

City of Graham City Council Meeting Minutes July 11, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on July 11, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

Council Members Present:

Mayor Jennifer Talley
Mayor Pro Tem Ricky Hall
Council Member Bobby Chin
Council Member Joey Parsons
Council Member Bonnie Whitaker

Staff Present:

Megan Garner, City Manager
Aaron Holland, Assistant City Manager
Bryan Coleman, City Attorney
Renee Ward, City Clerk

CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

MAYOR ANNOUNCEMENTS:

- Graham Recreation is offering paddle tours on the lake at Graham/Mebane Lake – July 15, 16, and 27, from 9:00am – 11:00am
- Thursdays' at 7:00 concerts
- Every third Saturday – a live band downtown at the Amphitheater
- Balloon Festival – September 8, 9, 10.
- Several local bands – Amphitheater behind Colonial Hardware – July 22 - 2:00 pm – 9:00pm

CONSENT AGENDA:

- a. To approve the June 13, 2023, City Council meeting minutes.
- b. To adopt a Resolution accepting the American Rescue Plan (ARP) offer of \$400,000 and to approve an Engineering Contract with Alley, Williams, Carmen & King, Inc., in the amount of \$400,000, to provide engineering and administration services for the City's Asset Inventory and Assessments Grant from NCDEQ-Division of Water Infrastructure and to assist the City with evaluating the drinking water distribution system for compliance with the Lead and Copper Rule Revision.

RESOLUTION BY GOVERNING BODY OF RECIPIENT

WHEREAS, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$400,000 to perform an Asset Inventory and Assessment study detailed in the submitted application, and

WHEREAS, the (City of Graham) intends to perform said project in accordance with the agreed scope of work.

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

Graham does hereby accept the American Rescue Plan (ARP) offer of \$400,000.

That the City of Graham does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That Megan Garner (City Manager), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the 11th day of July 2023, at Graham, North Carolina.

- c. To adopt a resolution authorizing the adoption and maintenance of the portions of Sunfield Drive, Lacy Holt Road, and Kress Drive located within Sections 3 & 4 of the Forks of Alamance subdivision.

A RESOLUTION ORDERING THE ADOPTION OF THE PORTIONS OF LACY HOLT ROAD, SUNFIELD DRIVE, AND KRESS DRIVE LOCATED WITHIN SECTIONS 3 AND 4 OF THE FORKS OF ALAMANCE SUBDIVISION

WHEREAS, NCGS §160D-806 and Article VIII, Section 10.339(d)(5) of the City of Graham Development Ordinance provide that City Council may, by resolution, accept offers of public dedication made to the public of lands and facilities for streets, sidewalks, open spaces, and public utilities after verification from the Technical Review Committee that such properties and improvements are in a manner acceptable for acceptance; and

WHEREAS, the City of Graham has been provided with an offer of public dedication of lands and improvements of the portions of Lacy Holt Road, Sunfield Drive, and Kress Drive located within Sections 3 and 4 of the Forks of Alamance subdivision, which are described on legally recorded final plats in Plat Book 80, Pages 312 and Plat Book 81, Page 215 of the Alamance County Registry; and

WHEREAS, the City of Graham Technical Review Committee has reviewed the land and improvements placed upon them provided as part of the offer of public dedication, and such land and improvements have been found to be in compliance with standards in place for such land and improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Graham, North Carolina, that the offer of public dedication be accepted for those portions of Lacy Holt Road (50-foot public ROW), Kress Drive (50-foot public ROW), and Sunfield Drive (50-foot public ROW), as offered and recorded on the Final Plat for Forks of Alamance Section 3 in Plat Book 80, Page 312 and on the Final Plat for Forks of Alamance Section 4 in Plat Book 81, Page 215 of the Alamance County Registry; and

SECTION 1. Terms and Conditions of Acceptance:

1. The developer shall guarantee all materials and workmanship for a period of 12 months from the date of official acceptance by the City Council, as specified under Section 10.339 (d)(5)(c) of the City of Graham Development Ordinance;
2. The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies, or employees may assert or be entitled to;
3. All rights, privileges, and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever; and
4. Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build, or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage, or other public utilities systems.

SECTION 2. This Resolution shall become effective immediately upon adoption. This the 11th day of July 2023 at 6:00 p.m.

- d. To adopt a resolution authorizing the adoption and maintenance of the portions of Mackenna Drive, Whelen Drive, and Cullens Drive located within Phases 2 & 3 of the Shamrock Valley subdivision.

A RESOLUTION ORDERING THE ADOPTION OF THE PORTIONS OF MACKENNA DRIVE, WHELEN DRIVE, AND CULLENS DRIVE LOCATED WITHIN PHASES 2 AND 3 OF THE SHAMROCK VALLEY SUBDIVISION

WHEREAS, NCGS §160D-806 and Article VIII, Section 10.339(d)(5) of the City of Graham Development Ordinance provide that City Council may, by resolution, accept offers of public dedication made to the public of lands and facilities for streets, sidewalks, open spaces and public utilities after verification from the Technical Review Committee that such properties and improvements are in a manner acceptable for acceptance; and

WHEREAS, the City of Graham has been provided with an offer of public dedication of lands and improvements of the portions of Mackenna Drive, Whelen Drive, and Cullens Drive located within Phases 2 and 3 of the Shamrock Valley subdivision, which are described on legally recorded final plats in Plat Book 81, Pages 78 and Plat Book 81, Page 253 of the Alamance County Registry; and

WHEREAS, the City of Graham Technical Review Committee has reviewed the land and improvements placed upon them provided as part of the offer of public dedication, and such land and improvements have been found to be in compliance with standards in place for such land and improvements; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Graham, North Carolina, that the offer of public dedication be accepted for those portions of Mackenna Drive (50-foot public ROW), Whelen Drive (50-foot public ROW), and Cullens Drive (50-foot public ROW), as offered and recorded on the Final Plat for Shamrock Valley Phase 2 in Plat Book 81, Page 78 and on the Final Plat for Shamrock Valley Phase 3 in Plat Book 81, Page 253 of the Alamance County Registry; and

SECTION 1. Terms and Conditions of Acceptance:

1. The developer shall guarantee all materials and workmanship for a period of 12 months from the date of official acceptance by the City Council, as specified under Section 10.339 (d)(5)(c) of the City of Graham Development Ordinance;
2. The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies or employees may assert or be entitled to;
3. All rights, privileges, and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever; and
4. Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build, or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage, or other public utilities systems.

SECTION 2. This Resolution shall become effective immediately upon adoption. This the 11th day of July 2023 at 6:00 p.m.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Parsons. The motion passed unanimously.

PUBLIC HEARINGS:

ITEM 1: SPECIAL USE PERMIT – 0 EAST INTERSTATE SERVICE ROAD

City Council considered a request for a Special Use Permit for Trucking or Freight Terminal, Storage, Repair, Wash, or Stop for property located at 0 E Interstate Service Road. The site is approximately 5.547 acres. (Continued from June 13, 2023, City Council meeting.) (Planning Board recommended approval by a vote of 3-2.)

Assistant City Manager Aaron Holland: Thank you, Mayor. I will just add this was a tabled item from last month to this month. This is a request for a Special Use Permit for Trucking or Freight Terminal, Storage, Repair, Wash, or Stop for the property located at 0 E Interstate Service Rd. The site is currently vacant. The site is approximately 5.547 acres. The plan would permit up to 122 Trailer Parking Spots. The layout would be accessed off of E Interstate Service Rd. A landscaping buffer has been proposed along the extent of the property. A “type D” buffer is required abutting neighboring properties and “street yard” buffers are required along pieces abutting the street. As you mentioned earlier this is a special use permit request. City Council shall find that all of the six conditions have been met or it shall be denied. The staff has prepared the following draft findings of fact for each of the six conditions. If Council feels to modify any of those they can do so at their will.

1. All applicable regulations of the zoning district in which the use is proposed are complied with.
The property is zoned I-1, a Trucking or Freight Terminal, Storage, Repair, Wash, or Stop is permitted only with a special use permit, or a rezoning to Conditional Industrial.
2. Conditions specific to each use, identified by the Development Ordinance, are complied with.
A preliminary site plan showing the location, dimensions, and sites within the development has been supplied. There is a proposed shares ingress/egress with the adjoining property. A traffic impact analysis/study has been provided to the City and NCDOT staff. Neither department has any concerns.
3. The use will not materially endanger public health or safety if located where proposed and developed according to the plan as submitted.
Permitting a truck storage facility on this site will not materially endanger public health or safety.
4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.
Permitting a truck storage facility on this site will not substantially injure the value of the adjoining property.
5. 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.
The plan is located in an industrial section of Graham and is in general conformity with The Graham 2035 Comprehensive Plan.

6. 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.
The sketch plan submitted indicates general compliance with these requirements. The Graham TRC will require conformance with the City of Graham Ordinances prior to the issuance of a Certificate of Occupancy.

Assistant City Manager Holland: Staff does recommend as you mentioned earlier. Planning did recommend with a 3-2 vote. I would like to make note that we do have to turn to our attorneys to read another portion of this whole special-use process. So, I will turn it over to the attorney before we go to the applicant.

City Attorney Bryan Coleman: Thank you, Aaron. This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decisions. These rules are different from other types of land use decisions like rezoning cases.

The Council's discretion is limited. The Council must base its decision upon competent, relevant, and substantial evidence in the record. It is a decision that must be based on the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.

This meeting is open to the public. However, participation is limited. Parties with standing have rights to present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the City Council. General Witness testimony is limited to facts, no opinions. For certain topics, this Council needs to hear opinion testimony from expert witnesses. These topics include predictions about impacts on property values and predictions about impacts of increased traffic. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Inadmissible evidence is deemed objected to:

- Any documentary evidence that is certified or from a recognized professional source will be admitted without authentication.
- Witnesses must swear or affirm their testimony.

At this time, the City Clerk will administer the oath for all individuals who intend to provide witness testimony.

Mayor, you may now poll the Council for any bias or fixed opinions, conflicts of interest, ex-parte communications, or site visits.

Tom Boney, Alamance News: Before you proceed any further, my recollection was there was another condition that Planning Board put on the project and I did not hear that one read. Is that not a . . .

Assistant City Manager Holland: Yes, so once the Attorney was going to finish his part, I was going to read the conditions that were set forth from Planning Board.

City Attorney Coleman: So, anybody that's going to provide testimony, if they could come forward and take the oath.

Tom Boney: I guess that my question, again, sorry, Assistant Manager, wouldn't that be appropriate to be stated before the witnesses what the conditions are?

Assistant City Manager Holland: I think Council has not questioned anyone that's getting sworn in, they are just getting sworn in right now and then come back to me in case they have any questions for staff.

Tom Boney: The question is there's another condition, as I recall from the Planning Board meeting that has not yet been described. Did I remember wrongly?

Assistant City Manager Holland: Right, but once the swearing-in has happened it comes back to me before it goes to anyone else. There's no testimony before they ask me any questions. I will go over those conditions before they turn it over to the applicants.

Matt Wall: Madam Mayor and members of the Council, my name is Matt Wall, 3453 Forestdale Drive, Burlington, NC. I am not going to be a witness so you will be relieved that I do not need to take the oath. But, we do have three witnesses here; Chad Huffine, Glen Patterson, and Billy Tyler, those will be the three witnesses for the applicant.

City Clerk Renee Ward: Okay, if you would please raise your right hand. Do you swear or affirm the testimony you are about to give today is the truth, the whole truth, and nothing but the truth, say I do.
(All three stated, "I do.")

Mayor Talley: I have a question. If there are five members on the Planning Board, how did you do a 3-2 vote? I understand three and two make five. My question is Chad is one of the Planning Board members.

Matt Wall: He did not participate. There are seven members.

Mayor Talley: Okay, so there were five members there, not counting him.

Matt Wall: Correct.

Mayor Talley: Okay, that's what my question was, okay. So, there were six or seven members there? Six, right?

Assistant City Manager Holland: There were six present and seven total on the board.

Mayor Talley: Okay

Assistant City Manager Holland: The conditions that were recommended by the Planning Board were:

1. Guard house on the property
2. A fencing around the perimeter of the lot to be opaque in nature
3. Add electrical components to the fencing if permissible by the code

City Attorney Coleman: I have one or two more things I would like to add here. Any admissible evidence that is deemed objected to, any documentary evidence that is certified or from an expert or from a

recognized professional source will be admitted without authentication and Madam Mayor you may now hold the Council for bias, fixed opinions, conflicts of interest, ex-parte communications, or site visits.

Mayor Talley: Has anyone on this Council spoken to or had any outside communication with anyone in regard to this project? (*All Council Members stated no.*)

Mayor Tally: I appreciate you so much Bryan but you talk like a lawyer and so I just want to speak in laymen's terms that if anyone is here tonight to talk about this project, and you come up, there are six different items that he spoke about earlier, so if you need your . . . obviously unless you were taking notes you may not know what those six items are. But, basically, we act tonight as kind of a judge and just like in a trial you have evidence that has to be presented, and then that evidence . . . there is certain evidence that we can consider and there is certain evidence that we can't consider. So, if you get up and say I don't like this project or I like that project that's not something we can consider. We have to go based on expert testimony so if you say for instance, we think that this project is going to lower my property value and you are not a certified appraiser or someone that is deemed, you know, to be able to give that kind of expertise or give that opinion then that's something that also this Council . . . it's not that we are not listening to you or that we don't care what you think but you have to be specific in the way that you make your argument that it dresses one of the six issues and if you could just name those off really quick again just the general jest of those six issues and those are the only things that these Council Members can consider in a yes, no vote for agreeing to this project or not agreeing to this project.

Assistant City Manager Holland: So, I'm not going to put the response, just the six criteria?

Mayor Talley: Yeah, so we have a brochure on this and I always encourage people to read the brochure because its . . . hard to remember it, all the details so to speak.

Assistant City Manager Holland: Right, the six criteria:

1. All applicable regulations of the zoning district in which the use is proposed are complied with.
2. Conditions specific to each use, identified by the Development Ordinance, are complied with.
3. The use will not materially endanger public health or safety if located where proposed and developed according to the plan as submitted.
4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.
5. 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. 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.

Mayor Talley: The first one is dealing with zoning. The second one dealing that it complies with our development ordinance, the 2035 Plan. The third one is focused on safety. The fourth one being how this would affect the value of properties and surrounding properties. The fifth being is this harmonious with property around the subject property, and six deals with traffic, signs, lighting, and whether this project has presented a plan that is not going to substantially hurt traffic from being able to get in and out of that area and also the signs and lighting to be able to direct traffic where it needs to go. So, if you did not raise your hand earlier to be able to speak because you needed to be sworn in, as we progress if you decide because sometimes people will speak and then you want to respond, so just raise your hand and we will acknowledge you. The first person . . . it's a public hearing for those who have already taken the oath and whoever would like to come forward if you will just raise your hand. Okay, Matt Wall, we will acknowledge you.

Matt Wall: Madam Mayor and members of the Council, again my name is Matt Wall, and I am here on behalf of the applicant, Cone Commercial real-estate, who is the respective purchaser of this property under contract and I am an attorney representing the applicant in this permit application. As I said before, I'm not going to be a witness and I'm going to turn it over to Mr. Huffine first but I did want to make a couple of, sort of, opening statements and preparatory comments if I might. One thing I wanted to clarify in the agenda where it was read that the planning board and I know Mr. Ward is here, I think he may recall this and I think Bryan (Coleman) may recall this too, Bryan was at that Planning Board meeting. But, it was approved 3-2. That is correct, but just sort of behind that vote, my recollection is that all of the five voting members of the Planning Board that evening, as to this particular application, did find that the applicant had met its requirements under those six factors. The difference in the two descending votes were that the motion imposed those three conditions which Mr. Holland stated earlier in which are also in your packet from the recommendation of the Planning Board. The three that voted in favor wanted those conditions on and they were approved. The two that voted against the motion, as I recall them saying, that they voted against that motion simply because they didn't think the conditions needed to be applied to this. But, all five of the Planning Board members did in fact indicate that they believed the applicant, that we had met the requirement that we satisfied those six conditions. I just wanted to clarify that and Mr. Ward (Dean) if you disagree please say.

Dean Ward, Planning and Zoning Chair: Yes, correct.

Matt Wall: Then also, just as another preparatory comment, there was a lot of discussion before this application was even filed, if this needed to be a special use permit process or whether it could be used, this use could be as of right under the existing zoning because there is a separate use that might qualify and it was back and forth, and at the end of the day, after further details about the use and possibly uses of the property it was decided that special use needed to be done. But, I didn't want to clarify that there is no, it's just the way the heading is listed that it's freight terminals storage repair, wash or stop and there are no plans for this to be a repair place or a wash or anything like that. The idea is this property be used merely as storage for trailers and occasionally tractors possibly. As Aaron (Holland) said, the staff does recommend approval and with that, I'm going to turn it over to Mr. Huffine and I would ask that he be qualified in and received as an expert witness. He is a professional engineer. I think you are all probably familiar with him but he has years of experience in his Leads Group PA, an engineering firm that is in the City of Burlington and I think his report and evidence will establish several of those six factors. Then we will have later, you've already seen they have been sworn in, Mr. Glenn Patterson, who is a licensed real estate broker and licensed real estate appraiser. Glenn has done a report on this and we would ask that he be recognized and received as an expert. And then lastly, the representative from Kimely-Horn Engineering Firm that did the traffic memo and I believe you have that in your packets, that traffic thing. The other two I can go ahead and hand, there are some documents to go along with each witness. I'm happy

to hand those up now to the Council. I have the copies to do that or if you want to wait until they each come up in turn or give their evidence. But, I'm happy to submit those, if I may approach, and hand those out, I'm happy to do that. But, Mr. Tyler, Billy Tyler is the representative for Kimely-Horn and he's also a professional engineer we would ask based on his licensing and training and years of experience that he be received as an expert in this matter and he is the representative of the company that did the traffic memo. Does Madam Mayor, the Council have a preference about receiving the written statements of the witnesses in advance or at the time? I'm happy to hand them up now if you would like to have them. You've got the traffic memo I think.

Mayor Taylor: Yes, there were some questions about the traffic memo.

Matt Wall: Okay, Mr. Tyler is here who can answer those.

Mayor Talley: Okay, you can go in any order that you would like.

Matt Wall: Okay, well let's go first then with Mr. Huffine and if I may approach.

Mr. Chad Huffine: Good evening Council, Mayor Talley, Chad Huffine, 505 East Davis Street, Burlington, NC. I'm the civil engineer for the project. This project was brought to us several months ago with the concept of placing a storage area for rental, long term for tractor trailers specifically the trailers in an overflow from an adjacent industrial parking lot uses in the area. The property was selected based on its proximity to I40 and its ease of access to the industrial park, east and south. The property is surrounded by similar uses. The school bus parking garage, prison camp, all those areas kind of surround the property to the northwest and south and then further east there are some industrial uses. There are no residences in the area adjacent to the property. So, it's a fairly consistent use. It is new to our area in that it is a stand-alone facility where a tractor-trailer driver or truck driver will come, either pick up his trailer with his tractor or store several trailers and switch them out in his service in the area. So, with that, I'll take any questions regarding the consistency with the use, if you have any, if not I'll ask you to receive our document pertaining to the traffic information, or traffic study provided by Kimley-Horn. **(Attachment A)**

Mayor Talley: Do you want to answer questions about the traffic study?

Chad Huffine: I can take them and if there is something that we need to speak to specifically from the technical portion of the study I'll be glad too. If it's the general concept of the driveway circulation access we would be happy to attempt to answer those until I can't and then I'll ask Billy to come up and help me out.

Mayor Talley: What was the period of time that you did that?

Chad Huffine: Okay, we will have Billy to come up here and help me out.

Billy Tyler: Yes, my name is Billy Tyler, 1008 Kingswood Drive, Chapel Hill, NC, and as he said I am a licensed engineer. It was a question, what is the period of time the traffic study was performed?

Mayor Talley: Correct.

Billy Tyler: Are you saying when the study was submitted or when did we collect the data for the study?

Mayor Talley: You did it for just one day?

Billy Tyler: Yes, we did it for just one day which is typical. We collected counts during the morning and afternoon peak hours and I can find some dates for you but does include it in the appendix. But to do it over one day is typical.

Mayor Talley: Did a lot of traffic studies, I mean, you can do them for one day, but that's not really a true, in my opinion, a true story of that on a Tuesday, you know what the traffic is there on a Saturday versus a Monday morning or a . . . so.

Billy Tyler: So, it is typical across the industry to collect traffic counts for one day in the morning and afternoon peak hours and then we apply several factors within our study that help account for that variability and what we end up actually analyzing and basing our recommendations on are the effectively the 15 most peak minutes of the day. So, we are looking at the most intense 15 minutes of a typical day which should cover most cases on the roadway network.

Mayor Talley: But you would agree that the numbers on a Saturday could be very different than the numbers on a Tuesday.

Billy Tyler: They could.

Mayor Talley: And on this property here, does the, can you show me the intended routes that trucks would be taking to get access to this from the interstate?

Chad Huffine: Chad Huffine again, I'm going to help Billy out where we need to help each other out. If you will look at the information we submitted to you, you have truck turning maneuvers that show access onto Interstate Service Road and then from Interstate Service Road to Gilbreath Street should be in the documents submitted to you through staff reviews or I can point to you on the screen.,

Mayor Talley: On the screen? Can you pull it up, Aaron?

Chad Huffine: If I may, Mayor Talley, I'll bring you a sketch of what you are looking for, if I may. **(Attachment B)**

Mayor Talley: Sure.

Chad Huffine: So, if I may speak while you are reviewing that, two of the major concerns during the planning review process was the access to Interstate Service Road such that a maneuvering tractor-trailer would not encroach into the oncoming traffic in the opposite direction. The other point of interest was at the intersection of Interstate Service Road and Gilbreath Street. Both of those being important maneuvering areas whether the trucks turn right and then turn left and then access Interstate 40 through 54. So, it was determined that most of the truck traffic would move to Interstate Service Road, turn right on Gilbreath Street, turn left again, and then left again on 54 Hwy. Once they reach 54 Hwy they would go north to I40 or they would go south to Cherry Lane and then turn up Cherry Lane and head to Commerce Park. So, all those points, I think were addressed during the staff review. The access to Interstate Service Road was found to encroach onto some existing infrastructure for fire services and the water main. So, the second photo I showed you is the encumbrances at the existing entrance. The entrance was moved further west away from those items and widened to accommodate the larger maneuvers of the tractor-trailer. Therefore, you see a 94-foot curb cut with expanded radii to the right of the driveway or east as you would turn right onto Interstate Service Road and approach Gilbreath Street. **(Attachment C)**

Mayor Talley: Can you pull up the aerial street view so we can see the pathway coming down Gilbreath? What did you mean when you said that it was, that it went . . .

Chad Huffine: Okay, so when you turn out of the parking lot, that we propose, if you don't make the driveway wide enough, the tractor-trailer driver has to swing out into the opposite lane of travel, so if you were coming towards the prison camp you could get run over by the tractor-trailer driver. So, we made the entrance super wide to have a larger radius on the eastern side so the driver when he's in his truck and leaves, heads east, the tractor and the trailer stay in his lane and do not encroach the other lane. It's only a two-lane road there. In practice, the truck drivers going to drive everywhere, and we on paper have to facilitate the maneuvers to get the tractor-trailers designated (inaudible). That's the reason for the excessively wide point of access.

Mayor Talley: So, show Aaron on the, where that is, like right in that area?

Chad Huffine: If you turn the aerial layer on it will stick out a lot better. See that grass field where the cursor is?

Mayor Talley: Yeah.

Chad Huffine: If you see the pin that says Blessed from Above Massage, we have the proposed access just to the west of that pin. So, it is in the bushes just to the west of the pin so that when you turn right in a tractor-trailer you don't go into the land on the other side coming back towards the prison camp. Once you leave the site and you are on Interstate Service Road, make a hard-right turn and then a left turn to approach Gilbreath Street. Both of these maneuvers were a concern that staff reviewed by DOT and by our town engineer. So, we provided the truck maneuvers showing they were able to accomplish their maneuvers without being in the other lane.

Mayor Talley: So, it's both the tree, the tree area, all those trees to be cut down, and the open area space, is that right?

Chad Huffine: So, the pine thicket to the left of the driveway just under the number 2184, the center of that will be removed. There will be a portion of the existing vegetation that will exist just under the 2184 northwestern corner. Those trees will go away and the grass area to the east of the tag from Blessed from Above Massage that entire area will then be consistent with the whiter grayed-out area that we show you on-site.

Mayor Talley: And show me how you are going to get back on the interstate and get off the interstate.

Chad Huffine: So, from Gilbreath Street, you would take a right. You would go south just to the GKS, well now it is Cintas Uniform Services, so you are going to turn left onto Woody and you are going to go down Woody Drive until you get to 54 Hwy. That's where the Waffle House is. When you get to that intersection, you are going to either decide to turn left or right. If your destinations are to the south such as Commerce Park or further, Chapel Hill, then you are going to turn right and go south on 45 Hwy. If you are going to access 40-85 then you are going to turn left immediately and then choose your direction at 40. Then I guess if you are going to go into town you would just continue on up 54.

Mayor Talley: And if you go the other way?

Chad Huffine: If you go south?

Mayor Talley: You go down . . .

Chad Huffine: Oh, if you, left, if you turn left you've made a bad decision. We modeled the entire system after that right turn.

Mayor Talley: What did you just say, that truck drivers go everywhere?

Chad Huffine: Truck drivers go everywhere, once.

Mayor Talley: Once, at least once. Okay, can you show me where that is Aaron? Go the other way.

Chad Huffine: Yeah, if you turn left and go down Interstate Service Road you are going to end up at Hwy 87. Go back to Interstate Service Road at the point of access to the project. So, you are going to turn left on East Interstate Service Road, go through the four-way stop at the school bus garage, EMS is located at the four-way stop, and continue down East Crescent Square Drive until you hit Hwy 87. You are going to go north onto I40-85, you are going to turn right and make your choice if you are going to turn to the left and go south down 87 towards Pittsboro and you'll turn left at the light and head south on 87 Hwy. It would be the same route that I would take if I was driving the activity bus depending on which direction we were playing that night.

Mayor Talley: And you say it's for 120 trailers.

Chad Huffine: 122 spaces and these are long-term rentals they could come and go once in a day. They could come and go once a week, they can come and go several times a day. So, what our traffic study tried to do was model those conditions at the peak time of the week and I think that was what Billy was trying to comment on. They picked the worst-case scenario and provided that staff review.

Mayor Talley: So, they are expecting 250 trips in a day?

Billy Tyler: So, because this use is a bit unusual, we collected data at several other facilities similar ones in North Carolina and based on that we showed that there would be approximately . . . and when we matched the amount of trailer spaces that were offered at those to this one we found there would be about 14 trips going into and out of this during the morning peak and about 16 trips going in and out of it in the afternoon peak. And in total, during the day, there would be 134 trips approximately. That's a typical weekday.

Mayor Talley: What's a busy day? What would be a Saturday, do they run on Saturday? Do they run seven days a week?

Chad Huffine: So, this facility would be operable seven days a week.

Mayor Talley: So, when is the busiest day for them with other facilities?

Billy Tyler: So, we typically look at things based on the busiest time for our site matched onto the busiest time of the week, which is a weekday morning or afternoon peak. The data we collected for this was on Tuesday, February 28, 2023. Like I said, we collected times during the seven to nine morning peak and a four to six afternoon peak and made our recommendation based on that.

Mayor Talley: But my question is, at other facilities how many times are they picking up, I mean they have to have an estimate . . .

Billy Tyler: We collected data at other facilities throughout the day and I believe that information is included in the appendix of the traffic memo. So, there were two sites. There were two tables that we included in the appendix. One of which was the table labeled 4710 Chesapeake Drive, and the other one labeled 5035 Old Walker Town Road. These are the two additional facilities that we counted and the data there show the number of trips that were observed on typical weekdays there as well as during the mornings and afternoon peak hours.

Mayor Talley: I understand what you are saying when I saw this but my question is what is their peak? I mean if you can pick a Tuesday maybe that's the lowest day of the week that they run. But my question is, what is the highest peak that you are expecting per day, from any of the other facilities?

Billy Tyler: So, the peaks that we got here measure the peak of each of these facilities. Like I said, this is a non-standard use and so we took the peak of each of these facilities, used that data to generate an estimate for the proposed facility. So, based on the number of trailer parking spaces, the 14 am trips, 16 pm trips, and 134 daily trips should be the worst case for the proposed facility.

Mayor Talley: And this would all be concrete, is that right?

Billy Tyler: I believe that's correct.

Chad Huffine: It's currently proposed as gravel.

Mayor Talley: Gravel. And so, I'm assuming since you are moving forward with this, that the developer is agreeable to a fence, an opaque fence, being one you can't see through and how tall, did they make a recommendation as to how tall the fence was?

Chad Huffine: Chad Huffine again, I'll be glad to speak to those conditions or proposed conditions. We took the recommendation back to the developer from Planning Board and asked them specifically what the level of security would be, what their level of interest was in providing access control, and that sort of thing. So, I think on June 12, 2023, we provided a memo to the City indicating a six-foot minimum high gate fence surrounding the property, a windscreen similar to what you see on athletic fields, and what's advertised is 90% opaque supplemented with the required landscape plantings. The access to the facility at the main gate would be a key code similar to the rear gate at Burlington Regional Airport. We interviewed Dan Danieleley to determine the success of the gate and the access and they felt the system worked. He sang praises of the fence company and the manner in which they access their facility through that gate. All those pieces of information were then provided to Cone Commercial Real-estate who gave us the affirmative so that accumulated in the creation of the memo on June 12th to give you the idea we were certainly amenable to the security fence, access control, the opaque screening, and the required vegetation.

Mayor Talley: And, we will get into the vegetation in a minute. But, the fencing, what materials did you say you were using?

Chad Huffine: So, I think in the memo it was a 12-gauge black vinyl-coated chain-link fence. And if you are familiar with most of the athletic parks in the area, the windscreens are attached to those chain-links with little hog rings ever so often through the eyelets that are provided in the windscreen material. They

are secured to the inside of the chain link fence and provide the visual obstruction that the ordinance requires and the conditions you are asking us to provide.

Mayor Talley: So, like what they have at the, what they require up at the junkyard that is on 70, they have like a chain-link fence, and then they have the screening connected to it, is that what you are . . .

Chad Huffine: Tell me the specific address, I'm thinking more . . .

Mayor Talley: All the ones on 70.

Chad Huffine: Yeah, Copart has a metal wall almost through its property.

Mayor Talley: Oh okay, he has a picture here.

Chad Huffine: And in your packet, those items are provided. If you've ever been to Graham Middle School to watch a baseball game during legion seasons, the outfield windscreen is obstructing the view of the bushes and the activity behind the outfield fence. So, that's the idea we have in mind. I think the third, probably the second and third pictures, I think they give you at least a pretty accurate description of what's commercially available and what we would provide.

Mayor Talley: Aaron, do you have it, did you put that in the packet?

Chad Huffine: I'm going to look and see what I've got that I brought with me.

Mayor Talley: Yeah, I know, he said it was in the packet and I don't think it was.

Council Member Bonnie Whitaker: Is it normal, is it the norm for these types of storage facilities to have gravel rather than concrete?

Chad Huffine: I have been to two personally down 85 between here and Atlanta on a trip in January and they were gravel. If I may, Mayor Talley, I have a copy of that memo. **(Attachment D)**.

Mayor Talley: Aaron, can you please pull up the, I believe it's B-grade of the landscaping?

Chad Huffine: If I may Mayor Talley. **(Attachment E)**

Mayor Talley: Yeah, sure.

Council Member Bobby Chin: Mr. Huffine, is this what you are proposing similar to the storage area across from Westgate Triad on Auto Park Drive?

Chad Huffine: Can we look at it on the map?

Council Member Chin: Yes.

Mayor Talley: Aaron, as far as an opaqueness, D, is that the one?

Assistant City Manager Holland: D, is minimum landscaping grade, it's typical between that type of use, and less intense uses. If this was adjacent to something residential it would be a much more intense

landscaping requirement but it is of a similar intensity so therefore, it's a very lightweight landscaping requirement.

Chad Huffine: If I may add to Aaron's comments. You typically have in the City of Graham Ordinance, A, B, C, and D landscape buffers. Those buffers vary in width from 40 down to 10 feet. So, D would be a consistent landscape buffer between industrial uses.

Mayor Talley: I just wanted to, I would not be using this as an example because the number of calls I've gotten from citizens from when CarMax was there, Carvana, whatever, that was, my phone was ringing off the hook. I wouldn't be using this as an example.

Chad Huffine: I can say to Councilman Chin, no sir.

Council Member Chin: I was referring to the fact that that's a gravel parking lot.

Chad Huffine: That is gravel, yes sir. If we could, if we are touring around town, on Google Maps we could go back to the Burton Storage which is across the street and a little more comparable. It's the old SCI building that is shaped like the letter U. So if you will get a street view there at the intersection of East Gilbreath and Woody. If the photographs are current, no, let's go down Woody and see if the dates improve.

Mayor Talley: They did have current pictures on there because I saw them.

Chad Huffine: All right, let's pause there, please, Aaron. So, Councilman Chin, as opposed to wood, this would be the 90% opaque mesh screening and the contents internal to the light. **(Attachment F)**

Council Member Chin: I was just showing the Mayor because she had a question about concrete versus gravel and that parking lot that was over there across from Westgate is a gravel parking lot.

Chad Huffine: Thank you, Aaron.

Assistant City Manager Holland: Which one, Woody or Gilbreath?

Mayor Talley: Woody. I see a lot of electric, not sure if they are necessarily Duke, but I see a lot of big trucks there in that parking area, staging area so to speak. Joey, do you have any more questions for . . .

Council Member Joey Parsons: I think one of the conditions was a guard house. You didn't address that when you were . . .

Chad Huffine: So, the addition of a guard house or the addition of a keypad-coded entry in the minds of our customers accomplish the same thing. The concern at Planning was security, vagrancy, or whatever might go on. So, we took a trip to see Captain Flood to interview him specifically about occurrences in this area, and to his knowledge, there were none. There is not a lot of activity that there . . .

Mayor Talley: There's a whole homeless camp camped out in GFL across the street.

Chad Huffine: At this location, there were further items that Officer Flood commented on at the apartments close to Woody Drive and at the adjacent property line to GFL. At this location, the prison camp, and the school bus garage, there were no incidences that he could think of. So, the guard house would then require a full-time employee and that is not something that is in the business model of the plan

for this facility. So, the keypad and gated access, we professionally, and our customer as well, felt that would provide the security that the Planning Board was looking for. And, I'll go ahead and comment on the electrified fence. The opinion of our customer was not a facility they did not want to install.

Mayor Talley: I'm sorry, say that again.

Chad Huffine: That was a piece of the facility that they did not want to install, I guess for obvious reasons.

Mayor Talley: I just think that . . . did you say it was a ten-foot fence, is that right?

Chad Huffine: I think we had proposed six. It is the purview of the hearing to add conditions to this if you so desire.

Mayor Talley: I think the concern is that it's chain link and even little kids can climb chain link fence and get over it, you know, as far as like a safety thing. There is a campsite, so to speak, in the woods there that GFL has had quite a bit of issue with. I don't know, I mean I can see why there are security and safety concerns for that if you don't have a very good way of keeping people out.

Chad Huffine: So, I'd like to say that our perimeter fencing, our locked gates, and our keypad access control is consistent with or better than any of the adjacent properties. We can pull up Woody Drive, we can go down Interstate Service Road, and look at the existing School Bus Garage fencing. You will find chain link fences consistently used throughout. You can certainly propose barbed wire at the top, which provides an additional hazard but it does provide an additional means of security. That is not something that is common in most town ordinances so that's why we did not propose it. Higher fences are often a better deterrent but we did not propose that because it would be inconsistent with what is there already. So, I think at this point the body you all are members of or have the opportunity to provide conditions in addition to what we propose but we are proposing a six-foot chain link fence with a windscreen that meets the opaque requirements and (inaudible) security.

Council Member Chin: Would you clarify the use, is it a trailer storage facility?

Chad Huffine: If I drive a tractor-trailer and I have two trailers and one tractor and I need a place to put one of my trailers, I'm going to put it here and pay someone a rental fee. When I need to switch trailers, I'll take it to its destination, whether it is full or empty, and I'll retrieve my other trailer and I'll run another route. It could be all of us and one tractor and two trailers or it could be just me and 122 trailers. I don't know the scope of that and neither does the customer. But, that is the philosophy here. The trailer would be dropped, and part of it is an overflow function of the commerce park. Part of it is the location of Graham relative to other points of deposit. So, one tractor could certainly facilitate local runs with multiple trailers between Greensboro and Raleigh in one day. I think that is the idea that is driving Cone Commercial to move to this area.

Council Member Chin: So, still a storage area.

Chad Huffine: We could call it drop storage.

Council Member Chin: Drop storage.

Chad Huffine: There are all kinds of vocabulary, but what I would do if I woke up in the morning as a tractor-trailer driver, and I had two trailers and two routes to run, I would go pick up a trailer and take it to

Greensboro, bobtail back to Graham, pick up my other trailer and run it to Raleigh. Bobtail back to Greensboro and pick up my fully loaded trailer and take it to its point of deposit. I'd do the same thing for my destination in Raleigh and back here. If I'm done on that day then I'm going to drive that tractor home and leave my trailers here.

Council Member Whitaker: But it is not going to be used for truckers to spend the night, right?

Chad Huffine: No mam, this is not a truck stop and this is not an overnight facility in any way geared towards that and I'm sure that's in the lease agreement. We can get that information from Cone Commercial if necessary. But, it is not in any way intended to be a truck stop, overnight, wash, or mechanical facility.

Council Member Whitaker: Some of the paperwork said it was not expected to be used for that and that got to my (inaudible) senses.

Chad Huffine: I'll clarify that if need be and tell you that's not expected and it is not going to happen.

Council Member Whitaker: Okay.

Mayor Pro Tem Hall: Is this about the tower that's already on this property, how are you going to get access to it?

Chad Huffine: Okay, Councilman Hall, so, the idea would be to provide the tower compound with access to the main gate with (inaudible) code and then double lock the rear gate so that both the property owner and tower compound owner would have access to the tower facility. Much the way we would lock or double lock easements or gated access across easements throughout the town or on other public facilities.

Mayor Pro Tem Hall: The property still had a parking lot across the deck (inaudible). I'm sorry, doesn't this property still have a recorded parking lot easement across this property?

Chad Huffine: It has an easement, a recorded easement across the parking area, and that easement would continue to exist but it is not in use by the property owner. Through conversations with the property owner that easement could be abandoned if necessary. The parking lot that is there is currently a little asphalt parking lot adjacent to the main entrance to the, I guess it would be the east side of the existing warehouse, and the main concern in that area was not that the parking lot was there but that the water vault and hydrant were there and we wanted to make sure we avoided those. We spoke with Officer Russell or Beau at Graham Fire early on to make provisions to avoid that.

Mayor Pro Tem Hall: Aaron if we approve this with the current parking lot, a dirt parking lot, would that deter or diminish the existing building for (inaudible),

Assistant City Manager Holland: Would you mind repeating the last part you said, would it diminish the what?

Mayor Pro Tem Hall: Would it diminish the property at Rolls Enterprise?

Assistant City Manager Holland: I think that would have to be answered by Glenn. If you are talking about it from a monetary viewpoint?

Mayor Pro Tem Hall: No, what I'm asking is the people at Rolls Enterprise removed the parking on this property that Chad is talking about, wouldn't that diminish and go against our ordinance for Rolls Enterprise?

Chad Huffine: It's the same ownership.

Assistant City Manager Holland: It's the same people, so I think it would be one in the same.

Mayor Pro Tem Hall: Okay.

Chad Huffine: Councilman Hall, for clarification the warehouse is owned by the property seller. They have spoken to their tenants and they will use the other parts of the parking areas that facilitate that building for their use. I understand your question now. So yes, that item has been addressed.

Mayor Pro Tem Hall: (Speaking to Mayor Talley) Back when Jerry and them bought this property the grass area out there beside where it says Rolls Enterprise (inaudible) temporary, well there is a big parking lot recorded on the plat. But, what I wanted to know was, is he going to go against our zoning ordinance for them to nullify the parking that is non-existent at this time? Can they do that and still, that building keeps its zoning?

Mayor Talley: So, the tree that you have there, are you going to take all those trees down?

Chad Huffine: Almost all of them, we have to put street trees back in place of the ones we take out. There's a lot of grade change that occurs in that wooded patch and in order to get the storm drainage to function, that site with the pine thicket on it has to be graded to drain to the east and then there's a perimeter around it that we are planning on leaving outside the functional area, the parking lot. Then that would be supplemented or augmented with additional street tree plantings consistent with the city street yard requirements. That's on that little drawing that I handed up.

Mayor Talley: But is that picture accurate that you leave all those tall trees?

Chad Huffine: Yes, that's pretty accurate. The center part of the thicket is gone because there are three rows of trailers right there. The perimeter is pretty much going to stay where it is.

Mayor Talley: You are aware of our overlay district, right? I know this is not in the overlay district but the intent of the overlay district?

Chad Huffine: Yes, mam, I am aware of the overlay districts in the city.

Mayor Talley: Aaron, there was an electrical contractor that was right there on Gilbreath Street that had some issues with break-ins there and they had a fence. I remember and recall them saying when they did put something on top of it, what do you call that?

Chad Huffine: Barbed wire.

Mayor Talley: Yeah, that helped a lot, but then they just cut the chain and didn't go over the fence anymore. They just brought cutters and cut through the chain. Is that, have you heard of any other break-ins over there?

Assistant City Manager Holland: I haven't but technology has come a long way over the last decade or so and camera usage is highly recommended. But, again, you know, you have to kind of lean on whatever the property owner and the business owner how they want to protect their property and to what level. Some people will put cameras in every corner, it just depends on the circumstances I suppose.

Council Member Whitaker: I think the bottom line is, if someone wants to get in there badly enough anywhere, they will. I mean the fence is a deterrent, I don't think, I'm saying it should be made of something else or that you should put barbed wire up around it, you know, these are all deterrents but if somebody wants to get in, they're going to get in. I mean, that's just been my experience.

Mayor Talley: That was a lot of the problem, like if that was a facility making biscuits no one would care to get into the fence, but because they sell very expensive wire and had it actually outside, you know it was like this advertisement, come steal from me, kind of thing. Copper is easy to sell at recycling places and stuff.

Council Member Whitaker: I don't think anyone will be trying to steal the tractor-trailer, I don't think.

Council Member Parsons: I think it's more concerned about the content of the storage trailers.

Council Member Whitaker: Yeah, but if they are locked, again, you know, I would hope they would be.

Mayor Talley: Well I think you have done an excellent job but are there any other people that are wanting to speak on this issue tonight?

Matt Wall: Mr. Patterson is here to speak on the possibility of any adverse impact on adjoining property values.

Glenn Patterson: I'm Glen Patterson, Patterson Appraisal, 885 Cheeks Lane, Graham, what you are getting is pretty much what my notes are that I provided. What I'm here to testify on is whether this proposed use would provide a substantial injury to the value of adjoining properties or abutting properties in the area. My professional opinion is that there is no data to say whether it would affect it positively or negatively on any adjacent properties or anything in the area. The neighborhood, there are about two to three deep adjoining it, is industrial properties so there is no impact that can be measured on any scale that I could find whether it would benefit or harm any properties. The only one I could find locally was the one we have been referencing at 609 Woody Drive. When the Burtons bought that property that if it (inaudible) as code they were using it for truck parking similar to this proposed use. I believe, if I'm right, it was when they leased it to the electrical company that the inside fence which is wood was put into there, but that property itself will change that use from regular industrial to more of a storage and industrial use for their trailers, very similar to this. Again, there was nothing to show any significant change of value based on just that one particular change of use on that property. Again, my opinion is the use of this property does not have any effect on the value of any property whether positive or negative.

Mayor Talley: Thank you.

Glenn Patterson: Sure.

Matt Wall: Madam Mayor, I think that's the evidence for the applicant. You have both oral testimony and written submissions of experts and the proposed findings of fact that Mr. Huffine and also your own staff had submitted. If there are any other questions that you have for us, we will do our best to try and

answer those. We would respectfully submit that the evidence does support that the applicant has met its burden under the ordinance to meet those six findings of fact and that the special use permit should be issued. Thank you.

Mayor Talley: Aaron, can you pull up the land use map and show this particular location? It's zoned I-1, is that correct?

Assistant City Manager Holland: Yes.

Mayor Talley: That orange, can you go down to the key? It talks about, how wide is that road there. I know they said they were going to have to make the driveway really wide in order to not go into that existing lane. That other lane on the other side, is that road like, able to handle heavy truck traffic?

Assistant City Manager Holland: Met with NCDOT during TRC and they are satisfied with the proposal that had been submitted to them with the recommended changes.

Mayor Talley: What does it say in our code of ordinances in regard to storage of a commercial industrial property? Because I know on the zoning for light industrial, they want that all buffered, they don't want you to be able to see that from the road, that kind of thing.

Assistant City Manager Holland: I'm sorry, are you speaking on the development ordinance?

Mayor Talley: Uh, uh.

Assistant City Manager Holland: Obviously they wanted to be placed in an area of similar use which this basically is. They want the landscaping to be applicable to the surrounding area. So, if you are near a less intense type of use and you are considered to be the heavier of the intensity uses they want to make sure you have enough buffering. But, because this one is adjacent to a similar intensity is why it is calling for such a light landscaping requirement.

Mayor Talley: Is there anyone else that would like to speak on this, at this public hearing?

Tom Boney, Alamance News: Madam Mayor, I have a question, not testimony on the subject per se. The question goes back to City Council. The question is whether it is an action, a promise, or an expectation. Several years ago, the City heard a zoning request for the Lidle Distribution Center in the industrial park. As a part of that the Mayor, then-Mayor Peterman, elicited and this is part of the question, I'm not sure exactly how precise his promise was but from the Lidle people, prior to Amazon, would not use the exits or entrance through Cherry Lane to get to their facility. That the entrance, used for entering and dealing at the industrial center or industrial park, was solely through Senator Ralph Scott Parkway, which has the entrance off of Trollingwood/Hawfields Road. My question occurs by virtue of the description given by Mr. Huffine, actually twice, that part of the intention is that trucks would turn right down 54 and then turn left onto Cherry Lane to get into the industrial park. That's my question. It could be that everything has been overtaken by events but at some point, there was the assurance, promise, something that Cherry Lane was not going to be used for industrial traffic in and out of the industrial park. I don't know what the status of that is, I know what the status of practice is, but I don't know what the City's if it had any official imprimatur in terms of assurance from, not these applicants, but the applicants for the industrial park was to keep industrial traffic off of Cherry Lane.

Assistant City Manager Holland: I think the intent, I was not here during that conversation, I came in right at the end of that but, the intent was to try to keep that traffic from coming down Cherry Lane and stick to that new road. But, Mayor Peterman can't dictate who can come on and off a State road, so it was more or less an acknowledgment by the company that they are going to steer their drivers to utilize the new road versus coming down Cherry. Jerry would not have the right to tell someone that they could not come down a State road. So, that conversation was like that, I hate to do that, but I was not here at that particular time.

Tom Boney: Right. Well, that's my underlying question. I'm not sure how much enforceability it had from the outset, but at least rhetorically, at some point, there had been an assurance to residents in that area and otherwise, that Cherry Lane would not be used as an entrance for the industrial park. And, now tonight, twice, it's been mentioned that it specifically would be for potential tractor-trailers from this facility. Swapping out and potentially going there as opposed to again, the original description was that everyone would enter the industrial park through the main entrance off of Trollingwood/Hawfields road onto Senator Ralph Scott Parkway.

Mayor Talley: Anyone else from the floor that would like to speak? Can I get a motion to close the public hearing?

Mayor Pro Tem Hall: Madam Mayor, I make a motion to close the public hearing.

Mayor Talley: Do I hear a second?

Council Member Chin: Second.

Mayor Talley: All in favor?

Council: Aye (*All said, Aye*)

Mayor Talley: Okay, I just want to start out by saying that I myself, I speak for myself, very pro-business, try to find solutions, rather than try to tell people why they can't do something. That being said, the way I interpret and read the comprehensive plan and the land use plan is that when you're asking for a special use to be approved and I will read directly from the 2035 Plan; "Develop commercial and residential site design guidelines that enhance community character and appearance to be used with special use permit and conditional rezoning applications." And, in my mind, if you are having, and I said this about the development out near Cherry Lane, the industrial park predates the development, the residential development on Cherry Lane. Whether residents that bought there knew that was an industrial park but certainly their broker or real estate agent should have told them. That being said, there is a way to develop harmoniously with existing neighbors and make sure that noise is not an issue for existing residents when you are going to build, lighting is not going to be an issue, the roads aren't going to be, they are adequate for the additional traffic and that's why I was concerned about the traffic issues here and where all these trucks are going to be coming from. Your own testimony states that taking the wrong turn is not a good thing for tractor-trailers because there are exits off that interstate service lane and GPS takes years to even get people sometimes to even upgrade or update that. I don't have a lot of faith that drivers, tractor-trailer drivers will not go the wrong way. When I looked at this, I always come in with my mind open to hear what you have to say but I have a lot of concerns about safety. I share a lot of concerns the planning board had and even in Cherry Lane if you are going to have to, if everybody put up a buffer, put up a fence I don't want to see that, that does not seem to be consistent with what we should be developing in that area. You know, obviously, the overlay districts, which I was against a lot of opposition champions years ago,

now are the best things we ever did. But, back then they were not so popular, and it is to protect our corridors coming in so that when you are driving down the interstate and you see, I'm sure people are familiar with the hotel there, the old hotel at the Maple Street exit in Burlington and you have all those trailers piled up there for storage with no fencing and no anything. It just does not lend itself to looking harmonious with the existing or safe or just a lot of things. The appearance of that, I think some of the, a lot of the ordinances that we have in place are to tell developers and business owners when they have buildings that they typically want storage in the back, they want it not to be seen, even on light industrial. So, you can't have, you know, equipment that you are working on out front, you can't have storage trailers our front and this entire site from the interstate, up high on a hill, would have this imagery of storage trailers. In my mind, for a special use to kind of go against what would be allowed there, I need to feel like that's improving the area and even your own real estate appraiser said that it will not damage nor will it improve. So, it leads me to feel that I'm not very much in favor of having a storage facility there and then having a lot of fencing around it and security issues and we did not even talk about the lighting. But in my mind, I hope if other council members, because I'm just one Council Member and we all have a vote, that there would need to be some significant lighting there and I think a chain link fence really does not deter any kind of the safety concerns that I have in that area. I think the traffic is an issue in that area as well. I think that is a reason why they are having to make the driveway entrance wider. So, for those reasons, I'm personally not convinced but I will let my other Council Members make their comments and see what their feelings are. Bonnie?

Council Member Whitaker: I was just going to ask you (*Mayor Talley*) what are your safety concerns. Are your concerns for the truckers that are going to be using it or the safety concerns for the people that try to break in and break the law? Which ones are we talking about here?

Mayor Talley: Well, I just think that a fence is not going to deter people and you have a lot of people that aren't all working for the same company, you just have a lot of truck drivers from all over the country that will be entering that location and without an onsite person, as the planning board recommended, to be running that business, I mean what is going to stop ten tractor-trailer drivers from sleeping there overnight. There's nobody there minding the business. What would stop ten tractor-trailer drivers from staying there overnight? Or taking somebody else's trailer or storage trailer? No cameras, no lighting, none of those things were proposed. I don't know, I just feel like it could be a deterrent and I guess I'm more with staying with what the ordinances are and what the land use is and that if we are going to break that in order for a particular business to go somewhere, it needs to be bringing something and making something better. I think there are reasons for exceptions, but I don't feel like this rises to the level of being able to do that. I mean what we are saying is inconsistent with our overlay district. This particular property isn't in the overlay district but the intent of the overlay district is to protect the corridors, and the visibility from the interstate as people come through that they have something very nice to look at coming into our main hub. I mean the overlay district is to protect the development in that area. This is highly visible from the interstate. Do you want to have a bunch of storage trailers from the interstate?

Council Member Whitaker: I think that the intent of the fencing is to hide some of that.

Mayor Talley: I totally agree with what you are saying but why are we agreeing to change the rules so we have to hide something behind a fence?

Council Member Whitaker: I don't think we are changing the rules, it's already zoned for an industrial one.

Mayor Talley: It's not zoned for this purpose that's why a special use permit is required.

Council Member Whitaker: Well, I still don't think that it's not in keeping with what's already in the area. I mean I think putting a restriction on them to say you have to have a guard there at all times is you know, certainly not something I agree with. I don't agree with electrifying the fence to keep people out because it's really not to keep people in, it's to keep them out. And then you are going to have somebody, God forbid, some trucker accidentally backs into the fence, and then we have a whole other issue going on. I don't think electrifying the fence is the answer.

Mayor Talley: Well, our property, just my personal experience of being beside a place that has tractor-trailer traffic there is a lot of trash and debris, and like if there is something that they want to get rid of, old tires, or whatever, they just leave it. I mean I hate to say that but with no one being there to monitor that, even at a truck stop, I mean, stuff gets dumped, stuff gets left, it's just a maintenance nightmare.

Council Member Whitaker: It could happen with any industrial building. I mean, I think that's a risk that . . .

Mayor Talley: But, there's no one there.

Council Member Whitaker: Well there's not anyone there at any of the other properties either. Not all the time.

Mayor Talley: Yes, there is, on Woody Drive, there's always someone there.

Council Member Whitaker: At every place?

Mayor Talley: I don't know of a place in Graham that we don't have someone there monitoring. Even at the truck stops they have it monitored and they still do it.

Council Member Whitaker: Well . . . I guess

Council Member Chin: You are trying to change human nature Mayor. I think our discussion is getting to the point we are not trying to dictate to a private citizen who is developing a, making use of land that they own, why are we dictating? If it gets to the point that there's vandalism I'm sure the owner will take steps to correct it. But, we are now second-guessing what's going to happen there. If you drive from exit 145 to 148 and you look to your right you will see everything there that has no screening and such. It's an industrial corridor down I85-40. I mean, you've got where Amazon Locker and Carvana are storing vehicles and trailers and there's no screening on that chain link fence. But I think people recognize it, it's an industrial area. And we are trying to put lipstick on an industrial area. With the fact that they've got, they are going put a key code box, which means the driver was given that code by the business. He says okay, you can use this stop to drop that trailer, especially if it is pulling two trailers, drop one, deliver, and come back and pick up the second one. It's not a key code that is going to be publicly known. Oh, let's go on Google or whatever and say hey, we got a truck stop here let's use it. It's a trailer transfer point and I think we are overthinking its use and trying to define the outcome. That's why it's private property being developed for private industry and if they're in the business of profit, if it starts getting vandalized they will take measures. If that means putting a guard on site, or with all the remote cameras, you put cameras up where it is monitored by one of the security firms. But, when you look at that area it used to be the prison. You've got the EMT service station there, you have the school bus repair there. It's all, it fits right into what's there now.

Council Member Parsons: It would actually look better probably than what's there with the screening and vegetation.

Council Member Chin: Exactly.

Council Member Parsons: Because what's there now does not look good at all.

Council Member Chin: Yep.

Mayor Talley: What do you think Ricky?

Mayor Pro Tem Hall: Well, I think once they come in and cut all them trees down it's going to open all them businesses back there behind them it's going to make them stand out like a sore thumb. I'm not in favor of it.

Council Member Parsons: They are not going to cut all the trees down they are going to leave a buffer.

Mayor Talley: You can't leave a buffer where there are not any trees now.

Council Member Parsons: I mean, under industrial who's to say that Rolls Industry gets bought by somebody and they have a hundred and twenty tractor-trailers and they have the easement to park them there, we have nothing in a conditional thing that could say they can't park there because it's part of their business.

Mayor Pro Tem Hall: If they sell Rolls, if they sell the other business . . . (Inaudible)

Council Member Parsons: Or if it sold and they put up some other business and they have transfer trucks, they can park those transfer trucks on their business parking lot. I don't think there is anything in I-1 that prevents that. The only thing I know that I-1 is there is for towing, facilities can't store.

Council Member Chin: If the truth be told, it is basically a paved parking lot that nothing says it is going to stay that way. Somebody may come and decide, I'm going to buy that land and I'm going to build something on it that's industrial, manufacturing facility.

Mayor Talley: I would be more in favor of that than to allow a special use for storage trailers. I just don't see that consistent with our 2035 plan to allow a special use for storage trailers. How is that the highest and . . .

Council Member Chin: But it's not long-term storage trailers. It's not like you are going to park it there and leave for a year. It's basically . . .

Mayor Talley: Anything that prevents them from leaving it there for a year.

Council Member Chin: Well if the person is willing to pay the usage, storage to leave it there. But, I don't think it was intended for long-term storage. Am I correct?

Matt Wall: That is correct.

Mayor Talley: And there is nothing that prevents coming out for someone to go left at either Gilbreath or on the interstate, is that correct?

Chad Huffine: Nodded yes.

Council Member Chin: Unless you get DOT to put signage that tractor-trailers can't go left. You know, if there is a weight restriction on that bridge. But as it stands now tractor-trailers do go over that bridge. Truck drivers will find the easiest way to navigate through a community and all it takes is the one time to make a left turn and go on Gilbreath and it's like, nope, not going to do that again. Truck drivers pulling a 48-foot trailer are going to find the easiest way for them to maneuver through a community.

Mayor Talley: Well that's why you have so many complaints from residents when they . . .

Council Member Chin: Well residents who buy a home near a commercial industry and start complaining I think of residents who buy a home under a flight path into an airport. The airports have been here when you bought, you knew there were airplanes flying overhead. And grant it, truck drivers do make mistakes and drive through residential areas but they don't make a habit of it. I think we are making something complicated when we can't change human nature but at the same time it's a legitimate use of that land and right now it's a naked field. We turn it into a transfer point, it is producing revenue. That revenue is going to get taxed. It's not a money-making venture, they are not going to build it.

Mayor Talley: There's no sales tax associated with renting that. Brings in no sales tax does it, Aaron? We don't pay sales tax on rent so the only thing is somebody is already property tax, so there are no additional revenues coming into the City. That's why I guess what I'm saying is, if someone was coming and they were going to build something and they wanted us to approve something that otherwise would not be allowed there, I would be in agreement with it if the citizens and the community were going to benefit somewhat. But I just don't agree with having an overlay, our whole strategy of overlay district is to protect the area.

Council Member Chin: Are we going to approve something that produces no revenue in Graham?

Mayor Pro Tem Hall: Property tax.

Mayor Talley: They are already paying property tax.

Council Member Chin: Yes, but does it change the property taxes being paid now, is it as vacant land?

Mayor Talley: It's already been reassessed, it's not going to change the value as you heard from their own appraiser. It's not going to increase the value, that's what I'm saying, it's like you're allowing something that they are having to hide with landscaping and fencing and I think there is a higher and better use. The property owner can do what they want but this is not acceptable use standing on its own merit. We have to, I guess my feeling is that what's the point of having a land-use plan and saying in this area you are going to have this, and in this area, you going to have 12,000 square foot lots when every single time when somebody comes up here you make an exception for it. I'm not saying this Council has done that but Councils in the past, seemed like nothing was ever turned down and you know, we just have to be thoughtful in development and what projects we make exceptions for.

Council Member Chin: But, you raise a good point if it is not generating and if it's not going to produce any revenue . . .

Matt Wall: Madam Mayor, if I might, if you are willing to reopen the public hearing, Mr. Patterson, the real estate appraiser would be willing to give additional testimony about the valuation of this property with the development.

Mayor Talley: With what?

Matt Wall: With the plan of development for the property and how that would impact the value of that property itself, not the adjoining properties. The special use findings were no adverse effect on adjoining properties. The question that I hear Council discussing now is the valuation of the property to be developed itself. He's willing and able to provide some additional testimony if you want to reopen that public hearing as to that question.

Mayor Talley: Sure, do I have a motion to reopen the public hearing?

Council Member Chin: I make a motion to reopen the public hearing.

Mayor Talley: Do I hear a second?

Council Member Whitaker: Second.

Mayor Talley: All in favor? *(All said, Aye.)*

Glenn Patterson: Again, Glenn Patterson, it has been my observation in my thirty-some years in commercial real estate that if anything is touched on a commercial piece of property it is going to be revalued. So, this piece is sitting there and being mowed, you have trees on it. It's going to be graveled and it's going to be fenced and I would almost put money that it's going to be revalued and revalued considerably because the use is changing for it. You are also going to be bringing in revenue to the property owner, you are bringing in trucks, people who are actually using facilities within the City, whether they are retail facilities, whether it's downtown or whatever. I would say a lot of those folks may not be from around here and they may be using the motels in the area, so you are getting the revenue there off of the commercial aspects of it. But from what I've seen with these kinds of things it's going to get revalued because it's being improved. That's why it gets revalued because it is an improvement. They are not going to drop the value of it because they are starting to use it. It's a different use and the County is going to look at it that way. So therefore, that benefits the City because it is in the City, and you are going to get more taxation on that as well from the real estate side of things.

Mayor Talley: But, if there was a development that came there that actually had a building and a use that would be more valuable, correct?

Glenn Patterson: Well of course it would.

Mayor Talley: Okay, any other comments? I make a motion to close the public hearing. Second?

Council Member Whitaker: Second.

Mayor Talley: All in favor? Aye. All said aye. So, I just say that we have a finite amount of property and I just, I'm not in favor, I don't believe that they have shown me at least or convinced me at least that this is something that we would want to give an exception to. This particular property several years ago was

being eyed to put up a commercial building, a spec building by Samet. I think, I have not seen any for rent signs or anything like that up there, or for sale signs, or any advertising they have done. I don't know how much advertising they have done but I would imagine someone contacted the property owner and said hey, I'm looking at trying to do this but, again, I think if the property owner, you know, he knows what the acceptable uses are and that's by the zoning and to me if I'm going to make an exception to that I want it to be something that is going to benefit the citizens. I don't believe the value is going to go up a lot with putting gravel down and putting a bunch of storage trailers on it. You can't even tax the equipment. I mean at least with a building you are taxing equipment, you are taxing the building.

Council Member Chin: But Mayor you making it sound like the trailers that are going to be parked there are kin to a storage unit like the Cardinal Storage down the road and I don't think that is the intent. It's basically a temporary spot where a line hauler and now that trucks now can haul two trailers. If he's going to make a delivery in Graham, he doesn't want to pull two trailers into the City. He needs a place to drop off one trailer and then deliver the one and come back and pick up the second.

Mayor Talley: Can I ask you where another facility is?

Chad Huffine: Chad Huffine again Mayor Talley. We would have to do down 85 Hwy into Georgia and I could show you some that are there. It will take me a while to find them on my phone.

Mayor Talley: Can Aaron find them?

Chad Huffine: I'd prefer to find them first and then give you the address in the interest of time.

Mayor Talley: Okay. I just have a real problem with no one there running the facility.

Council Member Chin: Again, Mayor, if it starts to develop a trend toward crime the owners are not going to let that, not respond to that. But for us to second guess, yeah you need to put a guard out there right now versus I think business will dictate what's going to happen. If he puts cameras out there, somebody is going to be monitoring the cameras. He's going to pay a security firm or somebody that's going to be monitoring the location. So, though there's no one there it is being watched. At the same time, as a gravel paved area, if somebody comes and wants to build there, it makes it a lot easier to build there than if somebody's built something and they have to knock it down.

Council Member Whitaker: I think the intent of 2035 when it talks about improvement, it is an improvement to the actual, what's there now. I don't think it is specific to, it needs to bring this much revenue into the City necessarily. When it says improvement, I look at it like, okay what does it look like now, is this going to be an improvement or is it just going to be not considered an improvement? To me, it is an improvement over what's there right now. I mean, there's nothing there now. Nothing scenic for sure, there's just nothing.

Council Member Chin: An industrial site.

Council Member Whitaker: Yeah, it's an industrial site and it looks like an industrial site. It just looks like an old abandoned industrial site. That's my opinion.

Mayor Talley: I'm sorry we have to do this in the meeting but we are not really allowed in a quasi-judicial hearing to go out and do our own research, we have to do everything in a public forum. It's very difficult to prepare for these kinds of hearings ahead of time.

Council Member Whitaker: While he is reading that if I might, under the conformity to the Graham 2035 Comprehensive Plan the planning board mentioned applicable strategies 2.4.3 it says freight corridors. Encourage freight-oriented industrial development to locate where it can maximize access to major freight routes including I-40/85 and state highways which it does that.

Mayor Talley: But this is not designated as a freight corridor.

Council Member Whitaker: It says it will encourage.

Mayor Talley: That's referring to areas that are designated as freight corridors.

Council Member Chin: One could make the argument. . .

Mayor Talley: Commerce Park.

Mayor Pro Tem Hall: You guys have got to remember there is a 200-lot subdivision that is being built on Gilbreath that is going to add a significant amount of car traffic on this road and if a tractor-trailer misses the turn on Woody Road, they are going to Ivey Road which the intersection want support making a left-hand turn.

Mayor Talley: Is that the Google street view? Can you go to Google street view, do you have the address? So, to me, they are allowing people who are going to be paying taxes in other states and other counties to come here, use your property, tear up the roads as you see here in this picture, use your property and you receive no, nothing. Taxation is a form of, you are here, you are living here and that's why you are taxed here. But, when you allow someone to come in, they are not employing any people here locally, there not paying any additional property tax as the renter, they are not improving the property and there is road maintenance and trash pick-up that just, I don't know, I just don't see that this is something that is bringing something to Graham in order to make an exception to the existing zoning law to allow that to be here. I mean, I think that it was on a road that was designed for industrial use.

Council Member Chin: Well, Madam Mayor, as Council Member Bonnie said, it has access to the interstate whether you go east or west. If we use your argument that you are presenting now, we will not get anything here. But you can make that argument against one of those things . . .

Mayor Talley: That's not true, Amazon, Lidle, Wal-Mart, all of these people are paying equipment taxes, property tax . . .

Council Member Chin: Because they have a distribution warehouse there.

Mayor Talley: They are employing local people, they are paying employment tax, they are paying property tax, they are contributing to their local community.

Council Member Chin: The drivers passing through, they have to eat, they have to have a place to stay, they have to fuel their trucks. I mean an indirect way revenue is coming back into the City. Not coming through that piece of land per se, but it is coming back to the City. If anything, its location does minimize the number of miles you are driving to get to the interstate. You think about where Lidle is, they have a further distance to drive, and you have to find an on-ramp. It's a quick, easy service provided to a trucker

to take care of business and then move on. They don't need to stop, they are not going to stop there as if it were a truck stop or rest stop. It's not meant to be a rest stop.

Mayor Talley: Who's going to monitor that?

Council Member Chin: If you don't have the code you can't get in.

Mayor Talley: Right, but if they have a code and they get in to be able to drop off a storage trailer, what's going to stop them from . . .

Council Member Chin: Again, it is not for us to judge human nature or change human nature. But if a trucker has a schedule to meet they are not going to waste time. They have requirements and restrictions and it is not meant to be a rest stop. They are going to come in, they are going to take care of business, drop the trailer off, go finish the route, come back, pick up the other trailer, and get out of town.

Mayor Talley: Well, whether it will or will not bring value to the City of Graham, I don't think it, on the other six items, I don't think that it complies with the zoning. I definitely don't think that it complies with the 2035 Development Ordinance, a comprehensive plan. I mean the 2035 Comprehensive Plan. I think there are a lot of safety issues. I don't believe it is harmonious with the buildings, the industrial buildings that are around there. We don't have anything like this at all at any of the other intersections and I believe the amount of traffic that it would produce there would be harmful to that area. I think the grade of the road is very similar to . . .

Council Member Chin: That's down in Georgia. It's not here.

Mayor Talley: Our road here how would it be any different than the road in Georgia? I mean, did you see the road on Wildwood Lane? It looks exactly like this.

Council Member Chin: And it is going to get repaired. Madam Mayor, I guess . . .

Mayor Talley: I just don't want it to have to cause the taxpayers to have to pay for something in which the developers are contributing nothing to either . . .

Council Member Whitaker: DOT roads, right?

Motion:

Mayor Talley: On Wildwood. Well, I can be, I'm just one vote, so, but I'll make a motion to deny the special use permit at East Interstate Service Road as it is inconsistent with the 2035 Comprehensive Plan, citing that it does not comply with the existing zoning, that there are safety concerns in regards to the fencing, the lighting, access with no person being on the property at any time, that it is not harmonious with the existing industrial building surrounding the property and that it will affect and further cause issues with traffic on the roads there both being Cherry Lane leading to Industrial Park and cutting over back to this facility on Gilbreath Street. And that by the testimony given by the applicant, they stated it would neither injure nor improve the value of the neighboring properties, and that signage would need to be, that they presented no evidence that signage would help in the traffic issues. They presented no evidence to me that signage was part of their plan to be able to meet and address the traffic issues of the tractor-trailers turning left. They also stated there would be no guard or person on the property monitoring the property, and weren't complying with the three conditions that were recommended by the Planning Board. I will cite strategies being 3.2.2 Road Network, 3.2.1 Connectivity, with residential and commercial developments.

(Sorry, I lost my place here.) And in regard to the commercial corridor on page 37 of the 2035 Plan, I will use that as a reference for the motion, seconded by Mayor Pro Tem Hall. All in favor, (*Talley and Hall – Aye*) and all opposed, (*Whitaker and Chin - opposed*).

Mayor Talley: You can abstain and it's a yes.

Mayor Pro Tem Hall: It is 2 and 2.

Mayor Talley: Do you abstain?

Council Member Parsons: I'm going to agree with your recommendation Mayor.

Mayor Talley: Thank you, motion passes 3-2.

Tom Boney: Sorry, what was Mr. Parson's vote?

Mayor Talley: He's agreeing to deny. I thank the applicant for coming before the Council. I think you did an excellent job presenting your case. I just think there are a lot of issues with the use there. Thank you for being here.

8:17PM

ITEM 2: REZONING – 53.904 ACRES - 0 SOUTH NC 87 HWY – PHASE 4 – ROGERS SPRINGS HOMES

City Council considered a request to rezone 53.904 acres located at 0 South NC 87 Hwy from R-18, Low-Density Residential, to R-9, High-Density Residential, for the purpose of extending the fourth phase of Rogers Springs Homes. (Continued from the May 9, 2023, and June 13, 2023, City Council meetings.) (Planning Board recommended denial of the rezoning by a vote of 4-1.) (Petitioner has requested to table this item for the August 8, 2023, City Council meeting.)

Assistant City Manager Holland stated the applicant asked to have this item, along with the annexation, tabled to the August 8, 2023, City Council meeting.

Mayor Pro Tem Hall stated the applicant had moved this forward or kicked the can forward twice on this, and questioned how many times they were going to kick the can before they finally decide. He asked if there was anything in the ordinance that says you can kick the can more.

Assistant City Manager Holland stated Council did not have to accept the request, Council could always move forward with the item itself. He stated the applicant sent a written request to have it tabled.

Mayor Pro Tem Hall motioned to continue the rezoning to August 8, 2023, City Council meeting one more time, but after that, Council would move forward.

Mayor Talley stated she did not know what the reason was for kicking the can.

Assistant City Manager Holland stated they did not give staff a reason.

Mayor Talley stated that she agreed they needed to show up at the next meeting and give a reason as to why they need to continue to keep it on the agenda. She asked Mayor Pro Tem Hall to word his motion that if the applicant asked for another continuance, they still come and be present before Council agrees to another continuance.

Motion by Mayor Talley to continue the rezoning and the annexation request to the August 8, 2023, City Council meeting, and if the applicant wished to request another continuance they would need to be present, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

ITEM 3: ANNEXATION – 53.904 ACRES – LOCATED OFF MAYFIELD DRIVE – (AN2301)

City Council considered approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 53.904 acres located off Mayfield Drive. (Continued from the May 9, 2023, and June 13, 2023, City Council meetings.) (Planning Board recommended denial 4-1 vote.)

Motion by Mayor Talley to continue the rezoning and the annexation request to the August 8, 2023, City Council meeting, and if the applicant wished to request another continuance they would need to be present, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

ITEM 4: REZONING – 0 KIMREY ROAD – 68.791 ACRES – UN-ZONED TO I-1, LIGHT INDUSTRIAL

City Council considered a request to rezone 68.791 acres located at 0 Kimrey Road from un-zoned to I-1, Light Industrial for the purpose of developing an industrial site in the future. (Continued from June 13, 2023, City Council meeting.) (Planning Board recommended denial of the rezoning 6-0.)

Assistant City Manager Holland stated this item was also tabled last month. He stated this was an approximately 68-acre property that was currently un-zoned and the request was to be zoned I-1, Light Industrial for the purpose of developing an industrial site in the future. He stated the property was inside the Employment District's future land use zone. The future land use zone notes that the Employment District is a joint land use area between Mebane, Graham, and Alamance County. The desired pattern for this area is to accommodate a range of employers and provide office space, industrial space, commercial space, institutional space, and residential housing. He stated this request was accompanied by an annexation that would be heard later in the meeting. He stated the Planning Board did recommend denial and staff recommended approval.

Motion by Mayor Pro Tem Hall to open the public the hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Mr. Buddy Seymour, Windsor Commercial, 1007 Battleground Avenue, Greensboro, representing the owners of the property, Scott Mayor Properties, stated this property had been in the family for generations. He stated he was serving as a partner with the developer on some other property adjacent to this located off Governor Scott Farm Road and Senator Ralph Scott Parkway, which is the home of Amazon. He stated he had recently completed another spec building on the back piece of that property at the corner of Governor Scott Farm Road and Kimrey Road. Mr. Seymour stated the intention with this property was to seek entitlement. He stated the goal was to get the property zoned. He stated he had been working with City Staff for seven or eight years and believed this was an excellent opportunity to create an industrial site for a modern Class A, industrial facility. He stated they were primarily a spec developer in the industrial world, meaning they do not have tenants when projects start which was the case on Alamance Ridge I, where Amazon ended up. Mr. Seymour stated this request was for I-1 and was not conditional which was intentional because they did not know what the site plan would look like. He stated they voluntarily held a neighborhood meeting prior to the Planning Board meeting and both the adjacent families attended the

meeting. He stated after conversations, they had made agreements to develop the property in a manner that addressed concerns. He stated they had taken steps to do more than the development ordinance required in order to address the neighbors' concerns.

Mayor Talley discussed the landscaping and that she would like to see more landscaping with larger trees. She asked if Mr. Seymour could share his ideas for the spec building.

Mr. Seymour stated they had looked at the site and concept sketches only to get a sense that this would be a viable site for a variety of uses.

Council Member Whitaker asked why the Planning Board voted 6-0 to deny.

Mr. Seymour stated he was at the Planning Board meeting and it tied 3 to 3, twice.

Council Member Whitaker asked Assistant City Manager Holland what the Planning Board's reservations and concerns were.

Assistant City Manager Holland stated Chairman Dean Ward could probably speak to that better than he could. He stated there were concerns presented by the neighbors as Buddy stated. He stated since then, they had met with several neighbors but were not sure if any were speaking in opposition or not.

Chairman Dean Ward nodded that was correct.

Mayor Talley stated that her impression was the board did not know what was going there and did not think they were necessarily against a project going there but it made people feel more comfortable if a developer actually presented to the City what was going to be there.

Council Member Whitaker stated she knew it was not required unless it is conditional zoning but it was helpful to know what was going to be there.

Mr. Seymour stated it was a challenging business for that reason but he had been doing it for a long time.

Mayor Talley asked if had he thought of doing a conditional use zoning application to bring before the Council to get approved based on what his spec design would be. She stated approving something even if you have to go back and change it and you do not have to back through TRC. She asked Assistant City Manager Holland what percentage could you change in TRC and not have to come back to Council.

Assistant City Manager Holland stated it would depend on the actual change. He stated if it were related to the reorientation of the building or increased parking, you would need to know what level of changes we are talking about changing because it is very minute, and a planner can deviate from what was approved by City Council. He stated in Buddy's case, by him not knowing who was coming there, it would be impossible to know how to illustrate the building or what the orientation would be like. He stated to go through the engineering review before it comes back to Council, any change made you would have to go through the process all over again.

Mr. Seymour stated it was amazing how big companies were looking at doing big projects in very short time frames and they would be excluded from so many opportunities if they knew the process would be like that. He stated that he was intentional about coming without conditions because they are not in a position to know what they are.

Mayor Talley asked if he said he was going to build a spec building if he got the zoning.

Mr. Seymour responded if the other building got leased, they would consider a spec building at that time. He stated the property, once it was entitled, would be marketed, and suspected it would be one of the few sites of this size to satisfy many of the projects that are coming and looking. He stated they would meet the development ordinance standards and would go beyond those. He stated the agreement with the neighbors was to do more than what the development ordinance would call for.

Mayor Talley asked which was what.

Mr. Seymour stated they would build a wood privacy fence along the property line that would be eight feet tall, which was more than what the development ordinance required. He stated they would maintain the buffers along that side to the best of their ability. He stated again, they did not know the configuration and agreed there would be no trailer storage designated against that property line.

Mayor Talley stated that for conditional use, those were designations that everything that been said the Council could put in the requirements for the use of the property and if it was your intent, it would make it easy. She stated when you get straight zoning, the Council could not make you put in the fence or make you have a buffer, but rather, the Council would have to take him at his word.

Mr. Seymour stated he understood and that was what character was all about and that is the way they do business.

Mayor Talley stated she agreed. She asked if there were any other conditions he agreed to.

Mr. Seymour stated they agreed to direct all lighting to a design that there was no light pollution that would affect them negatively. He stated they were intentional about not doing conditional because they are challenging to meet.

Tom Boney, Alamance News, stated Mr. Seymour was being modest in describing the project on this property. He stated that they had in fact submitted a preliminary plan to the City of Graham for a warehouse, spec building, of 788,550 square feet. He stated the Department of Commerce had begun a marketing program to find a tenant of 788,550 square feet in that location. He stated it was not like they may do a little something there, it would be the third largest industrial building in Alamance County or would be if built to the standards that had been submitted. He stated that the area between Kimrey Road and 119 going to Jim Minor Road was in the very early stages a part of the proposed industrial park, the so-called Hawfields area not officially labeled the North Carolina Commerce Park. That triangle is no longer in the Industrial Park; therefore, this property would be entirely Graham's jurisdiction, taxes, and revenue with no sharing, unlike the three-way sharing in the Industrial Park.

Mayor Talley asked if a preliminary plan had been submitted.

Mr. Seymour stated they had not submitted a building to the City for any type of review or approval. He stated they had used plans to respond to economic development requests and that is what those concept plans are used for. He supposed through public information laws, perhaps they are being released but they have not been submitted for any type of review or approval.

Mr. Greg Massey, 3069 South NC 119 Hwy, Mebane, and adjacent property owner, stated they had met with the developer on multiple occasions and would have loved for it to stay as a tree farm but were not naive enough to think that it would stay that way. He stated they were told at the zoning meeting it was very clear-cut with I-1 zoning and would have to follow the current zoning rules. He stated by placing conditions on it as he had in the zoning meeting, the Planning Board's hands were tied and assumed it was the same for Council. He stated the conditions the developer would meet were satisfactory to the neighbors.

Mayor Talley asked what those conditions were for the record.

Mr. Massey stated it was an eight-foot-high wooden fence to run as far along the property as DOT would allow, no designated trailer storage on their side of the property, and exterior lighting in a way that keeps the lighting on the property as much as possible. He stated there would need to be some grading with a retention wall that would meet any requirements the City of Graham had as far as landscaping.

Public Hearing Closed:

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to approve the rezoning of 68.791 acres on Kimrey Road from un-zoned to light industrial and that it does further the Graham 2035 Comprehensive Plan and the City of Graham Development Ordinance and was consistent with the Employment District type, Policy 2.4.1 and would allow uses which are likely to attract employment opportunities with the City of Graham, Strategy 2.2.1, seconded by Council Member Chin. The motion passed unanimously.

ITEM 5: ANNEXATION – 68.791 ACRES – OFF KIMREY ROAD – (AN2303)

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road. (Continued from June 13, 2023, City Council meeting.)

Assistant City Manager Holland stated this was a request for Council's approval for an extension of the corporate limits to include the subject properties. The area being considered for annexation is located off of Kimrey Road and contains approximately 68.791 acres. Water and sewer are located near the property down Governor Scott Farm Road, and the applicants wished to extend the services to tie onto the City's infrastructure.

Public hearing was opened and no one spoke.

Public Hearing Closed:

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Motion by Council Member Whitaker to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

ITEM 6: ANNEXATION – 57.106 ACRES – OFF LITTLE CREEK DRIVE – (AN2305)

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive.

Assistant City Manager Holland stated the attached petition was a request for the Council's approval for an extension of the corporate limits to include the subject properties. The area being considered for annexation was located off of Little Creek Drive and contained approximately 57.106 – acres. Water and sewer are located near the property along Little Creek Drive, Hanson Lane, and Palmer Drive, and the applicants wished to tie onto the City's infrastructure. He stated staff recommended approval.

Mr. David Michaels, 1007 Battleground Avenue, Greensboro, stated this was a culmination of a zoning case that was heard in May 2021, for the Oakmont Subdivision and was now presenting this for annexation to move forward with water and sewer permits. He stated they had submitted and approved Phase 1 of this site for 42 lots and another site plan to be reviewed by TRC next Monday for the special use portion of a site that was originally 70 townhomes and was now at 69 townhomes.

Mayor Talley asked where was the access to this division.

Mr. Michaels stated it was Palmer and Little Creek and a stub street at Hanson Lane that was worked out with the staff to be a submittal for the townhomes and that road would not connect into this neighborhood.

Mayor Talley asked how to prevent what happened on Wildwood from happening on other streets once it gets started.

Assistant City Manager Holland stated he did not want to say anything that put a negative light on the infrastructure that was in place, but these are City roads that people have a right to use for purposes of conversing up and down. He stated it would be hard to say what would happen.

Mr. Michaels stated they would test Palmer before they started running a lot of traffic on it to understand what condition the road was in before beginning any development work on this site.

Mayor Talley stated at the last Council meeting Mr. Michaels indicated there would be some contribution to repair Wildwood.

Mr. Michaels stated an offer had been made to Mr. Robertson and staff about replacing the asphalt and there were lingering questions about why the road failed and would be having further conversations with management staff. He stated the failures occurred on Wildwood over a utility ditch exclusively and the majority of the route that the trucks were running on to move dirt from Valor Ridge over to Meadowview did not fail. He stated they had agreed to replace four inches of asphalt in the areas that have been marked and failed.

City Manager Garner stated there may have been a miscommunication between Mr. Michael and Mr. Robertson. Mr. Robertson was waiting for Mr. Michael to get back in touch with him and encouraged Mr. Michael to call Mr. Robertson.

Mayor Talley asked how large were the lots.

Mr. Michaels stated there were some townhome lots and this was the R-12 open space option. He stated

that based on the approved site plan, the lots averaged 11,031 square feet.

Mr. Peter Murphy, 1933 Meadowview Drive, Graham, stated this was approved two years ago through a special use permit for townhomes. He stated there were multiple plans out there that were not being shown for Council to see but there were four phases being presented with only two phases completed. He stated the first phase was 38 houses and 32 of those houses were less than 12,000 square feet. He stated phase two had changed with one of the roads being removed and that was with a special use permit that was given at that time and that it needed to be looked at again. He stated phases three and four had not been defined but was asking to annex the entire lot when they had not finished phases three and four. He stated the trail that was being proposed was not part of it and there was no funding. He voiced concerns about all surrounding streets and if they would be damaged during the development.

Mr. Michaels stated the site plan was presented at the zoning hearing two years ago, reviewed by Council, and approved as part of the zoning package. He stated there was a plan on the table and staff continued to review plans as they were presented for the specific phases. He stated that he did not know how many lots were over 12,000 square feet but the project did meet all the criteria for the open space provision in the ordinance and as average lot size was 11,030 square feet.

Mayor Talley asked how many units were being proposed.

Mr. Michaels stated it was originally approved for 179 with 16 to 17 acres of accessible open space.

Mayor Talley asked if there would be an HOA and if they would be responsible for maintaining the open space.

Mr. Michaels stated there would be an HOA and the open space would be designated as a common area and would be under the control of the HOA. He stated the road failure that Mr. Murphy spoke about was due to Spectrum running a cable under the road creating a weak spot and as trucks drove over it the road failed.

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Chin. The motion passed unanimously.

Mayor Talley asked Council Member Parsons what he thought about the annexation and he answered he was not a fan of having less than 12,000 square foot lots.

Mayor Talley stated she did not vote for this rezoning when it came up and if you are going to go in and develop in the middle of an existing neighborhood, you definitely needed to be adhering to the 2035 Comprehensive Plan of being harmonious with the existing neighborhood and trying to make sure the roads and access points are up to code or standards. She stated there had been a lot of pushback from neighbors on Wildwood Lane.

Council Member Whitaker stated the annexation had nothing to do with the size of the lots. She stated we should not hold an annexation over someone's head over something that had already been settled. She stated she did not like the fact that lots were under 12,000 square feet. She stated holding out the annexation would not stop the development from going in.

Mayor Talley stated in order to have septic and water, you would have to have larger lots.

Council Member Whitaker stated Mayor Talley was holding an annexation over someone's head.

Mayor Talley stated she was not holding an annexation over someone's head and to be consistent, she voted against the development to begin with and she would be inconsistent to vote for the annexation. She stated there was nothing there right now and did not see how she could go against all the reasons she did not vote for the project to begin with and then vote for it now. She stated she was trying to represent what the citizens wanted.

Council Member Chin stated that annexation is one matter and the development of the area being annexed was something that would go before the Planning Board when they decided what would be built there. He stated all we doing now is saying we are going to incorporate land into the City. He stated the rezoning was a done deal back in 2021. He stated by not annexing it, we only hurt ourselves with additional revenue from water and sewer.

After further discussions on flood plains and lot sizes, the following motion was made:

Motion by Mayor Talley to deny the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive, seconded by Council Member Parsons, the motion failed by 2-3 (Mayor Pro Tem Hall, Council Members Whitaker and Chin voted no)

Motion by Mayor Pro Tem Hall to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive, seconded by Council Member Chin, the motion passed 3-2. (Mayor Talley and Council Member Parsons voted no)

NEW BUSINESS:

ITEM 7: BOARDS AND COMMISSION APPOINTMENTS

City Council considered the following appointments to the City's Boards and Commissions:

ABC Board – Graham Appointee

Robert Sykes – Reappointed for a term ending 2026

Appearance Commission/Tree Board:

Judy Hall – Reappointed for a term ending 2026

Cheryl Ray – Reappointed for a term ending 2026

Graham Historical Museum Board

Chuck Talley – Reappointed for a term ending 2026

James Mullen – Appointed for a term ending 2026

Graham Housing Authority

Robert Sykes Reappointed (by clerical error)

(Council will make the corrected appointment at the August 8, 2023, meeting)

Historic Resources Commission

Terry Correira – Appointed for a term ending 2025

Jim Young – Appointed for a term ending 2026

Planning Board/Board of Adjustment

John Wooten – Reappointed for a term ending 2026

James Stockert – Appointed for a term ending 2026

Charles Huffine (Extra-Territorial) – Recommendation to Alamance County – term ending 2026

Recreation Commission

Casey Johnson – Reappointed for a term ending 2026

Brian Cutlip – Reappointed for a term ending 2026

Carmen Larimore – Reappointed for a term ending 2026

Council Member Chin asked to make a motion to decrease the Historic Resource Commission Board from seven members to five members.

City Attorney Ward stated that in order to reduce the size of a board, a public hearing would be required.

Tom Boney, Alamance News stated that the slate included two spouses of City Council Members.

Mayor Talley stated the Museum board only handles the museum, they receive no money, and no financial input. She stated she was happy to abstain but did not see a conflict.

City Attorney Ward suggested the Council Members abstain from appointing spouses.

Motion:

Mayor Talley motioned to appoint the following:

- ABC Board – Robert Sykes
- Graham Housing Authority – Robert Sykes
- Historical Resource Commission – Terry Correira and Jim Young
- Planning Board/Board of Adjustment – John Wooten, James Stockert, Charles Huffines
- Recreation Commission – Casey Johnson, Brian Cutlip, and Carmen Larimore

Seconded by Council Member Chin. The motion passed unanimously.

Motion by Mayor Talley to recuse Mayor Pro Tem Hall from voting on the Appearance/Tree Board, seconded by Council Member Whitaker. The motion passed.

Mayor Talley motioned to appoint the following:

- Appearance Commission/Tree Board – Judy Hall and Cheryl Ray

Seconded by Council Member Chin. The motion passed. (Mayor Pro Tem Hall abstained)

Mayor Talley asked to be recused from voting on the Historical Museum appointment.

Motion by Mayor Pro Tem Hall to appoint the following:

- Graham Historical Museum Board - Chuck Talley and James Mullen

Seconded by Council Member Chin. The motion passed 3-1. (Council Member Parsons voted no) (Mayor Talley abstained)

PUBLIC COMMENTS:

There were no public comments.

CITY STAFF COMMENTS

There were no City Staff comments.

ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 10:18 p.m.

Renee M. Ward, CMC
City Clerk