allow staff to advertise the vacancy and receive additional applications for review.

Mayor-Elect Talley asked City Clerk Terrell to move the position of City Staff Comments before the City Council Comments.

## **ADJOURN**

Council member Ricky Hall motioned to adjourn at 7:13 p.m., Council member Talley seconded the motion, the motion passed unanimously.

*Darby Terrell*

Darby Terrell, City Clerk



**CITY OF GRAHAM  
CITY COUNCIL MEETING MINUTES  
TUESDAY, DECEMBER 14, 2021**

The City Council of the City of Graham held a regularly scheduled meeting beginning at 6:00 p.m. on December 14, 2021, in Council Chamber of the Municipal Building located at 201 South Main Street, Graham, NC.

**Council Members Present:**

Mayor Jerry Peterman  
Mayor Pro Tem Chip Turner  
Council Member Melody Wiggins  
Council Member Jennifer Talley  
Council Member Ricky Hall  
Council Member Elect Bobby Chin  
Council Member Elect Joey Parsons

**Staff Present:**

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Darby Terrell, City Clerk  
Justin Snyder, Planning Director  
Mary Faucette, Economic Dev. Coordinator

**CALL TO ORDER:**

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

**CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST:**

City Clerk, Darby Terrell, read the Conflict of Interest statement to Council. There were no conflicts of interest.

**APPROVAL OF MINUTES:**

Mayor Jerry Peterman asked for a motion to approve the Regular Meeting minutes of the November 9, 2021, City Council meeting as presented. Council Member Ricky Hall moved to approve, Council Member Melody Wiggins seconded, and the motion passed unanimously.

**OLD BUSINESS:**

**ITEM 1: CODE OF ORDINANCES- SESSION LAW 2021-18 (SENATE BILL 300) CRIMINAL PENALTIES CHANGES- SECOND READING**

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 asked Council to consider adopting these amendments to the City of Graham Code of Ordinances to comply with Senate Bill 300.

Aaron Holland, Assistant City Manager, informed Council that this was the second reading for the required changes to the Code of Ordinances by Session Law 2021-18 on the criminal penalties that were enacted in

these ordinances. This was a required change by the North Carolina General Assembly and there was a deadline to pass these changes before December 31<sup>st</sup> of this year.

Council Member Wiggins moved to approve the second reading of the Ordinance amendments to Chapter 1 General Provisions, Chapter 2 Administration, Chapter 6 Buildings and Building Regulations, Chapter 8 Business, Chapter 12 Offenses, and Miscellaneous Provisions, Chapter 13 Utilities, Chapter 18 Streets, Sidewalks, and Other Public Places, and Chapter 20 Traffic and Vehicles as identified in the memo from the City Attorney. Council Member Hall seconded the motion, the motion passed unanimously.

### **CERTIFICATION OF ELECTION:**

City Clerk Darby Terrell confirmed the certification of the election held on November 2, 2021, as certified by the Alamance County Board of Elections as follows;

#### **Votes for Mayor Position:**

Jennifer Talley	828
Chip Turner	680

City Clerk Terrell confirmed that Jennifer Talley was the duly elected Mayor for a two-year term expiring December 2023.

#### **Votes for Council Member Positions:**

Daniel Alvis	309
Jeanette E. Beaudry	195
Bobby Chin	685
Brook Flood	119
Edith J. Montoya	400
Joey Parsons	663
Melody Wiggins	540

City Clerk Terrell confirmed that Bobby Chin and Joey Parsons are the duly elected Council Members for a four-year term expiring December 2025.

### **ORGANIZATION OF NEW CITY COUNCIL**

North Carolina State House Representative Dennis Riddell administered the Oath of Office to newly elected Mayor Jennifer Talley.

Alamance County Clerk of Court Meredith Edwards administered the Oath of Office to newly elected City Council Member Bobby Chin.

Alamance County Clerk of Court Meredith Edwards administered the Oath of Office to newly elected City Council Member Joseph “Joey” Parsons.

### **SPECIAL PRESENTATION:**

Former Mayor Jerry Peterman congratulated the new council on their achievement of being elected as Mayor and Council Members for the City of Graham. He also expressed his gratitude to City staff, fellow Council Members, and everyone who helped him during his years on Council.

### **NEW COUNCIL CONVENES- ELECTION OF MAYOR PRO TEM:**

Council Member Chin moved to nominate Ricky Hall as Mayor Pro Tem Council Member Joey Parsons seconded the motion, the motion passed unanimously. There were no other nominations.

Alamance County Clerk of Court Meredith Edwards administered the Oath of Office to the newly elected Mayor Pro Tem Ricky Hall.

### **SET REGULAR SESSION MONTHLY MEETING SCHEDULE:**

Council discussed setting the monthly time and date of the regular session meetings. Council agreed to stay with the current scheduled date and time.

Mayor Talley asked for a motion to set the regular session monthly meeting schedule. Council Member Parsons moved to set the regular session meeting schedule for the second Tuesday of each month to begin at 6:00 p.m. Council Member Chin seconded, the motion passed unanimously.

### **COMMENTS FROM NEWLY ELECTED OFFICIALS**

Mayor Talley announced that with the currently vacant seat, Council had decided to use a motion-and-vote method suggested by the University of North Carolina School of Government, for municipalities. Mayor Talley also announced that Council would like interested individuals to complete a questionnaire, so that Council could review the submissions and vote on candidates at the February 8, 2022, Council meeting.

Mayor Talley asked for a motion to select the motion-and-vote method to fill the vacant Council seat. Council Member Chin moved to collect questionnaires no later than January 30, 2022, and use the motion-and-vote method as the process to fill the vacant Council seat at the February 8, 2022, City Council meeting. Mayor Pro Tem Ricky Hall seconded, the motion passed unanimously.

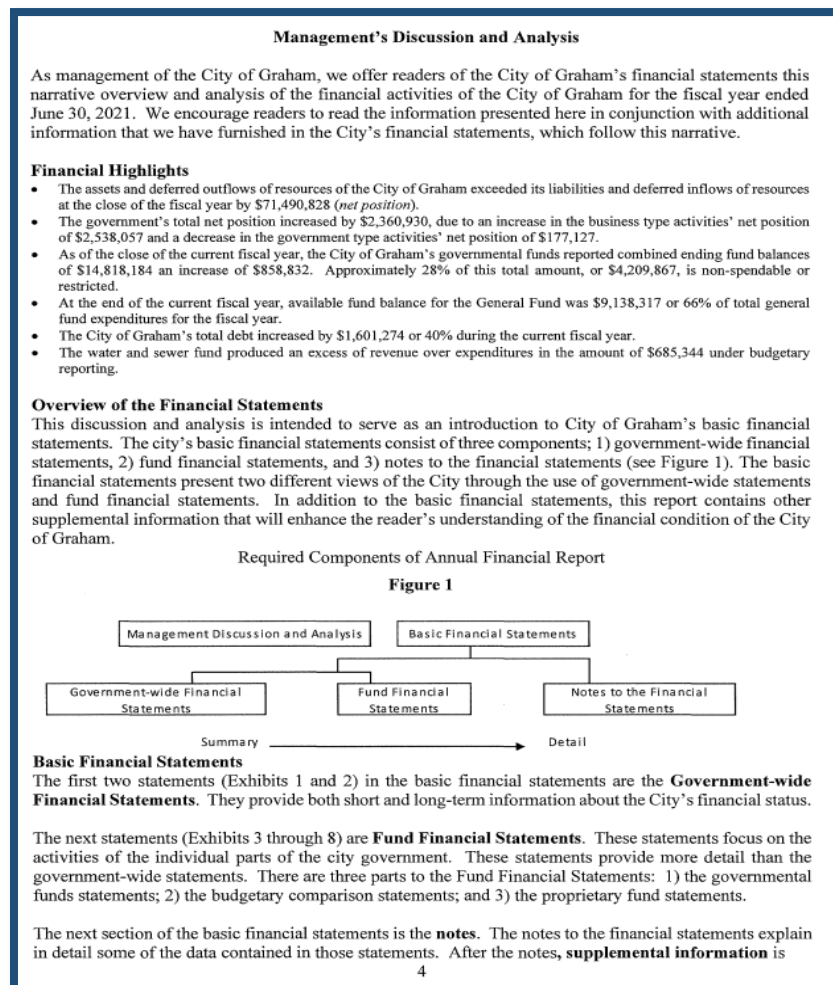
### **CODE OF ETHICS DISCLOSING CONFLICTS OF INTEREST:**

City Clerk, Darby Terrell, read the Conflict of Interest statement to Council. There were no conflicts of interest.

### **AUDIT REPORT:**

Mayor Talley introduced Patricia Rhodes, Stout, Stuart, McGowen, and King. Ms. Rhodes presented to Council the 2020-2021 Audit Report. During the presentation, Ms. Rhodes informed Council of the services that her firm provides the City of Graham as well as the services by Cobb Ezekiel Loy & Company, P.A. Ms. Rhodes announced that the Local Government Commission approved the audit report for the City.

Ms. Rhodes directed Council to page 4, of the audit report, and discussed the Financial Highlights. Ms. Rhodes highlighted the City of Graham was at 66% of the total general fund expenditures. The general fund is normally used to determine the strength of a city. She informed Council that the state average is 50% and that the State had a required minimum of 8%. She reminded that Council they have a long-standing goal to keep the general fund expenditures at or above 30%. The City's total debt did grow due to the Water Pollution Revolving Loan for the sewer improvements.

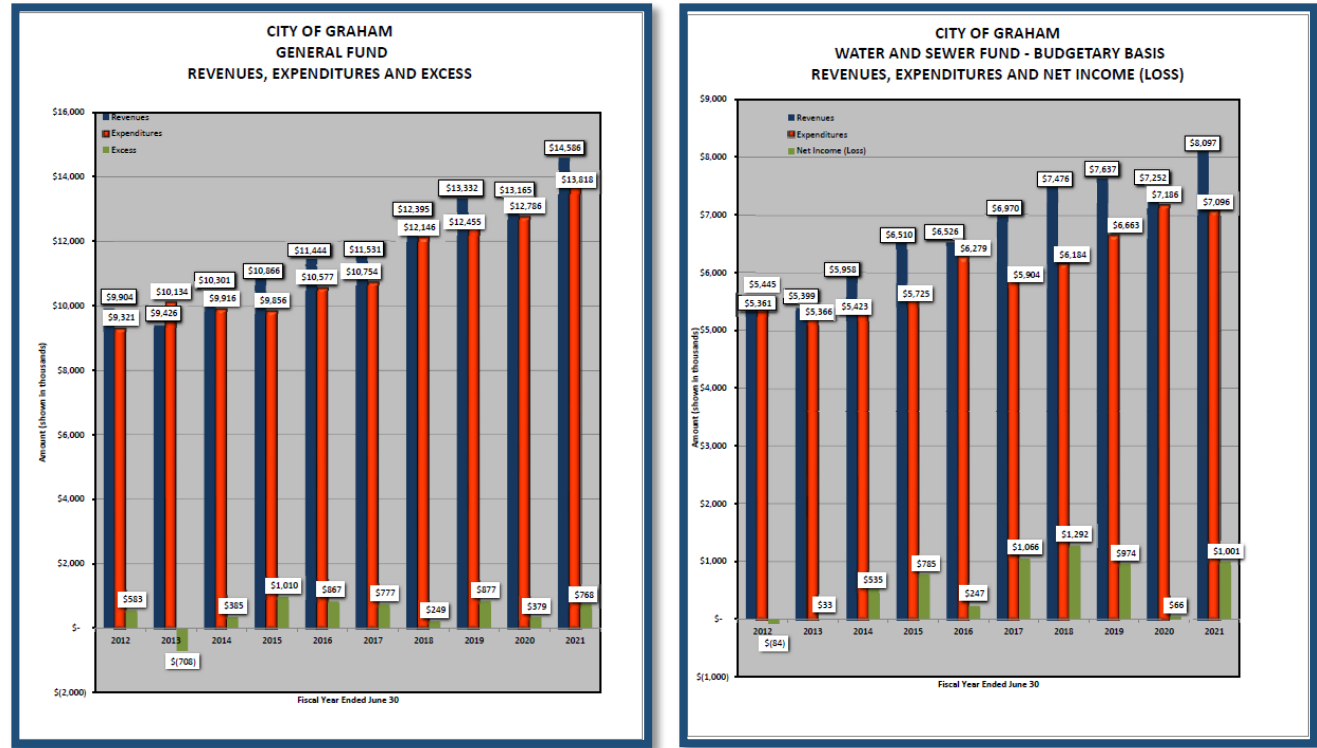


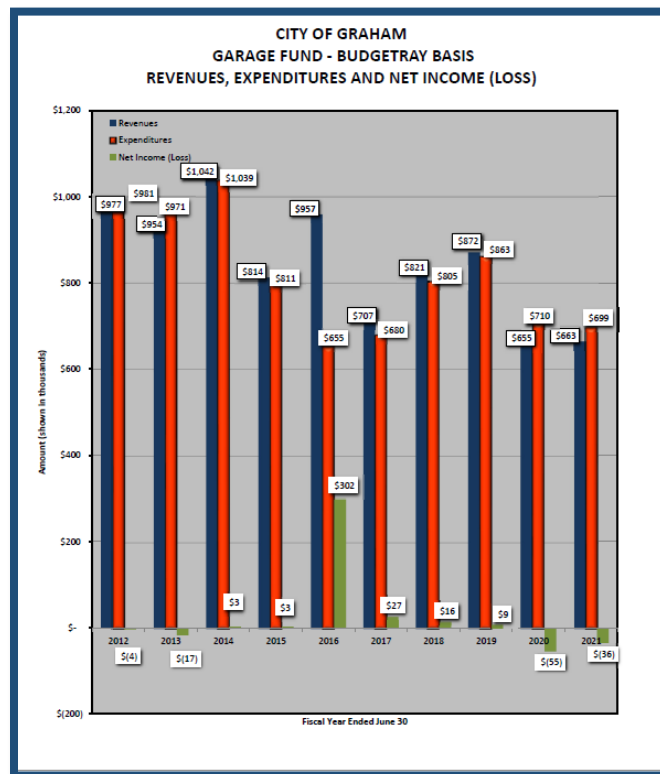
Ms. Rhodes informed Council that the City of Graham was expecting to receive quite a few grants in the next upcoming year and that her firm would help monitor the grant funds and ensure they are being used appropriately per the grant rules.

Ms. Rhodes then reviewed the General Fund, Water and Sewer Fund, and Garage Fund graphs; all graphs are over ten years to show trends (provided below). With the first graphs, Ms. Rhodes informed Council the General Fund revenues exceeded the expenditures last year. She did highlight that within the General Fund, the City Council's budget was the only one that exceed the budgetary amount of expenditures,

mostly because of the legal fees that were assessed late last year. Ms. Rhodes stated that auditors are required to inform Council if a department was over budget, and reminded Council that per the statutory requirement they must stay within the budget. Ms. Rhodes answered a Council Member’s question that the reason a budget amendment was not made to correct this problem was that it was too late. She also informed Council the Water and Sewer Fund revenues exceeded the expenditures as well last year. Ms. Rhodes did state that the Garage Fund in which the goal for a city would be to break even did not happen this year because the expenditures exceeded the revenues which had the fund at a net loss.

Ms. Rhodes ended the presentation with the letter required by her firm’s professional standards that communicate overall important highlights to Council. Ms. Rhodes summarized the letter informing Council even with the difficulties that COVID-19 provided, the auditors did not have any problems performing their duties. She continued and stated that they had no difficulties or disagreements with management. Ms. Rhodes thanked Council for allowing them to continue doing the audit for the City of Graham, she also thanked city staff for their help throughout the process. She also extended the offer of answering any of Council Members’ questions while they look at the report and asked them to call their office any time.





## CONSENT AGENDA:

- a. To approve a Petition for a Voluntary Contiguous Annexation for 78.12 acres located on Cherry Lane (GPIN 8893686572 & 8894906303) (AN2103) and:
  - i. To approve a Resolution Requesting the City Clerk to Investigate Sufficiency.
  - ii. To approve a Resolution Fixing Date of Public Hearing on Question of Annexation.
- b. To approve a Petition for a Voluntary Contiguous Annexation for 37.85 acres located on Governor Scott Farm Road (GPIN 8893886609) (AN2104) as well as:
  - i. To approve a Resolution Requesting the City Clerk to Investigate Sufficiency.
  - ii. To approve a Resolution Fixing Date of Public Hearing on Question of Annexation.
- c. To approve a Petition for a Voluntary Contiguous Annexation for 9.10 acres located on Cherry Lane (GPIN 8893796670) (AN2105) as well as:
  - i. To approve a Resolution Requesting the City Clerk to Investigate Sufficiency.
  - ii. To approve a Resolution Fixing Date of Public Hearing on Question of Annexation.
- d. To approve public improvements for Windsor Homes at Forks of Alamance subdivision Phase 1,2A, and 2B (\$1502)
- e. To approve the following tax releases in the amount of \$66.54:



CITY OF GRAHAM RELEASE ACCOUNTS				
DECEMBER				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
694437	2021	WELLS FARGO VENDOR FINANCIAL	ASSETS MOVED TO ANOTHER ACCOUNT	\$66.54

Mayor Talley allowed questions and comments from the audience on consent agenda items. Mr. Chad Huffine, a concerned citizen, stated he had not been notified and was concerned that there was no proper notice given to all property owners abutting one of the properties. Mayor Talley asked Planning Director, Justin Snyder, if proper notice was given. Mr. Snyder answered that he was confident that staff met the statutory requirements of notification. Both Mr. Snyder and Assistant City Manager, Aaron Holland, stated that Council could still approve the consent agenda as presented and that staff would confirm and make sure abutting property owners had been informed and properly notified.

Mayor Talley asked for a motion to approve the consent agenda, Mayor Pro Tem Hall moved to approve the consent agenda, Council Member Parsons seconded, and the motion passed unanimously.

## **NEW BUSINESS**

### **ITEM A: Source Water Resiliency and Response Plan Notification-**

**Source Water Resiliency and Response Plan Notification-** On January 1, 2019, a new rule that mandates Source Water Protection (SWP) planning for all public water supply systems that treat and supply water from surface sources. It is required for all public water systems treating and furnishing water from a surface water source to create and implement a Source Water Protection Plan to be following 15A, NCAC, 18C .1305 (a) and G.S. 130A-320.

Assistant City Manager, Aaron Holland, informed Council that on January 1, 2019, a new rule that mandates Source Water Protection (SWP) planning for all public water supply systems that treat and supply water from surface sources to create and implement a Source Water Protection Plan to be following 15A, NCAC, 18C .1305 (a) and G.S. 130A-320.

Mr. Holland stated Council did not have to take any action for this item and that it was only required for staff to notify Council that they had created this plan.

### **ITEM B: Community Oriented Policing Services (COPS) Grant Approval-**

**Community Oriented Policing Services (COPS) Grant Approval -** The Graham Police Department is requesting Council consider hiring six new police officers for the COPS grant awarded by the US Department of Justice. The grant would require continuation funding for a minimum of 12 months after the 3-year grant cycle.

Captain Daniel Sisk, Graham Police Department, informed Council that the Police Department had applied for the United States Department of Justice's Community Oriented Policing Services grant. Capt.

Sisk stated that this grant would be used to fund six full-time police officers to help increase their effort for planned community partnerships, implementation of projects, to analyze and assess problems, implementation of changes to personnel and agency management in support of community policing, and increase the capacity of the agency to engage community policing activities. Capt. Sisk informed Council this grant would fund 75% of an entry-level officer's salary for three years. \$250,000 annually for a total at the end of the three years \$750,000. The grant funding will be available for up to five years to allow the department to recruit and hire for these six positions.

Mayor Talley commented that she was happy and looking forward to the staffing of six additional officers, which was needed for the City of Graham.

Tom Boney, Alamance News, asked Council the amount that the City would have to match, and the City's ability to provide salaries for these new officers after the grant funding was over.

City Manager, Megan Garner, informed Mr. Boney of the annual cost for the 3-year total was estimated at \$440,376 in the staff report.

#### **COSTS**

We are requesting the funding of six full time officers. The median salary for an entry level officer is \$44,789. When benefits are added it increases that cost to \$66,132. The annual cost for 6 officers is \$396,792. The Grant funded portion would be \$250,000 annually. The City's grant match funding would be \$146,792 annually. The 3-year total cost for the city would be \$440,376. The city is funding more than 25 percent of the annual cost due to the annual cap of the Federal grant. In other words, the annual salary with benefits would have to be \$55,555 in order for the city to only fund 25 percent of the awarded grant funding. So, our median salary is approximately \$10,577 more than the allotted grant funding allows.

Mr. Boney stated that Council should be cautious of these types of grants. He expressed concern that Council would be forced to figure out, in the future, how to pay for the new officers' salaries without grant aid.

Mayor Talley stated that she agreed and understood Mr. Boney's concern with providing the officers' salaries once the funding from the grant had ended, but the need for more officers outweighs this concern.

She explained that the State's assessment for the City of Graham indicated that Graham should be providing a minimum of 12 officers on patrol and that we currently provide four. Mayor Talley stated this grant would help with reaching that minimum number of officers needed.

#### **ITEM C: Planning and Board of Adjustment Board Vacancy-**

City Council will consider appointments to the Planning and Board of Adjustment Board.

Mayor Talley stated that Council would like to table this item to allow the City Clerk time to advertise for the vacancy on the Planning and Board of Adjustment. Council Member Parsons agreed and stated that the citizens need to be notified that this position was open.

Council Member Chin moved to table this item to the February 8, 2022, City Council meeting to allow the City Clerk to advertise the vacancy on both the City's website and social media. Mayor Pro Tem Hall seconded, the motion passed unanimously.

## **PUBLIC HEARINGS:**

### **ITEM D: Amendment to Development Ordinance as required by North Carolina General Assembly Session Law 2021-18 (SB 300) (AM2104)-**

**Amendment to Development Ordinance as required by North Carolina General Assembly Session Law 2021-18 (SB 300) (AM2104)** A public hearing had been scheduled to consider the North Carolina General Assembly Session Law 2021-18, Senate Bill 300 to require criminal penalty amendments in the Development Ordinance in Chapter 10 of the Code of Ordinances. The Planning Board has already approved and suggests approval of these changes. (Planning Board approved of amendments at its November 16, 2021, regular meeting.)

Planning Director, Justin Snyder, informed Council Session Law 2021-18 or Senate Bill 300, also made criminal and civil penalty changes to the Development Ordinance. He informed Council there were at least ten changes made to the Ordinance to allow the language to match what was required by Session Law 2021-18.

Mayor Pro Tem Hall moved to approve the text amendments because it was consistent with Graham's 2035 Comprehensive Plan, Council Member Chin seconded, the motion passed unanimously.

### **ITEM E: Amendments to Development Ordinance for Table of Permitted Uses and Notes (AM2103)-**

**Amendments to Development Ordinance for Table of Permitted Uses and Notes (AM2103)** - A public hearing had been continued to consider a text amendment to the Development Ordinance to re-classify existing permitted uses and changes to the Notes to the Table of Permitted Uses. (Sections 10.135 to 10.149) (Planning Board approved the amendments at its November 16, 2021, regular meeting)

Mayor Talley asked for a motion to table this item to give Council more time to review the changes that are being made and to allow Council time to ask questions to staff before the meeting. Mayor Pro Tem Hall moved to table this item to the January 11, 2022 meeting, Council Member Chin seconded, the motion passed unanimously.

### **ITEM F: Rezoning- 1205 East Harden Street for Maple View, Inc. (RZ2107)-**

Planning Director, Justin Snyder, informed Council of this request to rezone 5.11 acres of property from low-density residential (R-18) to light industrial(I-1). Mr. Snyder informed Council this property was also located in the Highway 54 overlay, so additional development control measures, as well as use limitations under Section 10.465 of the development ordinance, would apply for this property. Mr. Snyder also informed Council that this rezoning meets the below policies of the Graham 2035 Comprehensive Plan, and staff recommended approval.

- **2.1.1 Diverse job market.** A diversified job market that provides employment opportunities for persons with varying education levels and skill sets was needed and encouraged. This amendment will allow for potential job creation that will diversify our

existing workforce.

- **2.1.4 Competitive advantage.** Graham works to strengthen its existing comparative economic advantages including a high quality and highly diverse workforce, local education and research institutions, and high quality of life. This amendment will strengthen the local economy by increasing the tax base with minimal impact to existing public infrastructure. It will aid in diversifying our skilled labor workforce.
- **2.2.2 Living wages.** Promote the creation of living-wage jobs, and promote living wages when considering economic development incentives and investments. Expand living wage opportunities for people without 4-year college degrees. This amendment will likely attract business with a skilled workforce that may not necessarily be college educated or which may trend towards community colleges and functional programs.
- **3.2.4 Greenway system.** Promote a greenway system that links together the City's recreational resources and provides connections to commercial, employment, and residential areas. Greenways along stream buffers should be prioritized in order to protect the stream watershed. This parcel was located along a mapped stream, and by clustering the development and impervious areas to the front of the property, the rear stream buffer areas can be retained as natural open space with potential for trails or access easements for the public.
- **4.3.1 Land use patterns.** Promote development of efficient land use patterns to allow continued quality and efficiency of water systems. Discourage the extension of water service into areas that are not most suitable for development. The use of this parcel for light industrial will allow more efficient use of the existing water and sewer lines, without an additional maintenance burden.

**Chad Huffine, Project Engineer for Maple View Inc.,** 505 East Davis Street, Burlington, NC, informed Council that the Planning Board had unanimously approved this rezoning and asked for Council to consider approving this rezoning as well. Mr. Huffine informed Council the property had been owned since 2006 by Maple View Inc and that the light industrial zoning fits with their intentions for the future of this property.

Council Member Parsons asked what the end use of this property was, Mr. Huffine answered there was no definite plan for what would be developed on this property as of right now. Mr. Huffine also informed Council that they did speak with the Lenoir Homes Council and they had no concern.

During the discussion of this rezoning, Mayor Pro Tem Hall asked staff to put on the February 8, 2022, meeting's agenda to discuss moving the notification buffer from 100 feet to 150 feet.

Council Member Parsons moved to approve the rezoning request to I-1, because it was consistent with the 2035 Comprehensive Plan, meeting policies 2.1.1, 2.1.4, 2.2.2, 3.2.4, and 4.3.1. Mayor Pro Tem Hall seconded, motion passed unanimously.

### **PUBLIC COMMENT PERIOD**

**Keith Westbrook (604 Trock Wilder Court)-** Congratulated the new City Council Members and welcomed City Manager, Megan Garner. Mr. Westbrook wanted to update Council on the crosswalk issue near the city schools.

## **CITY STAFF COMMENTS**

**City Manager, Megan Garner-** Wanted to thank everyone for being kind and welcoming, and she was excited to be in Graham.

## **CITY COUNCIL COMMENTS**

**Council Member Bobby Chin-** Thanked everyone who elected him and that he would represent every citizen of Graham. He stated he was looking forward to moving Graham forward and they should be proud of this City. He thanked everyone for taking a chance on an outsider and believes that there was work to be done and appreciates the opportunity.

**Mayor Pro Tem Ricky Hall-** Thanked Council for electing him as Mayor Pro Tem. He agreed with Council Member Chin that there was a lot of work to do and he was looking forward to making Graham better.

**Mayor Jennifer Talley-** Mentioned that there was a lot of projects coming up and they have been working very diligently. Mayor Talley recognized Mr. Tommy Purcell for volunteering his time picking up trash throughout the City of Graham. Mayor Talley announced on behalf of the Graham Cinema there would be Trolley Rides, on Friday, Saturday, and Sunday at 6:00 p.m., 6:30 p.m., and 7:00 p.m. Mayor Talley also mentioned that she would be meeting with the Recreation Department on events for the upcoming months.

## **ADJOURN:**

Upon motion Mayor Talley, seconded by Mayor Pro Tem Hall, resolved unanimously to adjourn at 7:59 p.m.

---

Darby Terrell, City Clerk

**CITY OF GRAHAM  
RELEASE ACCOUNTS**

**JANUARY**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
36779	2021	WHITESELL, CHARLES VICTOR	BOAT BILLED ON REAL ESTATE BILL AND SEPARATELY	\$227.80
384548	2021	WELLS FARGO FINANCIAL LEAS	VALUE CORRECTION	\$15.24
69068	2020	STATE FARM MUTUAL AUTO INS	ASSETS DOUBLE BILLED	\$98.68
69068	2021	STATE FARM MUTUAL AUTO INS	ASSETS DOUBLE BILLED	\$65.13
667366	2021	HABITAT FOR HUMANITY	EXEMPT PROPERTY	\$68.25
658671	2021	HUNTINGTON TECHNOLOGY FINANCE	ASSETS DOUBLE BILLED	\$27.98

***TOTAL RELEASES      \$503.08***





# STAFF REPORT

SUBJECT:	ANNEXATION OF 78.12 +/- ACRES ON CHERRY LANE
PREPARED BY:	JUSTIN SNYDER, PLANNING DIRECTOR

## REQUESTED ACTION:

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for two tracts of land located off Cherry Lane.

## BACKGROUND/SUMMARY:

The attached petition is a request for the Council's approval for an extension of the corporate limits to include the subject properties. The areas being considered for annexation are located on Cherry Lane and contain approximately 78.12 acres total. Water and Sewer lines are adjacent to this location, and 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:

The proposed development will contain an 800,000 square foot industrial building and a 400,000 square foot industrial building, each of which will generate large tax revenues with minimal impact on water and sewer infrastructure based on the land use.

## STAFF RECOMMENDATION:

Approval. **The applicants have requested to table this item to the February City Council Meeting.**

## SUGGESTED MOTION(S):

1. I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 78.12 (+/-) acres on Cherry Lane.

**ANNEXATION ORDINANCE**  
**TO EXTEND THE CORPORATE LIMITS**  
**OF THE**  
**CITY OF GRAHAM, NORTH CAROLINA**  
**FOR TWO TRACTS OF LAND ON CHERRY LANE (AN2103)**

**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 January 11, 2021, after due notice by publication on December 23 and 30, 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 January 31, 2022:

Legal Description – Western Property

GPIN#: 8893686572

**Legal Description:**

That certain tract or parcel of land in Melville Township, Alamance County, North Carolina and being more particularly described as follows:

Beginning at an iron stake in the southern 60' right of way Cherry Lane S.R. 2123 and being a common corner with Lot 1 Final Plat Showing Property for Mary Ella Scott P.B. 73 PG. 135; Running thence with the 60' right of way of Cherry Lane along a curve N 73°12'04" E and having a chord distance of 482.66' and a radius of 2848.41' to an iron stake, corner with Lot 5 Final Plat Recombination for Union Ridge Development, Inc. P.B. 69 PG. 144; Thence leaving the 60' right of way of Cherry Lane and running with the property of Lot 5 S 59°34'52" E 349.99' to an iron stake; Thence with Lot 5 N 62°09'17" E 312.09' to an iron stake cornering with Carl A. Westman D.B. 2976 PG. 166; Running thence with Westman S 12°51'22" E 1113.79' to a point in the center of Mill Creek, iron stake setback in line 41.50' from creek; Thence with Mill Creek the following calls and distances; S 44°51'34" E 42.78' , S 31°13'16" E 56.53' , S 50°33'43" E 79.51' , S 59°21'53" E 73.74' and S 30°37'42" E 37.00' to a point in the center of Mill Creek; Thence leaving Mill Creek and running with the property of Forestar (USA) Real Estate Group, Inc., a Delaware corporation D.B. 4171 PG. 37 S 68°10'31" W with a total distance of 1233.45' (iron stake setback 27.24' from center of Mill Creek to a iron stake cornering with Lot 10 Final Plat Subdivision Plat for Alamance Acres Subdivision P.B. 74 PG. 354; thence with Lot 10 S 88°51'16" W 102.04' to an iron stake being a corner with Lot 1 Final Plat Showing Property for Mary

Ella Scott P.B. 73 PG. 135; Thence with Lot 1 N 09°39'43" W 1683.66' to the Point of Beginning and containing 40.11 Acres (+/-) and being Parcel ID: 152443 of the Alamance County Register of Deeds.

Being all the same property located in the City of Graham, recorded in the Alamance County Register of Deeds at Plat Book \_\_\_\_\_, Page \_\_\_\_\_.

### Legal Description – Eastern Property

GPIN#: 8894906303

#### **Legal Description:**

That certain tract or parcel of land in Melville Township, Alamance County, North Carolina and being more particularly described as follows:

Beginning at an iron stake in the southern 60' right of way of Cherry Lane S.R. 2123 and being a common corner with Lot 1 Final Plat Division of Property of Robert W. Scott and Mary K. Lowdermilk P.B. 45 PG. 175; Thence running with the 60' right of way of Cherry Lane N 47°18'09" E 930.64' to an iron stake, corner with Connie Lois Pedelty & Penny Maxine Pedelty D.B. 849 PG. 974; Thence leaving the 60' right of way of Cherry Lane and running with the property of Connie Lois Pedelty & Penny Maxine Pedelty S 32°22'05" E 235.82' to an iron stake in the line of Pedelty; thence running with the property of Connie Lois Pedelty & Penny Maxine Pedelty D.B. 849 PG. 974 and the land of Mary Teague Pedelty & Russel Earl Pedelty D.B. 3930 PG. 200 S 24°24'09" E 1526.89' to a concrete monument being a common corner with Lot 2B Final Plat – Subdivision for Scott/Mayo Properties II, LLC P.B. 80 PG. 92; Running thence with Lot 2B S 08°14'48" W 595.32' to an iron stake cornering with lot 2B; Thence with Lot 2B S 49°20'38" W 197.92' to a rock cornering with Lot 2B; Thence with Lot 2B N 42°59'39" W 161.46' to a concrete monument; Thence leaving Lot 2B and running with property of Carl A. Westman D.B. 2976 PG. 166 N 43°07'17" W 115.66' to an iron stake cornering with Westman; Thence with property of Westman N 86°45'12" W 235.83' to an iron stake being a corner with Lot 1 Final Plat Division of Property of Robert W. Scott and Mary K. Lowdermilk P.B. 45 Beginning and containing 38.57 Acres (+/-) and being Parcel ID: 153022 with the Alamance County Register of Deeds.

**Section 2.** Upon and after January 31, 2022, 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 11<sup>th</sup> day of January, 2022.**

---

Jennifer Talley, Mayor

ATTEST:

APPROVED AS TO FORM:

---

Darby Terrell, City Clerk

---

Bryan Coleman, City Attorney





**From:** [Amanda Hodierno](#)  
**To:** [Justin Snyder](#)  
**Subject:** Re: tabling request  
**Date:** Thursday, December 23, 2021 4:33:51 PM  
**Attachments:** [image001.png](#)

---

[**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.]

Hi Justin, please defer the annexation item from the January agenda. Thank you.  
Amanda

On Dec 23, 2021, at 1:18 PM, Justin Snyder <[jsnyder@cityofgraham.com](mailto:jsnyder@cityofgraham.com)> wrote:

Hi Amanda,

Can you get me a request in writing to table the City Council annexation public hearings until February? Thanks and have a good Christmas.

Sincerely,

*Justin Snyder*

Justin Snyder, AICP, CZO  
Planning Director  
City of Graham  
P.O. Drawer 357 (mailing address)  
201 S. Main Street  
Graham, NC 27253  
336-570-6700

<[image001.png](#)>

Pursuant to NCGS Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it \*may\* be considered public record and as such are subject to request and review by anyone at any time.





## Petition for ANNEXATION

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

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

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

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

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

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

*General description of area to be annexed*

GPIN#s 8893686572 & 8894906303

Attach the following:

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

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

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

Name	Address	Vested rights?	Signature
Janet Louise Scott	2921 Lenox Rd. NE, Unit 205 Atlanta, GA 30324	no	DocuSigned by: Jan Scott
Mary Ella Scott		no	DocuSigned by: 46888179A2A346B... Mary E. Scott
Susan Scott Sutton		no	DocuSigned by: 500E988918084ec... Susan Sutton
Louis Valvelle Sutton, III		no	DocuSigned by: 800F17F2CE8C43D... Louis Valvelle Sutton, III
Margaret Scott Phipps		no	DocuSigned by: 760820E2288946E... Margaret Scott Phipps
Robert E. Phipps Jr.		no	DocuSigned by: A463861C91894E9... Robert Phipps
			6F065A34117C4F2...

attach additional sheets if necessary...

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE**  
**A PETITION RECEIVED UNDER G.S. 160A-31**  
**FOR PROPERTY ON CHERRY LANE (GPINS: 8893686572 and 8894906303) (AN2103)**

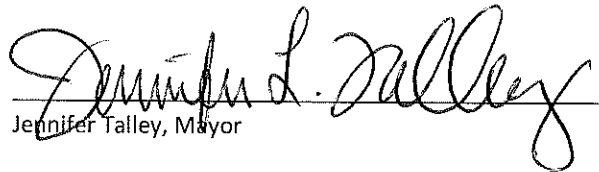
**WHEREAS**, a petition requesting annexation of an area described in said petition was received on December 14, 2021, by the Graham City Council; and

**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.

  
Jennifer Talley, Mayor

ATTEST:

  
Darby Terrell, City Clerk



# STAFF REPORT

SUBJECT:	ANNEXATION OF 37.85 +/- ACRES ON GOV. SCOTT FARM ROAD
PREPARED BY:	JUSTIN SNYDER, PLANNING DIRECTOR

## REQUESTED ACTION:

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for a 37.85-acre portion of a larger tract of land located on Gov. Scott Farm Road.

## BACKGROUND/SUMMARY:

The attached petition is a request for the Council's approval for an extension of the corporate limits to include the subject property. The area being considered for annexation is located on Gov. Scott Farm Road and contains approximately 37.85 acres total. Water and Sewer lines are adjacent to this location, and 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:

The proposed development will contain an 800,000 square foot industrial building, which will generate large tax revenues with minimal impact on water and sewer infrastructure based on the land use.

## STAFF RECOMMENDATION:

Approval. **The applicants have requested to table this item to the February City Council meeting.**

## SUGGESTED MOTION(S):

1. I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 37.85 (+/-) acres on Gov. Scott Farm Road.

# ANNEXATION ORDINANCE

## TO EXTEND THE CORPORATE LIMITS OF THE

### CITY OF GRAHAM, NORTH CAROLINA

#### FOR A 37.85-ACRE PORTION OF LAND ON GOV. SCOTT FARM ROAD (AN2104)

**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 January 11, 2021, after due notice by publication on December 23 and 30, 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 January 31, 2022:

All that certain piece, parcel or tract of land, lying and being in Alamance County, North Carolina, and being more particularly described as follows:

BEGINNING at a new iron pipe at or near the western margin of the right of way of Governor Scott Farm Road; thence along the western margin of said Governor Scott Farm Road South 45° 11' 17" East 1245.25 feet to a new iron pipe; thence along a curve to the right having a radius of 497.18 feet and arc length of 142.82 feet and a chord bearing and distance of South 36° 57' 31" East 142.33 feet to a new iron pipe; thence South 28° 43' 46" East 97.10 feet to a new iron pipe; thence along a curve to the left having a radius of 1412.13 feet and arc length of 152.70 feet and a chord bearing and distance of South 31° 49' 38" East 152.63 feet to a new iron pipe; thence South 34° 55' 31" East 131.79 feet to a calculated point; thence along a curve to the left having a radius of 5275.41 feet and arc length of 141.95 feet and a chord bearing and distance of South 35° 41' 39" East 141.59 feet to a new iron pipe; thence South 51° 55' 22" West 384.19 feet to a new iron pipe; thence North 54° 42' 42" West 132.53 feet to a computed point; thence South 89° 11' 38" West 22.24 feet to a computed point; thence South 83° 15' 36" West 152.17 feet to an existing iron pipe; thence; thence along the centerline of Mill Creek the following 25 courses and distances to computed points: (1) North 66° 37' 10" West 34.18 feet, (2) North 33° 13' 22" West 53.92 feet, (3) North 08° 59' 40" West 32.38 feet, (4) North 80° 58' 46" West 42.80 feet, (5) South 85° 52' 01" West 57.21 feet, (6) North 35° 20' 19" West 27.27 feet, (7) North 27° 10' 26" East 34.88 feet, (8) North 12° 29' 04" West 27.62 feet, (9) North 86° 50' 37" West 108.19 feet, (10) North 58° 46' 54" West 22.57 feet, (11) North 21° 16' 15" West 31.21 feet, (12) North 85° 30' 03" West 29.44 feet, (13) South 47° 08' 25" West 74.18 feet, (14) North 27° 22' 20" West 28.34 feet, (15) South 82° 09' 39" West 71.19 feet, (16) South 56° 11' 07" West 55.74 feet, (17) South 44° 20' 31" West 56.72 feet, (18) South 65° 26' 48" West 59.15 feet, (19) South 75° 00' 37" West 115.73 feet, (20) North 40° 08' 35" West 54.04 feet, (21) North 30° 37' 42" West 37.00 feet, (22) North 59° 21' 53" West 73.74 feet, (23) North 50° 33' 43" West 79.51 feet, (24) North 31° 13' 16" West 56.53 feet, (25) North 44° 51' 34" West 42.78 feet; thence North 12° 51' 22" West 1113.79 feet to an existing iron pipe; thence North 67° 55' 35" East 587.22 feet to the Point and Place of

BEGINNING, having an area of 37.85 acres, more or less.

Being all the same property located in the City of Graham, recorded in the Alamance Country Register of Deeds at Plat Book \_\_\_\_\_, Page \_\_\_\_\_.

**Section 2.** Upon and after January 31, 2022, 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 11<sup>th</sup> day of January, 2022.**

---

Jennifer Talley, Mayor

ATTEST:

APPROVED AS TO FORM:

---

Darby Terrell, City Clerk

---

Bryan Coleman, City Attorney





8894906303

Show search results for 8894906303

Area to be annexed

I-1

R-18

C-R

I-1

C-R

R-18

R-18

R-18

R-18

R-18

R-18

PUD

300ft



**From:** [Amanda Hodierno](#)  
**To:** [Justin Snyder](#)  
**Subject:** Re: tabling request  
**Date:** Thursday, December 23, 2021 4:33:51 PM  
**Attachments:** [image001.png](#)

---

[**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.]

Hi Justin, please defer the annexation item from the January agenda. Thank you.  
Amanda

On Dec 23, 2021, at 1:18 PM, Justin Snyder <[jsnyder@cityofgraham.com](mailto:jsnyder@cityofgraham.com)> wrote:

Hi Amanda,

Can you get me a request in writing to table the City Council annexation public hearings until February? Thanks and have a good Christmas.

Sincerely,

*Justin Snyder*

Justin Snyder, AICP, CZO  
Planning Director  
City of Graham  
P.O. Drawer 357 (mailing address)  
201 S. Main Street  
Graham, NC 27253  
336-570-6700

<[image001.png](#)>

Pursuant to NCGS Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it \*may\* be considered public record and as such are subject to request and review by anyone at any time.



## Petition for ANNEXATION

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

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

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

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

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

General description of area to be annexed

GPIN# 8893886609 ... which is located on the south west side of  
That portion of Governor Scott Farm Road

Attach the following:

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

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

Name	Address	Vested rights?	Signature
Carl A. Westman	802 Susan Carol Lane Chattanooga, TN 37421	no	

attach additional sheets if necessary...

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE**  
**A PETITION RECEIVED UNDER G.S. 160A-31**  
**FOR PROPERTY ON GOV. SCOTT FARM ROAD (PORTION OF GPIN: 8893886609) (AN2104)**

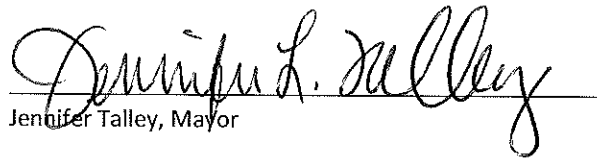
**WHEREAS**, a petition requesting annexation of an area described in said petition was received on December 14, 2021, by the Graham City Council; and

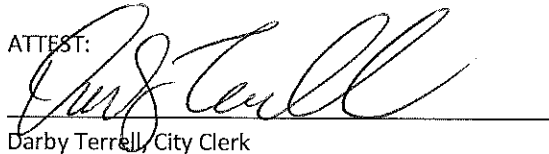
**WHEREAS**, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

**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.

  
Jennifer Talley, Mayor

ATTEST:  
  
Darby Terrell, City Clerk



# STAFF REPORT

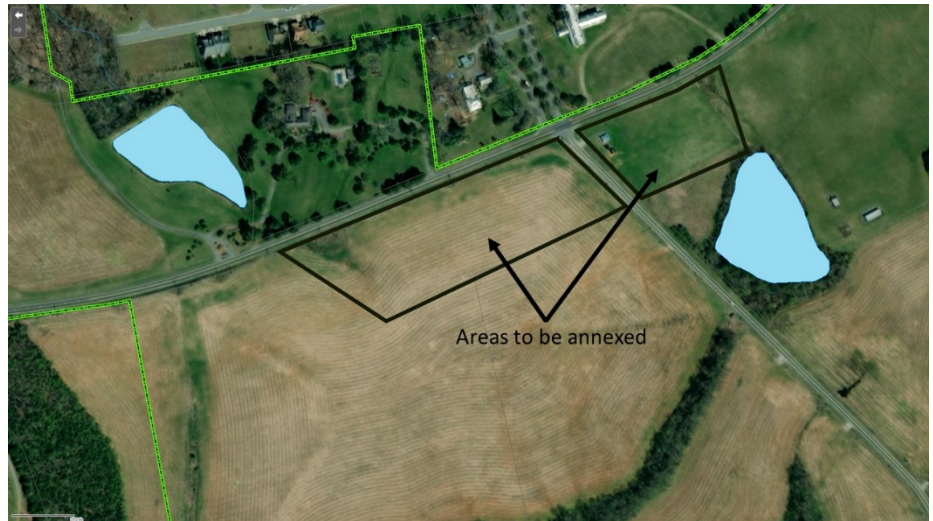
SUBJECT:	ANNEXATION OF 9.10 +/- ACRES ON CHERRY LANE
PREPARED BY:	JUSTIN SNYDER, PLANNING DIRECTOR

## REQUESTED ACTION:

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina, for two tracts of land located off Cherry Lane.

## BACKGROUND/SUMMARY:

The attached petition is a request for the Council's approval for an extension of the corporate limits to include the subject properties. The areas being considered for annexation are located on Cherry Lane and contain approximately 9.10 acres total. Water and Sewer lines are adjacent to this location, and 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:

The proposed development will contain an 800,000 square foot industrial building, which will generate large tax revenues with minimal impact on water and sewer infrastructure based on the land use.

## STAFF RECOMMENDATION:

Approval. **The applicants have requested to table this item to the February City Council meeting.**

## SUGGESTED MOTION(S):

1. I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 9.10 (+/-) acres on Cherry Lane.

**ANNEXATION ORDINANCE**  
**TO EXTEND THE CORPORATE LIMITS**  
**OF THE**  
**CITY OF GRAHAM, NORTH CAROLINA**  
**FOR TWO TRACTS OF LAND ON CHERRY LANE (AN2103)**

**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 January 11, 2021, after due notice by publication on December 23 and 30, 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 November 30, 2020:

Legal Description

GPIN#: 8893796670

**Legal Description:**

That certain tract or parcel of land in Melville Township, Alamance County, North Carolina and being more particularly described as follows:

Beginning at an iron stake on the western margin of the 60' right of way of Gov. Scott Farm Road S.R. 2124 and being a common corner with Carl A. Westman D.D. 2976 PG. 166; Running thence with Westman S 67°55'35" W 581.89' to an iron stake, corner with a Lot shown on Final Plat Showing Property for Mary Ella Scott P.B. 73 PG. 135; Thence with said Lot on Final Plat Showing Property for Mary Ella Scott S 62° 09'17" W 312.09' to an iron stake; Continuing with same property, N 59°34'52" W 394.99' to an iron stake on the southern 60' right of way of Cherry Lane S.R. 2123; Thence with the southern right of way of Cherry Lane along a curve N 68°20'17" E having a chord distance of 7.20' and a radius of 2848.41' to an iron stake; Thence continuing along Cherry Lane N 68°12'49" E 401.73' to an iron stake on the 60' right of way; Thence N 68°13'35" E 208.09' to an iron stake on the 60' right of way; Thence N 68°17'44" E 398.12' to an iron stake at the intersection of Cherry Lane S.R. 2123 and Gov. Scott Farm Road S.R. 2124; Thence with the western margin of the 60' right of way of Gov. Scott Farm Road S 45°09'49" E 300.28' to the Point of Beginning and being Lot A containing 6.30 Acres (+/-).

Beginning at an iron stake on the eastern margin of the 60' right of way Gov. Scott Farm Road S.R. 2124 (iron stake being S 67°43'27" W 65.12' from point of beginning on Lot A) Thence running along the 60' right of way of Gov. Scott Farm Road N 45°11'21" W 289.42' to a new iron pipe at the intersection of Gov. Scott Farm Road and Cherry Lane S.R. 2123; Thence with the right of way of Cherry Lane N 60°13'03" E 66.66' to a new iron stake; Thence continuing with the right of way of Cherry Lane N 68°17'44" E 190.78' to a new iron stake; Thence with the right of way of Cherry Lane along a curve N 63°03'23" E having a chord distance of 247.01' and radius of 1406.10 to an iron stake on the right of way of Cherry Lane and being a common corner with Lot 1 Final Plat

Division of Property of Mary K. Lowdermilk Trust P.B. 66 PG. 426; Thence leaving the 60' right of way of Cherry Lane and running with Lot 1 S 18°57'54" E 294.85' to an iron stake; Thence continuing with Lot 1 S 67°51' 28" W 373.34' to the Point of Beginning and being all of Lot B containing 2.80 Acres.

Together combined lots A & B make up 9.10 Acres (+/-) Total and being all of Lot 5 Final Plat Recombination for Union Ridge Development, Inc. P.B. 69 PG. 144 as recorded in the Alamance County Register of Deeds.

Being all the same property located in the City of Graham, recorded in the Alamance Country Register of Deeds at Plat Book \_\_\_\_\_, Page \_\_\_\_\_.

**Section 2.** Upon and after January 31, 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 11<sup>th</sup> day of January, 2021.**

\_\_\_\_\_  
Jennifer Talley, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Darby Terrell, City Clerk

\_\_\_\_\_  
Bryan Coleman, City Attorney





Areas to be annexed

**From:** [Amanda Hodierna](#)  
**To:** [Justin Snyder](#)  
**Subject:** Re: tabling request  
**Date:** Thursday, December 23, 2021 4:33:51 PM  
**Attachments:** [image001.png](#)

---

[**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.]

Hi Justin, please defer the annexation item from the January agenda. Thank you.  
Amanda

On Dec 23, 2021, at 1:18 PM, Justin Snyder <[jsnyder@cityofgraham.com](mailto:jsnyder@cityofgraham.com)> wrote:

Hi Amanda,

Can you get me a request in writing to table the City Council annexation public hearings until February? Thanks and have a good Christmas.

Sincerely,

*Justin Snyder*

Justin Snyder, AICP, CZO  
Planning Director  
City of Graham  
P.O. Drawer 357 (mailing address)  
201 S. Main Street  
Graham, NC 27253  
336-570-6700

<[image001.png](#)>

Pursuant to NCGS Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it \*may\* be considered public record and as such are subject to request and review by anyone at any time.



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

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

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

GPIN# 8893796670

☐ Metes and Bounds Description – 1 paper and 1 digital copy[illegible]

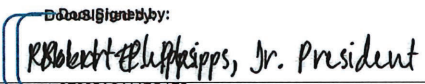
*attach additional sheets if necessary...*

Application for  
REZONING or  
CONDITIONAL REZONING

I, Robert E. Phipps, Jr., President, Melville Farms, Inc., as the property owner of the property described below, hereby give permission for (agent) Amanda P. Hodierne and/or Marc L. Isaacson to act as Melville Farms, Inc.'s agent/representative for purposes of requesting a zoning amendment for property identified as GPIN# 8893796670.

I attest that I have actual knowledge of the zoning amendment request and that I have read the application including all attachments and/or exhibits thereto; that the information contained in the application including all attachments and/or exhibits thereto is true to the best of my knowledge and belief; that the agent I appoint herein is authorized to modify the zoning amendment request as necessary to obtain approval of the zoning amendment request; and that the acts of the agent appointed herein shall be binding upon me and my heirs, successors and assigns unless and until I revoke this authorization in writing and submit same to the City Planner.

Melville Farms, Inc.,  
a North Carolina corporation

By:  Robert E. Phipps, Jr., President  
Robert E. Phipps, Jr., President

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE**  
**A PETITION RECEIVED UNDER G.S. 160A-31**  
**FOR PROPERTY ON CHERRY LANE (GPINS: 8893796670) (AN2105)**

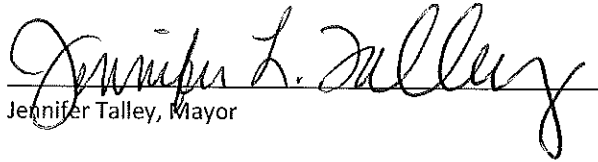
**WHEREAS**, a petition requesting annexation of an area described in said petition was received on December 14, 2021, by the Graham City Council; and

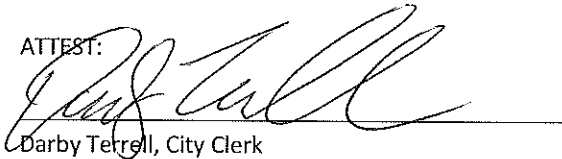
**WHEREAS**, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

**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.

  
Jennifer Talley, Mayor

ATTEST:  
  
Darby Terrell, City Clerk



# STAFF REPORT

Prepared by Justin Snyder, AICP, CZO, Planning Director

## **200 S. Marshall B-1 (RZ2108)**

**Type of Request:** Rezoning

### **Meeting Dates**

Planning Board on December 21, 2021

City Council on January 11, 2022

### **Contact Information**

Lee Kimrey

104 W. Elm Street

Graham, NC 27253

336-261-8562; [lkcllc@aol.com](mailto:lkcllc@aol.com)

### **Summary**

This is a request to rezone 0.50 acres of property from O-I (Office Institutional) to B-1 (Central Business). This side of S. Marshall Street has a mixture of zoning types, ranging from R-7 to B-3 in intensity. There is also B-2 zoning on this side of the road. Staff would note that this property is catty-cornered from the downtown central business district, and encroachment of B-1 does not pose a major use change from the O-I zoning currently in place, but it does offer some commercial flexibility that will better suit the needs of the applicant. Landscape and buffering requirements would help protect adjacent land uses from any potential negative effects of the rezoning.

Finally, this property is listed on the Future Land Use Map as Downtown Residential, which lists among its uses "neighborhood-oriented commercial, small professional offices, live-work units, and home occupations provided they do not generate excessive traffic and parking." Given the location at a major intersection and the size of the property, residential is likely not the best-suited use for this parcel, and office is somewhat limiting, so central business would be a compatible use in staff's opinion.

### **Location**

200 S. Marshall Street

### **GPIN:**

8884233706

### **Current Zoning**

O-I (Office Institutional)

### **Proposed Zoning**

B-1 (Central Business)

### **Overlay District**

N/A

### **Surrounding Zoning**

O-I, B-1, B-2, B-3, R-7, R-12

### **Surrounding Land Uses**

Single Family, Office, Vacant, and Business

### **Size**

0.50 acres

### **Public Water & Sewer**

Yes

### **Floodplain**

No

### **Staff Recommendation**

Approval





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

### Applicable Policies:

- **2.1.1 Diverse job market.** A diversified job market that provides employment opportunities for persons with varying education levels and skill sets is needed and encouraged. *This amendment will allow for potential job creation that will diversify our existing workforce*
- **2.1.3: Economic resilience.** Graham improves its economic resilience to economic, social, and environmental instability through a strong local economy and equitable opportunities for prosperity. *This amendment will strengthen the local economy and the downtown landscape.*
- **2.1.4 Competitive advantage.** Graham works to strengthen its existing comparative economic advantages including a high quality and highly diverse workforce, local education and research institutions, and high quality of life. *This amendment will strengthen the local economy by increasing the tax base with minimal impact to existing public infrastructure. It will aid in diversifying our skilled labor workforce.*
- **2.2.1: Focused development.** In order to maintain Graham's affordability and promote growth, the City will facilitate smart growth development by promoting infill development and focused, walkable, and mixed use built environments. *This amendment creates an opportunity for focused infill development that ties in with the downtown.*
- **2.3.2: Innovative spaces, spaces of innovation.** Graham promotes the development of flex space, live-work units, and adaptive structures for office, retail, and light industry. *This parcel is located in an area targeted for mixed-use and small-scale residential and commercial development. The proposed zoning category lends itself to these types of uses.*

#### Planning Type

Neighborhoods

#### Development Type

Downtown Residential

The term neighborhood refers to the idea of a compact, walkable, diverse, and connected community. As the building blocks of City urban fabric, neighborhoods should be organized around small-scale activity centers that provide civic and commercial functions within a five to ten-minute walk for residents to meet their daily needs.

Neighborhoods should be well connected internally and externally for bicyclists, pedestrians, and commuters. Small blocks and high connectivity ratios should be established and maintained both within and between neighborhoods.

#### Appropriate Density

3-6 dwelling units per acre

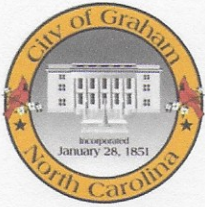
---

### Staff Recommendation

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

- Rezoning this property would further Policies 2.1.1, 2.1.3, 2.1.4, 2.2.1, and 2.3.2, creating a diverse job market with innovative, focused development that will blend with the downtown and serve as a transitional area to adjacent office and residential uses.





# Application for REZONING or CONDITIONAL REZONING

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

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

## Site

Street Address: 200 South Marshall Street  
Tax Map#: \_\_\_\_\_ GPIN: 8884233706  
Current Zoning District(s):  
☐ R-7 ☐ R-9 ☐ R-12 ☐ R-15 ☐ R-18  
☐ R-MF ☐ R-G ☐ C-R ☐ C-MXR  
☐ B-1 ☐ B-2 ☐ B-3 ☐ C-B ☐ C-MXC  
☒ O-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I  
Overlay District, if applicable:  
☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54  
Current Use: Vacant Land  
Total Site Acres: .5  
Property Owner: 200 South Marshall GP, LLC  
Mailing Address: 200 N. Main Street #302  
City, State, Zip: Graham, NC 27253

## Applicant

☒ Property Owner ☐ Other \_\_\_\_\_

*Application for Conditional Rezoning may only be initiated by the owner of a legal interest in all affected property, any person having an interest in the property by reason of written contract with owner, or an agent authorized in writing to act on the owner's behalf. If the applicant for Conditional Rezoning is other than the Property Owner, documentation in compliance with the preceding statement must be provided in order for this application to be complete.*

Name: Lee Kimrey  
Mailing Address: 104 W Elm Street  
City, State, Zip: Graham, NC 27253  
Phone # (336) 261-8562  
Email: lkcllc@aol.com

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

10/28/21

Signature of Applicant

Date

## Proposed Rezoning or Conditional Rezoning

Proposed Zoning District(s):

☐ R-7 ☐ R-9 ☐ R-12 ☐ R-15 ☐ R-18  
☐ R-MF ☐ R-G ☐ C-R ☐ C-MXR  
☒ B-1 ☐ B-2 ☐ B-3 ☐ C-B ☐ C-MXC  
☐ O-I ☐ C-O-I ☐ I-1 ☐ I-2 ☐ C-I

Describe the purpose of this rezoning request. *For Conditional Rezoning*, also specify the actual use(s) intended for the property (from Sec. 10.135 Table of Permitted Uses) along with other descriptive or pertinent information, such as number of dwelling units, type of multifamily development, square footage and number of buildings:

To allow for a variety of more uses that may compliment the downtown area and provide more commerce and services in the central business district to benefit the community.

**For Conditional Rezoning, this application must be accompanied by a Preliminary Site Plan and supporting information** specifying the actual use(s) and any rules, regulations or conditions that, in addition to predetermined ordinance requirements, will govern the development and use of the property.

☐ Site Plan Review Application **must be attached to this application for Conditional Rezoning**

Office Use Only. DEVID#



## 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.*

### **South Marshall B-1 (RZ2108)**

#### **Type of Request**

Rezoning

#### **Meeting Dates**

Planning Board on December 21, 2021  
City Council on January 11, 2022

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

☐ I move to **recommend DENIAL**.

---

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

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

---

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

- Rezoning this property would further Policies 2.1.1, 2.1.3, 2.1.4, 2.2.1, and 2.3.2, creating a diverse job market with innovative, focused development that will blend with the downtown and serve as a transitional area to adjacent office and residential uses.

This report reflects the recommendation of the Planning Board, this the 21<sup>st</sup> day of December, 2021.

Attest:

---

Dean Ward, Planning Board Chairman

---

Debbie Jolly, Secretary



## City Council Decision & 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. 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.*

### South Marshall B-1 (RZ2108)

#### Type of Request

Rezoning

#### Meeting Dates

Planning Board on December 21, 2021  
City Council on January 11, 2022

Choose one...

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

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

Choose one...

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

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 11th day of January, 2022.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk





# 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 25<sup>th</sup> day of the month preceding the planning board meeting at which consideration is desired.

**Section 10.141 Role of Planning Board**

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

**Section 10.142 Role of Historic Resources Commission**

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

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

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

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

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

#### **Section 10.144                      Findings**

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

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

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

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

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

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

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

#### **Section 10.147                      Appeal**

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

#### **Section 10.148                      Invalidation**

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

#### **Proposed Language:**

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

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

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

#### **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 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 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.



## 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, Planning Board Chair

Debbie Jolly, Secretary



# STAFF REPORT

Prepared by Justin Snyder, Planning Director

## Text Amendment for: Special Use Permits Uses Listed

**Type of Request:** Text Amendment

### Meeting Dates

Planning Board on November 16, 2021

City Council on December 14, 2021

### Contact Information

N/A

## Summary

In keeping with the recent recommendation to move the authority for special use permit approvals from the City Council to the Board of Adjustment, staff has also identified several uses in the permitted uses table that are improperly classified based on type and intensity of use. This not only includes uses subject to the special use permit process, but also several uses by right. Staff has made several adjustments to the existing permitted uses table to better classify the uses. Additionally, because some of the proposed changes affect the notes to the permitted uses table and the special uses sections of the code, those changes were made as well. Due to the length of those changes, staff has included them as an addendum at the end of this report.

**Existing Language:**

### Project Name

Special Use Permits Uses Listed  
(AM2103)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval



**Section 10.135**
**Table of Permitted Uses**

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
ABC Store (liquor)												X	X	C					C	3
Accessory Uses, See Note 1	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Office Space, Less than 5 employees									X	C	X	X	X	C	X			C	C	3
Office Space, More than 5 employees									X	C		X	X	C				C	C	3
Alteration, Clothing Repair											X	X	X	C				C	C	3
Ambulance, Fire, Police, Rescue Station	S	S	S	S	S	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Amusement/Water Parks/Fairs/Carnivals												S			S	S	C			4
Animal Hospital/Commercial, with outdoor kennels or runs, provided all runs and pens are at least 50 ft. from any property line												S		C	X	X	C		C	3
Boutique Shops, No Outdoor Storage									S	C	X	X	X	C	X			C	C	3
Large Items Store (appliances, hardware, furniture)												X	X	C	X		C		C	3
Athletic Fields, See Note 2	S	S	S	S	S	C	S	S	X	C	X	X		C	X	X	C	C	C	1
Auditoriums, Stadiums, and similar facilities where admission is charged or organized athletic events are held, See Note 2							S	S	S			S	S	C	S		C		C	4
Vehicle Accessory and Supply Sales												X		C	X		C	C	C	3
Vehicle assembling, painting, upholstering, rebuilding, reconditioning; body and fender work															X	X	C			4
Vehicle body and fender repair conducted within completely enclosed building												X		C	X	X	C		C	3
Vehicle Dealers/Rentals (new and used)												X		C	X	X	C		C	3
Vehicle repair shops, not including body or fender repair												X		C	X	X	C		C	4



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Vehicle Towing Services, See Note 3												X		C	X	X	C			4
Bank, Savings and Loan, Credit Union, similar financial institutions									X	C	X	X	X	C	X	X	C	C	C	2
Banquet Hall						C			X	C		X	X	C	X		C	C	C	3
Bars (as principal use), See Note 4												X	X	C			C	C	C	3
Barber Shop, Beauty Shop, Nail Salon											X	X	X	C	X		C	C	C	3
Batting Cages, Outdoor, See Note 5															X	X	C			4
Bed and Breakfast (Tourist Home)	S	S	S	X	X	C	X	X	X	C	X	X	X	C				C	C	2
Billiard Halls, Bingo Games, Bowling Alleys, other public amusement establishments												X	X	C	X		C		C	3
Shops or Bulk Sales (with storage yard), See Note 6															X	X	C			4
Distribution Center															X	X	C			3
Bus station												S		C						3
Cabinet, woodworking and upholstery shops												X		C	X	X	C		C	3
Campgrounds, commercial												S			S	S	C			4
Car Wash, including Self Service, See Note 7											S	X	X	C	X	X	C		C	4
Cellular or Digital Communication Tower															S	S	C			5
Cemetery or Mausoleum. See Note 8	S							S				S		C	S	S	C			2
Religious Services	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X		C	C	C	2
Communication or Broadcasting Facility, without Tower											X	X	X	C	X	X	C		C	3
Community Centers, not including gymnasiums or stadiums	S	S	S	S	S	C	S	S	S	C	S	S	S	C	S	S	C	C	C	3
Contractors Offices, no outdoor storage									X		X	X	X	C	X	X	C		C	3
Convenience Store (with gasoline pumps >15' from property line)											X	X		C	X	X	C	C	C	3
Convenience Store (without gasoline pumps)									X		X	X	X	C	X	X	C	C	C	3





Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Day Care Center, Adult (Less than 6)							X	X	X	C	X	X		C	X		C	C	C	2
Day Care Center, Adult (6 or more)									X	C	X	X		C	X		C		C	2
Day Care Center, Child meeting licensing and safety standards							X	X	X	C	X	X		C	X		C	C	C	2
Day Care Center, Child, operated as home occupation (5 or less), See note 20	X	X	X	X	X	C	X	X	X	C	X	X		C	X			C	C	2
Dwelling, Duplex					X		X	X												1
Dwelling, condominium			S	S	S	C	X	X		C				C				C	C	2
Dwelling(s), located in the second or higher story of a commercial structure									X	C	X	X	X	C				C	C	1
Dwelling, Multifamily , site plan required see Note 18						C	X	X		C				C				C	C	3
Dwelling quarters for operators, caretakers, etc. in or adjacent to buildings primarily for nonresidential use									X	C	X	X	X	C	X	X	C	C	C	3
Dwelling, Single Family Detached	X	X	X	X	X	C	X	X	X	C	X	X		C				C	C	1
Dwelling, Townhouse			S	S	S	C	X	X										C	C	2
Dry cleaning\Laundry (not self-service)												X		C	X	X	C	C	C	3
Electronic, Internet or Sweepstakes Gaming												S			S					5
Equipment Rental, Leasing or Repair (no outside storage)												X		C	X	X	C		C	3
Equipment Rental, Leasing or Repair (with outside storage), See Note 6															X	X	C			5
Explosives storage, long-term or temporary, in accordance with latest edition of National Fire Code																S				3
Family Care Facility (Family Care Home), See Note 21	X	X	X	X	X	C	X	X												1
Farms	X																			1
Farmer's Market (as Accessory Use, See Note 22)											X	X	X							



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Food processing wholesale quantities, excluding slaughtering															X	X	C			4
Flea Market, provide no permanent outdoor display and all sale items and temporary signs are placed inside the permanent building on premises after 6:00 p.m.												S			S	S				3
Floor Covering, Drapery or Upholstery Sales											S	X	X	C	X		C		C	3
Florist											X	X	X	C				C	C	3
Funeral Home or Crematorium									X	C	X	X	X	C	X		C	C	C	2
Game Room, Video Game Room, Coin Operated Amusements												X	X	C					C	3
Garden Center or Retail Nursery							S	S				X		C	X	X	C		C	3
Golf Course, Miniature												X		C	X		C			3
Golf, swimming or tennis lodge or clubs	S	S	S	S	S	C	S	S	S			S		C	S	S	C	C	C	1
Government Office									X	C	X	X	X	C	X	X	C	C	C	2
Group Care Facility, See Note 23						C	S	S	S	C	S	S		C				C	C	3
Group Home, See Note 23	S	S	S	S	S	C	S	S	S	C	S	S		C				C	C	1
Hazardous Waste Facilities																				5
Home Occupation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	1
Hospital	S	S	S	S	S	C	S	S	S	C	S	X		C	S	X	C	C	C	4
Hotel, Motel or Executive Suites												X	X	C	X		C		C	4
Jails									S			S			S	S				4
Junkyards, Salvage Yards																S				5
Laboratories for testing and research												X		C	X	X	C		C	3
Landfill, for Household and Commercial Waste, State Permitted – No Hazardous Waste (Reserved)																				5
Retail/Service With Outside Plant/Equipment Storage												X		C	X	X	C		C	3



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Laundromat, Coin-Operated											X	X	X	C	X	X	C	C	C	3
Library, Art Gallery or Museum									X	C	X	X	X	C				C	C	2
Life Counseling						C			X	C		X	X	C			C	C	C	2
Manufactured Dwelling Park								S												3
Manufactured Dwelling (Class AA) on Individual Lot								X												1
Manufactured Home Sales												S			S	S				3
Manufacturing and Industry ( <b>assembling, manufacturing, compounding, repair or treatment of articles or merchandise</b> )																				
Ammunition, <b>Small Arms</b>																X				4
Animal Feeds																S				5
Apparel and Finished Fabric Products															X	X	C			4
Bakery Products															X	X	C			4
Batteries																X				4
Bottling Plant															X	X	C			4
Cement, concrete, lime, plaster, brick																X				4
Chemicals, Paints and Allied Products																X				4
Dairy Product Processing															X	X	C			4
Electrical Equipment															X	X	C			4
Fabricated Metal Products															X	X				4
Glass Products from Purchased Glass															X	X	C			4
Heating Equipment and Plumbing Fixtures															X	X	C			4
Household Appliances															X	X	C			4
Industrial and Commercial Machinery															S	X	C			4
Leather Products (no tanning)															X	X	C			4
Lighting and Wiring Equipment															X	X	C			4



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Manufactured Housing and Wood Buildings															X	X	C			4
Medical, Dental and Surgical Equipment															X	X	C			4
Millwork, Plywood and Veneer															X	X	C			4
Optical Goods												X		C	X	X	C			4
Paperboard Containers and Boxes																X				4
Pharmaceutical Products															X	X	C			4
Photographic Equipment and Supplies															X	X	C			4
Plastic Products															X	X	C			4
Pottery and Related Products															X	X	C			4
Rubber Products																X				4
Sawmill																S				
Sign manufacture, fabricating												X		C	X	X	C			4
Soaps and Cosmetics																X				4
Textile Products (no dyeing and finishing)															X	X	C			4
Textile Products (with dyeing and finishing)																X				4
Massage Therapy, practitioner licensed by the State of NC									X	C	X	X	X	C	X		C	C	C	2
Medical, Dental or Related Office									X	C	X	X	X	C	X		C	C	C	2
Medical or Dental Laboratory									X	C		X	X	C	X		C	C	C	3
Motion Picture Production												X		C	X		C			4
Municipal Facilities	S	S	S	S	S	C	S	S	X	C	X	X	X	C	S	S	C	C	C	3
Museum or Art Gallery									X	C	X	X	X	C				C	C	2
Night clubs, dance halls (see note 4)												X	X	C			C		C	3
Nursing Home, Rest Home, Convalescent Home	S	S	S	S	S	C	X	X	S	C	S	X		C				C	C	3
Park, Public	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Parking lots serving uses permitted in the district where located, See Note 11	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Parking lots or access driveways serving uses not permitted in district where lot is located			S	S	S	C		S	S	C	S	S	S	C	S	S	C	C	C	4
Pet Store/Grooming No Outside Animal Storage/Care												X	X	C	X		C		C	3
Petroleum and Petroleum Products Storage/Sales, <100,000 gallons												S		C	X	X	C			4
Petroleum and Petroleum Products Storage/Sales, >100,000 gallons																X				5
Photography Studio											X	X	X	C	X		C	C	C	3
Physical Fitness Center, Health Club, Gym									X	C		X	X	C	X		C	C	C	3
Planned Unit Development (PUD)	O	O	O	O	O		O	O	O		O	O	O		O	O				3
Post Office											X	X	X	C	X		C	C	C	4
Printing and Publishing Operation/Photocopying												X	X	C	X	X	C		C	3
Public utility warehouses, storage yards, repair areas															X	X	C			4
Racetracks for automobiles, motorcycles															S	S				5
Radio, Television Stations without Towers											X	X	X	C	X	X	C		C	3
Recycling Facility, Commercial															S	S				4
Restaurant (with drive-thru)												X		C	X	X	C		C	3
Restaurant (without drive-thru)												X	X	C	X		C		C	3
<b>Retail Sales No Outside Storage or Sales</b>											S	X	X	C	X		C	C	C	3
Roadside stands, temporary, for sale of agricultural products produced on premises; not in right-of-way								X	X	C	X	X	X	C	X	X	C	C	C	1
Sewage Treatment Plant,																X				5
School, Elementary or Secondary	S	S	S	S	S	C	S	S	S	C	S	X		C				C	C	1





Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
School, commercial, vocational									S	C	S	X	X	C	X	X	C	C	C	1
School, music, art, martial arts, or dancing											X	X	X	C	X		C	C	C	1
Septic Tank Installation and Servicing Businesses															X	X	C			3
Sexually Oriented Business												S			S					5
Shooting Range, Indoor															X	X	C			3
Shooting Range, Outdoor																S				4
Solar Farm (See Note 24)						C				C				C	X	X	C	C	C	2
Stable, including riding facilities	S														S	S	C			1
Storage Yard, See Note 13															X	X	C			5
Tanning Salon									X	C		X	X	C				C	C	3
Tattoo Business												X			X	X				3
Taxidermist												X		C	X		C		C	3
Temporary Construction or Real Estate Office, Storage Facilities – use to be terminated upon completion of construction	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	n/a
Theater (indoor)												X	X	C	X		C	C	C	3
Tire Recapping and Retreading (Principal use)															X	X	C			3
Tire Sales												X		C	X		C		C	3
Towers, Radio, Television, Cellular and Digital Communication															S	S	C			5
Truck and Utility Trailer Rental and Leasing												X		C	X	X	C			4
Trucking or Freight Terminal, Storage, Repair, Wash, or Stop															S	S	C			4
Unattended facilities for public utilities, See Note 16	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	2
Utility building sales, sales of storage sheds and trailers												X			X	X	C			
Unified Business Development, Heavy									S	C		S	S	C	S		C	C	C	3



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Unified Business Development, Light									X	C		X	X	C	X		C	C	C	3
Utility Substation, See Note 17	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	2
Veterinary Service, Large Animal	X																			2
Warehouse (general storage, enclosed, non-hazardous)															X	X	C			4
Warehouse, Mini (self-storage)												S		C	X	X	C			3
Waste Incinerators (including Medical)																				5
Water Treatment Plant															X	X	C			5
Wholesale Distribution and Trade Not Otherwise Listed												X		C	X	X	C			3

Proposed Language (redlined changes are attached separately):



## 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* and best practices, **staff recommends approval of the text amendment.** The following supports this recommendation:

Special uses are those uses that typically cannot be well categorized into a use by right classification due to their size, intensity, or unique characteristics. The proposed amendments better align with this definition.

## Section 10.135

## Table of Permitted Uses

Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC
ABC Store (liquor)												X	X	C					C	3
Accessory Uses, See Note 1	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Office Space, Less than 5 employees									X	C	X	X	X	C	X			C	C	3
Office Space, More than 5 employees									X	C		X	X	C				C	C	3
Alteration, Clothing Repair											X	X	X	C				C	C	3
Ambulance, Fire, Police, Rescue Station	S	S	S	S	S	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Amusement/Water Parks/Fairs/Carnivals												S			S	S	C			4
Animal Hospital/Commercial, with outdoor kennels or runs, provided all runs and pens are at least 50 ft. from any property line												<del>SX</del>		C	X	X	C		C	3
Boutique Shops, No Outdoor Storage									<del>SX</del>	C	X	X	X	C	X			C	C	3
Large Items Store (appliances, hardware, furniture)												X	X	C	X		C		C	3
Athletic Fields, See Note 2	S	S	S	S	S	C	S	S	X	C	X	X		C	X	X	C	C	C	1
Auditoriums, Stadiums, and similar facilities where admission is charged or organized athletic events are held, See Note 2							S	S	S			S	S	C	S		C		C	4
Vehicle Accessory and Supply Sales												X		C	X		C	C	C	3
Vehicle assembling, painting, upholstering, rebuilding, reconditioning; body and fender work															X	X	C			4
Vehicle body and fender repair conducted within completely enclosed building												X		C	X	X	C		C	3
Vehicle Dealers/Rentals (new and used)												<del>SX</del>		C	X	X	C		C	3
Vehicle repair shops, not including body or fender repair												X		C	X	X	C		C	4

Formatted Table



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Vehicle Towing Services, See Note 3												<del>S</del>		C	X	X	C			4
Bank, Savings and Loan, Credit Union, similar financial institutions									X	C	X	X	X	C	X	X	C	C	C	2
Banquet Hall						C			X	C		X	X	C	X		C	C	C	3
Bars (as principal use), See Note 4												X	X	C			C	C	C	3
Barber Shop, Beauty Shop, Nail Salon											X	X	X	C	X		C	C	C	3
Batting Cages, Outdoor, See Note 5															X	X	C			4
Bed and Breakfast (Tourist Home)	<del>SX</del>	<del>SX</del>	<del>SX</del>	X	X	C	X	X	X	C	X	X	X	C				C	C	2
Billiard Halls, Bingo Games, Bowling Alleys, other public amusement establishments												X	X	C	X		C		C	3
Shops or Bulk Sales (with storage yard), See Note 6															X	X	C			4
Distribution Center															X	X	C			3
Bus station												S		C						3
Cabinet, woodworking and upholstery shops												X		C	X	X	C		C	3
Campgrounds, commercial	<del>S</del>											<del>S</del>			<del>S</del>	<del>S</del>	C			4
Car Wash, including Self Service, See Note 7											<del>S</del>	X	X	C	X	X	C		C	4
Cellular or Digital Communication Tower															S	S	C			5
Cemetery or Mausoleum. See Note 8	S	<del>S</del>	<del>S</del>	<del>S</del>	<del>S</del>			S				<del>S</del>		C	<del>S</del>	<del>S</del>	C			2
Religious Services	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X		C	C	C	2
Communication or Broadcasting Facility, without Tower											X	X	X	C	X	X	C		C	3
Community Centers, not including gymnasiums or stadiums	S	S	S	S	S	C	S	S	S	C	S	S	S	C	S	S	C	C	C	3
Contractors Offices, no outdoor storage									<del>X</del>		X	X	X	C	X	X	C		C	3
Convenience Store (with gasoline pumps >15' from property line)											<del>X</del>	X		C	X	X	C	C	C	3
Convenience Store (without gasoline pumps)									X		X	X	X	C	X	X	C	C	C	3

Formatted Table

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Centered





Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC
Day Care Center, Adult (Less than 6)							X	X	X	C	X	X		C	X		C	C	C	2
Day Care Center, Adult (6 or more)									X	C	X	X		C	X		C		C	2
Day Care Center, Child meeting licensing and safety standards							X	X	X	C	X	X		C	X		C	C	C	2
Day Care Center, Child, operated as home occupation (5 or less), See note 20	X	X	X	X	X	C	X	X	X	C	X	X		C	X			C	C	2
Dwelling, Duplex	X	X	X	X	X	C	X	X										C	C	1
Dwelling, condominium			S	S	S	C	X	X		C				C				C	C	2
Dwelling(s), located in the second or higher story of a commercial structure									X	C	X	X	X	C				C	C	1
Dwelling, Multifamily-, site plan required see Note 18						C	X	X		C				C				C	C	3
Dwelling quarters for operators, caretakers, etc. in or adjacent to buildings primarily for nonresidential use									X	C	X	X	X	C	X	X	C	C	C	3
Dwelling, Single Family Detached	X	X	X	X	X	C	X	X	X	C	X	X	X	C				C	C	1
Dwelling, Townhouse			S	S	S	C	X	X										C	C	2
Dry cleaning\Laundry (not self-service)												X		C	X	X	C	C	C	3
Electronic, Internet or Sweepstakes Gaming												S			S	S				5
Equipment Rental, Leasing or Repair (no outside storage)												X		C	X	X	C		C	3
Equipment Rental, Leasing or Repair (with outside storage), See Note 6															X	X	C			5
Explosives storage, long-term or temporary, in accordance with latest edition of National Fire Code																S				3
Family Care Facility (Family Care Home), See Note 21	X	X	X	X	X	C	X	X												1
Farms	X																			1
Farmer's Market (as Accessory Use, See Note 22)											X	X	X							

Formatted Table

Formatted: Font: Calibri

Formatted: Centered

Formatted: Font: Calibri

Formatted: Font: Calibri

Formatted: Font: Calibri

Formatted: Font: Calibri

Formatted: Font: Calibri

Formatted: Centered

Formatted: Font: Calibri

Formatted: Font: Calibri

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Food processing wholesale quantities, excluding slaughtering															X	X	C			4
Flea Market, provide no permanent outdoor display and all sale items and temporary signs are placed inside the permanent building on premises after 6:00 p.m.												S			S	S	C			3
Floor Covering, Drapery or Upholstery Sales											SX	X	X	C	X		C		C	3
Florist											X	X	X	C				C	C	3
Funeral Home or Crematorium									X	C	X	X	X	C	X		C	C	C	2
Game Room, Video Game Room, Coin Operated Amusements												X	X	C					C	3
Garden Center or Retail Nursery	X						S	S				X		C	X	X	C		C	3
Golf Course, Miniature												X		C	X		C			3
Golf, swimming or tennis lodge or clubs	S	S	S	S	S	C	S	S	S			S		C	S	S	C	C	C	1
Government Office									X	C	X	X	X	C	X	X	C	C	C	2
Group Care Facility, See Note 23						C	S	S	S	C	S	S		C				C	C	3
Group Home, See Note 23	S	S	S	S	S	C	S	S	S	C	S	S		C				C	C	1
Hazardous Waste Facilities																				5
Home Occupation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	1
Hospital	S	S	S	S	S	C	S	S	S	C	S	X		C	S	X	C	C	C	4
Hotel, Motel or Executive Suites												X	X	C	X		C		C	4
Jails									S			S			S	S				4
Junkyards, Salvage Yards																S				5
Laboratories for testing and research												X		C	X	X	C		C	3
Landfill, for Household and Commercial Waste, State Permitted – No Hazardous Waste (Reserved)																S				5
Retail/Service With Outside Plant/Equipment Storage												X		C	X	X	C		C	3

Formatted Table

Formatted: Font: 9 pt

Formatted: Font: Calibri

Formatted: Normal, Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Laundromat, Coin-Operated											X	X	X	C	X	X	C	C	C	3
Library, Art Gallery or Museum									X	C	X	X	X	C				C	C	2
Life Counseling									X	C		X	X	C			C		C	2
Manufactured Dwelling Park								S												3
Manufactured Dwelling (Class AA) on Individual Lot								X												1
Manufactured Home Sales															S	S				3
<b>Manufacturing and Industry (assembling, manufacturing, compounding, repair or treatment of articles or merchandise)</b>																				
Ammunition, Small Arms																X				4
Animal Feeds																S				5
Apparel and Finished Fabric Products															X	X	C			4
Bakery Products															X	X	C			4
Batteries																X				4
Bottling Plant															X	X	C			4
Cement, concrete, lime, plaster, brick																X				4
Chemicals, Paints and Allied Products																X				4
Dairy Product Processing															X	X	C			4
Electrical Equipment															X	X	C			4
Fabricated Metal Products															X	X				4
Glass Products from Purchased Glass															X	X	C			4
Heating Equipment and Plumbing Fixtures															X	X	C			4
Household Appliances															X	X	C			4
Industrial and Commercial Machinery															S	X	C			4
Leather Products (no tanning)															X	X	C			4
Lighting and Wiring Equipment															X	X	C			4

Formatted Table

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: Bold

Formatted: Font: Not Bold



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-I	C-MXR	C-MXC	LUC
Manufactured Housing and Wood Buildings															X	X	C			4
Medical, Dental and Surgical Equipment															X	X	C			4
Millwork, Plywood and Veneer															X	X	C			4
Optical Goods												X		E	X	X	C			4
Paperboard Containers and Boxes																X				4
Pharmaceutical Products															X	X	C			4
Photographic Equipment and Supplies															X	X	C			4
Plastic Products															X	X	C			4
Pottery and Related Products															X	X	C			4
Rubber Products																X				4
Sawmill																S				S
Sign manufacture, fabricating												X		E	X	X	C			4
Soaps and Cosmetics																X				4
Textile Products (no dyeing and finishing)															X	X	C			4
Textile Products (with dyeing and finishing)																X				4
Massage Therapy, practitioner licensed by the State of NC									X	C	X	X	X	C	X		C	C	C	2
Medical, Dental or Related Office									X	C	X	X	X	C	X		C	C	C	2
Medical or Dental Laboratory									X	C		X	X	C	X		C	C	C	3
Motion Picture Production												X		C	X	X	C			4
Municipal Facilities	S	S	S	S	S	C	S	S	X	C	X	X	X	C	S	S	C	C	C	3
Museum or Art Gallery									X	C	X	X	X	C	X		C	C	C	2
Night clubs, dance halls (see note 4)												X	X	C	X		C		C	3
Nursing Home, Rest Home, Convalescent Home	S	S	S	S	S	C	X	X	SX	C	S	X		C				C	C	3
Park, Public	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3

Formatted Table

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-1	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC
Parking lots serving uses permitted in the district where located, See Note 11	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	3
Parking lots or access driveways serving uses not permitted in district where lot is located			S	S	S	C		S	S	C	S	S	S	C	S	S	C	C	C	4
Pet Store/Grooming No Outside Animal Storage/Care											X	X	X	C	X		C		C	3
Petroleum and Petroleum Products Storage/Sales, <100,000 gallons											S			C	X	X	C			4
Petroleum and Petroleum Products Storage/Sales, >100,000 gallons																X	C			5
Photography Studio											X	X	X	C	X		C	C	C	3
Physical Fitness Center, Health Club, Gym									X	C		X	X	C	X		C	C	C	3
Planned Unit Development (PUD)	O	O	O	O	O		O	O	O		O	O	O		O	O				3
Post Office											X	X	X	C	X		C	C	C	4
Printing and Publishing Operation/Photocopying												X	X	C	X	X	C		C	3
Public utility warehouses, storage yards, repair areas															X	X	C			4
Racetracks for automobiles, motorcycles															S	S				5
Radio, Television Stations without Towers											X	X	X	C	X	X	C		C	3
Recycling Facility, Commercial															S	S				4
Restaurant (with drive-thru)												X		C	X	X	C		C	3
Restaurant (without drive-thru)												X	X	C	X		C		C	3
Retail Sales No Outside Storage or Sales											SX	X	X	C	X		C	C	C	3
Roadside stands, temporary, for sale of agricultural products produced on premises; not in right-of-way	X							X	X	C	X	X	X	C	X	X	C	C	C	1
Sewage Treatment Plant,																S				5
School, Elementary or Secondary	S	S	S	S	S	C	S	S	SX	C	SX	SX		C	X		C	C	C	42

Formatted Table

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: Not Bold

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Centered

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)





Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-1	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC
School, commercial, vocational									<del>SX</del>	C	<del>SX</del>	<del>XX</del>	<del>XS</del>	C	<del>XX</del>	<del>XX</del>	C	C	C	<del>12</del>
School, music, art, martial arts, or dancing									<del>X</del>	<del>C</del>	X	X	X	C	X		C	C	C	1
Septic Tank Installation and Servicing Businesses															X	X	C			3
Sexually Oriented Business												S			S	<del>S</del>				5
Shooting Range, Indoor															X	X	C			3
Shooting Range, Outdoor																S				<del>45</del>
Solar Farm (See Note 24)						€				€				€	X	X	C	€	€	<del>24</del>
Stable, including riding facilities	<del>SX</del>														<del>SX</del>	<del>SX</del>	C			1
Storage Yard, See Note 13															X	X	C			5
Tanning Salon									X	€	<del>X</del>	X	X	C				C	C	3
Tattoo Business												X			X	X				3
Taxidermist												X		C	X	<del>X</del>	C		€	3
Temporary Construction or Real Estate Office, Storage Facilities – use to be terminated upon completion of construction	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	n/a
Theater (indoor)												X	X	C	X		C	C	C	3
Tire Recapping and Retreading (Principal use)															X	X	C			3
Tire Sales												X		C	X		C		C	3
Towers, Radio, Television, Cellular and Digital Communication															S	S	C			5
Truck and Utility Trailer Rental and Leasing												X		C	X	X	C			4
Trucking or Freight Terminal, Storage, Repair, Wash, or Stop															S	S	C			4
Unattended facilities for public utilities, See Note 16	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	2
Utility building sales, sales of storage sheds and trailers												X			X	X	C			<del>4</del>
Unified Business Development, Heavy									S	€		S	S	€	S	<del>S</del>	C	€	€	<del>34</del>

Formatted Table

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered



Use Type	R-18	R-15	R-12	R-9	R-7	C-R	R-MF	R-G	O-I	C-O-I	B-3	B-2	B-1	C-B	I-1 (Note 19)	I-2 (Note 19)	C-1	C-MXR	C-MXC	LUC
Unified Business Development, Light									*	€		X	*	C	X		C	C	C	3
Utility Substation, See Note 17	X	X	X	X	X	C	X	X	X	C	X	X	X	C	X	X	C	C	C	2
Veterinary Service, Large Animal	X														X	X	X			2
Warehouse (general storage, enclosed, non-hazardous)															X	X	C			4
Warehouse, Mini (self-storage), see note 25												S		€	X	X	C			3
Waste Incinerators (including Medical)																S				5
Water Treatment Plant															X	X	C			5
Wholesale Distribution and Trade Not Otherwise Listed												X		€	X	X	C			3

Formatted Table

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)

Formatted: Font: (Default) +Body (Calibri)

Formatted: Centered

Formatted: Font: (Default) +Body (Calibri)



## Section 10.136

## Notes to the Table of Permitted Uses

1. **Accessory Uses in Residential Districts** - Accessory uses in residential districts such as garages, utility buildings are restricted to rear yards or side yards unless the required setback can be maintained. For a noncommercial greenhouse that is an accessory use, the heating plant for the greenhouse must be located within 60 feet of the front property line or within 10 feet of any other property line. In addition, in the R-18 district, one private stable on a lot at least 20,000 square feet in area is permitted, provided the stable is located at least 60 feet from the front property line and not less than 10 feet from any other property line.

On lots occupied by multifamily dwellings, the following accessory buildings shall be permitted, provided their exteriors harmonize with the multifamily structures.

- ~~1-a.~~ Garages, located as required in section *Table of Area, Height, and Yard Regulations*.
  - ~~2-b.~~ Coin laundries, offices, and recreational buildings to serve residents of the multifamily development, provided they do not intrude into any minimum required yard.
  - ~~3-c.~~ Equipment storage buildings located as required in section *Table of Area, Height, and Yard Regulations*.
2. **Athletic Fields, Auditoriums, Stadiums** - All athletic fields shall have access to a collector or higher capacity street.
3. **Automotive Towing Service** - The auto towing area must be screened with a six-foot high opaque fence in addition to the required planting yard. No outdoor storage or salvaging is permitted.
4. **Bars, Night Clubs, Dance Halls (as a principle use)** – All locations must meet the requirements of NCSS 18B-901, Issuance of [ABC] permits. Where the property on which a bar is located abuts residential property, screening including a minimum six-foot high opaque fence along the entire length of the property of the abutting residence(s). The main entrance of the building shall be toward a street zoned predominantly for nonresidential uses. Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences. *(Amended by City council on 10/7/03, 5/5/2016)*
5. **Batting Cages (outdoor); Golf Driving Ranges** - Fencing, netting, or other control measures shall be provided around the perimeter of the batting or driving area to prevent balls from leaving the area.
6. **Building Supply Sales, Equipment Rental and Leasing (with storage yard)** - Outside storage shall be completely screened from view with opaque fencing.
7. **Car Wash** - Building(s) shall be at least 75 feet from any property line which adjoins residential or office-institutional zoned property. A minimum six-foot high opaque fence shall be provided adjacent to all residentially zoned property. Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when adjoining developed residentially zoned property. Adequate provision shall be made for safe and efficient disposal of waste and runoff. Additionally, the following provisions shall be met:



1. No flashing lights or fluttering devices designed and used to attract attention shall be permitted.
2. No outdoor storage of any equipment, merchandise, or rubbish shall be permitted.
3. All floodlights shall be turned off at the close of business or at 11:06 p.m., whichever is earlier.
4. No lights shall be so arranged as to direct or reflect light into any residence.
5. No curb cut shall be less than 25 feet from the intersection of any two street curb lines. Curb cuts shall not be wider than 25 feet. No more than two curb cuts shall be permitted on each abutting street.
6. An opaque screen at least eight feet in height shall be provided along each property line adjoining a district zoned residential.



8. **Cemetery/Mausoleum** – A cemetery or mausoleum as a principal use shall comply with state law requirements for minimum contiguous acres. Principal access must be from a collector street or higher ~~capaCitycapacity~~ street.
9. [Reserved]
10. **Machine Shop** - In I-1, no punch presses over 20 tons rated ~~capaCitycapacity~~, drop hammers or automatic screw machines are permitted.
11. **Parking Lots Serving Uses Permitted in the District Where Located** - A special use permit is required for a parking lot in a residential district when it serves a non-residential establishment.
12. **Satellite Dish (Freestanding Accessory Use)** - All supporting cables and anchors shall be contained on the property where the satellite dish or tower is located. In residential districts, structures larger than 24 inches in diameter can only be placed in a rear yard or side yard behind the building lot line. Structures less than 24 inches in diameter are not subject to these restrictions.
13. **Storage Yard** - Outside storage is permitted as a principal or accessory use if completely enclosed by opaque fencing at least six feet high.
14. **Swimming Pools (community nonprofit)** - Minimum fence height six feet, made of chain link with wood slats, chain link with a planted border at least five feet in height, or other opaque materials. All N.C. Division of Health regulations to be followed.
15. **Swimming Pools (as accessory uses)** - Pools and appurtenances shall be located in the rear or side yard and may not be located within five feet of interior rear or side lot lines. Pools which are not an integral part of the principal building shall be located a minimum of ten feet from the principal building. *(Section 10.136(15) amended by City council on 5/1/2012)*
16. **Unattended facilities for public utilities** - Unattended facilities for public utilities shall be added to all use districts under the following conditions:
  - ~~1-a.~~ The structure shall be used only for housing electronic equipment (no storage). These structures shall have no water and sewer facilities. The maximum size shall be 12 feet by 20 feet by 8 feet high.
  - ~~2-b.~~ Dimensional requirements: minimum setback 20 feet; side and rear yards 15 feet; minimum lot area 3,000 square feet; minimum lot width 50 feet.
  - ~~3-c.~~ All utilities shall be placed underground.
  - ~~4-d.~~ The site shall be landscaped in character with the surrounding neighborhood. The structure shall be screened with suitable evergreens. Natural ground cover should be left on the site where possible.
  - ~~5-e.~~ Two off-street parking spaces and ample turnaround area shall be provided.
  - ~~6-f.~~ Detailed site and landscape plans shall be submitted to the City.





17. **Utility Substations Including Transformer Stations, Pump and Lift Stations, etc.** - The entire facility shall have a security fence at least six feet high unless it is secured and is built of brick or concrete. If the installation abuts a residence, it must be at least 50 feet from the residence and screened from the residence with a thick buffer of evergreen shrubbery or trees, which will grow at least six feet tall. Equipment producing noise in excess of 70 decibels shall be located no closer than 100 feet from the nearest residence.

18. **Development Standards for Multifamily Developments in R-MF and R-G, Site Plans Required**

~~1.~~(1) Lot Coverage - The total ground area covered by the buildings and all accessory buildings including any roofed area, shall not exceed 40 percent of the total lot area.

~~2.~~(2) Open Space

~~1.~~(i) Usable open space. A minimum of 10 percent of the total land area of any lot containing three or more dwelling units shall be usable open space, as defined in Article II - Definitions. On lots where the required usable open space is less than 20,000 square feet, such space should be approximately square but in no case shall the length of such required space be more than twice its average width. On lots where the required usable open space is 20,000 square feet or more, the minimum dimension of such space shall be at least 100 feet, and the minimum size space allowable as meeting a part of the required usable open space shall be 20,000 square feet.

~~2.~~(ii) Private usable open space. The total usable open space as required in subparagraph (a) immediately above may be reduced by 50 percent if a minimum of 500 square feet of private usable open space is provided for each dwelling unit. Such space shall be directly accessible and adjacent to the dwelling unit it serves, and shall be so arranged and screened to prevent public traffic through such space and provide reasonable privacy from public view. Such space shall be suitable for recreational activity and shall be unobstructed except for plants, lawn furniture, and play equipment. Private terraces and walkways may be included in such open space. Parking areas, vehicle drives, and storage areas shall not be included in such open space. The minimum dimension of any such private open space shall be at least 15 feet.

~~3.~~(3) Separate Zoning Lot - A multifamily dwelling shall not be placed behind and on the same zoning lot as a single-family detached dwelling.

~~4.~~(4) Access to Fire protection - To permit adequate fire protection, all portions of every building shall be located within 500 feet of a public street that furnishes direct access to the property unless the fire chief determines that fire hydrants and service drives will offer adequate protection.

~~5.~~(5) Traffic Circulation - All common driveways shall have approved traffic circulation and shall be kept available for emergency and service use by any public vehicle.

~~6.~~(6) Parking Access - Off-street parking spaces shall be located within 200 feet of each building in an amount proportional to the number of dwelling units in each building. No parking area with five or more spaces shall be located closer than 10 feet to a dwelling wall with windows or doors.



~~7.~~(7) Screening of utility areas. Utility areas such as clothes drying yards and outdoor storage areas in multifamily developments shall be provided with an opaque screen along any side of such areas which would be visible from a public street or adjoining residentially zoned properties. No such utility areas shall be located in the area between a building and a street bordering the development. Screens are not to be brightly colored multicolored, or otherwise obtrusive; colors and textures harmonious with nature and nearby residential structures are recommended.

~~8.~~(8) Required site plan. 10 site plans shall be submitted with the following information:

~~1.i.~~ Vicinity map showing the location of the property in relation to existing and proposed streets, streams, railroads and other major physical features.

~~2.ii.~~ Location, size and type of all buildings, existing and proposed, on or near the property.

~~3.iii.~~ Grading plan.

~~4.iv.~~ Proposed points of vehicle ingress and egress, together with the proposed pattern of internal circulation.

~~5.v.~~ Proposed parking and loading areas.

~~6.vi.~~ Landscape plan prepared according to the Graham Landscape Ordinance.

~~7.vii.~~ Proposed provision of utilities.

~~8.viii.~~ Location, size, height, orientation and lighting information on all signs.

~~9.ix.~~ Layout and orientation of all buildings.

#### ~~10.~~19. Performance Standards for All Uses in the I-1 and I-2 Zoning Districts

In order to retain a character consistent with the description of the I-1 and I-2 zoning districts, the following performance standards will be applied for all uses in the districts:

~~1.a.~~ *Dust, dirt, fly ash or other air pollutants.* There shall be no emission of dust, dirt, fly ash, gases, fumes, vapors or other air pollutants into the atmosphere that could cause damage to the public health, or to animals, vegetation, or other forms of property.

~~2.b.~~ *Electrical interference.* There shall be no electrical disturbances affecting the operation of any equipment other than that of the creator of such disturbances.

~~3.c.~~ *Heat and glare.* There shall be no heat or glare perceptible to human senses at the property line of any use creating heat or glare.

~~4.d.~~ *Landscaping.* See landscaping requirements on File in the office of the City clerk and inspection department.

~~5.e.~~ *Enclosure.* All processing shall be within a building.



~~6.f.~~ *Liquid or solid waste.* There shall be no discharge of any liquid or solid waste into any stream except as authorized by the State of North Carolina.

~~7.g.~~ *Noise.* The sound-pressure level of sound radiated from an establishment, measured at the lot line, shall not exceed the values in any octave band of frequency that are specified in the table below. The sound-pressure level shall be measured with a sound level meter and an associated octave band analyzer conforming to standards prescribed by the American Standards Association.

<i>Frequency Band (cycles per second)</i>		<i>Decibels</i>
20-	75	69
75-	150	57
150-	300	52
300-	600	46
600-	1200	42
1200-	2400	37
2400-	4800	33
4800-	10,000	30

~~8.h.~~ *Odor* There shall be no objectionable odors perceptible to the human senses at or beyond the property line of any use that may create odors.

~~9.i.~~ *Radioactivity.* There shall be no radioactive emission that would be dangerous to health.

~~10.j.~~ *Smoke.* There shall be no emission into the atmosphere of smoke from any operation of a shadedarker than Number one on the Ringelmann Smoke Chart as published by the United States Bureau of Mines, except that smoke of a shade not darker than No. 3 on said chart may be emitted for not more than 2 minutes in any thirty-minute period.

~~11.k.~~ *Traffic* There shall be no industrial vehicular traffic on any minor residential street.

~~1.~~ ~~l.~~ *Vibration.* There shall be no vibration perceptible to human senses at the property line of any use that may create vibration.

~~11.20.~~ **Day Care Center, Child, operated as home occupation (5 or less)** – Centers shall meet the standards established by the North Carolina Department of Health and Human Services. At least 200 square feet per child of completely enclosed fenced outside play area, not including drives, parking areas or land otherwise unsuitable, shall be provided. (*Section 10.136(20) amended 9/2/2003*)

~~12.21.~~ **Family Care Facility** – A Family Care Facility (Family Care Home) shall not be located within a one-half mile radius of an existing Family Care Facility (Family Care Home). An “Existing Family Care Facility (Family Care Home)” for the purposes of this section shall mean one that has obtained a 180-day zoning compliance letter. (*Section 10.136(21) amended 6/3/2008*)

~~13.22.~~ **Farmer’s Markets, as accessory uses** – Farmer’s Markets as accessory uses in the B-2, B-3 districts and churches are subject to parking requirements in Section 10.242. Vendors are responsible for obtaining all licenses and permits required for sale of their product. (*Section 10.136(22) amended 9/1/2009*)



**14.23. Group Care Facilities and Group Homes, Development Standards** – Off-street parking, as required by Section 10.240, shall be located to the side and/or rear of the building. Group Care Facilities and Group Homes should be located in areas where employment, goods and services can readily be reached by a variety of means of transportation. Access to transit, a sidewalk network and/or close proximity to employment, goods, and services are encouraged for approval of a special use permit unless the applicant can satisfactorily demonstrate that the intended residents of the group home or facility do not require this service. For halfway houses, there shall be on-site supervision at all times by persons employed by or volunteers trained by the agency operating the halfway house. Rules of conduct shall be established and enforced by the agency operating a halfway house. These rules shall prohibit the use or possession of drugs, alcohol or weapons, as well as disorderly conduct. *(Section 10.136(23) added 1/8/2013)*

**24. Solar Farms** – Power inverters and other sound producing equipment shall be no less than 150' from any property line. All solar farms shall be enclosed with a minimum of six feet high security fencing. Solar farms shall be constructed with at least a Type C planting yard, and shall abide by higher requirements when applicable. The height of no panel can exceed fifteen feet. A setback of 100 feet is required for any installation adjacent to a residential use or a residentially zoned parcel. Prior to final approval of the electrical permit, a Decommissioning Plan (see definitions) shall be submitted to the City. *(added 2/2/2016)*

**25. Warehouse, Mini (self-storage) –**

Lot size:                      Between two acres (minimum) and five acres (maximum).

Maximum Height:        20 feet, not exceeding one story.

Storage:                    No outside storage is permitted.

Storage of hazardous, toxic or explosive substances is prohibited.

Operation:                No business activity other than the rental of storage units shall be conducted on the premises.

One dwelling unit shall be allowed on the same lot for use as a caretaker dwelling.

Lighting:                   Lights shall be arranged so that no light or glare is directed into a residence.

Screening:                An opaque screen at least eight feet high shall be provided along each property line adjoining a residentially zoned district.

Buffer:                    When the property is adjacent to the interstate right of way, a 50-foot-deep opaque undisturbed buffer shall be maintained. If the land has been previously cleared or the buffer area will not be opaque, supplemental evergreen trees 6 feet tall at time of planting shall be planted every 10 feet on center to achieve the desired screening. If the property does not have 50 feet of depth, the buffer shall be equal to ¼ the total depth of the lot.

~~15.~~



## 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:



~~(i)~~a. Vicinity map, showing the location of the property in relation to existing and proposed streets, streams, railroads and other major physical features.

~~(ii)~~b. \_\_\_\_\_ Location, size and type of all buildings, existing and proposed, on or near the property.

~~(iii)~~c. \_\_\_\_\_ Grading plan.

~~(iv)~~d. \_\_\_\_\_ Proposed points of vehicle ingress and egress, together with the proposed pattern of internal circulation.

~~(v)~~e. \_\_\_\_\_ Proposed parking and loading areas.

~~(vi)~~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.

~~(vii)~~g. \_\_\_\_\_ Proposed provision for utilities.

~~(viii)~~h. \_\_\_\_\_ Location, size, height, orientation, and lighting information on all signs.

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

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

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

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

#### **Section 10.142                      Role of Historic Resources Commission**

As provided for in Section 10.205, the Historic Resources Commission is authorized to review and comment on special use applications for proposed uses within any historic district or historic landmark. Recommendations and comments from the commission shall be relayed directly to the City council for consideration along with the Planning board's recommendations.

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

For each application for a special use permit the City council shall hold a public hearing, notice of which shall be published in the same manner as required for a hearing on an amendment to this article. When deciding a special use permit, the City council shall follow quasi-judicial procedures as required by law. At the public hearing the City council shall review the application for a special use permit, together with accompanying plans, maps, and drawings. Recommendations of the planning board shall be heard. The





City council may (1) deny the special use permit, or (2) grant the special use permit subject to the conditions for individual special uses, or (3) grant the special use permit subject to the conditions specified for each use listed in Section 10.149 (Special uses listed) and to other reasonable conditions the council imposes upon the permit. Subject to S.L 2019-111, Pt. I, the City council shall not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. The Council shall obtain the applicant or land owner's written consent to conditions related to a special use permit to ensure enforceability. There shall be competent, material and substantial evidence in the record to support the Council's findings of facts and conclusions. No vote greater than a majority vote shall be required for the City council to issue special use permits. Vacant positions on the City council and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the City council" for calculation of the requisite majority.

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

#### **Section 10.144 Findings**

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

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

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

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



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

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

#### **Section 10.147                      Appeal**

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

#### **Section 10.148                      Invalidation**

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

#### **Section 10.149                      Special uses listed**

The special uses listed on the following pages shall be permitted only after approval according to the process outlined in the preceding sections, and after the required findings have been made. All conditions specified for the individual uses, in addition to any conditions added by the council shall be complied with. Special use permits shall only be granted for uses specified in this ordinance.

*(Section 10.149 amended 4/2/2002, 8/6/2002, 10/1/2002, 10/7/2003, 5/4/2004, 8/6/2013, 11/5/2013, 2/4/2014)*

**Use:**                                      **Adult Establishment/Sexually Oriented Business**

**Special Use Districts:**    **B-2 and I-1**

Definition: See Sexually Oriented Business in Section 10.16, Definitions

Setbacks:

1. No sexually oriented business shall be located closer than 1000 feet to another adult establishment.
2. No sexually oriented business shall be located closer than 1000 feet to a residence or residentially zoned district.
3. No sexually oriented business shall be located closer than 1000 feet to a public or private elementary or secondary school, child day care center or nursery school, public park, church, or community college.
4. No sexually oriented business shall be located closer than 500 feet from a bar or night club.



All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed adult establishment is to be located to the nearest point of the lot line or boundary of the closest adult establishment, residence, residentially zoned district, public or private elementary or secondary school, child day care center or nursery school, public park, church, community college, bar, or night club.

Other Restrictions:

1. There shall not be more than one (1) sexually oriented business in the same building, structure, or portion thereof. Additionally, no other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually oriented business.
2. Flashing lights or fluttering devices designed and used to attract attention are not permitted.
3. Sound amplification shall not be directed outside any building or structure occupied by a sexually oriented business.

Additional Information to Be Provided by Applicant: In addition to information normally provided in the course of applying for a special use permit, the applicant shall provide:

1. His/her name, address, and age, or if a partnership, the names, addresses, and ages of the persons who constitute such partnership, or if a corporation, the names, addresses, and ages of its directors, officers, and principal stockholders. Each application shall also include the names, ages, and addresses of all present employees.
2. A complete statement of all convictions of any person whose name is required to be given in Number 1 above for any crime other than traffic violations.

Action by City

1. The City staff shall be given 30 days from receipt of a completed application form to verify the information contained in the application prior to any further steps being taken, including placing the application on the Planning board agenda.
2. The City staff shall verify that the applicant, or any person having a legal or beneficial interest in the establishment, or any employee, has not been convicted of any crime involving sexual misconduct, including -but not limited to, N.C.G.S. 14-177-14-202.1, 14-203 -14-208, or any local, state, or federal law related to racketeering or the possession, sale, or distribution of a controlled substance.
3. No permit shall be issued to an applicant whose information reveals anyone with a legal or beneficial interest or an employee having a record of conviction of a crime.

Revocation of Special Use Permit:

Failure to comply with the conditions of a special use permit is a violation of this ordinance. In addition, as provided in Section 10.148, failure to carry out any conditions relating to a special use permit shall be cause for the revocation of the permit. Failures of compliance include but are not limited to: misstatements of fact contained in an application discovered after issuance of the permit; the applicant's allowing persons or corporations to own an interest in or be employed by the business after



issuance of the permit whose ownership or employment would have originally prevented issuance of the permit; violation of a zoning, building, or fire prevention ordinance by the permittee.

**Use:** ~~Antique and Other Specialty Shops in Structures Designed for Residential Use~~

**Special Use Districts:** ~~O-1~~

General Restrictions

- ~~1. No more than two salespersons may be employed on the premises at any given time.~~
- ~~2. No flashing lights or fluttering designed and used to attract attention shall be permitted.~~
- ~~3. No lights shall be so arranged as to direct light into any residence.~~
- ~~4. If the shop is within 100 feet of any dwelling, other than that of the shop operator, the shop shall not operate between the hours of 6:00 p.m. and 9:00 a.m.~~

**Use:** ~~Car Wash~~

**Special Use Districts:** ~~B-3 District~~

General Restrictions

- ~~1. No flashing lights or fluttering devices designed and used to attract attention shall be permitted.~~
- ~~2. No outdoor storage of any equipment, merchandise, or rubbish shall be permitted.~~
- ~~3. All floodlights shall be turned off at the close of business or at 11:06 p.m., whichever is earlier.~~
- ~~4. No lights shall be so arranged as to direct or reflect light into any residence.~~
- ~~5. No curb cut shall be less than 25 feet from the intersection of any two street curb lines. Curb cuts shall not be wider than 25 feet. No more than two curb cuts shall be permitted on each abutting street.~~
- ~~6. An opaque screen at least eight feet in height shall be provided along each property line adjoining a district zoned residential.~~

**Use:** **Condominiums**

**Special Use Districts:** **R-12, R-9 and R-7**

1. A preliminary site plan shall be submitted.
2. The dimensional requirements for multifamily developments shall apply.
3. The off-street parking requirements for multifamily developments shall apply.



**Use:** Electronic, Internet or Sweepstakes Gaming.

**Special Use Districts:** ~~B-2 and I-1I-2, except not and also permitted in any of these districts~~ this district only if in part of a unified business unified business development

Setbacks:

1. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to another Electronic, Internet or Sweepstakes Gaming establishment.
2. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 1000 feet to a public or private elementary or secondary school, child day care center or nursery school, public park, church, or community college.
3. No Electronic, Internet or Sweepstakes Gaming establishment shall be located closer than 500 feet from a bar or night club.

All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed Electronic, Internet or Sweepstakes Gaming establishment is to be located to the nearest point of the lot line or boundary of the closest Electronic, Internet or Sweepstakes Gaming establishment, residence, residentially zoned district, public or private elementary or secondary school, child day care center or nursery school, public park, church, community college, bar, or night club.

Other Restrictions:

1. There shall not be more than one (1) Electronic, Internet or Sweepstakes Gaming establishment in the same building, structure, or portion thereof. Additionally, no other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Electronic, Internet or Sweepstakes Gaming establishment.
2. Flashing lights or fluttering devices designed and used to attract attention are not permitted.
3. Sound amplification shall not be directed outside any building or structure occupied by an Electronic, Internet or Sweepstakes Gaming establishment.
4. Alcohol may not be consumed or sold on any premises with Internet or Sweepstakes Gaming.
1. Any building and/or zoning permits issued for the Internet or Sweepstakes Gaming operation shall be subject to annual review to ensure compliance with all relevant regulations and conditions.
2. No person under the age of eighteen (18) will be allowed in the establishment, and age must be verified for each customer at the time of entry into the establishment.

City's Review of Special Use Permit Application

1. The City staff shall be given 30 days from receipt of a properly completed application to verify the information contained in the application before further steps are taken. The staff shall verify that:
  - a. The application must contain no misstatement of fact.



- b. The applicant has not been convicted of a felony within the past three years, and if convicted of a felony before then, has had citizenship restored.
- c. The proposed site meets building and fire prevention codes and the property complies with zoning requirements.

**Revocation:** A special use permit issued pursuant to this section may be evoked by action of the council it finds that:

1. A misstatement of fact contained in the application is discovered after issuance of the permit.
2. The permittee has violated or allowed to be violated any provision of this subsection.
3. The permittee violates any zoning, building, or fire prevention ordinance.
4. The permittee operates any unlawful game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, including but not limited to: "numbers", "tickets", Pyramid and chain schemes, faro bank and tables, punchboards, slot machines, vending machines, or game tables.

**Use:** ~~\_\_\_\_\_ Golf courses~~

**Special Use Districts:** ~~R-18, R-15, R-12, R-9, I-1 and I-2~~

Development Standards:

- ~~1. Every green shall be at least 150 feet from any property lines.~~
- ~~2. All buildings shall be at least 100 feet from a property line.~~
- ~~3. Lighting shall be shielded so that direct light is not cast onto adjacent property.~~

**Use:** ~~Golf, swimming, and tennis~~ Golf, swimming, and tennis lodge or clubs

**Special Use Districts:** ~~R-18, R-15, R-12 and R-912, R-9, R-7, R-MF, R-G, O-I, B-2, I-1, and I-2~~

Development Standards

1. Every green shall be at least 150 feet from a property line.
2. Tennis courts shall be at least 75 feet from interior lot lines.
3. Buildings and swimming pools shall be at least 100 feet from interior lot lines.
- ~~4.~~ 4. Lighting shall be so shielded as to cast no direct light upon adjacent property.
- ~~4.~~ 5. Public address systems and sound amplification shall be contained within buildings.





**Use:** ~~Lodges, Civic, Social and Fraternal Organizations, not used for Parties at Night~~

**Special Use Districts:** ~~R-18, R-15, R-9, R-MF, R-G and O-I~~

Development Standards:

- ~~1. The site shall be at least one acre in size.~~
- ~~2. Structures, activities and parking areas shall be located at least 40 feet from property lines.~~
- ~~3. Lighting shall be shielded so that it does not cast direct light on adjacent property. Public address systems and sound amplification shall be contained within buildings.~~
4. 6. Music that is audible at the property lines of adjacent residential property shall not be permitted.

**Use:** ~~Lodges or Other Buildings Rented or Used for Parties at Night~~

**Special Use Districts:** ~~R-18~~

Development Standards

- ~~1. The site shall be at least three acres in size.~~
- ~~2. Structures, parking areas and activity areas shall be located less than 40 feet from any property line.~~
- ~~3. Lighting shall be shielded so that it does not cast direct light on adjacent property.~~
- ~~4. Public address systems and sound amplification shall be contained within buildings.~~
- ~~5. An opaque screen shall be provided within the forty foot space adjacent to the side and rear lot lines.~~

**Use:** **Manufactured Home Parks**

**Special Use Districts:** **R-G**

Manufactured home parks shall be permitted as a special use upon evidence that a desirable environment for family living will result. To this end, consideration will be given to amenities of the site plan such as the degree of privacy afforded to each unit, protection from adjacent commercial and industrial activities, recreational facilities, landscaping and avoidance of traffic congestion.

Classification of Units Permitted: Class AA, A or B manufactured homes are permitted in parks. Consistent with the definitions of Class AA, A and B manufactured homes, units in manufactured home parks shall be set up in accordance with standards established by the N.C. Department of Insurance. All removable hitches shall be removed.

Minimum Area: Six acres. The site may be divided by a public street, provided that each adjacent portion of the site shall contain at least two acres, and the average horizontal dimension shall be at least 120 feet.



**Setback of Park:** Each boundary of the park must be at least 200 feet from any permanent residential building located outside the park unless separated by a natural or artificial barrier.

**Buffer:** A greenbelt planting strip, at least 20 feet wide shall be located along all perimeter boundaries of the manufactured home park not bordering a public street. The greenbelt shall include an opaque screen. No manufactured home or other structure and no driveway shall be located in the buffer.

**Development Standards:**

1. Minimum dimensions of sites:
  - 7,000 square feet area for each area
  - 50 feet width for each site
  - 20-foot setback for each unit from a private driveway or public street
  - 15-foot side yard along each side of every site
  - 20-foot rear yard, but not required where site abuts a greenbelt on rear
2. Placement of Units: Placing manufactured homes side by side with their long axles parallel should be avoided unless the distances between them are substantially increased above the minimums specified herein.
3. Parking: A minimum of two spaces per lot shall be provided
4. Roads: All spaces shall abut upon a paved roadway at least 20 feet wide. Specifications for pavement shall be the same as for City-maintained streets. Roads shall have unobstructed access to a public street, alley or highway. The City will inspect roads during roadway construction to assure that paving standards are met.
5. Walkways: Walkways at least three feet wide shall be provided from the manufactured home spaces to the service buildings.
6. Drainage: The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from standing water.
7. Utilities: Electrical, telephone, cable television, and other utilities shall be constructed underground. Necessary easements of at least 10 feet must be provided. ElectricCity shall meet requirements in current edition of the National Electrical Code.
8. Recreation area: A minimum of 5,000 square feet of usable, developed recreation area shall be provided for every manufactured home park. The area shall be at least 100 square feet per manufactured home space. (Area must not be used for septic tank fields or contain features such as ditches that limit access and use.)
9. Lighting of roads and walkways: All roadways and walkways within a park shall be hard-surfaced and lighted at night with electric lamps of not less than 100 watts each, spaced at intervals of no more than 100 feet, or equivalent lighting as approved by the City. Such lighting shall be the responsibility of the park owner.
10. Water, sewer: Manufactured home parks shall provide City water and sewer to all facilities and ~~to each~~ to each manufactured home space. A single meter shall be provided for the entire park.



11. Garbage receptacles: The park owner shall provide for adequate, regular methods of waste disposal and collection. Either sanitary bulk containers (dumpsters) or individual garbage containers for each space may be used. If individual garbage containers are provided, private waste collection companies are allowed to enter the park to collect waste at each space. If bulk containers are provided, they must be located within 300 feet of each manufactured home space. The bulk container shall be kept in a sanitary condition at all times.
12. Register: The operator of a manufactured home park shall keep a register containing the names of all occupants, the date of arrival and the license number of the automobile and manufactured home. The register shall be available at all reasonable times for inspections by representatives of the City.
13. Accessory Buildings: Permitted accessory buildings include:
  - Coin laundries, offices, and recreational buildings to serve residents of the manufactured home park only, provided they are not within 50 feet of any manufactured home and do not intrude into any required yard.
  - Equipment storage buildings located as required in the Table of Area, Height, and Yard Regulations
  - An administrative office.
  - a. Accessory service buildings shall be well lighted at all times of the day and night; shall be well ventilated, with screened openings; shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing; and shall be maintained at a temperature of at least 62 degrees Fahrenheit from October first through May first. The floors of service buildings shall be of water-impervious material.
  - b. No building shall be located closer than 30 feet to any manufactured home.
  - c. All service buildings and the grounds of the park shall be kept clean and free from any condition that will menace the health of any occupant or the public or constitute a nuisance.
  - d. Maintenance of service buildings shall be the responsibility of the owner of that manufactured home park
14. Fire protection: The park shall meet the most recently adopted standards for adequate fire protection established by the National Fire Protection Association.
15. Skirting: All manufactured homes moved into the City of Graham or its extraterritorial jurisdiction, shall be skirted. A time limit of up to sixty (60) days shall be granted to install skirting. After the sixty-day period, the building inspector shall inspect the skirting for compliance with this section. Skirting must be a noncorrosive, durable material such as vinyl or other suitable material approved by the building inspector. The color shall be in keeping with the color scheme of the manufactured home. All removable hitches shall be removed.

Preliminary Site Plan: In applying for a special use permit the developer of a manufactured home park shall submit plans and specifications showing compliance with the Development Standards listed above. The preliminary site plan shall include or show:



1. A legal description of the property shown and referenced to major streets and tax map number, drawn to scale, clearly showing the extent and area to be used for manufactured home park purposes.
2. The number, size and locations of all manufactured home spaces.
3. Location of underground water, sewer, and gas lines; electric and telephone wires
4. Location and specifications for water taps, sewage disposal connections and other facilities on each manufactured home space.
5. Location of all buildings, proposed or existing, in the area to be used as a manufactured home
6. Location of all roads, driveways and walkways serving the park and each space
7. The original and finished grade of the property.
8. The location by insert map showing true north.
9. A plan for providing fire protection and safety, where applicable.
10. A plan for providing fire protection and safety, where applicable.
11. Plans shall specify the method of garbage disposal

Approval must be obtained from the appropriate state and local agencies for construction of the systems if required.

**Use:                                      Manufactured home sales**

**Special Use Districts:    ~~B-2~~, I-1, I-2**

Development Standards:

1. The site shall be at least one acre in size.
2. No manufactured home sales lot may be located closer than 5,000 feet to another manufactured home sales lot.
3. At least 60 percent of property shall be open land.
4. All setback requirements of the zoning district shall be observed.
5. No manufactured home shall be located closer than 20 feet to the nearest other manufactured home or structure.
6. Off-street parking shall be one parking space per two manufactured homes, minimum of five parking spaces.



7. No manufactured home sales lot shall be located in a flood zone area as shown on the City's ~~FEMAmaps~~FEMA maps.
8. Sales office must be constructed in order to comply with N.C. State Building Code, which includes modular construction, as defined by the North Carolina Department of Insurance.

**Use:** ~~\_\_\_\_\_~~ **Mini warehouses**

**Special Use Districts:** ~~B-2~~

**Lot size:** ~~\_\_\_\_\_~~ **Between two acres (minimum) and five acres (maximum).**

**Maximum Height:** ~~\_\_\_\_\_~~ **20 feet, not exceeding one story.**

**Storage:** ~~\_\_\_\_\_~~ **No outside storage is permitted.**

~~Storage of hazardous, toxic or explosive substances is prohibited.~~

**Operation:** ~~\_\_\_\_\_~~ **No business activity other than the rental of storage units shall be conducted on the premises.**

~~One dwelling unit shall be allowed on the same lot for use as a caretaker dwelling.~~

**Lighting:** ~~\_\_\_\_\_~~ **Lights shall be arranged so that no light or glare is directed into a residence.**

**Screening:** ~~\_\_\_\_\_~~ **An opaque screen at least eight feet high shall be provided along each property line adjoining a residentially zoned district.**

**Use:** ~~\_\_\_\_\_~~ **Parking Lot in O-I District to Serve a Use Not Permitted in O-I**

**Special Use Districts:** ~~O-I~~

Development Standards:

- ~~1. Nighttime parking shall be permitted only after attending by the City council that nighttime use will not adversely affect nearby properties.~~
- ~~2. If provided, lighting shall be arranged so that no direct or reflected light shall be a nuisance to other properties or persons.~~

**Use:** **Parking Lot or Driveway Serving a Use not Permitted in the District**

**Special Use Districts:** **R-12, R-9, ~~and R-7~~, R-G, O-I, B-3, B-2, B-1, I-1, and I-2**

Development Standards:

1. The parking lot shall adjoin or lie directly across the street from the property served.
2. The parking lot shall be paved with an all-weather surface.



3. Lighting shall be arranged so that direct or reflected light is not a nuisance to other properties.
4. The parking lot shall not extend more than 200 feet into a residential district unless a finding, described below, is made by the City council.

Findings by Council:

1. The City council shall permit nighttime parking only after a finding that nighttime use will ~~not adversely~~not adversely affect nearby properties.
2. The City council shall permit extensions of parking lots more than 200 feet into a residential ~~district only~~district only after a finding that extension to a specified greater distance will not adversely affect nearby properties.
3. An opaque screen shall be provided where the City council finds such a screen necessary to protect nearby property.

**Use:** **Recycling Processing Centers**

**Special Use Districts:** **I-1 and I-2**

Development Standards:

1. No recycling facility shall locate within a 500-foot radius of any residentially or office ~~and institutionally~~and institutionally zoned property.
2. No outside storage of materials is permitted
3. The facility shall be operated in a wholly enclosed building except that if the facility is adjacent to railway tracks, loading into a railway car may take place outside the building provided no materials remain on the loading area for more than 24 hours.

**Use:** **Telecommunications Towers (Cellular, PCS, Radio, TV, etc.)**

**Special Use Districts:** **I-1 and I-2**

Setback and Height Requirements:

1. Non-residential districts - The minimum distance from the base of the tower to the nearest property line shall be equal to or greater than the height of the tower. The City council shall have the option to waive this provision upon receiving documentation from the petitioner that the tower is engineered such that in the event of collapse, the tower will fall upon itself within the property boundaries upon which it is located. This option may require the establishment of a setback equivalent to a fall zone easement certified by a professional engineer registered in North Carolina. In any case, the minimum setback for a tower and all appurtenant structures shall be 25 feet from the nearest property line.
2. Proximity to right-of-way - No freestanding or guyed tower may be constructed closer than the tower's height from any public right-of-way.





#### Appurtenant Structures for Tower Operations:

An appurtenant structure constructed for the purpose of housing equipment related to tower operations may accompany each tower. Such structures shall be unmanned and be limited to 240 square feet of gross floor space for each tower and co-locator (e.g. 3 users on a tower equals three times 240 square feet for accessory structures). Setback for these structures shall be at least 15 feet from any property line.

#### Fencing and Screening:

1. The base of the tower, including but not limited to equipment and/or storage structures, along with any guy wires shall be enclosed by a commercial grade chain link fence (or fence of equal or greater quality) a minimum of eight feet in height.
2. A vegetative screen shall be planted around the security fencing consisting of at least two staggered rows of evergreen shrubs on five feet centers, at least five feet tall at the time of planting, unless existing vegetation or topography is determined to provide screening at least as effective as the planted screen.

#### Preliminary Site Plan:

The applicant shall present a preliminary site plan showing:

1. Siting and size of existing and proposed structures and descriptions of the color and nature of all exterior materials;
2. Existing trees and plantings as well as new plantings required for fencing and screening;
3. Existing and proposed topography at a contour interval of five feet;
4. Any officially designated floodways and floodplains;
5. Locations of access easements and parking areas.

#### Letters from Permitting and Regulatory Agencies

The applicant shall provide letters from all applicable government regulatory agencies such as the FCC, FAA and Burlington Airport Authority verifying that the agency's requirements have been met.

#### Power output and EMF Emissions:

The output for towers shall not exceed federally approved levels for exposure to electronic magnetic force. The petitioner shall also certify that the tower operations will not interfere with normal radio and television reception in the vicinity.

#### Tower Lights

Towers shall be provided with warning lights pursuant to FAA and FCC guidelines.

#### Minimum Distance between Towers:



Towers established pursuant to this ordinance and greater than 75 feet in height shall be located no closer than one mile from another tower greater than 75 feet in height. The council shall have the option to waive this provision if it is determined that a less objectionable site can be established at a closer location, or that other sites are not suitable for proper coverage.

#### Co-location:

1. Co-location of telecommunications operations on towers is encouraged to maximize use of towers and to reduce the number of towers serving the City and its environs. Co-location on a previously approved tower is permitted without an additional special use permit, provided all conditions of the previously approved permit are complied with. Co-location on a building or substantial structure such as a water tower or electric transmission tower is permitted without a special use permit. However, all applicable provisions of the zoning ordinance shall be met, and the authorized City official should review plans.
2. Towers less than 150 feet in height shall be adequately designed and of sufficient height to accommodate at least one additional user. Towers greater than 150 feet in height shall be designed to accommodate multiple additional users. The applicant for special use permit to construct a new tower shall submit plans indicating the intent to allow shared use of the tower, the number of shared users allowed, and how other users are to be accommodated. The applicant shall also present documentation that no suitable existing facilities within the coverage area are available to the applicant. Evidence may be in the form of maps, letters from adjacent tower owners, or calculations. Facilities include other towers, elevated tanks, or other structures. In addition, a professional engineer shall present documentation that the tower has sufficient structural integrity to accommodate more than one user.

#### Cessation in Use:

If the wireless telecommunications towers cease to be used for this purpose, then the tower owner shall dismantle and remove the tower and accessory structures from the site, within 120 days from the date the tower is taken out of service. The tower owner shall notify the Planner when any transmission tower is placed out of service. This Special Use Permit expires 120 days after the date that any transmission tower is taken out of service. Prior to final approval of the Electrical Permit, a Decommissioning Plan (see definitions) shall be approved by the City. *(amended 5/3/2016)*

#### Historic District:

Towers are not permitted in a designated historic district or on property on which a designated historic landmark is located. In addition, towers shall not be constructed within 350 feet of a designated historic district or an historic landmark. "Historic" means a district or landmark, which has been nominated, to the National Register of Historic Places.

#### Outside Storage:

Outside storage is not permitted on the tower site.



**Use:** ~~Townhouse Developments~~

**Special Use Districts:** ~~R-12, R-9 and R-7~~

- ~~1. A preliminary site plan shall be submitted. It shall number and show the location and dimensions of the sites within the development along with other information required by the City.~~
- ~~2. The dimensional requirements for multifamily developments shall apply.~~
- ~~3. The off-street parking requirements for multifamily developments shall apply.~~

**Use:** **Trucking or Freight Terminal, Truck Sales, Truck Storage, Repair, Wash, or Maintenance, and Truck Stop or Auto Plaza**

**Special Use Districts:** **B-2 (~~Truck Sales~~ Vehicle sales and rentals only), I-1, and I-2**

- 1) A traffic impact analysis/study, prepared by a qualified professional engineer registered to practice in North Carolina, shall be submitted with an application for a Special Use Permit. The purpose of the study is (a) to ensure that the proposed use does not adversely affect the transportation network, (b) to identify any traffic problems associated with access from the site to the existing transportation network, (c) to delineate solutions to potential problems, and (d) to present improvements to be incorporated into the proposed facility.
- 2) Where applicable, points of ingress and egress shall be shared between adjoining uses that are similar in nature to any road maintained by the City of Graham or the North Carolina Department of Transportation.

**Use:** **Unified Business Development and Shopping Centers**

**Special Use Districts:** **Heavy (I-1, I-2 only); Light (O-1, B-2, B-1, I-1 and I-2 permitted by right (B-2, I-1 only)**

**Description:** A unified business development (UBD) consists of one or more principal structures or buildings, together with accessory structures or buildings, containing two or more stores, service establishments, offices, or other permitted uses. A development of this type is planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage, and 4) common landscaping plan. Examples are shopping centers, retail centers, office parks, and business parks having the characteristics listed above. Such unified business developments may include outparcels for lease or for sale, which may be intersected by public streets. Any such unified business development may be organized as a condominium or in a manner analogous to that of a townhouse development (with ownership of parcels beneath the building units and with parking and driveways being in common area owned and maintained by an Owners Association).

**Condominium and Townhouse Unified Business Developments:** Any unified business development that is proposed to be organized as a condominium or townhouse development must follow the procedures established for condominium and townhouse uses, as specified in Section 10.149. However, the provisions for Dimensional Requirements: Off-Street Parking and Loading Requirements in each of these sections shall not be used in the site plan layout, but will be based on the standards for the underlying



zoning district. If a nonconforming building is converted into a condominium or townhouse



development, the Declaration and Final Plat shall disclose such nonconformity and explain potential consequences of such nonconformity in case of substantial damage to the building.

Access to Street or Thoroughfare: Such developments shall abut a major thoroughfare, minor arterial, or collector street (existing or proposed) as shown on the Burlington-Graham Thoroughfare Plan. Access to the street or thoroughfare shall be by means of a service road, or direct access, keeping in mind the need to control congestion on and into the thoroughfare or street.

Administrative Approval: When the anticipated traffic load is less than 250 vehicles per day, the approval for this UBD may be treated as a "Unified Business Development, Light" and be considered use by right by the City Planner, or referred to Council as they so choose. However, if the traffic increases beyond this amount, or is anticipated to increase beyond this amount, the applicant must come before the City council to be approved, or the parcel must have only one use. *(added 5/3/2016)*

Uses to be Enclosed: Required Screening:

1. All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes, and permitted drive-in uses.
2. An opaque screen shall be provided wherever, in the City council's judgment, such screening ~~is unnecessary~~ is necessary to shield adjacent residential districts.

Uses Permitted in Unified Business District:

B-2 and I-1

1. All uses permitted in the B-2 District are permitted except for the following uses, which are not permitted: residential dwellings; animal hospital; automobile sales; car wash; amusements/water parks; bottling or dairy plant; commercial campgrounds; camping vehicle parks; contractor's storage yards (offices are permitted); day care centers (child and adult); farm equipment sales, storage and repair; funeral homes; golf courses (all types); hospitals; kennels; laundries, except self-service; lodges; manufactured home sales; nursing homes; plumbing shops; sign shop; stonecutting; monument manufacture and sales; tattoo business; tire recapping and retreading (principal use); truck sales; veterinarian; wholesale distributors.
2. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the locations of buildings and access drives have been approved by the City council.
3. All business establishments shall be retail or service establishments dealing directly with the public.
4. Dry cleaning businesses are allowed with the following provisions: (a) No Hazardous Air Pollutants (HAPs), Resource Conservation and Recovery Act (RCRA) hazardous waste, or Occupational Safety & Health Administration (OSHA) labeled toxic substances allowed on premises and (b) no dry-cleaning chemical storage allowed on premises.



~~O-Land-B-1~~

~~All uses permitted in the underlying districts are allowed within those districts.~~

2

I-2: All uses permitted in the underlying district are allowed within the Heavy Industrial District. (added 5/3/2016)

**Sections 10.150-10.159**

**Reserved**

## DIVISION 8. RESERVED

**Section 10.160-10.184 Reserved** (Planned Unit Development removed 8/2/2016)

## DIVISION 9. HISTORIC DISTRICT OVERLAY ZONE

**Section 10.185**

**Purpose**

The Courthouse Square Historic District, referred to in this division as the "district," is one of the most valued and important assets of Graham. It is established for the purpose of protecting and conserving the heritage of Graham, Alamance County and the state; for the purpose of safeguarding the character and heritage of the district by preserving the district as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history; for the purpose of promoting the conservation of such district for the education, pleasure and enrichment of residents of the district and Graham, Alamance County, and the state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of Graham and the residents of the district.

**Section 10.186**

**Historic District Overlay Zone Established**

The Courthouse Square Historic District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map.

**Section 10.187**

**Uses Conform to Underlying District**

The Courthouse Square Historic District overlays several zoning districts. All uses permitted in any such zoning district shall be permitted in the historic district according to the procedures established in this ordinance.

**Section 10.188**

**Dimensions Conform to Underlying District, Exceptions**

Dimensional requirements shall be the same as those for the underlying zoning districts, except that







## 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 Permit Uses Listed (AM2103)

**Type of Request**  
Text Amendment

### Meeting Dates

Planning Board on November 16, 2021  
City Council on December 14, 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*.
- ☐ 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:

Based on The Graham 2035 Comprehensive Plan and best practices.

This report reflects the recommendation of the Planning Board, this the 16th day of November, 2021.

Attest:

Dean Ward, Planning Board Chair

Debbie Jolly, Secretary



## City Council Decision & 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. 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 Permit Uses Listed (AM2103)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on November 16, 2021

City Council on December 14, 2021

Choose one...

☐ I move that the text amendment be **APPROVED**.

☐ I move that the text amendment be **DENIED**.

Choose one...

☐ The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 14<sup>th</sup> day of December, 2021.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk



# STAFF REPORT

Prepared by Justin Snyder, Planning Director

## Text Amendment for: Waiting Period on Denied Rezoning

**Type of Request:** Text Amendment

### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

### Contact Information

N/A

## Summary

This is a request on behalf of a citizen to clarify the waiting period for when an applicant may re-apply for a rezoning following a denial by City Council. Staff has proposed the language below to create a process for a revised rezoning request with the same zoning classification request, but with

different property amounts involved. Thus, when the total area of property from the original request is reduced by 10 percent or more, or when there are multiple parcels involved and the number of parcels decreases, then the applicant may re-apply without a six-month waiting period.

### Existing Language:

Section 10.84 Protest against amendment

(a) If any resident or property owner in the City, or within the City's extra-territorial jurisdiction, submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the City council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(b) In case of a denial by the City council for a requested change in zoning of a particular area, there shall be a six-month waiting period before another request may be presented for the same zone change of the same area.

### Project Name

Text Amendment (AM2105)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval

## Proposed Language:

### Section 10.84 Protest against amendment

(a) If any resident or property owner in the City, or within the City's extra-territorial jurisdiction, submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the City council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

(b) In case of a denial by the City council for a requested change in zoning of a particular area, there shall be a six-month waiting period before another request may be presented for the same zone change of the same area. **This waiting period shall not apply when the original property area is reduced in total size by 10 percent or more, or when multiple parcels are involved and the total number of parcels in the denied request are reduced in number.**

## 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:

This creates an opportunity for an applicant to re-apply without a waiting period if some of the circumstances around the denied petition have changed, which could ultimately be in the best interest of the community.



## City Council Decision & 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. 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 (AM2105)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

Choose one...

☐ I move that the text amendment be **APPROVED**.

☐ I move that the text amendment be **DENIED**.

Choose one...

☐ The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 11<sup>th</sup> day of January, 2022.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk

**Section 10.84****Protest against amendment**

- (a) If any resident or property owner in the City, or within the City's extra-territorial jurisdiction, submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the City council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.
- (b) In case of a denial by the City council for a requested change in zoning of a particular area, there shall be a six-month waiting period before another request may be presented for the same zone change of the same area. ~~This waiting period shall not apply when the original property area is reduced in total size by 10 percent or more, or when multiple parcels are involved and the total number of parcels in the denied request are reduced in number.~~

*(Section 10.84 amended by City council 7/11/2006, 8/2/2016)*





# STAFF REPORT

Prepared by Justin Snyder, Planning Director

## **Text Amendment for: Administrative Approval of Minor Modifications**

**Type of Request:** Text Amendment

### **Meeting Dates**

Planning Board December 21, 2021

City Council on January 11, 2022

### **Contact Information**

N/A

### **Summary**

Following guidance from the UNC School of Government, and pursuant to N.C.G.S. 160D-705(c), staff is proposing an amendment to the Development Ordinance to authorize administrative approval of minor modifications to an approved special use permit. Currently, staff has no ability to allow even the smallest changes to a project, which puts us in a bind when developers need our assistance for something minor that may have come up in the field or when the site was fully engineered following the initial special use permit approval to keep the project moving forward. For these minor changes, the development still meets the underlying zoning requirements, but there is a need for flexibility in the design. Chapter 160D clearly authorizes such site design modifications provided they are defined in the ordinance and subject to the prescribed limits. However, such changes must follow clear, objective standards and a fair process.

There are also dimensional standard modifications—changes to the underlying zoning standards. These might include reductions in parking requirements or building setbacks that are set by ordinance. These modifications are not explicitly authorized by Chapter 160D, but arguably may be authorized under the general zoning authority and applicable caselaw. As suggested in *Butterworth v. City of Asheville*, there may be authority to allow minor dimensional standard modifications as administrative minor modifications, but such decisions must be based on clear, objective standards and must follow a clear, fair process. Staff has attempted to capture those requirements in these amendments.

Finally, staff has made changes to Section 10.347 to reflect the same available modifications for plans approved by either the TRC or by City council, including those approved as part of a conditional rezoning.

### **Project Name**

Text Amendment (AM2106)

### **Location**

city-wide

### **Current Zoning**

not applicable

### **Proposed Zoning**

not applicable

### **Overlay District**

not applicable

### **Staff Recommendation**

Approval

**Section 10.21                      Planning and Recommendations**

The planning board shall study the resources and needs of the City, and shall recommend to the Council development of plans, maps, and policies for the comprehensive and systematic development of the City, and from time to time recommend revisions and updates to these plans. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board 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 comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. The board may study and recommend ways and means to prevent and relieve congestion, either of population or traffic; to control fire hazards; to regulate signage for purposes of safety and aesthetics; to preserve the natural and historic features of the City; and to beautify the same. It may investigate, prepare surveys of and make recommendations on any matter which will in its opinion make the community a better place in which to live or work.

*(Section 10.21 amended by City council 7/11/2006)*

**Section 10.22                      Zoning and Subdivision Review**

The planning board shall review and make recommendations to the Council regarding all proposed amendments to the text of the Development Ordinance, subdivisions, and proposed zoning map amendments. All proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review, comment, and recommendation. If no written report is received from the planning board within 60 days of referral of the amendment to that board, the Council may proceed in its consideration of the amendment without the planning board report. The Council is not bound by the recommendations of the planning board.

*(Section 10.22 amended by City council 7/11/2006)*

**Section 10.23                      Streets and House Numbering**

The planning board may develop and recommend for adoption plans for streets and thoroughfares, and other public improvements. In addition, the board shall review and recommend to the council plans for street openings and acceptance and proposals to widen or relocate streets.

The planning board may name streets not previously named, may approve or reject names proposed by owners of additions or developments, may change the designation of streets where misapplications are found to exist and may change the names where names of streets are duplicated; provided that before any street names are changed, a public hearing will be held by the planning board and notification sent to the residents of the streets involved.

It may give numbers to houses and other buildings, may correct numbers improperly given or adopted and, when required, may have all houses properly numbered. All house number shall be a minimum of four (4) inches tall, visible from the street, and of a contrasting color to their background.

development, the Declaration and Final Plat shall disclose such nonconformity and explain potential consequences of such nonconformity in case of substantial damage to the building.

Access to Street or Thoroughfare: Such developments shall abut a major thoroughfare, minor arterial, or collector street (existing or proposed) as shown on the Burlington-Graham Thoroughfare Plan. Access to the street or thoroughfare shall be by means of a service road, or direct access, keeping in mind the need to control congestion on and into the thoroughfare or street.

Administrative Approval: When the anticipated traffic load is less than 250 vehicles per day, the approval for this UBD may be treated as a “Unified Business Development, Light” and be considered use by right by the City Planner, or referred to Council as they so choose. However, if the traffic increases beyond this amount, or is anticipated to increase beyond this amount, the applicant must come before the City council to be approved, or the parcel must have only one use. *(added 5/3/2016)*

Uses to be Enclosed: Required Screening:

1. All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes, and permitted drive-in uses.
2. An opaque screen shall be provided wherever, in the City council's judgment, such screening is necessary to shield adjacent residential districts.

Uses Permitted in Unified Business District:

B-2 and I-1

1. All uses permitted in the B-2 District are permitted except for the following uses, which are not permitted: residential dwellings; animal hospital; automobile sales; car wash; amusements/water parks; bottling or dairy plant; commercial campgrounds; camping vehicle parks; contractor's storage yards (offices are permitted); day care centers (child and adult); farm equipment sales, storage and repair; funeral homes; golf courses (all types); hospitals; kennels; laundries, except self-service; lodges; manufactured home sales; nursing homes; plumbing shops; sign shop; stonecutting; monument manufacture and sales; tattoo business; tire recapping and retreading (principal use); truck sales; veterinarian; wholesale distributors.
2. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the locations of buildings and access drives have been approved by the City council.
3. All business establishments shall be retail or service establishments dealing directly with the public.
4. Dry cleaning businesses are allowed with the following provisions: (a) No Hazardous Air Pollutants (HAPs), Resource Conservation and Recovery Act (RCRA) hazardous waste, or Occupational Safety & Health Administration (OSHA) labeled toxic substances allowed on premises and (b) no dry-cleaning chemical storage allowed on premises.

#### O-I and B-1

All uses permitted in the underlying districts are allowed within those districts.

#### I-2

All uses permitted in the underlying district are allowed within the Heavy Industrial District. *(added 5/3/2016)*

**Sections 10.150-10.159                      Reserved**

### **DIVISION 8. RESERVED**

**Section 10.160-10.184   Reserved** *(Planned Unit Development removed 8/2/2016)*

### **DIVISION 9. HISTORIC DISTRICT OVERLAY ZONE**

#### **Section 10.185                      Purpose**

The Courthouse Square Historic District, referred to in this division as the "district," is one of the most valued and important assets of Graham. It is established for the purpose of protecting and conserving the heritage of Graham, Alamance County and the state; for the purpose of safeguarding the character and heritage of the district by preserving the district as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history; for the purpose of promoting the conservation of such district for the education, pleasure and enrichment of residents of the district and Graham, Alamance County, and the state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of Graham and the residents of the district.

#### **Section 10.186                      Historic District Overlay Zone Established**

The Courthouse Square Historic District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map.

#### **Section 10.187                      Uses Conform to Underlying District**

The Courthouse Square Historic District overlays several zoning districts. All uses permitted in any such zoning district shall be permitted in the historic district according to the procedures established in this ordinance.

#### **Section 10.188                      Dimensions Conform to Underlying District, Exceptions**

Dimensional requirements shall be the same as those for the underlying zoning districts, except that

no structure or part thereof shall extend nearer to or be required to be set back farther from the front lot line than the average distance of the setbacks of the nearest principal buildings within 200 feet on each side of such building and fronting on the same side of the street.

**Section 10.189                      Criteria to Determine Appropriateness**

The Historic Resources Commission shall develop and publish design standards that reflect and support the special character of the Courthouse Square Historic District. These standards shall be used by the Historic Resources Commission when deciding upon certificates of appropriateness for structures in the district.

**Section 10.190                      Certain Changes to Structures not Prohibited**

Nothing in this division shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required to protect the public safety to correct an unsafe or dangerous condition.

**Sections 10.191 – 10.199 Reserved**

**DIVISION 10. HISTORIC RESOURCES**

**Section 10.200                      Purpose**

The purpose of this division is to recognize and preserve Graham's historical heritage. It provides that Graham's heritage might be safeguarded by preserving any district or landmark that embodies important elements of Graham's culture, history, architectural history or prehistory and promotes the use and conservation of those districts and landmarks for the education, pleasure and enrichment of the residents of and visitors to Graham.

**Section 10.201                      Historic Resources Commission**

- (a) Creation. The Graham Historic Resources Commission is hereby established, referred to in this division as the "commission."
- (b) Purpose, Authority and Powers. The commission shall seek to promote, enhance and preserve the character of historic districts and historic landmarks. The commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this division and Article 9, Part 4 of Chapter 160D of the General Statutes of North Carolina, including but not limited to the following:
  - (1) Undertake and maintain an inventory of properties of historical, prehistorical, architectural and/or cultural significance;
  - (2) Recommend to the Planning board and City council areas to be designated by ordinance as "historic districts" or that designation of any historic district or any part thereof be revoked or removed for cause;

plan can also serve as the preliminary subdivision plan. If a preliminary site plan is not required, the applicant may choose to not submit a preliminary site plan.

(2) Action by Technical Review Committee. The Technical Review Committee shall have the opportunity to review the application, suggest necessary and reasonable changes to the application to achieve the purpose and requirements of this ordinance, and make a recommendation to the Planner or Planning board, as appropriate.

(3) Phasing. A site may be developed in phases provided that a general phasing plan shall be noted on the preliminary site plan, with phase lines following reasonable and logical boundaries, and each phase able to “stand alone” in regard to utilities, fire protection, streets and stormwater management.

(4) Administrative Amendments.

a. Administrative amendments for minor revisions to a preliminary site plan that was approved by the City council may be approved by the Planner. An administrative amendment must be requested by the applicant in writing, signed by all required persons, and be accompanied by an administrative amendment review fee fixed by the City council. The decision of the Planner must be in writing stating the grounds for approval or denial. If denial, the applicant may appeal the decision to the Board of adjustment, as provided for in this ordinance. The standard for approving a requested minor revision shall be that the revision does not significantly alter the site plan or its conditions, that it does not increase the number of structures or dwellings units, and that the change does not have a significant impact upon abutting properties. The following revisions may be considered minor:

1. Up to a 10% increase or any decrease in gross floor area of a building.
2. Up to a 10% reduction in the approved setbacks from exterior property lines.
3. Relocation of parking areas, internal driveways or structures where such relocation occurs more than 100 feet from exterior property lines.
4. Relocation of access driveways within up to 50 feet of the approved location when warranted by site-specific conditions.

b. All other revisions to a preliminary site plan that was approved by the City council shall be considered major and shall be considered a new application.

c. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment to the City council within fifteen (15) days of knowledge of the approval. Even absent knowledge of the approval, the approval shall be final after thirty (30) days.

(c) Final Site Plan Review; Construction of Improvements; Certificate of Occupancy

(1) Application. Prior to the issuance of any building permits or to the construction or installation of any improvements, the developer shall submit to the Planner a final site plan for the entire site or a specified phase thereof, along with construction drawings for any required improvements, any other plans required for review, documentation of any required applications or permits

## Proposed Language

### Section 10.21 Planning and Recommendations

The planning board shall study the resources and needs of the City, and shall recommend to the Council development of plans, maps, and policies for the comprehensive and systematic development of the City, and from time to time recommend revisions and updates to these plans. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board 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 comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. The board may study and recommend ways and means to prevent and relieve congestion, either of population or traffic; to control fire hazards; to regulate signage for purposes of safety and aesthetics; to preserve the natural and historic features of the City; and to beautify the same. It may investigate, prepare surveys of and make recommendations on any matter which will in its opinion make the community a better place in which to live or work.

*(Section 10.21 amended by City council 7/11/2006)*

### Section 10.22 Zoning and Subdivision Review

The planning board shall review and make recommendations to the Council regarding all proposed amendments to the text of the Development Ordinance, ~~subdivisions~~, and proposed zoning map amendments. All proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review, comment, and recommendation. If no written report is received from the planning board within 60 days of referral of the amendment to that board, the Council may proceed in its consideration of the amendment without the planning board report. The Council is not bound by the recommendations of the planning board.

*(Section 10.22 amended by City council 7/11/2006)*

### Section 10.23 Streets and House Numbering

The planning board may develop and recommend for adoption plans for streets and thoroughfares, and other public improvements. In addition, the board shall review and recommend to the council plans for street openings and acceptance and proposals to widen or relocate streets.

The planning board may name streets not previously named, may approve or reject names proposed by owners of additions or developments, may change the designation of streets where misapplications are found to exist and may change the names where names of streets are duplicated; provided that before any street names are changed, a public hearing will be held by the planning board and notification sent to the residents of the streets involved.

It may give numbers to houses and other buildings, may correct numbers improperly given or adopted and, when required, may have all houses properly numbered. All house number shall be a minimum of four (4) inches tall, visible from the street, and of a contrasting color to their background.





development, the Declaration and Final Plat shall disclose such nonconformity and explain potential consequences of such nonconformity in case of substantial damage to the building.

Access to Street or Thoroughfare: Such developments shall abut a major thoroughfare, minor arterial, or collector street (existing or proposed) as shown on the Burlington-Graham Thoroughfare Plan. Access to the street or thoroughfare shall be by mean of a service road, or direct access, keeping in mind the need to control congestion on and into the thoroughfare or street.

Administrative Approval: When the anticipated traffic load is less than 250 vehicles per day, the approval for this UBD may be treated as a "Unified Business Development, Light" and be considered use by right by the City Planner, or referred to Council as they so choose. However, if the traffic increases beyond this amount, or is anticipated to increase beyond this amount, the applicant must come before the City council to be approved, or the parcel must have only one use. (added 5/3/2016)

Uses to be Enclosed: Required Screening:

~~1.~~ All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes, and permitted drive-in uses.

~~1.~~

~~2.~~ An opaque screen shall be provided wherever, in the City council's judgment, such screening is necessary to shield adjacent residential districts.

~~2.~~

Uses Permitted in Unified Business District:

B-2 and I-1

1. All uses permitted in the B-2 District are permitted except for the following uses, which are not permitted: residential dwellings; animal hospital; automobile sales; car wash; amusements/water parks; bottling or dairy plant; commercial campgrounds; camping vehicle parks; contractor's storage yards (offices are permitted); day care centers (child and adult); farm equipment sales, storage and repair; funeral homes; golf courses (all types); hospitals; kennels; laundries, except self-service; lodges; manufactured home sales; nursing homes; plumbing shops; sign shop; stonecutting; monument manufacture and sales; tattoo business; tire recapping and retreading (principal use); truck sales; veterinarian; wholesale distributors.
2. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the locations of buildings and access drives have been approved by the City council.
3. All business establishments shall be retail or service establishments dealing directly with the public.
4. Dry cleaning businesses are allowed with the following provisions: (a) No Hazardous Air Pollutants (HAPs), Resource Conservation and Recovery Act (RCRA) hazardous waste, or Occupational Safety & Health Administration (OSHA) labeled toxic substances allowed on premises and (b) no dry-cleaning chemical storage allowed on premises.



Formatted: Indent: Left: 0.08", Right: 0.25"

Formatted: Line spacing: Multiple 0.99 li

Formatted: List Paragraph

Formatted: List Paragraph, Right: 0.81", Space Before: 6.1 pt, Line spacing: Multiple 0.99 li, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.08" + Indent at: 0.33", Tab stops: 0.33", Left

## O-I and B-1

All uses permitted in the underlying districts are allowed within those districts.

## I-2

All uses permitted in the underlying district are allowed within the Heavy Industrial District. (added 5/3/2016)

### **Section 10.150 Administrative Approval of Minor Modifications to a Special Use Permit**

Following the approval of any special use permit, the Planner is authorized to issue a permit allowing the certain prescriptive minor modifications to an approved special use permit per G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where needs established by the special use permit change due to circumstances unknown or unanticipated at the time of special use permit approval, and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following, and they may only be requested once per calendar year:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that all other standards of this Ordinance are met.
2. A reduction in overall density of lots or units of up to 20 percent, provided a maximum unit or lot count was provided and/or approved as part of the special use permit.
3. A decrease in one type of housing unit/lot in favor of an equal increase of another approved unit/lot type, provided the overall lot/unit density does not change, and the reassignment does not exceed 10 percent of the total approved lot or unit count for each lot or unit type.
4. A reduction of up to ten percent in the required number of parking spaces the uses permitted by the special use permit.
5. Rearrangement of the approved lot or building configuration or changes to the street or driveway network that do not impact the requirement for interconnectivity.
6. Location/orientation of buildings, fences, walls, plantings, signs, parking, and outside lighting.
7. Type of recreation facilities provided there is no reduction in site area devoted to recreation.
8. Buffer strips and screen plantings, provided the proposal meets the landscape and buffer yard requirements of the UDO.

All other modifications, including, but not limited to increases in lot or unit density, changes in permitted uses, or those items requiring subjective determinations shall be considered major and must be approved by the Board of Adjustment as an amendment to the special use permit. The Planner may, however, refer any application for a modification to the special use permit to the Planning Board and/or Technical Review Committee for additional review as he or she deems appropriate. The Planner shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek a major amendment to the Special Use Permit.



Formatted: Top: 0.56"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.08" + Indent at: 0.33"

Formatted: Font:

Formatted: Body Text, Right: 0.27", Space Before: 12 pt

Formatted: Indent: Left: 0.33", No bullets or numbering

Formatted: Indent: Left: 0.08", Hanging: 0.25", No bullets or numbering

Formatted: List Paragraph, Right: 0", Space Before: 0 pt

Formatted: Space Before: 12 pt

Sections 10.150-10.151-10.159 Reserved

## DIVISION 8. RESERVED

**Section 10.160-10.184 Reserved** (*Planned Unit Development removed 8/2/2016*)

## DIVISION 9. HISTORIC DISTRICT OVERLAY ZONE

### **Section 10.185 Purpose**

The Courthouse Square Historic District, referred to in this division as the "district," is one of the most valued and important assets of Graham. It is established for the purpose of protecting and conserving the heritage of Graham, Alamance County and the state; for the purpose of safeguarding the character and heritage of the district by preserving the district as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history; for the purpose of promoting the conservation of such district for the education, pleasure and enrichment of residents of the district and Graham, Alamance County, and the state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of Graham and the residents of the district.

### **Section 10.186 Historic District Overlay Zone Established**

The Courthouse Square Historic District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map.

### **Section 10.187 Uses Conform to Underlying District**

The Courthouse Square Historic District overlays several zoning districts. All uses permitted in any such zoning district shall be permitted in the historic district according to the procedures established in this ordinance.

### **Section 10.188 Dimensions Conform to Underlying District, Exceptions**

Dimensional requirements shall be the same as those for the underlying zoning districts, except that



plan can also serve as the preliminary subdivision plan. If a preliminary site plan is not required, the applicant may choose to not submit a preliminary site plan.

- (2) Action by Technical Review Committee. The Technical Review Committee shall have the opportunity to review the application, suggest necessary and reasonable changes to the application to achieve the purpose and requirements of this ordinance, and make a recommendation to the Planner or Planning board, as appropriate.
- (3) Phasing. A site may be developed in phases provided that a general phasing plan shall be noted on the preliminary site plan, with phase lines following reasonable and logical boundaries, and each phase able to “stand alone” in regard to utilities, fire protection, streets and stormwater management.
- (4) Administrative Amendments.
  - a. Administrative amendments for minor revisions to a preliminary site plan that was approved by the City council or Technical Review Committee, including those approved as part of a conditional rezoning, may be approved by the Planner. An administrative amendment must be requested by the applicant in writing, signed by all required persons, and be accompanied by ~~an administrative amendment~~the required review fee ~~fixed as approved~~ by the City council. The decision of the Planner must be in writing stating the grounds for approval or denial. If denial, the applicant may appeal the decision to the Board of adjustment, as provided for in this ordinance. The standard for approving a requested minor revision shall be that the revision does not significantly alter the site plan or its conditions, that it does not increase the number of structures or dwellings units, and that the change does not have a significant impact upon abutting properties. The following revisions may be considered minor:
    1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback in a conditional zoning, provided that all other standards of this Ordinance are met.
    2. A reduction in overall density of lots or units of up to 20 percent, provided a maximum unit or lot count was provided and/or approved as part of the plan approval.
    3. A decrease in one type of housing unit/lot in favor of an equal increase of another approved unit/lot type, provided the overall lot/unit density does not change, and the reassignment does not exceed 10 percent of the total approved lot or unit count for each lot or unit type.
    4. A reduction of up to ten percent in the required number of parking spaces the uses permitted by the approved plans as part of a conditional rezoning. This reduction shall not apply to uses by right in a standard zoning district.
    5. Rearrangement of the approved lot or building configuration or changes to the street or driveway network that do not impact the requirement for interconnectivity.
    6. Location/orientation of buildings, fences, walls, plantings, signs, parking, and outside lighting.
    7. Types of recreation facilities provided there is no reduction in site area devoted to recreation.
    - ~~1.—~~8. Buffer strips and screen plantings, provided the proposal meets the minimum landscape and buffer yard requirements of the UDO. ~~Up to a 10% increase or any decrease in gross floor area of a building.~~
    - ~~2.—~~ Up to a 10% reduction in the approved setbacks from exterior property lines.
    - ~~3.—~~ Relocation of parking areas, internal driveways or structures where such relocation

~~occurs more than 100 feet from exterior property lines.~~

~~4. Relocation of access driveways within up to 50 feet of the approved location when warranted by site-specific conditions.~~

- b. All other revisions to a preliminary site plan, including those approved as part of a conditional rezoning, that was approved by the City council shall be considered major and shall be considered a new application.
- c. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment to the City council within fifteen (15) days of knowledge of the approval. Even absent knowledge of the approval, the approval shall be final after thirty (30) days.

(c) Final Site Plan Review; Construction of Improvements; Certificate of Occupancy

- (1) Application. Prior to the issuance of any building permits or to the construction or installation of any improvements, the developer shall submit to the Planner a final site plan for the entire site or a specified phase thereof, along with construction drawings for any required improvements, any other plans required for review, documentation of any required applications or permits



## 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:

The authority for administrative approval of minor modifications offers the option for handling small changes in an efficient administrative process while still routing major amendments through the full process.

#### **Section 10.21 Planning and Recommendations**

The planning board shall study the resources and needs of the City, and shall recommend to the Council development of plans, maps, and policies for the comprehensive and systematic development of the City, and from time to time recommend revisions and updates to these plans. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board 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 comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. The board may study and recommend ways and means to prevent and relieve congestion, either of population or traffic; to control fire hazards; to regulate signage for purposes of safety and aesthetics; to preserve the natural and historic features of the City; and to beautify the same. It may investigate, prepare surveys of and make recommendations on any matter which will in its opinion make the community a better place in which to live or work.

*(Section 10.21 amended by City council 7/11/2006)*

#### **Section 10.22 Zoning and Subdivision Review**

The planning board shall review and make recommendations to the Council regarding all proposed amendments to the text of the Development Ordinance, ~~subdivisions~~, and proposed zoning map amendments. All proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review, comment, and recommendation. If no written report is received from the planning board within 60 days of referral of the amendment to that board, the Council may proceed in its consideration of the amendment without the planning board report. The Council is not bound by the recommendations of the planning board.

*(Section 10.22 amended by City council 7/11/2006)*

#### **Section 10.23 Streets and House Numbering**

The planning board may develop and recommend for adoption plans for streets and thoroughfares, and other public improvements. In addition, the board shall review and recommend to the council plans for street openings and acceptance and proposals to widen or relocate streets.

The planning board may name streets not previously named, may approve or reject names proposed by owners of additions or developments, may change the designation of streets where misapplications are found to exist and may change the names where names of streets are duplicated; provided that before any street names are changed, a public hearing will be held by the planning board and notification sent to the residents of the streets involved.

It may give numbers to houses and other buildings, may correct numbers improperly given or adopted and, when required, may have all houses properly numbered. All house number shall be a minimum of four (4) inches tall, visible from the street, and of a contrasting color to their background.





development, the Declaration and Final Plat shall disclose such nonconformity and explain potential consequences of such nonconformity in case of substantial damage to the building.

Access to Street or Thoroughfare: Such developments shall abut a major thoroughfare, minor arterial, or collector street (existing or proposed) as shown on the Burlington-Graham Thoroughfare Plan. Access to the street or thoroughfare shall be by mean of a service road, or direct access, keeping in mind the need to control congestion on and into the thoroughfare or street.

Administrative Approval: When the anticipated traffic load is less than 250 vehicles per day, the approval for this UBD may be treated as a "Unified Business Development, Light" and be considered use by right by the City Planner, or referred to Council as they so choose. However, if the traffic increases beyond this amount, or is anticipated to increase beyond this amount, the applicant must come before the City council to be approved, or the parcel must have only one use. (added 5/3/2016)

Uses to be Enclosed: Required Screening:

~~1.~~ All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes, and permitted drive-in uses.

~~1.~~

~~2.~~ An opaque screen shall be provided wherever, in the City council's judgment, such screening is necessary to shield adjacent residential districts.

~~2.~~

Uses Permitted in Unified Business District:

B-2 and I-1

1. All uses permitted in the B-2 District are permitted except for the following uses, which are not permitted: residential dwellings; animal hospital; automobile sales; car wash; amusements/water parks; bottling or dairy plant; commercial campgrounds; camping vehicle parks; contractor's storage yards (offices are permitted); day care centers (child and adult); farm equipment sales, storage and repair; funeral homes; golf courses (all types); hospitals; kennels; laundries, except self-service; lodges; manufactured home sales; nursing homes; plumbing shops; sign shop; stonecutting; monument manufacture and sales; tattoo business; tire recapping and retreading (principal use); truck sales; veterinarian; wholesale distributors.
2. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the locations of buildings and access drives have been approved by the City council.
3. All business establishments shall be retail or service establishments dealing directly with the public.
4. Dry cleaning businesses are allowed with the following provisions: (a) No Hazardous Air Pollutants (HAPs), Resource Conservation and Recovery Act (RCRA) hazardous waste, or Occupational Safety & Health Administration (OSHA) labeled toxic substances allowed on premises and (b) no dry-cleaning chemical storage allowed on premises.



Formatted: Indent: Left: 0.08", Right: 0.25"

Formatted: Line spacing: Multiple 0.99 li

Formatted: List Paragraph

Formatted: List Paragraph, Right: 0.81", Space Before: 6.1 pt, Line spacing: Multiple 0.99 li, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.08" + Indent at: 0.33", Tab stops: 0.33", Left

## O-I and B-1

All uses permitted in the underlying districts are allowed within those districts.

## I-2

All uses permitted in the underlying district are allowed within the Heavy Industrial District. (added 5/3/2016)

### **Section 10.150 Administrative Approval of Minor Modifications to a Special Use Permit**

Following the approval of any special use permit, the Planner is authorized to issue a permit allowing the certain prescriptive minor modifications to an approved special use permit per G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where needs established by the special use permit change due to circumstances unknown or unanticipated at the time of special use permit approval, and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following, and they may only be requested once per calendar year:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that all other standards of this Ordinance are met.
2. A reduction in overall density of lots or units of up to 20 percent, provided a maximum unit or lot count was provided and/or approved as part of the special use permit.
3. A decrease in one type of housing unit/lot in favor of an equal increase of another approved unit/lot type, provided the overall lot/unit density does not change, and the reassignment does not exceed 10 percent of the total approved lot or unit count for each lot or unit type.
4. A reduction of up to ten percent in the required number of parking spaces the uses permitted by the special use permit.
5. Rearrangement of the approved lot or building configuration or changes to the street or driveway network that do not impact the requirement for interconnectivity.
6. Location/orientation of buildings, fences, walls, plantings, signs, parking, and outside lighting.
7. Type of recreation facilities provided there is no reduction in site area devoted to recreation.
8. Buffer strips and screen plantings, provided the proposal meets the landscape and buffer yard requirements of the UDO.

All other modifications, including, but not limited to increases in lot or unit density, changes in permitted uses, or those items requiring subjective determinations shall be considered major and must be approved by the Board of Adjustment as an amendment to the special use permit. The Planner may, however, refer any application for a modification to the special use permit to the Planning Board and/or Technical Review Committee for additional review as he or she deems appropriate. The Planner shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek a major amendment to the Special Use Permit.



Formatted: Top: 0.56"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.08" + Indent at: 0.33"

Formatted: Font:

Formatted: Body Text, Right: 0.27", Space Before: 12 pt

Formatted: Indent: Left: 0.33", No bullets or numbering

Formatted: Indent: Left: 0.08", Hanging: 0.25", No bullets or numbering

Formatted: List Paragraph, Right: 0", Space Before: 0 pt

Formatted: Space Before: 12 pt

Sections 10.150-10.151-10.159 Reserved

## DIVISION 8. RESERVED

**Section 10.160-10.184 Reserved** (*Planned Unit Development removed 8/2/2016*)

## DIVISION 9. HISTORIC DISTRICT OVERLAY ZONE

### **Section 10.185 Purpose**

The Courthouse Square Historic District, referred to in this division as the "district," is one of the most valued and important assets of Graham. It is established for the purpose of protecting and conserving the heritage of Graham, Alamance County and the state; for the purpose of safeguarding the character and heritage of the district by preserving the district as a whole and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history; for the purpose of promoting the conservation of such district for the education, pleasure and enrichment of residents of the district and Graham, Alamance County, and the state as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the district as a whole, thus contributing to the improvement of the general health and welfare of Graham and the residents of the district.

### **Section 10.186 Historic District Overlay Zone Established**

The Courthouse Square Historic District is hereby established as a district which overlaps and overlays existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map.

### **Section 10.187 Uses Conform to Underlying District**

The Courthouse Square Historic District overlays several zoning districts. All uses permitted in any such zoning district shall be permitted in the historic district according to the procedures established in this ordinance.

### **Section 10.188 Dimensions Conform to Underlying District, Exceptions**

Dimensional requirements shall be the same as those for the underlying zoning districts, except that



plan can also serve as the preliminary subdivision plan. If a preliminary site plan is not required, the applicant may choose to not submit a preliminary site plan.

- (2) Action by Technical Review Committee. The Technical Review Committee shall have the opportunity to review the application, suggest necessary and reasonable changes to the application to achieve the purpose and requirements of this ordinance, and make a recommendation to the Planner or Planning board, as appropriate.
- (3) Phasing. A site may be developed in phases provided that a general phasing plan shall be noted on the preliminary site plan, with phase lines following reasonable and logical boundaries, and each phase able to “stand alone” in regard to utilities, fire protection, streets and stormwater management.
- (4) Administrative Amendments.
  - a. Administrative amendments for minor revisions to a preliminary site plan that was approved by the City council or Technical Review Committee, including those approved as part of a conditional rezoning, may be approved by the Planner. An administrative amendment must be requested by the applicant in writing, signed by all required persons, and be accompanied by ~~an administrative amendment~~the required review fee ~~fixed as approved~~ by the City council. The decision of the Planner must be in writing stating the grounds for approval or denial. If denial, the applicant may appeal the decision to the Board of adjustment, as provided for in this ordinance. The standard for approving a requested minor revision shall be that the revision does not significantly alter the site plan or its conditions, that it does not increase the number of structures or dwellings units, and that the change does not have a significant impact upon abutting properties. The following revisions may be considered minor:
    1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback in a conditional zoning, provided that all other standards of this Ordinance are met.
    2. A reduction in overall density of lots or units of up to 20 percent, provided a maximum unit or lot count was provided and/or approved as part of the plan approval.
    3. A decrease in one type of housing unit/lot in favor of an equal increase of another approved unit/lot type, provided the overall lot/unit density does not change, and the reassignment does not exceed 10 percent of the total approved lot or unit count for each lot or unit type.
    4. A reduction of up to ten percent in the required number of parking spaces the uses permitted by the approved plans as part of a conditional rezoning. This reduction shall not apply to uses by right in a standard zoning district.
    5. Rearrangement of the approved lot or building configuration or changes to the street or driveway network that do not impact the requirement for interconnectivity.
    6. Location/orientation of buildings, fences, walls, plantings, signs, parking, and outside lighting.
    7. Types of recreation facilities provided there is no reduction in site area devoted to recreation.
    - ~~1.—~~8. Buffer strips and screen plantings, provided the proposal meets the minimum landscape and buffer yard requirements of the UDO. ~~Up to a 10% increase or any decrease in gross floor area of a building.~~
    - ~~2.—~~ Up to a 10% reduction in the approved setbacks from exterior property lines.
    - ~~3.—~~ Relocation of parking areas, internal driveways or structures where such relocation

~~occurs more than 100 feet from exterior property lines.~~

~~4. Relocation of access driveways within up to 50 feet of the approved location when warranted by site-specific conditions.~~

- b. All other revisions to a preliminary site plan, including those approved as part of a conditional rezoning, that was approved by the City council shall be considered major and shall be considered a new application.
- c. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment to the City council within fifteen (15) days of knowledge of the approval. Even absent knowledge of the approval, the approval shall be final after thirty (30) days.

(c) Final Site Plan Review; Construction of Improvements; Certificate of Occupancy

- (1) Application. Prior to the issuance of any building permits or to the construction or installation of any improvements, the developer shall submit to the Planner a final site plan for the entire site or a specified phase thereof, along with construction drawings for any required improvements, any other plans required for review, documentation of any required applications or permits





## 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.*

### Administrative Modifications (AM2106)

**Type of Request**  
Text Amendment

### **Meeting Dates**

Planning Board on December 21, 2021

City Council on January 11, 2022

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

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

---

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

---

---

---

This report reflects the recommendation of the Planning Board, this the 21st day of December, 2021.

Attest:

---

Dean Ward, Planning Board Chair

---

Debbie Jolly, Secretary



## City Council Decision & 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. 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.*

### Administrative Modifications (AM2106)

**Type of Request**  
Text Amendment

**Meeting Dates**  
Planning Board on December 21, 2021  
City Council on January 11, 2022

Choose one...

☐ I move that the text amendment be **APPROVED**.

☐ I move that the text amendment be **DENIED**.

Choose one...

☐ The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 11<sup>th</sup> day of January, 2022.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk





# STAFF REPORT

Prepared by Justin Snyder, Planning Director

## Text Amendment for: Special Use Permits

**Type of Request:** Text Amendment

### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

### Contact Information

N/A

## Summary

This is a request to amend Article X, Signage, in the Development Ordinance to create a provision for entry signage for multifamily, mixed-use developments containing residential units, and major subdivisions.

Currently, if an apartment complex, large neighborhood, or other large development with a residential component needed an entry sign, the code states that the sign may be no larger than 10 square feet, which is minuscule compared to the size of the development the signs would serve. Staff believes this is simply an oversight in the Code, and this would remedy that oversight by allowing a larger sign at each entrance to a development, but with controls on height, lighting, and style.

### Project Name

Special Use Permits (AM2107)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval

**Existing Language:**

attached, affixed or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock or other natural object.

- b. No sign shall obstruct any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building, structure or lot.
- c. No sign shall have more than two (2) display surfaces.
- d. Illuminated signs may have either an exterior or interior source of illumination. Exterior illumination, where the source of illumination is provided by such devices as spotlights or floodlights, shall be placed so that it is not directly visible from any residential district, or from adjacent properties. Internal illumination means that the source of illumination is from within the sign itself. Neon tube illumination shall be prohibited except as internal illumination. All wiring, grounding, etc., for illuminated signs shall meet the requirements of the National Electrical Code.
- e. Animated, rotating, flashing or other moving or apparently moving signs must display a static message for a minimum of twenty (20) seconds.
- f. Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs and similar installations shall be prohibited, except with the written permission of the City manager.
- g. Mobile or portable signs (including A and T-shaped signs) shall be prohibited except for the uses specified in paragraphs (10), (11) and (14) of Section 10.393 Exemptions.
- h. All signs shall be maintained in a state of good repair. No sign shall be continued which becomes structurally unsafe or endangers the safety of the public or property. When evidence of an unsafe sign is brought to the attention of the inspector, he shall order that such sign be made safe or be removed. A period of forty-eight (48) hours following receipt of the notice by the person owning or using the sign shall be used for compliance.
- i. No sign shall be erected on the roof of any building.
- j. No dilapidated sign may be ordered to be moved unless the condition continues to exist after thirty (30) days from the date the building inspector gives notice to the sign owner. Notice shall be complete upon the posting of such determination affixed to the affected sign. In addition, the building inspector shall, on the same date, mail a copy of such determination by certified mail, return receipt requested, to the person, firm, or corporation, if any, who listed the sign for ad valorem taxes. This requirement shall be satisfied upon mailing. If the sign has not been listed for ad valorem taxes for the preceding or current year of such determination, no notice shall be required to be mailed.

*(Section 10.397 amended 1/6/2009, 6/1/2010)*

**Section 10.398                      Residential districts**

No sign shall be erected or displayed in any residential district except as allowed under Section 10.393 Exemptions or as provided below:

- (1) Development identification signs containing the name only of a subdivision, multifamily development or planned development, provided such signs are limited to two freestanding signs at



public points of access to the development, ten (10) square feet in area per display surface and a maximum height of six (6) feet.

- (2) Home occupation signs identifying a home occupation, provided such signs are not illuminated and are limited to one wall or one freestanding sign per lot and a maximum display surface area of three (3) square feet.
- (3) Nonresidential signs identifying nonresidential uses permitted as a principal or special use in residential districts, provided such signs are limited to one freestanding or wall sign per zoning lot and eighteen (18) square feet in area per display surface. Where a freestanding sign is used, there must be a setback of at least twenty (20) feet from the right-of-way.

**Section 10.399                    O-I, B-1, B-2, B-3, I-1 and I-2 districts**

- (a) Generally. No sign shall be erected or displayed in the Office and Institutional District, the Neighborhood, General or Central Business District, the Light Industrial District or the Heavy Industrial District except as allowed under Section 10.393 Exemptions or as provided below for the type of sign and the zoning district in which it is located.
  - (b) Multiple uses. Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owners of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other.
- (1) Freestanding signs. On-premises freestanding signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface and the maximum height limitations contained in Section 10.400 Area and Height of Signs provided:
- a. The zoning lot on which a freestanding sign is located shall be accessible by automobile and contain off-street parking for the principal uses(s).
  - b. No sign shall obstruct the vision of motorists at the intersection of right-of-way lines of streets, or streets and railroad, or of streets and driveways. The zoning enforcement officer shall investigate each site before the placement of any sign to ensure proper vision. No sign shall be erected on or protrude onto any public right-of-way.
  - c. Freestanding signs shall be limited to two (2) signs per zoning lot with street frontage of one hundred (100) feet or more, and shall not be located closer than fifty (50) feet to any other freestanding sign on the same premises. On zoning lots adjacent to an Interstate highway, only one (1) freestanding sign up to 300 square feet shall be allowed and must be directed toward the Interstate. *(Amended 4/2/2002)*
  - d. No freestanding sign shall be permitted on the same street frontage along which there is a projecting sign.
  - e. Freestanding signs shall clear driveway and parking areas by a height of at least fourteen (14) feet and shall clear sidewalks and pedestrian paths by a height of at least nine (9) feet.



- f. The message of freestanding signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon, except that freestanding signs identifying theaters or service stations may also identify the current presentations or fuel prices, as appropriate.
- (2) Projecting signs. Projecting signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface limitations contained in Section 10.400 Area and Height of Signs, provided:
- a. The building to which a projecting sign is attached shall be twenty (20) feet or more in width.
  - b. Projecting signs shall be limited to one sign per street frontage, and shall not be located closer than fifty (50) feet to any other projecting sign.
  - c. No projecting sign shall be permitted on the same street frontage along which there is a freestanding sign.
  - d. Projecting signs shall clear sidewalks and pedestrian paths by a height of at least ten (10) feet, shall project no more than five (5) feet from the building to which they are attached and shall not extend beyond the inner edge of the curb line.
  - e. No projecting sign shall extend above the soffit, parapet or eave line, as appropriate, of the building to which it is attached.
  - f. [Reserved].
  - g. The message of projecting signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon.
- (3) Wall signs. Wall signs may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations contained in Section 10.400 Area and Height of Signs, provided:
- a. Posters and paper signs displayed on or through windows are exempt.
  - b. Wall signs placed in the space between windows on different stories of a building shall not exceed in height two-thirds of the distance between the top of a window and the sill of the window above.
  - c. No wall sign shall protrude more than twelve (12) inches from the wall to which it is attached.
  - d. No wall sign shall extend above the soffit, parapet or eave line, as appropriate, of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story.
  - e. Wall signs, or portions thereof, placed between window spandrels shall not exceed in height two-thirds of the height of the spandrel.



attached, affixed or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock or other natural object.

- b. No sign shall obstruct any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building, structure or lot.
- c. No sign shall have more than two (2) display surfaces.
- d. Illuminated signs may have either an exterior or interior source of illumination. Exterior illumination, where the source of illumination is provided by such devices as spotlights or floodlights, shall be placed so that it is not directly visible from any residential district, or from adjacent properties. Internal illumination means that the source of illumination is from within the sign itself. Neon tube illumination shall be prohibited except as internal illumination. All wiring, grounding, etc., for illuminated signs shall meet the requirements of the National Electrical Code.
- e. Animated, rotating, flashing or other moving or apparently moving signs must display a static message for a minimum of twenty (20) seconds.
- f. Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs and similar installations shall be prohibited, except with the written permission of the City manager.
- g. Mobile or portable signs (including A and T-shaped signs) shall be prohibited except for the uses specified in paragraphs (10), (11) and (14) of Section 10.393 Exemptions.
- h. All signs shall be maintained in a state of good repair. No sign shall be continued which becomes structurally unsafe or endangers the safety of the public or property. When evidence of an unsafe sign is brought to the attention of the inspector, he shall order that such sign be made safe or be removed. A period of forty-eight (48) hours following receipt of the notice by the person owning or using the sign shall be used for compliance.
- i. No sign shall be erected on the roof of any building.
- j. No dilapidated sign may be ordered to be moved unless the condition continues to exist after thirty (30) days from the date the building inspector gives notice to the sign owner. Notice shall be complete upon the posting of such determination affixed to the affected sign. In addition, the building inspector shall, on the same date, mail a copy of such determination by certified mail, return receipt requested, to the person, firm, or corporation, if any, who listed the sign for ad valorem taxes. This requirement shall be satisfied upon mailing. If the sign has not been listed for ad valorem taxes for the preceding or current year of such determination, no notice shall be required to be mailed.

*(Section 10.397 amended 1/6/2009, 6/1/2010)*

#### **Section 10.398 Residential districts**

No sign shall be erected or displayed in any residential district except as allowed under Section 10.393 Exemptions or as provided below:

~~(1) Development identification signs containing the name only of a subdivision, multifamily development or planned development, provided such signs are limited to two freestanding signs at~~



Formatted: Top: 0.31"

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Normal, Right, Indent: Left: 0.32", No bullets or numbering

Formatted: Indent: Left: 0.31", First line: 0.01", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Indent: Left: 0.1", Hanging: 0.19", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt, No underline, Underline color: Auto

Formatted: Font: 11 pt

Formatted: Font: 11 pt, No underline, Underline color: Auto

Formatted: Font: 11 pt

Formatted: Underline

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt, Underline

Formatted: Font: 11 pt

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Font: 11 pt

Formatted: Normal, Indent: Left: 0.31", No bullets or numbering

Formatted: Font: 11 pt

~~public points of access to the development, ten (10) square feet in area per display surface and a maximum height of six (6) feet.~~

(1) Home occupation signs identifying a home occupation, provided such signs are not illuminated and are limited to one wall or one freestanding sign per lot and a maximum display surface area of three square feet.

(2) Nonresidential signs identifying nonresidential uses permitted as a principal ~~or special use~~ in residential districts, provided such signs are limited to one freestanding or wall sign per zoning lot and eighteen (18) square feet in area per display surface. Where a freestanding sign is used, there must be a setback of at least twenty (20) feet from the right-of-way and it shall be no taller than 8 feet.

(3) A single freestanding monument sign may be allowed at each main entrance drive to a major subdivision, multifamily or mixed-use development containing residential units provided the driveways are separated by 300 feet or more. Sign face area shall be no larger than 36 square feet per side (2 sides maximum), and the total height including any supports or decorative features shall not exceed 8 feet above adjacent grade. Signs shall be only externally illuminated and no plastic shall be used in any part of the sign. Finally, the signs shall be ground-lit or externally backlit with the light shining only on the face of the sign. No internal illumination, illuminated tubing, flashing lights, or moving installations shall be permitted on any part of the sign.

(4) Signage approved as part of a special use permit or conditional zoning approval shall follow the standards approved by the City Council or Board of Adjustment. When a standard is not proposed and approved as part of the conditional rezoning or special use permit, the standards in this Ordinance shall govern.

#### Section 10.399 O-I, B-1, B-2, B-3, I-1 and I-2 districts

(a) Generally. No sign shall be erected or displayed in the Office and Institutional District, the Neighborhood, General or Central Business District, the Light Industrial District or the Heavy Industrial District except as allowed under Section 10.393 Exemptions or as provided below for the type of sign and the zoning district in which it is located.

(b) Multiple uses. Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owners of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other.

Formatted: Indent: Left: 0.35", No bullets or numbering

Formatted: Indent: Left: 0.13", Hanging: 0.25", Tab stops: 0.38", Left + Not at: 0.35"

Formatted: Font: 11 pt

Formatted: Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35", Tab stops: 0.13", Left + Not at: 0.35"

Formatted: Outline numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35"

Formatted: Indent: Left: 0.1", Hanging: 0.25", Outline numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35"

## 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:

Signage for large-scale development is typically larger in other jurisdictions. Graham's current Code is overly restrictive on size and puts staff in a difficult position to explain why the allowances are so small. This creates an equitable solution where the City maintains reasonable control of entry signage while being flexible to the needs of the development community.



attached, affixed or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock or other natural object.

- b. No sign shall obstruct any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building, structure or lot.
- c. No sign shall have more than two (2) display surfaces.
- d. Illuminated signs may have either an exterior or interior source of illumination. Exterior illumination, where the source of illumination is provided by such devices as spotlights or floodlights, shall be placed so that it is not directly visible from any residential district, or from adjacent properties. Internal illumination means that the source of illumination is from within the sign itself. Neon tube illumination shall be prohibited except as internal illumination. All wiring, grounding, etc., for illuminated signs shall meet the requirements of the National Electrical Code.
- e. Animated, rotating, flashing or other moving or apparently moving signs must display a static message for a minimum of twenty (20) seconds.
- f. Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs and similar installations shall be prohibited, except with the written permission of the City manager.
- g. Mobile or portable signs (including A and T-shaped signs) shall be prohibited except for the uses specified in paragraphs (10), (11) and (14) of Section 10.393 Exemptions.
- h. All signs shall be maintained in a state of good repair. No sign shall be continued which becomes structurally unsafe or endangers the safety of the public or property. When evidence of an unsafe sign is brought to the attention of the inspector, he shall order that such sign be made safe or be removed. A period of forty-eight (48) hours following receipt of the notice by the person owning or using the sign shall be used for compliance.
- i. No sign shall be erected on the roof of any building.
- j. No dilapidated sign may be ordered to be moved unless the condition continues to exist after thirty (30) days from the date the building inspector gives notice to the sign owner. Notice shall be complete upon the posting of such determination affixed to the affected sign. In addition, the building inspector shall, on the same date, mail a copy of such determination by certified mail, return receipt requested, to the person, firm, or corporation, if any, who listed the sign for ad valorem taxes. This requirement shall be satisfied upon mailing. If the sign has not been listed for ad valorem taxes for the preceding or current year of such determination, no notice shall be required to be mailed.

*(Section 10.397 amended 1/6/2009, 6/1/2010)*

#### **Section 10.398            Residential districts**

No sign shall be erected or displayed in any residential district except as allowed under Section 10.393 Exemptions or as provided below:

~~(1) Development identification signs containing the name only of a subdivision, multifamily development or planned development, provided such signs are limited to two freestanding signs at~~



Formatted: Top: 0.31"

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Normal, Right, Indent: Left: 0.32", No bullets or numbering

Formatted: Indent: Left: 0.31", First line: 0.01", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: Indent: Left: 0.1", Hanging: 0.19", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt, No underline, Underline color: Auto

Formatted: Font: 11 pt

Formatted: Font: 11 pt, No underline, Underline color: Auto

Formatted: Font: 11 pt

Formatted: Underline

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 2 + Alignment: Left + Aligned at: 0.32" + Indent at: 0.51"

Formatted: Font: 11 pt, Underline

Formatted: Font: 11 pt

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Font: 11 pt

Formatted: Normal, Indent: Left: 0.31", No bullets or numbering

Formatted: Font: 11 pt

~~public points of access to the development, ten (10) square feet in area per display surface and a maximum height of six (6) feet.~~

(1) Home occupation signs identifying a home occupation, provided such signs are not illuminated and are limited to one wall or one freestanding sign per lot and a maximum display surface area of three square feet.

(2) Nonresidential signs identifying nonresidential uses permitted as a principal or special use in residential districts, provided such signs are limited to one freestanding or wall sign per zoning lot and eighteen (18) square feet in area per display surface. Where a freestanding sign is used, there must be a setback of at least twenty (20) feet from the right-of-way and it shall be no taller than 8 feet.

(3) A single freestanding monument sign may be allowed at each main entrance drive to a major subdivision, multifamily or mixed-use development containing residential units provided the driveways are separated by 300 feet or more. Sign face area shall be no larger than 36 square feet per side (2 sides maximum), and the total height including any supports or decorative features shall not exceed 8 feet above adjacent grade. Signs shall be only externally illuminated and no plastic shall be used in any part of the sign. Finally, the signs shall be ground-lit or externally backlit with the light shining only on the face of the sign. No internal illumination, illuminated tubing, flashing lights, or moving installations shall be permitted on any part of the sign.

(4) Signage approved as part of a special use permit or conditional zoning approval shall follow the standards approved by the City Council or Board of Adjustment. When a standard is not proposed and approved as part of the conditional rezoning or special use permit, the standards in this Ordinance shall govern.

#### Section 10.399 O-1, B-1, B-2, B-3, I-1 and I-2 districts

(a) Generally. No sign shall be erected or displayed in the Office and Institutional District, the Neighborhood, General or Central Business District, the Light Industrial District or the Heavy Industrial District except as allowed under Section 10.393 Exemptions or as provided below for the type of sign and the zoning district in which it is located.

(b) Multiple uses. Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owners of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other.

Formatted: Indent: Left: 0.35", No bullets or numbering

Formatted: Indent: Left: 0.13", Hanging: 0.25", Tab stops: 0.38", Left + Not at 0.35"

Formatted: Font: 11 pt

Formatted: Outline numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 5 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35", Tab stops: 0.13", Left + Not at 0.35"

Formatted: Outline numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35"

Formatted: Indent: Left: 0.1", Hanging: 0.25", Outline numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.1" + Indent at: 0.35"



## 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 (AM2107)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

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

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

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

---

---

---

This report reflects the recommendation of the Planning Board, this the 21st day of December, 2021.

Attest:

---

Dean Ward, Planning Board Chair

---

Debbie Jolly, Secretary



## City Council Decision & 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. 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 (AM2107)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

Choose one...

☐ I move that the text amendment be **APPROVED**.

☐ I move that the text amendment be **DENIED**.

Choose one...

☐ The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 11<sup>th</sup> day of January, 2022.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk



# STAFF REPORT

Prepared by Justin Snyder, Planning Director

## Text Amendment for: Open Space Provisions

**Type of Request:** Text Amendment

### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

### Contact Information

N/A

## Summary

This is a request to amend the Development Code regarding the open space provisions relative to major subdivisions. Currently, developers are attempting to use the open space provision to count open space that does not serve a valid public purpose (e.g. stormwater facilities, leftover small spaces, etc.).

Staff is of the opinion that the intent of this provision was to allow good, usable open space that would be of a benefit to the public to be set aside in exchange for clustering lots together at smaller lot sizes. Stormwater facilities and leftover, unusable spaces do not constitute desirable, usable space in staff's opinion. Therefore, staff has clarified what may count as open space, and had added a number of criteria for what should go into open space areas, including setting aside easements and construction of trails for public access. Staff believes these changes better reflect the original intent of this provision and create a better sense of place when development is proposed adjacent to environmentally-sensitive areas.

### Project Name

Text Amendment (AM2108)

### Location

city-wide

### Current Zoning

not applicable

### Proposed Zoning

not applicable

### Overlay District

not applicable

### Staff Recommendation

Approval

### Existing Language:

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

### 10. Screening

- A. O-1, B-2, and B-3 Districts – Business uses where property lines abut a district zoned residential shall erect an opaque screen at least six feet high designed so as to obstruct the view from surrounding residential property. Screens are not to be brightly colored, multicolored, or otherwise obtrusive. Colors and textures harmonious with nature and nearby residential structures are recommended. If a planted screen is used, it shall consist of evergreen shrubs or trees which at maturity will meet the required height.
- B. I-1 and I-2 Districts – A buffer strip shall be planted along the side or rear property line of any use that abuts any property in a residential zone. The strip shall be at least 10 feet wide planted with an opaque screen of evergreen shrubs or trees which at maturity will be between eight and 12 feet high.

*(Section 10.246 amended 11/7/2000, 2/4/2014)*

### **Section 10.247                      Building Spacing Requirements for Multifamily Residential Buildings (Townhouses, Condominiums and Apartments)**

In addition to the 25-foot setback from exterior property lines, all multifamily structures shall be no less than 25 feet from other dwelling structures, not to be less than three-quarters of the height, and no closer than 5 feet to accessory structures (e.g. garages, clubhouses, etc.)

### **Section 10.248                      Double Counting of Yard, Lot Area, Loading Area or Parking Area**

No space which has been counted as part of a yard, lot area, parking area or loading area required under this Ordinance for one building or use shall be counted to satisfy or comply with a yard, lot area, loading area or parking area requirement for any other building or use, except where shared parking is permitted. The minimum required yards, lot area or parking or loading area for any building or use existing or under construction at the time of the passage of this Ordinance shall not be encroached upon or counted to satisfy the requirements for any other building or use.

### **Section 10.249                      Open Space Provision for R-12, R-15, and R-18 Zoning Districts**

#### **Section 10.249.1                  Intent**

The intent of this provision is to allow for the development of open space residential subdivisions by right within the R-12, R-15, and R-18 zoning districts. These provisions seek to encourage the development of compact neighborhoods and rural compounds that set aside significant natural vistas and landscape features for permanent conservation.



## **Section 10.249.2 Definitions**

Open Space is defined as any area that is not divided into private or civic building lots, streets, rights-of-way, parking, or easements established for the purposes other than open space conservation.

## **Section 10.249.3 General Requirements**

- 1) Whenever this section is silent to a development standard the standards established for the conventional development pattern in the zoning district shall be followed.
- 2) The open space regulations are only applicable to new subdivisions that are 5 or more acres. At the time the subdivision is brought before the City, the developer must inform the Staff that they wish to pursue an open space residential subdivision.

## **Section 10.249.4 Open Space Standards**

- (a) In any of the single-family residential zoning districts indicated below, a developer may create lots that are smaller than those required by the zoning district if such developer complies with the provision of this section and if the lots created are not smaller than the minimums set forth in the following table:

<u>Zone</u>	<u>Open Space Minimum Square Feet</u>
R-18	16,000
R-15	13,000
R-12	10,000

- (b) The appropriate setback requirements found in Section 10.245 shall apply to open space residential subdivisions.
- (c) Minimum lot widths for each zoning district shall be amended as follows:

<u>Zone</u>	<u>Open Space Minimum Lot Width</u>
R-18	80
R-15	70
R-12	60

- (d) The amount of usable open space that must be set aside shall be determined by:
- (1) Subtracting from the standard square footage requirement set forth in Section 10.245 the amount of square footage of each lot that is smaller than that standard:
  - (2) Adding together the results obtained in (1) for each lot.
- (e) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 20,000 square feet of space that satisfies the definition of usable open space set forth in Section 10.249.2.





#### **Section 10.249.5            Open Space Criteria**

- (a) In selecting land to be set aside as usable open space the developer shall choose areas from the following categories in descending order of importance before designating other land for open space use.
  - (1) Designated buffer areas together with any floodway and floodplain they are buffering.
  - (2) Land within 30 feet of other bodies of water or watercourses.
  - (3) Other flood hazard areas or land with slopes greater than 15%.
  - (4) Other hazard areas or environmentally sensitive areas such as noise and privacy buffers for surrounding properties and neighborhoods.
  - (5) Lands that will protect important view sheds and/or trees along existing roads and provide privacy for the development.
  - (6) Other areas within the proposed development.
- (b) Under no circumstances may a right-of-way, easement (excluding those for public purposes), setback requirement, or a portion of a subdivided lot be considered as part of the open space requirement.
- (c) Open space areas shall be legally and easily accessible to the residents of the development from which the required open space is taken.

#### **Section 10.249.6            Uses or Activities Permitted in Open Space Areas**

- (1) Conservation of land in its natural state (for example, woodland, fallow field or managed meadow).
- (2) Agricultural uses, including raising of crops or livestock.
- (3) Passive recreation, including but not limited to trails, picnic areas, community gardens and lawn areas.
- (4) Active recreation areas such as golf courses, swimming areas, playing fields, playgrounds, courts and associated parking. These areas shall be designed to enhance the required open space area.
- (5) Pasture for recreational horses.
- (6) Easements for drainage, access (i.e. greenways, bike trails, etc.), sewer or water lines, or other public purposes.
- (7) Storm water management facilities for the proposed development or for a larger area in compliance with a watershed management plan.



#### **Section 10.249.7            Uses or Activities Prohibited in Open Space Area**

Uses or activities prohibited in open space areas are cutting of healthy trees, regrading, topsoil removal, altering, diverting or modifying watercourses or bodies. Exceptions shall be in compliance with a land management plan or watershed management plan for the tract in question conforming to the customary standards of forestry, erosion control and engineering.

#### **Section 10.249.8            Ownership and Maintenance of Open Space**

- (a) Ownership of open space may be handled through one (1) or more of the following, and all open space land will be permanently restricted from future development through deed restriction.
  - (1) A homeowner's association;
  - (2) Transfer to a private conservation organization;
  - (3) Dedicated to the City of Graham.
- (b) Unless the City agrees to accept the dedication, usable open space that is required to be provided by the developer shall remain under the control of a homeowner's association or similar organization that satisfies the criteria listed below. If the required open space is not publicly dedicated it shall be available to all residents of the development under reasonable rules and regulations. The regulations shall be established to encourage and govern the use of the open space by the residents without payment of separate optional fees or charges other than membership fees in a homeowner's association.
- (c) The association or agency identified as having the right of ownership and control over the required open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- (d) Natural features are generally to be maintained in their natural condition but may be modified to improve their appearance, function or overall condition. Permitted modifications may include:
  - (1) Reforestation;
  - (2) Woodland Management;
  - (3) Meadow Management;
  - (4) Buffer Area Landscaping;
  - (5) Streambank Protection; and
  - (6) Wetlands Management.
- (e) In no event will a radical change in open space be permitted so as to destroy what may have been an initial sales feature for surrounding homeowners, for example, the removal of all timber, etc. The cost and responsibility of maintaining open space and any facilities located thereon shall be borne by the property owner and/or homeowners association, unless the City of Graham agrees to accept the dedication of the property.



## Proposed Language:

### Section 10.249.2 Definitions

Open ~~s~~space for the purposes of this Section is defined as any area over 20,000 sq. ft. that is not divided into private or civic building lots, streets, rights-of-way, parking, manmade BMPs or stormwater control measure, or easements established for ~~the~~ purposes other than open space conservation and associated permitted uses within open space conservation areas.

### Section 10.249.3 General Requirements

- 1) Whenever this section is silent to a development standard the standards established for the conventional development pattern in the zoning district shall be followed.
- 2) The open space regulations are only applicable to new subdivisions that are 5 or more acres. At the time the subdivision is brought before the City, the developer must inform the Staff that they wish to pursue an open space residential subdivision.

### Section 10.249.4 Open Space Standards

- (a) In any of the single-family residential zoning districts indicated below, a developer may create lots that are smaller than those required by the zoning district if such developer complies with the provision of this section and if the lots created are not smaller than the minimums set forth in the following table:

<u>Zone</u>	<u>Open Space Minimum Square Feet</u>
R-18	16,000
R-15	13,000
R-12	10,000

- (b) The appropriate setback requirements found in Section 10.245 shall apply to open space residential subdivisions.
- (c) Minimum lot widths for each zoning district shall be amended as follows:

<u>Zone</u>	<u>Open Space Minimum Lot Width</u>
R-18	80
R-15	70
R-12	60

- (d) The amount of usable open space that must be set aside shall be determined by:
- (1) Subtracting from the standard square footage requirement set forth in Section 10.245 the amount of square footage of each lot that is smaller than that standard:
  - (2) Adding together the results obtained in (1) for each lot.
- (e) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 20,000 square feet of space that satisfies the definition of usable open space set forth in Section 10.249.2.



**Section 10.249.5      Open Space, Easement, and Trail ~~Criteria Standards~~**

- (a) In selecting land to be set aside as usable open space the developer shall choose areas from the following categories in descending order of importance before designating other land for open space use.
- (1) Designated buffer areas together with any floodway and floodplain they are buffering.
  - (2) Land within ~~30-50~~ feet of other bodies of water or watercourses.
  - (3) Other flood hazard areas ~~or land with slopes greater than 15%.~~
  - (4) Other ~~potential~~ hazard areas or environmentally sensitive areas such as noise and privacy buffers ~~for surrounding~~ surrounding properties and neighborhoods.
  - (5) Lands that will protect important view sheds and/or trees along existing roads and provide privacy for the development.
  - (6) Other natural areas, such as pastures or croplands, within the boundaries of a proposed development.
- (b) Under no circumstances may a right-of-way, easement (excluding those for ~~public purposes~~ resident and/or public pedestrian use and access), any setback requirement, any portion of any buildable lot, ~~or a portion of a subdivided lot~~ the portion of the development containing any manmade BMP or stormwater control measure be considered as part of the open ~~space~~ requirements space requirement.
- (c) Open space areas shall be legally and easily accessible to the residents of the development from which the required open space is taken.
- (d) In cases where there are watercourses (natural ponds, streams, rivers, etc.) adjacent to or within the boundaries of a tract proposed for subdivision into more than four total lots or residential units, or any non-residential use is proposed, the property owner(s) and/or developer(s) shall be required to set aside an easement at least 15 feet wide for public access and construct a mulch, gravel, or paved trail at least 8 feet wide, which connects to the internal sidewalk network, within the bounds of the public access easement. The required watercourse easement and trail shall be located along the entire portion of the property where the land abuts a watercourse. In cases where internal sidewalks are private, a public access easement shall also be provided over the sidewalk area to allow for public use and connectivity to trail areas.
- (e) Tree removal for required trails shall be limited to the area necessary to clear and maintain the trails. Trees removed shall not be larger than 12 inches in diameter at breast height.
- (f) Trails provided shall be free of roots, stumps, and other encumbrances that may cause a hazard to pedestrians and shall be maintained annually to prevent erosion or washout.

(←)

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.33", No bullets or numbering



**Section 10.249.6      Uses or Activities Permitted in Open Space Areas**

- (1) Conservation of land in its natural state (for example, woodland, fallow field or managed meadow).
- (2) Agricultural uses, including raising of crops or livestock.
- (3) Passive recreation, including but not limited to trails, picnic areas, community gardens and lawn areas.
- (4) Active recreation areas such as golf courses, swimming areas, playing fields, playgrounds, courts and associated parking. These areas shall be designed to enhance the required open space area.
- (5) Pasture for recreational horses.
- (6) Easements for drainage, access (i.e. greenways, bike trails, etc.), sewer or water lines, or other public purposes.
- ~~(7) Storm water management facilities for the proposed development or for a larger area in compliance with a watershed management plan.~~



## 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:

These changes better reflect the original intent of this provision and create a better sense of place when development is proposed adjacent to environmentally-sensitive areas. Additionally, connectivity and environmental conservation are key components of the 2035 Comprehensive Plan.

#### Section 10.249.2 Definitions

Open ~~s~~space for the purposes of this Section is defined as any area over 20,000 sq. ft. that is not divided into private or civic building lots, streets, rights-of-way, parking, manmade BMPs or stormwater control measure, or easements established for ~~the~~ purposes other than open space conservation and associated permitted uses within open space conservation areas.

#### Section 10.249.3 General Requirements

- 1) Whenever this section is silent to a development standard the standards established for the conventional development pattern in the zoning district shall be followed.
- 2) The open space regulations are only applicable to new subdivisions that are 5 or more acres. At the time the subdivision is brought before the City, the developer must inform the Staff that they wish to pursue an open space residential subdivision.

#### Section 10.249.4 Open Space Standards

- (a) In any of the single-family residential zoning districts indicated below, a developer may create lots that are smaller than those required by the zoning district if such developer complies with the provision of this section and if the lots created are not smaller than the minimums set forth in the following table:

<u>Zone</u>	<u>Open Space Minimum Square Feet</u>
R-18	16,000
R-15	13,000
R-12	10,000

- (b) The appropriate setback requirements found in Section 10.245 shall apply to open space residential subdivisions.
- (c) Minimum lot widths for each zoning district shall be amended as follows:

<u>Zone</u>	<u>Open Space Minimum Lot Width</u>
R-18	80
R-15	70
R-12	60

- (d) The amount of usable open space that must be set aside shall be determined by:
- (1) Subtracting from the standard square footage requirement set forth in Section 10.245 the amount of square footage of each lot that is smaller than that standard:
  - (2) Adding together the results obtained in (1) for each lot.
- (e) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 20,000 square feet of space that satisfies the definition of usable open space set forth in Section 10.249.2.





**Section 10.249.5      Open Space, Easement, and Trail ~~Criteria Standards~~**

- (a) In selecting land to be set aside as usable open space the developer shall choose areas from the following categories in descending order of importance before designating other land for open space use.
- (1) Designated buffer areas together with any floodway and floodplain they are buffering.
  - (2) Land within ~~30-50~~ feet of other bodies of water or watercourses.
  - (3) Other flood hazard areas ~~or land with slopes greater than 15%.~~
  - (4) Other ~~potential~~ hazard areas or environmentally sensitive areas such as noise and privacy buffers ~~for surrounding~~ surrounding properties and neighborhoods.
  - (5) Lands that will protect important view sheds and/or trees along existing roads and provide privacy for the development.
  - (6) Other natural areas, such as pastures or croplands, within the boundaries of a proposed development.
- (b) Under no circumstances may a right-of-way, easement (excluding those for ~~public purposes~~ resident and/or public pedestrian use and access), any setback requirement, any portion of any buildable lot, ~~or a portion of a subdivided lot~~ the portion of the development containing any manmade BMP or stormwater control measure be considered as part of the open ~~space~~ requirements space requirement.
- (c) Open space areas shall be legally and easily accessible to the residents of the development from which the required open space is taken.
- (d) In cases where there are watercourses (natural ponds, streams, rivers, etc.) adjacent to or within the boundaries of a tract proposed for subdivision into more than four total lots or residential units, or any non-residential use is proposed, the property owner(s) and/or developer(s) shall be required to set aside an easement at least 15 feet wide for public access and construct a mulch, gravel, or paved trail at least 8 feet wide, which connects to the internal sidewalk network, within the bounds of the public access easement. The required watercourse easement and trail shall be located along the entire portion of the property where the land abuts a watercourse. In cases where internal sidewalks are private, a public access easement shall also be provided over the sidewalk area to allow for public use and connectivity to trail areas.
- (e) Tree removal for required trails shall be limited to the area necessary to clear and maintain the trails. Trees removed shall not be larger than 12 inches in diameter at breast height.
- (f) Trails provided shall be free of roots, stumps, and other encumbrances that may cause a hazard to pedestrians and shall be maintained annually to prevent erosion or washout.

(←)

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.08", Hanging: 0.25", Right: 0", No bullets or numbering, Tab stops: Not at 0.33"

Formatted: Indent: Left: 0.33", No bullets or numbering



**Section 10.249.6      Uses or Activities Permitted in Open Space Areas**

- (1) Conservation of land in its natural state (for example, woodland, fallow field or managed meadow).
- (2) Agricultural uses, including raising of crops or livestock.
- (3) Passive recreation, including but not limited to trails, picnic areas, community gardens and lawn areas.
- (4) Active recreation areas such as golf courses, swimming areas, playing fields, playgrounds, courts and associated parking. These areas shall be designed to enhance the required open space area.
- (5) Pasture for recreational horses.
- (6) Easements for drainage, access (i.e. greenways, bike trails, etc.), sewer or water lines, or other public purposes.
- ~~(7) Storm water management facilities for the proposed development or for a larger area in compliance with a watershed management plan.~~



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

#### 10. Screening

- A. O-1, B-2, and B-3 Districts – Business uses where property lines abut a district zoned residential shall erect an opaque screen at least six feet high designed so as to obstruct the view from surrounding residential property. Screens are not to be brightly colored, multicolored, or otherwise obtrusive. Colors and textures harmonious with nature and nearby residential structures are recommended. If a planted screen is used, it shall consist of evergreen shrubs or trees which at maturity will meet the required height.
- B. I-1 and I-2 Districts – A buffer strip shall be planted along the side or rear property line of any use that abuts any property in a residential zone. The strip shall be at least 10 feet wide planted with an opaque screen of evergreen shrubs or trees which at maturity will be between eight and 12 feet high.

*(Section 10.246 amended 11/7/2000, 2/4/2014)*

#### **Section 10.247                      Building Spacing Requirements for Multifamily Residential Buildings (Townhouses, Condominiums and Apartments)**

In addition to the 25-foot setback from exterior property lines, all multifamily structures shall be no less than 25 feet from other dwelling structures, not to be less than three-quarters of the height, and no closer than 5 feet to accessory structures (e.g. garages, clubhouses, etc.)

#### **Section 10.248                      Double Counting of Yard, Lot Area, Loading Area or Parking Area**

No space which has been counted as part of a yard, lot area, parking area or loading area required under this Ordinance for one building or use shall be counted to satisfy or comply with a yard, lot area, loading area or parking area requirement for any other building or use, except where shared parking is permitted. The minimum required yards, lot area or parking or loading area for any building or use existing or under construction at the time of the passage of this Ordinance shall not be encroached upon or counted to satisfy the requirements for any other building or use.

#### **Section 10.249                      Open Space Provision for R-12, R-15, and R-18 Zoning Districts**

##### **Section 10.249.1                  Intent**

The intent of this provision is to allow for the development of open space residential subdivisions by right within the R-12, R-15, and R-18 zoning districts. These provisions seek to encourage the development of compact neighborhoods and rural compounds that set aside significant natural vistas and landscape features for permanent conservation.



## **Section 10.249.2 Definitions**

Open Space is defined as any area that is not divided into private or civic building lots, streets, rights-of-way, parking, or easements established for the purposes other than open space conservation.

## **Section 10.249.3 General Requirements**

- 1) Whenever this section is silent to a development standard the standards established for the conventional development pattern in the zoning district shall be followed.
- 2) The open space regulations are only applicable to new subdivisions that are 5 or more acres. At the time the subdivision is brought before the City, the developer must inform the Staff that they wish to pursue an open space residential subdivision.

## **Section 10.249.4 Open Space Standards**

- (a) In any of the single-family residential zoning districts indicated below, a developer may create lots that are smaller than those required by the zoning district if such developer complies with the provision of this section and if the lots created are not smaller than the minimums set forth in the following table:

<u>Zone</u>	<u>Open Space Minimum Square Feet</u>
R-18	16,000
R-15	13,000
R-12	10,000

- (b) The appropriate setback requirements found in Section 10.245 shall apply to open space residential subdivisions.
- (c) Minimum lot widths for each zoning district shall be amended as follows:

<u>Zone</u>	<u>Open Space Minimum Lot Width</u>
R-18	80
R-15	70
R-12	60

- (d) The amount of usable open space that must be set aside shall be determined by:
- (1) Subtracting from the standard square footage requirement set forth in Section 10.245 the amount of square footage of each lot that is smaller than that standard:
  - (2) Adding together the results obtained in (1) for each lot.
- (e) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 20,000 square feet of space that satisfies the definition of usable open space set forth in Section 10.249.2.



#### **Section 10.249.5            Open Space Criteria**

- (a) In selecting land to be set aside as usable open space the developer shall choose areas from the following categories in descending order of importance before designating other land for open space use.
  - (1) Designated buffer areas together with any floodway and floodplain they are buffering.
  - (2) Land within 30 feet of other bodies of water or watercourses.
  - (3) Other flood hazard areas or land with slopes greater than 15%.
  - (4) Other hazard areas or environmentally sensitive areas such as noise and privacy buffers for surrounding properties and neighborhoods.
  - (5) Lands that will protect important view sheds and/or trees along existing roads and provide privacy for the development.
  - (6) Other areas within the proposed development.
- (b) Under no circumstances may a right-of-way, easement (excluding those for public purposes), setback requirement, or a portion of a subdivided lot be considered as part of the open space requirement.
- (c) Open space areas shall be legally and easily accessible to the residents of the development from which the required open space is taken.

#### **Section 10.249.6            Uses or Activities Permitted in Open Space Areas**

- (1) Conservation of land in its natural state (for example, woodland, fallow field or managed meadow).
- (2) Agricultural uses, including raising of crops or livestock.
- (3) Passive recreation, including but not limited to trails, picnic areas, community gardens and lawn areas.
- (4) Active recreation areas such as golf courses, swimming areas, playing fields, playgrounds, courts and associated parking. These areas shall be designed to enhance the required open space area.
- (5) Pasture for recreational horses.
- (6) Easements for drainage, access (i.e. greenways, bike trails, etc.), sewer or water lines, or other public purposes.
- (7) Storm water management facilities for the proposed development or for a larger area in compliance with a watershed management plan.



#### **Section 10.249.7            Uses or Activities Prohibited in Open Space Area**

Uses or activities prohibited in open space areas are cutting of healthy trees, regrading, topsoil removal, altering, diverting or modifying watercourses or bodies. Exceptions shall be in compliance with a land management plan or watershed management plan for the tract in question conforming to the customary standards of forestry, erosion control and engineering.

#### **Section 10.249.8            Ownership and Maintenance of Open Space**

- (a) Ownership of open space may be handled through one (1) or more of the following, and all open space land will be permanently restricted from future development through deed restriction.
  - (1) A homeowner's association;
  - (2) Transfer to a private conservation organization;
  - (3) Dedicated to the City of Graham.
- (b) Unless the City agrees to accept the dedication, usable open space that is required to be provided by the developer shall remain under the control of a homeowner's association or similar organization that satisfies the criteria listed below. If the required open space is not publicly dedicated it shall be available to all residents of the development under reasonable rules and regulations. The regulations shall be established to encourage and govern the use of the open space by the residents without payment of separate optional fees or charges other than membership fees in a homeowner's association.
- (c) The association or agency identified as having the right of ownership and control over the required open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- (d) Natural features are generally to be maintained in their natural condition but may be modified to improve their appearance, function or overall condition. Permitted modifications may include:
  - (1) Reforestation;
  - (2) Woodland Management;
  - (3) Meadow Management;
  - (4) Buffer Area Landscaping;
  - (5) Streambank Protection; and
  - (6) Wetlands Management.
- (e) In no event will a radical change in open space be permitted so as to destroy what may have been an initial sales feature for surrounding homeowners, for example, the removal of all timber, etc. The cost and responsibility of maintaining open space and any facilities located thereon shall be borne by the property owner and/or homeowners association, unless the City of Graham agrees to accept the dedication of the property.





## City Council Decision & 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. 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 (AM2108)

#### Type of Request

Text Amendment

#### Meeting Dates

Planning Board on December 21, 2021

City Council on January 11, 2022

Choose one...

☐ I move that the text amendment be **APPROVED**.

☐ I move that the text amendment be **DENIED**.

Choose one...

☐ The text amendment is **consistent** with *The Graham 2035 Comprehensive Plan*.

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

State reasons...

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

---

---

---

This report reflects the decision of the City Council, this the 11<sup>th</sup> day of January, 2022.

Attest:

---

Jennifer Talley, Mayor

---

Darby Terrell, City Clerk