

**City of Graham**  
**City Council Special Meeting Agenda**  
**November 13, 2023**  
**6:00 p.m.**



**CALL TO ORDER:** Mayor Jennifer Talley

**INVOCATION & PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA:**

- a. To approve the October 10, 2023, City Council meeting minutes.
- b. To approve the Graham Area Business Association's 62nd Annual Christmas Parade on December 2, 2023, and to approve the following parade route street closures: beginning at Parker Street from Sideview to Elm Street, preceding down North Main Street to South Main Street, and ending on McAden Street at Graham Middle School's parking lot. The requested closure of these streets would be from 8:00 a.m. to 1:00 p.m. pending approval by NCDOT for State roads.
- c. To set a date of public hearing for December 12, 2023, to consider a contiguous annexation request pursuant to N.C.G.S. 160A-31 to extend the corporate limits to the City of Graham for a tract of land totaling 53.904 acres for Phase 4, Roger Springs, and to direct the City Clerk to investigate the sufficiency of the petition. (AN2308)
- d. To appoint Mr. John Harrington to the Historical Museum Advisory Board to fulfill an unexpired term ending June 30, 2024.
- e. To approve a budget amendment to increase budgeted Professional Services in Administration by \$10,000.
- f. To approve a budget amendment to increase budgeted Wastewater Capital Outlay Equipment by \$50,000.
- g. To approve tax releases totaling \$51,674.99 and refunds totaling \$5,732.98.

**PUBLIC HEARINGS:**

**1. ANNEXATION – 7.8 ACRES – SUNSET DRIVE - AN2307**

A public hearing has been scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 7.8 acres located off Sunset Drive.

## **2. REZONING – 7.8 ACRES – SUNSET DRIVE**

A public hearing has been scheduled to consider rezoning 7.8 acres at Sunset Drive from R-7, High-Density Residential, and R-18, Low-Density Residential, to C-R, Conditional Residential, to construct at least 42 townhomes.

### **NEW BUSINESS:**

## **3. STERIGENICS DEVELOPMENT FEES WAIVER REQUEST**

City Council will consider waiving the Water and Sewer System Development Fees for Sterigenics installation of a 1,600 linear foot, 8” ductile iron pipe connecting to the existing 12” main alongside Jimmie Kerr Road and to connect to the existing 6” main along Bakatsias Lane to provide a back-feed supply to the City of Graham Water System.

### **PUBLIC COMMENT PERIOD:**

### **CITY STAFF COMMENTS**

### **CITY COUNCIL COMMENTS**

**CLOSED SESSION:** City Council will consider going into closed session pursuant to the terms of N.C.G.S. 143-318-11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged regarding Cone Commercial Real Estate Investments, LLC vs City of Graham Alamance County Superior Court case number 23CvS1909.

### **ADJOURN**

# City of Graham City Council Meeting Minutes October 10, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on October 10, 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 6:06 p.m. and presided.

## INVOCATION & PLEDGE OF ALLEGIANCE

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

## PRESENTATION: WoodmenLife – Kay Teague and Chuck Farrior

WoodmenLife donated 50 American flags to the ALCOVETS to be used in the downtown area.



**PROCLAMATION:** Fire Prevention Week – October 8-14, 2023

Mayor Talley and the City Council recognized Fire Prevention Week in the City of Graham from October 8 - 14, 2023. Mayor Talley urges all citizens of Graham to find and develop a home fire escape plan with all household members and practice it twice a year.



Captain Cook, Mayor Talley, and Fire Chief Cole

**CITY COUNCIL MEETING DATE CHANGE:** The City Council discussed changing the November City Council meeting to November 13, 2023, due to Council Members attending the Alamance Chamber Leaders Retreat.

Motion by Mayor Pro Tem Hall to change the November meeting date to November 13, 2023, seconded by Council Member Chin. The motion passed unanimously.

**CONSENT AGENDA:**

- a. To approve the September 12, 2023, City Council meeting minutes and the September 20, 2023, City Council Special meeting minutes.
- b. To set a date of public hearing for November 13, 2023, to consider a non-contiguous annexation request extending the corporate limits to the City of Graham for a tract of land totaling 7.8 acres located off Sunset Drive and to direct the City Clerk to investigate the sufficiency of the petition. (AN2307)

**RESOLUTION FIXING DATE OF NOVEMBER 13, 2023 FOR A PUBLIC HEARING  
ON THE QUESTION OF NON-CONTIGUOUS ANNEXATION PURSUANT TO G.S.  
160A-58 FOR A 7.8 (+/-) ACRE LOT OFF SUNSET DRIVE (AN2307)**

**WHEREAS**, a petition requesting annexation of the non-contiguous area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made; and



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

**Section 1.** A public hearing on the question of annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC at 6:00 pm on **November 13, 2023**.

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

**Legal Description:**

Beginning at an Existing Iron Pipe said corner being in the Northern margin of Sunset Drive having a 40' right of way and being the southwest corner of Riverwalk LLC Eather now or formerly as described in instrument deed book 3959 page 0944 in the Alamance County Register of Deeds and having a parcel number 147602 and also being the southeast corner of Salvador Leon either now or formerly as described in instrument deed book 3263 page 017 in the Alamance County Register of deeds and having a parcel number 147600 and also being located North 32 deg. 45 min 11 sec. West with a grid distance of 2221.87 feet from NCGS Monument Conklin Nad 83/ 2011 and having grid coordinates Northing 838739.49 ift and Easting 14889870.40 ift Thence with the corner North 23 deg.45 min. 02 sec. West and a distance of 168.28 feet to an existing iron pipe said point being the north west corner of the before mentioned Salvador Leon and the southern corner of James c. Brown either now or formerly as described in instrument deed book 2568 page 151 in the Alamance County Register of Deeds and having a parcel number 147598 Thence with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned James C. Brown and the south west corner of Keith Dodson either now or formerly as described in instrument deed book 2713 page 205 in the Alamance County Register of deeds and having a parcel number 147613 Thence with the corner North 30 deg. 22 min. 24 sec. West and a distance of 309.46 feet to an existing iron pipe said point being the north east corner of the before mentioned James C. Brown and the north west corner of the before mentioned Keith Dodson and the south eastern corner of Betsy White (Heirs) either now or formerly as described in instrument deed book 473 page 920 in the Alamance County Register of Deeds Thence with the corner North 55 deg. 55 min 10 sec. East and a distance of 41.97 feet to an existing iron pipe said point being the north west corner of the before mentioned Keith Dodson and the south east corner of the before mentioned Betsy White (Heirs) Thence with the corner North 35 deg. 41 min. 06 sec. West and a distance of 69.04 feet to a new iron pipe said point being the most south east corner of the before mentioned Betsy White (Heirs) the most north west corner of the before mentioned Keith Dodson and the south west corner of Amber Meeks either now or formerly as recorded in instrument deed book 3634 page 521 in the Alamance County Register Deeds and having a parcel number 147610 Thence with the corner North 55 deg. 24 min. 01 sec. East and a distance of 795.98 feet to an existing iron pipe said corner being the most north eastern corner of the before mentioned Keith Dodson and the southern corner for Marion Whittemore either now or formerly in instrument deed book 3914 page 213 in the Alamance County Register of Deeds and having a parcel number 147673 and the north west corner of Sandra Whittemore either now or formerly in instrument deed book 772 page 310 in the Alamance County Register of Deeds and having a parcel number 147676 Thence with the corner South 00 deg. 38 min 40 sec. West and a distance of 384.23 feet to an existing iron pipe said corner being the north eastern corner of the before mentioned Keith Dodson and the south west corner of Ray Whittemore Either now

or formerly as recorded in instrument deed book 896 page 348 in the Alamance County Register of Deeds and having a parcel number 152571 and also the north west corner of Kennon Whittemore either now or formerly in instrument deed book 235 page 70 in the Alamance County Register of Deeds and having a parcel number 147675 Thence with the corner South 02 deg. 40 min. 39 sec. West and a distance of 180.21 feet to an existing iron pipe said corner being the south east corner of the before mentioned Keith Dodson and also being the south west corner of the before mentioned Kennon Whittemore and the northern corner of Ricky Apple now or formerly as recorded in the Alamance County Register of Deeds and having a parcel number 147668 Thence with the corner South 64 deg. 06min.51 sec. West and a distance of 334.92 feet to an existing iron pipe said corner being the southern corner of the before-mentioned Keith Dodson and the north west corner of David Wilson now or formerly in instrument deed book 3295 page 275 in the Alamance County Register of Deeds Thence with the corner South 25 deg. 12 min. 50 sec. East and a distance 177.65 feet to a new iron pipe in the northern margin of Sunset Drive Thence South 65 deg. 08 min. 54 sec. West and a distance of 103.00 feet to a new iron pipe Thence with the corner and the northern margin of sunset Drive South 66 deg. 26 min. 14 sec. West and a distance of 200.39 feet to an existing iron pipe and Point and Place of Beginning said property containing 7.84 acres +/-.

**Section 3.** Notice of the public hearing shall be published once in The Alamance News, a newspaper having general circulation in the City of Graham, at least ten (10) days prior to the date of the public hearing.

**Adopted this the 10<sup>th</sup> of October 2023.**

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58 FOR PROPERTY OFF SUNSET DRIVE (AN2307)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on October 10, 2023, by the Graham City Council; and

**WHEREAS**, G.S. 160A-58 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

**WHEREAS**, the City Council of the City of Graham deems it advisable to proceed in response to this request for annexation.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Graham: That the City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the result of her investigation.

- c. To approve a budget amendment for a \$75,000 donation given by Friends of Graham Recreation to be used for additional playground pieces.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
<b>Section 1.</b>					
<b>GENERAL FUND</b>					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Capital Outlay Other Improvements	255,696.00	330,696.00	75,000.00		75,000.00
	<u>255,696.00</u>	<u>330,696.00</u>	<u>75,000.00</u>	-	<u>75,000.00</u>
<b>Section 2.</b>					
<b>GENERAL FUND</b>					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Recreation Donations	5,000.00	80,000.00	75,000.00		75,000.00
	<u>5,000.00</u>	<u>80,000.00</u>	<u>75,000.00</u>	-	<u>75,000.00</u>
Adopted this 10th day of October 2023.					

- d. To approve a budget amendment to increase budgeted Federal Drug Funds by \$20,000 (from \$30,000 to a total of \$50,000.)

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
<b>Section 1.</b>					
<b>GENERAL FUND</b>					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Professional Services	30,000.00	50,000.00	20,000.00		20,000.00
	<u>30,000.00</u>	<u>50,000.00</u>	<u>20,000.00</u>	-	<u>20,000.00</u>
<b>Section 2.</b>					
<b>GENERAL FUND</b>					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	30,000.00	50,000.00	20,000.00		20,000.00
	<u>30,000.00</u>	<u>50,000.00</u>	<u>20,000.00</u>	-	<u>20,000.00</u>
Adopted this 10th day of October 2023.					

- e. To approve tax releases totaling \$2,810.34 and a refund for \$205.55.

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

**NEW BUSINESS:**

**ITEM 1: AMEND CODE OF ORDINANCE – PARADES, DEMONSTRATIONS AND STREET EVENTS**

City Council considered amending the Code of Ordinance amendment to Chapter 20, Article VI, Sec. 20-171-184 Parades, Demonstrations, and Street Events.

Christian Ferlan, Attorney, Hall Booth Smith, LLC, Charlotte, NC, reviewed the six changes requested by the Council from the September 13, 2023, City Council meeting.

- 1) Added insurance requirements and reviewed the City’s Parks and Recreation special events application to compare with case law. The insurance requirements were added to the Street Events under 20-183(b).

- 2) Looked into the reasonable distance between counter-speech groups. He stated this should be under the discretion of the Police Department and that the distance between the groups had nothing to do with the content of the speech. He stated everyone at a demonstration or an event had the right to hear what was going on and also have the right to speak back. He stated he would not recommend imposing a recommended distance between speech and counter-speech groups and it would be the management of public safety.
- 3) Look into a time, place, and manner of restriction for amplification while the City Council is conducting its business and putting restrictions on the use of the space provided on the front lawn of City Hall. He stated this was reflected in 20-179(d).
- 4) Verify streets with an average traffic count in excess of 10,000 cars per day are for both City streets and NCDOT streets. He stated the main thoroughfares in Graham are the ones with traffic counts over 10,000 per day. He stated that the NCDOT street traffic counts over 10,000 cars per day were North Church Street, Graham-Hopedale Road, West Harden Street, South Main Street, part of West Elm Street, and part of East Harden Street.
- 5) Looked into expanding the three-day turnaround under Section 20-183(d) for a road closure for demonstration purposes. This has been extended for 14 days and the return of the permit application no less than four days before the proposed event was to take place would remain.
- 6) Look into adding language to Sec. 20-183(d)(2) and (6) to reflect objective factors. Mr. Ferlan stated that it was designed where reasonable minds have to look at the facts and decide.

Mayor Talley stated the concern in reference to the ownership of City streets was the interpretation that if the street was not owned by the City it was not considered a City street. She stated if it was considered a State street she wanted to make it clear to everyone that every street in Graham was a City street regardless of whether it was maintained by the State or not and was within the City's full jurisdiction to control road closures.

Mr. Ferlan stated he agreed the City had its general police power and was the motivating factor to enact this ordinance. He stated there could be additional NCDOT requirements for road closures but we could not legislate the DOT.

Mayor Talley stated it was about safety and people in the roadway with over 10,000 cars a day would be difficult to ensure the safety of both people in the cars and pedestrians. She stated having a plan of action and making sure there are proper barriers so that both sides wanting to do a demonstration are safe and not in any danger. She stated those who are not involved in the demonstration and just want to walk on a City street should have the ability to do so safely.

Mayor Talley asked about sound amplification and it was her understanding of the law that it does not affect demonstrations outside of residences, was that correct? Mr. Ferlan stated demonstrations could not be held outside of a private residence. Mayor Talley asked about using sound amplification up until 11:00 or midnight could that be unreasonable?

Mr. Ferlan stated that would go the time, place, and manner under Section 20-184, and you would need a permit to use sound amplification that produces a level of volume greater than 60 decibels and is measured at a distance of 50 or more feet from the source.

Mayor Pro Tem Hall motioned to approve the Ordinance amendment to Chapter 20, Article VI, Sec. 20-171 to 184, Parades, Demonstrations, and Street Events of the Code of Ordinances, seconded by Council Member Chin. The motion passed unanimously.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING  
CHAPTER 20, ARTICLE VI, BY AMENDING SEC. 20-171 TO 184, TO THE CODE OF  
ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA FOR PARADES,  
DEMONSTRATIONS AND STREET EVENTS**

The City Council of the City of Graham, North Carolina, does ORDAIN:

**Sec. 1.** That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by amending sections numbered 20-171 to 184 which said section is to read as follows:

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**Sec. 20-171. – PURPOSE; SPECIAL EVENTS COMMITTEE ESTABLISHED**

- (a) Pursuant to the authority granted to the City of Graham by the General Statutes of North Carolina and its general police powers, the City has adopted the following sections in order to provide for the public health, safety, and general welfare in the City, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place, and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the City while also encouraging the exercise of the rights to free speech and assembly in the City.
- (b) The city manager shall establish a special events committee from City staff to determine whether or not proposed Parades and Street Events meet the standards established herein as well as all other applicable regulations within the City of Graham and to issue Permits where authorized by this Article. The committee shall designate an employee who shall serve as the point of contact for receiving Parade and Street Event Permit applications and be the conduit for communications with the committee and City Council.

**Sec. 20-172. – PARADE PERMIT REQUIRED**

- (a) The term Parade as used in this section is defined as an assemblage of ten or more persons, or three or more vehicles, participating in any march, ceremony, show, exhibition, or in any procession, promotion, or objection of any kind in or upon the public streets, alleys, parks, or other public grounds in any manner; provided, the term shall not include:
  - (1) “Demonstrations,” etc. as defined in section 20-178;
  - (2) Funeral processions;
  - (3) Any governmental agency acting within the scope of its functions;
  - (4) Bands or marching groups proceeding to an assembly point for participation in a Parade; or
  - (5) Footraces and bicycle races.
- (b) No Parade shall be conducted on the public ways of this city and no person shall inaugurate, promote, or participate in any such Parade unless the Parade is conducted in conformity with the requirements set out herein and unless a Permit has been obtained from the special events



committee. A Parade Permit shall not be required for any Parade consisting of fewer than ten persons or three vehicles.

- (c) It shall be unlawful for any person to conduct or participate in a Parade except in conformance with the provisions of this Article.

### **Sec. 20-173. – PROCEDURES FOR OBTAINING PERMIT**

- (a) A person seeking issuance of a Parade Permit shall file an application with the special events committee on forms provided by such committee not less than fourteen (14) days nor more than three hundred sixty-five (365) days before the proposed Parade date. The application for a Parade Permit shall set forth the following information:
  - (1) The name(s), if any, of the individual, organization(s), group(s) and/or individual(s) sponsoring or proposing the Parade, unless the individual, organization, or group indicates that it wishes to remain anonymous, in which case no name is required;
  - (2) Contact information for the applicant;
  - (3) The location or locations in the City where the Parade is proposed to take place;
  - (4) The date and hours for which Permit is sought;
  - (5) The name of the person(s) and/or organization(s) applying for the Permit;
  - (6) Whether or not persons below the age of 18 years are expected to participate;
  - (7) The person or persons to be in charge of the activity and who will accompany it and carry the Permit at all times;
  - (8) Contact information for the organization(s), group(s) and/or individuals sponsoring or proposing the Parade, the Permit applicant, and the person to be in charge of the activity;
  - (9) The approximate number of persons and vehicles expected to participate in the Parade and the types of vehicles expected to participate;
  - (10) The dimensions of any floats or other traveling displays; and
  - (11) Any additional, content-neutral information that the special events committee finds reasonably necessary to a fair determination as to whether a Permit should be issued.
- (b) Subject to the requirements of Section 20-183 regarding street closures, to the extent street closure is required or requested for the Parade, upon receipt of an application properly completed and timely filed as hereinabove set out, the special events committee shall review the application as promptly as reasonably possible and shall issue a Permit consistent with the standards of conduct prescribed herein containing all the information stated on the application, noting where modifications or requirements have been made, and signed by the issuing employee. Such Permit shall be issued or denied no later than 4 days before the proposed event.
- (c) The issued Permit may prescribe reasonable requirements necessary for the control and free movement of pedestrian and vehicular traffic, including emergency services, to protect the safety

and property rights of participants and of the general public. The City may assign police officials to be present during the Parade to further designate (reasonably expand or limit) permitted area(s) in furtherance of the ordinance and to protect public safety and order. The special events committee may prescribe reasonable requirements for, or place reasonable conditions on, the permitted Parade activity, to include modifying times, places and routes, in the following instances:

- (1) When adequate provision cannot be made for the safe and orderly movement of the Parade and for other traffic, pedestrian or vehicular, contiguous to its route;
- (2) When the Parade cannot be held without unreasonable interference with the provision of or unreasonable diversion of normal police or fire protection or emergency services to the public;
- (3) The Parade cannot be held without unreasonable interference with the right of property owners in the area to enjoy peaceful and lawful use and occupancy of their property;
- (4) The Parade will require the closing of, or unreasonably restrict the flow of vehicular traffic along a highway under the control of the State. If this is the case, the applicant should obtain permission from appropriate State officials prior to making reapplication for a Parade Permit; or
- (5) The Parade conflicts with other previously scheduled events or activities.

#### **Sec. 20-174. – STANDARDS FOR CONDUCT OF PARADES**

The following standards shall apply to all Parades conducted in the City:

- (a) No Parade or part thereof may be conducted on the streets of the City between the weekday hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. unless otherwise expressly authorized by the City Council upon circumstances warranting different hours.
- (b) Every Parade shall follow a route approved by the special events committee. The special events committee shall approve no route that is incompatible with the preservation of public health, safety, and welfare, nor upon streets with average traffic counts in excess of 10,000 cars per day unless expressly authorized by the City Council.
- (c) No one participating in a Parade or proceeding along the route of a Parade shall distribute therefrom any candy, cigarettes, prizes, or favors of any kind.
- (d) No vicious animal whether leashed or unleashed shall participate in or proceed along the route of a Parade.

#### **Sec. 20-175. – REVOCATION OF PERMIT.**

The committee's designated employee may revoke any Permit granted for a Parade if:

- (a) Any participant violates the standards for the conduct of Parades set out herein; or

- (b) Any participant in a Parade fails to comply with the formation, terms, and conditions set out in the application and Permit or fails to comply with the terms of this section.

**Sec. 20-176. – APPEAL.**

Any person not satisfied with a Parade, Demonstration, or Road Closure Permit, or otherwise unsatisfied or aggrieved by action taken pursuant to this Article may file a written “notice of appeal” with the city manager no later than five (5) business days from the issuance of such Permit or other action taken pursuant to this Article. Such written notice shall identify the person filing the appeal and shall specify with particularity the facts and basis for the appeal. The City Manager shall forward the appeal to the City Council at the next scheduled City Council meeting should time permit prior to the requested event.

**Sec. 20-177 – INTERFERENCE PROHIBITED**

No person shall hamper, obstruct, impede, or interfere with any Parade being conducted under the authority of a lawfully issued Permit. No driver of any vehicle shall drive between the vehicles or persons comprising a Parade when such vehicles or persons are in motion and identifiable as a Parade under this Article.

**Sec. 20-178 – DEMONSTRATIONS DEFINED.**

The terms Demonstrate, Demonstration, and Demonstrating, as used herein are deemed to include conduct by “Demonstrators,” *i.e.*, persons participating in pre-planned gathering[s] of ten (10) or more persons, not constituting a parade, convened for a common purpose, including but not limited to a protest, picket, march, rally, public exhibition, or assembly, in or upon the public streets, alleys, parks, or other public grounds that has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the public rights-of-way within the City or that interferes with or has a tendency to interfere with the normal use and enjoyment of any public property in a place open to the general public.

**Sec. 20-179 - DEMONSTRATIONS PERMITTED; PERMIT FREE and SPONTANEOUS GATHERING ZONES; WHEN PERMIT IS/IS NOT REQUIRED.**

- (a) Peaceful Demonstrating is permitted in the City provided the same is done in accordance with this Article. Public assembly and Demonstrating in the City shall not be prohibited or prevented based on political, social, or religious grounds or based upon the subject matter or content of the views expressed.
- (b) Except as provided in this subsection, no Demonstrating may be conducted in the public ways of the City and no person may participate in the same unless a Demonstration Permit (“Permit”) has been obtained. A Demonstration Permit is not required:
  - (1) except as provided in subsection (d), in any Permit Free or Spontaneous Gathering zone designated by the City or other governmental agency;
  - (2) for Demonstrations involving less than one hundred (100) people conducted within the fire limits of Downtown Graham, as defined in § 6-31 of the Code of Ordinances; or

- (3) for Demonstrations involving less than seventy-five (75) people conducted outside the fire limits of Downtown Graham; or
  - (4) for Demonstrations convened and conducted in response to breaking news within the previous 36 hours, the group size limitations provided herein shall not apply.
- (c) A Demonstration Permit is required for any Demonstration that:
- (1) would require deviation from the Standards of Conduct for Demonstration Activities set forth within this Article, such as for the closure of streets to vehicular traffic or the use of a sound magnification or amplification device;
  - (2) would involve one hundred (100) or more persons within the fire limits of Downtown Graham;
  - (3) would involve seventy-five (75) or more persons outside the fire limits of Downtown Graham;
  - (4) the Demonstration organizers request the presence of police or medical personnel;
  - (5) the Demonstration will involve the use of sound amplification or magnification equipment as described in Section 20-184;
  - (6) the Demonstration organizers desire to erect temporary structures as part of the Demonstration; or
  - (7) seeks the closure of any public street, subject to the additional requirements under subsection (e) of this Section.
- (d) Except during the time that the City Council is in session, one-half hour before the City Council is in session, and one-half hour after the City Council session has been concluded, a Demonstration Permit Free and Spontaneous Gathering zone is hereby established on the Highway 87 lawn of the City Municipal Building.
- (e) **Demonstration Permit for Demonstrations Requiring Street Closure:** Where a Demonstration requests or requires the closure of any public street, a Demonstration Permit is required. In addition, prior to submitting the Demonstration Permit application described in paragraph (f) of this section, the person(s) applying for the Demonstration Permit must obtain a Road Closure Permit from the City Council and attach the City Council's Road Closure Permit to the Demonstration Permit application. Except as otherwise provided by the laws of this State or the United States, only the City Council may authorize the closure of any public street for a Demonstration in accordance with the provisions of Section 20-183.
- (f) **Demonstration Permit:** Where a Demonstration Permit is required, a person seeking issuance of a Demonstration Permit shall file a written Permit application with the Chief of Police or his/her designated representative not less than seventy-two (72) hours in advance of such Demonstration. Counter-Demonstrators are subject to the same Demonstration Permit requirements as Demonstrators and do not fall within the scope of the Demonstrator's application unless specially acknowledged and authorized in the Police Chief's written Permit. The application for a Permit

shall be on a form prescribed by the Chief and available for download from the Police Department's website, be signed by the applicant(s), and include the following information:

- (1) The name of the individual, organization, or group sponsoring the Demonstration or proposing to Demonstrate, unless the individual or group indicates that it intends to Demonstrate anonymously, in which case no name is required;
  - (2) The contact information for the applicant;
  - (3) The location or locations in the City where the Demonstration proposes to assemble and demonstrate;
  - (4) Whether any deviations, suspensions, or modifications from the City's Standards of Conduct for Demonstration Activities is requested;
  - (5) The date or dates on which the Demonstration is to occur and planned duration (the "Noticed Period");
  - (6) The total number of people anticipated to participate in the Demonstration;
  - (7) Whether the presence of Counter-Demonstrators is anticipated;
  - (8) The name of the person and organization applying for the Demonstration Permit, unless the person or organization indicates that it intends to apply anonymously, in which case no name is required;
  - (9) Whether persons below the age of eighteen (18) years are expected to participate;
  - (10) Whether any sound magnification device will be used during the Demonstration;
  - (11) Telephone contact information for one or more persons organizing or otherwise in charge of the Demonstration so as to facilitate communication with the Police Department during the Demonstration in furtherance of public safety; and
  - (12) If applicable, documentation showing the City Council's authorization of road closures for the Demonstration.
- (g) Within forty-eight (48) hours of receiving a properly completed Demonstration Permit application, the Chief of Police or his/her designated representative shall review the application and, absent grounds to deny the application as specified in this subsection, shall issue a Demonstration Permit signed by the issuing employee. Upon the earlier of the expiration of the Noticed Period or cessation of the Demonstration for more than three (3) hours, the Demonstration Permit expires. Before resumption of Demonstrating, a new Demonstration Permit must be obtained. The Chief of Police or his/her designated representative shall not consider the content of speech in determining whether a Permit will be issued. The Chief of Police or his/her designated representative may deny or revoke a Permit application including the application for a Permit to use sound magnification or amplification equipment, or an issued Permit on any of the following grounds:
- (1) The application for a Permit, including any attachments or required additional submissions, is not fully completed and executed;
  - (2) The application for a Permit contains a material falsehood or misrepresentation;



- (3) The applicant is legally incompetent to contract or to sue and be sued;
- (4) The applicant has on prior occasions damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts to the City;
- (5) A fully executed application for Permit for the same time and place was received prior to the applicant's application, and a Permit has been or will be granted to the prior applicant(s) authorizing uses or activities that do not reasonably permit additional or multiple occupancy of the area where the Demonstration is to take place;
- (6) The Demonstration intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place;
- (7) The Demonstration intended by the applicant is prohibited by law;
- (8) Whether the scope of the Demonstration intended by the applicant would present an unreasonable danger to the health, safety, or welfare of the applicant or individuals in the area or areas where the Demonstration is to take place;
- (9) Whether the applicant has made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior Permits issued to or on behalf of the applicant.

In denying a Permit application or revoking a previously issued Permit, the Chief of Police or his/her designated representative shall immediately notify the applicant or Permit holder of the reason(s) for such denial or revocation.

- (h) Any issued Demonstration Permit may prescribe reasonable requirements or conditions necessary for the control and free movement of pedestrian and vehicular traffic, including emergency services, and to protect the safety and property rights of participants, including Counter-Demonstrators, and of the general public. The City reserves the right and authority to have police officials on the scene to further designate (reasonably expand or limit) Permitted area(s) in furtherance of the ordinance as reasonably necessary for public safety.
  - (1) The Chief of Police may set the starting time, duration, and space between groups; may prescribe the portions or areas of streets, sidewalks or other public places to be used, and may impose such other reasonable requirements as the Chief may prescribe for the control and free movement of pedestrian or vehicular traffic or for the health, safety, and property rights of the participants and the general public, to include the ability of first responders to be able to respond to emergencies.
  - (2) Where a Demonstration Permit applicant seeks a Demonstration Permit for a location subject to a City of Graham Recreation and Parks Department (GRPD) facility rental policy, which would interfere with the renters' exclusive use of the location, the Chief of Police, or designated representative, will attempt to facilitate a compromise. Should compromise not be reached, preference shall be given to the person or group first in time to rent the facility or submit a Demonstration Permit application.

- (i) The failure to obtain a Demonstration Permit where required by this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-180 – STANDARDS OF CONDUCT FOR DEMONSTRATION ACTIVITIES.**

All Demonstrating and Counter-Demonstrating activities within the City shall adhere to the following standards:

- (a) Demonstrating shall not impede the flow of vehicular traffic on the public ways or portions of the public ways used primarily for vehicular parking. This requirement does not apply to Demonstrations proceeding on the portion of the public ways used for vehicular traffic pursuant to a Road Closure Permit.
- (b) It is unlawful for any person to engage in Demonstrating before or about the residence or dwelling of any individual.
- (c) Demonstrators may carry handheld written or printed placards or signs not exceeding thirty-six (36) inches provided the words used would not tend to incite or produce imminent lawless or violent action when the words are likely to produce such action, or otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.
- (d) The Chief of Police or the Chief's designated agent(s) may in their discretion on an equitable basis allocate space and considerations for Counter-Demonstrators, to include requiring physical separation between Demonstrators and Counter-Demonstrators. The potential or expected presence of Counter-Demonstrators shall not constitute grounds for denial of a Permit application.
- (e) Demonstrations shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block: persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; a driveway serving any building or abutting property; a temporary encroachment pursuant to Article VII; or pedestrian or vehicular traffic.
- (f) No person observing, engaging in, or assisting in Demonstrating shall bring to or allow to remain in the immediate area of Demonstrating any vicious animal.
- (g) It is unlawful to apply graffiti or paint to, damage, threaten damage to, or deface public property as part of a Demonstration.
- (h) It is unlawful to apply graffiti or paint, damage, threaten damage to, or deface private property as part of a Demonstration, absent the express permission of the private property owner.
- (i) It is unlawful to interfere with the use or enjoyment of public spaces that have been lawfully reserved for purposes unrelated to the Demonstration activity.
- (j) It is unlawful as part of Demonstration activities to intentionally interfere with or address speech to a bridal, marriage, funeral, or other ceremonies or celebrations being conducted in a manner that

tends to incite or produce imminent lawless or violent action when the speech is likely to produce such action, or otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.

- (k) During any declared state of emergency by a governing authority due to a pandemic or epidemic, Demonstrators shall abide by all health and safety requirements applicable to social or other gatherings.
- (l) A violation of the requirements imposed by this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-181 – INTERFERENCE WITH DEMONSTRATIONS PROHIBITED; POLICE AUTHORITY TO DISPERSE CROWDS; FAILURE TO LEAVE WHEN ORDERED DECLARED OFFENSE.**

- (a) It shall be unlawful for any person to physically interfere with Demonstrations in the use of the streets, sidewalks, or other public places, or to address at a Demonstration or Demonstrator speech that tends to incite or produce imminent lawless or violent action when the speech is likely to produce such action, or to otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.
- (b) Whenever the free passage of any street or sidewalk in the City shall be unreasonably obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with Demonstrating, the persons composing such crowd shall disperse, move, or move on so the street or sidewalk is no longer obstructed when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse, move, or move on when so directed by a police officer as provided herein or by N.C.G.S. § 14-288.5.
- (c) A violation of this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-182 – PROHIBITION OF FIREARMS AND DANGEROUS WEAPONS.**

- (a) It shall be unlawful for any person to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed while participating in any Parade or any Demonstration.
- (b) It shall be unlawful for any person present at any Parade or Demonstration or any person upon any street, sidewalk, alley, or other public property within five hundred (500) feet of any Parade or Demonstration, to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed.
- (c) For purposes of this Article, the term “dangerous weapon” shall be defined as any device or substance designed or capable of being used to inflict serious injury to any person or property, including, but not limited to: firearms, air guns, BB guns, pellet guns, knives, swords, razors, or other sharp objects with a blade more than three (3) inches in length, metallic knuckles, clubs, blackjacks, nightsticks, dynamite cartridges, bombs, grenades, explosives, molotov cocktails, and sword canes.
- (d) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:
  - (1) Law enforcement officers and emergency personnel; and

(2) Officers and soldiers of the armed forces and national guard.

(e) A violation of this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-183 – STREET EVENTS AND CLOSURE OF CITY STREETS.**

(a) The term “Street Event” shall include all organized activity that utilizes or impedes City streets, parking lots, greenways, or public rights-of-way such that the planned closure of one or more streets, parking lots, greenways, or public rights-of-way to all vehicular traffic is requested or is reasonably necessary to assure the safety and convenience of participants and the public based on the time, location or route, and size of the Event. Street Events include, but are not limited to the following:

(1) Neighborhood Block Parties: Organized small-scale activity that closes a small, defined number of blocks on a local-service, residential street. These small-scale gatherings are initiated by and are intended to attract only residents who live on or in close proximity to the street being closed. They are not intended for the general public.

(2) Footraces or Bicycle Races: Organized activity involving running, biking, walking or other means of transportation, involving three or more participants and utilizing a fixed course that involves the use or obstruction of City rights-of-way, City sidewalks, and greenways.

(3) General Events: All organized activity, not constituting a Parade, that has an identifiable location and/or route exclusively or primarily taking place on the portion of one or more public streets, parking lots, greenways, or rights-of-way that is primarily used for vehicular traffic for a specific duration of time. Examples include festivals, performances, markets, parties, tournaments, rallies, Demonstrations, and other similar events.

(b) Applicants for Road Closure Permits are required to provide a certificate of insurance listing the City of Graham as “additionally insured” and show documentation of comprehensive general liability insurance of at least one million dollars (\$1,000,000).

(c) It shall be unlawful for any person to conduct or participate in any Street Event except in conformance with the provisions of this Section and unless a Road Closure Permit has been obtained from the City Council. A violation of this Section shall be punishable as a Class 3 misdemeanor.

(d) Applications for Road Closure Permits shall be made to the City Council on a form supplied by the Council no less than fourteen (14) days prior to the Event. It is encouraged, but not required, that applications for Road Closure Permits be submitted to the City Council on the prescribed form thirty (30) or more days prior to the Event. The applicant must submit the documentation described in (b) with the Road Closure Permit application. The Road Closure Permit application shall be deemed incomplete if the applicant fails to secure and submit documentation of the required insurance. The City Council shall review a properly completed Road Closure Permit application as soon as reasonably possible and, absent grounds to deny the application as specified in this subsection, issue the Road Closure Permit signed by a member of the City Council. Such Road Closure Permit shall be issued no later than four (4) days before the Event is scheduled to take place. The applicant shall be notified of the date and time at which the City Council will meet and review the application and be invited to attend the meeting to receive the City Council’s decision.

If the application is denied, the City Council shall inform the applicant of the reason(s) for such denial and allow the applicant to appeal the denial at that meeting. If the applicant does not attend the meeting and the application is denied, the City Council shall notify the applicant of the denial and the reason(s) therefor immediately following the conclusion of the meeting. The City Council may not consider the content of speech in determining whether to authorize the closure of any public street. A Road Closure Permit may be denied by the City Council based upon only the following criteria:

- (1) The application for a Road Closure Permit, including any attachments or required additional submissions or documentation, is not fully completed and executed;
- (2) The timing of the Event and whether Permit applications for Events have already been submitted for the same date, time, and location that do not reasonably permit the additional occupancy of the later-in-time applicant's desired Event if the earlier applicant's application is approved;
- (3) The location of the Event and whether closing the road(s) requested materially inhibits the flow of traffic and unreasonably threatens public safety based on traffic counts of the road(s) sought to be closed;
- (4) Whether the Event and activities would be in compliance with other applicable laws;
- (5) Whether the level of public resources required to support the Event has been or reasonably will be secured by the event organizer prior to the start of the Event based on the size, time, and location of the Event;
- (6) Whether the Event is sponsored or co-sponsored by a City Department; and
- (7) Whether the Event would be likely to unreasonably disrupt or interfere with the rights of owners and occupiers of property abutting those portions of the street sought to be closed or persons having a right of ingress and egress from abutting property to the portions of the street sought to be closed.

#### **Sec. 20-184 – SOUND MAGNIFICATION AND SOUND PERMITS**

- (a) Sound magnification devices on the public ways of this City shall not be used unless a permit has been obtained, except in a manner consistent with this section. Sound permits may be issued in connection with permits for a Parade, Demonstration, or Street Event
- (b) Except for permitted devices, it shall be unlawful for any Demonstration, Parade, or Street Event to use or operate on or over any street within the City any sound magnification device including, but not limited to, any radio, phonograph, speaker, mechanical loudspeaker, amplifier, siren, public address system, bullhorn, or other similar mechanical device to produce, amplify, intensify, or reproduce sound at a level of volume greater than sixty (60) dB(A) measured from a distance of fifty (50) or more feet from the location from which the sound is emanating when such sound tends to cause an unreasonable disturbance to the peace, health, safety, or welfare of people in the vicinity or the community.



- (c) Reasonable restrictions may be placed on the volume of loudspeakers or other mechanical sound-magnifying devices used pursuant to any permit. Such restrictions shall not be based on the content of the speech to be emitted by the sound magnification device.
- (d) Any such operation of a sound magnification device shall be unlawful unless such loudspeaker or other mechanical sound-magnifying device shall be equipped with a meter by which the power output can be registered and determined, so that the volume may be limited in accordance with the restrictions hereinbefore specified.
- (e) No such equipment or device shall be used or operated on the streets of the City during the period between sunset and 9:00 a.m. Further, no such equipment or device shall be operated to produce magnified sounds along that portion of any street within the block where there is located any school, institution of learning, house of worship, or court, while the same are in session, or where any hospital, funeral home, or undertaking establishment is located, or where a funeral is being conducted at any place.

A violation of this Section shall be punishable as a Class 3 misdemeanor.

### **PUBLIC HEARINGS:**

#### **ITEM 2: ANNEXATION – 18.132 ACRES – LONGDALE DRIVE – PHASE 1 - GRAHAM SPRINGS -AN2306**

A public hearing was scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 18.132 acres located off Longdale Drive.

Assistant City Manager Aaron Holland stated this petition was a request by the petitioner to have the corporate limits extended for property off Longdale Drive which contained approximately 18.132 acres. He stated the applicant wished to tie onto the City's infrastructure with water and sewer lines located in Phase One of the Graham Springs Subdivision. He stated annexation was required to make this possible. He stated new residential development generally created positive tax revenue for the City, and because the public services are being connected around this site, the cost to the City would be minimal.

The public hearing was opened and the following spoke:

Don Sever, Summit Design and Engineer for the project, stated this was a continuation of the subdivision and that Phase One was currently under construction. He stated this project would extend Woody Drive and Longdale Drive connecting them to Plateau and Camelot.

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

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 18.132 acres located off Longdale Drive, seconded by Council Member Chin. The motion passed unanimously.

**ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF GRAHAM, NORTH CAROLINA FOR AN 18.132-ACRE TRACT OF LAND  
LOCATED OFF LONGDALE DRIVE (AN2306)**

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

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

**WHEREAS**, the City Clerk has certified the sufficiency of the petition, and a public hearing on the questions of this annexation was held at City Hall, 201 S Main Street, Graham at 6:00 P.M. on October 10, 2023, after due notice by publication September 28, 2023; and

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

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

**Section 1.** By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of October 10, 2023:

**Legal Description GPIN#: 8894032541**

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

BEGINNING at a calculated point in the existing City of Graham corporate limits, said calculated point being in the southern right of way of east Interstate 40 and having NC grid coordinates n: 844,014.38', e: 1,890,583.88' and 83/11 as determined by an actual GPS survey (combined grid factor 0. 999957312); thence proceeding with the new City of Graham corporate limits along and with east Interstate 40 a curve to the right having a radius of 5707.96', arc length of 104.42', chord bearing & distance n 89° 44' 48" e 107.42' to a calculated point, thence continuing with the new City of Graham corporate limits along and with east interstate 40 s 89° 42' 48" e 1912.43' to an existing nail in post, said nail marking the northwestern corner of that property owned by the City of Graham (deed book 2016, page 952 Alamance County Registry), thence continuing with the new City of Graham corporate limits leaving the southern right of way of east Interstate 40 along and with the western line of the City of Graham property s 07° 27' 48" w 715.16' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Sammy w. & Deborah b. holt (deed book 3455, page 820 Alamance County Registry), thence continuing with the new City of Graham corporate limits along and with the northern line of Sammy w. & Deborah b. holt n 85° 49' 14" w 299.57' to an existing iron pipe, said iron pipe being in the eastern right of way of Camelot lane thence continuing with the new city of graham corporate limits along and with the eastern right of way of Camelot lane n 07° 37' 06" e 107.81' to an existing bolt, said bolt marking the southeastern corner of that property owned by Buelvas Marvelis & Julio Aguilar (deed book 3834, page 823 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with Buelvas Marvelis & Julio Aguilar the following two (2) calls, 1) n 07° 37' 49" e 200.44' to a calculated point in a hickory tree, 2) n 86° 04' 21" w 120.46' to an iron pipe, said iron pipe marking the northeastern corner of that property owned by Christopher & Jenifer Wolfe (deed book 2672, page 602

Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Christopher & Jenifer Wolfe n 86° 02' 05" w 107.03' to an iron pipe, said iron pipe marking the northeastern corner of that property owned by Shirley P. Williams (deed book 3127, page 59 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Shirley P. Williams n 86° 08' 50" w 106.96' to an existing iron rod, said iron rod marking the northeastern corner of a property owned by Steven M. & Rhonda R. Sykes (deed book 3765, page 773 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Steven M. & Rhonda R. Sykes n 86° 08' 55" w 160.01' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Kendall H. & Erica L. Gales (deed book 3838, page 522 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Kendall H. & Erica L. Gales n 86° 04' 55" w 160.11' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Douglas E. & Carol Wilson (deed book 450, page 53 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Douglas E. & Carol Wilson n 86° 04' 27" w 106.44' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by L & MV Properties LLC. (deed book 4229, page 231 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of L & MV Properties LLC. the following three (3) calls, 1) n 86° 02' 13" w 93.53' to a existing iron pipe, 2) n 86° 21' 48" w 324.89' to an existing iron pipe, 3) n 86° 21' 48" w 199.86' to an existing iron pipe, said iron pipe marking the northeastern corner of property owned by L & MV Properties LLC. (deed book 3957, page 743 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of L & MV Properties LLC. the following two (2) calls, 1) n 86° 44' 45" w 27.83' to a existing iron pipe, 2) s 82° 35' 47" w 309.28' to an existing iron pipe, said iron pipe being in the existing City of Graham corporate limits marking the northwestern corner of L & MV Properties LLC., thence continuing with the existing City of Graham corporate limits leaving the northern line of L & MV Properties LLC. the following two (2) calls, 1) n 02° 15' 54" e 188.58' to a calculated point, 2) n 12° 55' 28" e 153.00 back to the point and place of beginning, containing 18.132 acres or 0.0283 square miles more or less. as shown on plat entitled "final plat of: City of Graham contiguous annexation map", by Thomas A. Tellup, PLS, Summit Design and Engineering Services project 20-0235, to which plat reference is hereby made for a more particular description of same.

**Adopted this, the 10 day of October 2023.**

### **ITEM 3: SPECIAL USE PERMIT AMENDMENT– 0 LITTLE CREEK DRIVE AND 0 BROADWAY DRIVE**

A public hearing had been scheduled to consider a Special Use Permit amendment for a previously approved townhouse development located at 0 Little Creek Drive and 0 Broadway Drive.

**Due to this item being a quasi-judicial hearing, the following minutes will reflect all statements and conversations verbatim.**

**Assistant City Manager Holland:** As you just said this is a previously approved Special Use Permit that the applicant is coming before Council to have an amendment done to the already approved Special Use Permit. The amendment is to remove the Hansen Lane Street connection. The street connection removal will also shift the location of the townhomes themselves and reduce the number of townhome units from 70 to 68. That part of the change did not require City Council approval, it was actually handled by the Staff administratively. The request is specifically for the removal of Hansen Lane. This is a special use

request even though it was an amendment so it does have to go through the quasi-judicial process. I will turn it over to our attorney. The Planning Board did hear this at their prior meeting and moved that all the application criteria were met and could proceed to Council for consideration. I'll turn it over to Bryan,

**City Attorney Bryan Coleman:** All right, thank you, Aaron. I'm just going to read a statement regarding quasi-judicial. This hearing is a quasi-judicial evidentiary hearing. That means it's 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 and other legislative matters. The Council's discretion is limited. The Council must base its decision upon competent material and substantial evidence in the record. It is the decision that must be based on the standards and 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 withstanding, 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. General witness testimony is limited to facts. No opinions. For certain topics, this Council needs to hear opinions and testimony from expert witnesses. These topics include predictions about impacts on property values and predictions about impacts on increased traffic. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinions. Note in any miscible evidence is deemed to be objected to. Any documentary evidence that is certified or from a recognized professional source with authentication will be admitted. Witnesses must swear or affirm their testimony. So, at this time, the City Clerk can administer the oath for individuals who intend to provide testimony.

**Mayor Talley:** So, I just want to say what the lawyer just said was and he did a great job. Thank you, Brian, we appreciate you so much. But, this is a public hearing and we don't want to discourage anyone who has come here to speak tonight on this subject matter. We don't want to discourage you in any way to speak. we want to hear from you, but we just have to make you understand that it's, this is, this being a quasi-judicial hearing, things have to be, our decisions have to be based on factual evidence. So, you coming up and saying. well, I don't like this. It's not something a reason that we can deny. Or if you say you like something, it's not a reason that we can approve of a particular request. So, we have kind of a little brochure that we give out to people that are coming to quasi-judicial special use hearings and there's six things that you have to consider and so informing your argument tonight, just take these six items into consideration that all applicable regulations of the zoning district in which the use is proposed are complied with. These are only six things that this Council can consider. So, when you are forming your argument, make sure that you're addressing these six. Conditions specific to each use identified by the Development Ordinance or complied with. So, we have a development ordinance, which is the 2035 plan and basically, there's a lot of information in that plan that, you know, is the use of the property harmonious with the neighborhood. There's a whole list of things that you can go through. I can't enumerate all of them, but there's a lot of information in there that you can base an argument on. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. The use will not substantially injure the value of adjoining property, and the use is of public necessity. Five, the location and character of the use if developed according to the plan as submitted, will be in harmony in the area in which it will be located, and in general conformity with the plan of development for the Grand planning area. Six satisfactory provision has been made for the foregoing which applicable vehicle circulation, parking, loading, service entrances, utilities, screening signs, lighting and open space. So, you can base arguments on traffic whether this particular use will be harmonious in the neighborhood as it exists right now and so, just want you to be aware, it's just like when you go to court and you present evidence in front of a judge, there's we act as a judge today in this, in this particular manner. And so, we just need you to frame your comments in that in that way. So, this being a public

hearing, anyone?

**City Attorney Coleman:** Madam Mayor, may I add one more thing?

**Mayor Talley:** Yes.

**City Attorney Coleman:** So, if we have people who want to testify, who aren't witnesses of the parties, which the parties would be the petitioner and the City of Graham. You know, before they can testify the Council is going to have to determine whether they have standing or not. And they have to show special damages, and you all have to make a formal decision as to whether they have standing. So, if it's just general comment. You know, we don't want to, we'd like for them to make that comment, but it might be better if they waited till items not on tonight's agenda. But if they do want to go ahead and talk, you guys will determine where they have standing in or are party to the transaction,

**Mayor Talley:** Okay. So, this is a public hearing for those witnesses who have taken, who would like to make a comment on this particular issue. Please come forward so that the clerk can administer the oath.

**City Clerk Renee Ward:** So, these will be expert witnesses. Okay, if you would raise your right hand. Do you swear or affirm that the testimony you're about to give today is the truth, the whole truth, and nothing but the truth? Say I do. (*All stated I do.*) Okay, I'll need each of you to sign this. You can do it as you speak if you like.

**Mayor Talley:** Okay, is it limited to three minutes?

**Assistant City Manager Holland:** You cannot limit speakers in a quasi-judicial hearing.

**Mayor Talley:** All right. Are you ready to present?

**Attorney Amanda Hodiernne:** Yes, ma'am Madam Mayor. Thank you. Amanda Hodiernne my address is at 804 Green Valley Road, Suite 200, Greensboro. Can y'all hear me okay? I'm afraid to touch this thing, I don't want it to fall. Thank you. I appreciate y'all's time tonight and thank you, Madam Clerk, Mr. City Manager, and Mr. Attorney for your detailed instructions for the nature of this proceeding. It is certainly not the average type of hearing that we conduct, so I appreciate that. I'm here tonight on behalf of the property owner and the applicant who is the party to this case in that format as property owner and applicant, and that's Windsor Investments LLC. I have with me tonight Mr. David Michaels, representing that group and we're here tonight to ask for a very limited, finite amendment to a previously existing approved special use permit. As you have seen in your staff report, as you'll hear more about tonight, this is a very surgical revision to remove a previously approved connection point in our roadway network. If you'll look. Actually, let's go ahead and do this. May I approach? I'm going to hand out some exhibits. This will help while I'm speaking that way we don't have to wonder. So, if you'll look at Exhibits D&E. Exhibit D is the previously approved site plan associated with this permit. Exhibit E is the TRC pending phase two site plan and that's what's led us here today as we'll hear more about it in a moment. So, as you can see, and you've seen this in your staff report, you see it, this is the 2021 plan before you. But the nature of this request is simply this and only this. We are asking to remove the roadway connection of Hanson Lane. As you heard from Mr. Holland, that is a request that has resulted from the TRC review process of phase two of this currently approved subdivision. Nothing else is before us this evening, so I want to remind you that this type of amendment request is not uncommon. This happens because when we tie entitlement parts of the process to site planning, you know it's different from planning on paper to once we're out in the field with field-collected data and we're actually engineering and moving dirt. So, this is probably



something you've seen and done before, be it in the form of conditional zoning plans or in the form of this more formal special use permit, but that's the nature of development that's tied to pre-engineered approvals. This amendment request does not impact in any way, does not modify, and does not void the validity and the effect of the existing approved special use permit. So, the nature of this analysis tonight is limited to the revision before you. It does not impact or negate any of the previous findings of fact from our 2021 approved special use permit. I want to remind us it's just the townhome aspect of this development that required the special use permit. So that's the only aspect of this subdivision that we'll be talking about tonight and it is allowed in the zoning district here. The zoning district is not in question. The use is not in question. This development for townhomes is already permitted here. Again, the only question is whether or not the specific request to remove this, the Hanson Lane connection meets your findings of fact under the special use permit. As you've heard from your attorney. Unlike the legislative zoning process, this is a quasi-judicial hearing governed by a six-part test you heard about that from the mayor and we'll hear about it a lot tonight. If we as the applicant put forth sufficient evidence which is competent and material for each of these six parts, then the permit must be issued.

I want to pause now and go ahead and introduce our team of experts and get those qualified as experts so that when they come up and offer their credentials and testimony, we'll go ahead and have that done. So, we have tonight, Mr. Gene Mustin. He's with Borum, Wade Engineers. He did our civil design work, all of our engineering work has been a key component of the TRC review process that's previously transpired up until now to get us here tonight and we have Gene who you'll hear from. We have Miss Lisa Lundeen. She's with Exult Engineering. She's our traffic engineer. I want to note that Miss Lundeen was also the traffic engineer back in 2021 that you heard from. So, she's well advised of this of this property, this project, and has been a part of it through its entire art and you'll be hearing from her tonight. And we have Mr. Glenn Patterson of Patterson. Appraisals. He's here to speak to one of the findings of fact. He was also a part of our team back in 2021. So, again, we're pleased to have and actually Gene Mustin, and I'll note, his partner was involved back in 2021. So same engineering firm. So, we've got the exact same players involved, continuity and we all have been well apprised of the situation from 2021 until now.

Another bit of housekeeping I want to go ahead and incorporate into the record all of Staffs comments that Mister Holland gave leading up to this and also the staff report that's in your packet. It's been in the agenda packet. Tonight, as you have read and, in your review, of course, that staff report does echo what I've said tonight in the limited scope of this inquiry, before you limited to the removal of the Hanson Lane connection point, and it does offer findings to each of those, to each of those elements of the six-part test that we've talked about. And then of course, importantly, it does recommend approval. And this is a key component that staff has been through its exhaustive process even more so in this case, because this is an amendment because we've already been through TRC in phase one. This has been looked at a great deal much more so than when we were here back in 2021 and staff is recommending approval. And in fact, played a large role in in getting us here to this point where we asked for this revision. With that, I'd like to go ahead and ask Gene Mustin to come up and speak. I mentioned he's our design engineer. He was involved in our TRC process and before we get into the six-part test, I'd like to offer into the record as evidence an accounting of the TRC review that led to us asking for the removal of this connection point. Mr. Mustin.

**Gene Mustin:** I'm Gene Muston, Borum, Wade Associate Engineers in Greensboro, 621 Eugene Court, Greensboro North. As Amanda mentioned, this project started back in 2021 with my partner, who retired. So, I think he's playing golf and taking care of grandbabies and so I'm here. But we have followed through on this project for Windsor Investment. We do a lot of work for them and the original plan was to connect Hanson Drive or Hanson Lane through. And after we did our designs with field survey data, the designs that we had for the roadway connection that would have run to Little Creek Drive, it was determined that

that particular connection with about 30 feet of fall in there, was just too much to handle for the road grades. That would be the final road grades that would be there. So, we went through a formal TRC process with the City Staff. Most of our reviews when it comes to these types of things are done with Josh (Johnson) and after he reviewed that with our own staff engineer, they made a determination that would probably be better from an engineering standpoint, for safety and engineering guidelines, that it would probably be best to not connect that together. That approval was a discussion with the City Staff and we didn't take the conclusion lightly to just remove the road, but it was based on the determination that the road grade would be too steep to come down there to meet engineering typical standards. And so today we ask for that elimination of that road connection and that would be the only thing I think that we're asking for tonight, the other couple changes are staff level. So that's where we're at tonight and I'll be welcomed to, welcome to ask me any questions, and I will try to respond to you.

**Attorney Hodierna:** I've got a couple of quick questions. When you say Josh, you mean Josh Johnson, member of the TRC panel?

**Gene Mustin:** Josh Johnson. Yes, yes.

**Attorney Hodierna:** And then is it your understanding that pending tonight's hearing, TRC will issue approval of phase two?

**Gene Mustin:** That is my understanding that we have satisfied the rest of the requirements that TRC is issued to us and this would be the last outstanding item, and then at that point in time we could then begin our permitting process. Josh, correct me if I'm wrong. (Josh Johnson nodded yes.) Well, I think that's about it. Thank you. Any questions?

**Mayor Talley:** Picture of the 30-foot fall?

**Gene Mustin:** Do I have a picture of it? I did bring an engineering picture of it. I did. So, this is, yeah, this is a picture of. (Mr. Mustin making marks on the map) So this is the end of Hanson land now and this would be the connection. There is elevation of that. I'm going to write them down actually, so we can read them.

**Attorney Hodierna:** For the record, this will be Exhibit F it's a cross-section of the road topography showing the elevation change.

**Gene Mustin:** So, this is. And I actually probably misspoke. It's probably more about 22 feet, I'm sorry, 22 feet in our road grade coming in would be about 10% plus or minus.

**Mayor Talley:** So, is that grade all the way the entire back part of those townhomes that you have proposed there?

**Gene Mustin:** I didn't follow your question asked.

**Mayor Talley:** Does that does that grade run the width of those townhomes? Or is it just where that road connects?

**Gene Mustin:** Just where the road connects. The rest of the road is designed to meet public standards for your City. That would be the long Little Creek Drive. Hanson is the only one that we had to adjust and remove it was so steep. About 10% coming into an intersection, which is very steep.

**Mayor Talley:** So why? Why would a road have been proposed there, to begin with?

**Gene Mustin:** So, the road connection from Hanson, Hanson Drive was intended to be extended obviously from the way it was constructed in the past, and so when we had the preliminary plan developed Little Creek Drive was stubbed as a road that needed to be connected. Hanson was stubbed as a road that needed to be connected and on the other end, the name of that road is Palmer needed to be connected to. So, we made an effort to try to connect all three together.

**Attorney Hodierno:** And if I could just clarify, Madam Mayor, those were existing stub outs as part of that previous development adjacent to this. So, as you all know, as you sit here, I'm looking at developments we we're always required to stub out to adjacent undeveloped property. So that when that property does develop, connectivity is possible. However, it happens sometimes that that's not possible. Once the engineering is done those stub outs are not able to be achieved.

**Gene Mustin:** That's about this succinct situation. The Hanson Drive elevation and the Little Creek Dr. elevation that's stubbed into the property. We gave a valiant effort to try to connect them through as would be appropriate to do that, but it's just not a safe condition to do it.

**Mayor Talley:** Visual of this? Do you have a visual of it?

**Attorney Hodierno:** The visual is the exhibit. And if I may, it might be helpful here to proceed with the testimony. We have some other witnesses here that can help probably provide some context and detail that you're looking for. And then we can come back to these questions if you still feel like you want to look at the exhibit further.

**Mayor Talley:** Pull up Hanson that Hanson stub out.

**Attorney Hodierno:** It's heavily vegetated at its terminus right now.

**Mayor Talley:** OK, while he's pulling that up you can proceed.

**Attorney Hodierno:** OK, great. Thank you. At this time, I'd like to ask if Josh Johnson, please, who was previously mentioned could? Join us. Do you give your name and address please for the record?

**Josh Johnson:** Josh Johnson, Carmen King, 740 Chapel Hill Rd. Burlington, NC, I'm the contracted City engineer for the City of Graham.

**Attorney Hodierno:** Thank you and can you describe for us what that role entails as it relates to this TRC process that we've talked about tonight?

**Josh Johnson:** As part of TRC I am the engineering representative on TRC, so I'm the primary reviewer for street-grade stormwater, water and sewer in coordination with the department heads, including Burke Robertson as Public Works Director who has designation as reviewing stormwater storm drainage and streets.

**Attorney Hodierno:** Thank you. So, it's your, is it accurate to say your regular role on TRC is to be in this committee and confer with the development community, bringing forth proposals to ensure that they're meeting the City's Code Standards, Ordinance requirements, and regulations for those items that

you just mentioned?

**Josh Johnson:** Yes, ma'am and in consideration with City Ordinances as well as good engineering practices at the same time.

**Attorney Hodierna:** Thank you and did you participate in the TRC review process for this phase two development plan that we're looking at tonight?

**Josh Johnson:** Yes Mam.

**Attorney Hodierna:** Could you tell us about that review process that led to these discussions about the topographical connection at Hansen Lane?

**Josh Johnson:** Yes. So, when we're reviewing it, one of Gene's junior engineers, I think, Kenny's quite older than I am, so it's worthwhile. One of Gene's associate engineers sent us after our first round of comments. I think he sent us some information when he's trying to do the design where he was trying to figure out how to work the grade in order to make it work between Little Creek and Hanson. At that point the distance and difference in elevation between those two is like 31 feet between the elevation at the end of Little Creek and the elevation at the centerline on Hanson. In order to do that, he was going to have to put in without the appropriate vertical curves he was going to have to put in grades and excessive of 10% on Hanson and about 6 1/2 percent on Little Creek. Dr. We would prefer that all of our street grades stay less than 8%. That's for numerous reasons. But in this case, he was asking to use a reduced vertical curve in order to get it to 10%. The issues we have when we use reduced vertical curves or when we have excessive street grades or that we get concerned about pavement slippage, we get concerned about stopping site distance. We get concerned about quite a few different State vegetation stabilization, and maintenance concerns. Burke can talk a little bit about that, I'm assuming you're calling him, okay. And so, we reviewed it. We were concerned about all of those things we're concerned about or on the other side of it, we recognize the fact that it's still the subject, this portion of the he subdivision still has connectivity on two sides, both the Palmer and back to Little Creek. And looking at it we felt like it was in the City's best interest to eliminate that. We also wouldn't have the hills and we would not have the one unit or the one set of units sitting on the side of the hill, and so we recommended that back to Kenny, who was the design engineer and we recommended that they explore that option.

**Attorney Hodierna:** Thank you. I'm showing the witness Exhibits D now in your packet, Mr. Johnson, do you recognize this?

**Josh Johnson:** I think I wrote it.

**Attorney Hodierna:** Can you tell the Council what it is, please?

**Josh Johnson:** Yes, that's an e-mail from me to Kenny Marlow with Borum, Wade and copying Burke Robertson, Gene Mustin and David Michaels that we had discussed it and that we were in favor of removing the Hanson Street extension and connection that would eliminate units on a 3333, but that we felt like less of our concern, but in a concern of the applicant which we knew it would be, that he would lose four units, but that he wouldn't have to build as a financial benefit, he would not have to build the road. That we would want a road ends barricade so that we didn't have anybody drive off the end of the road and go down the already, what did you say, another 20 something? The extensive grade going off the end of Hanson Lane at that time.

**Attorney Hoderne:** So, this e-mail is you documenting the process that you just described to the Council about your analysis, your consultation with your colleague and then communicating that to the applicant?

**Josh Johnson:** Yes, and it is the previous emails are the back-and-forth discussion between Kenny and I prior to reviewing it with Burke.

**Attorney Hoderne:** Is there anything else you'd like to add at this time?

**Josh Johnson:** Not that I can think of.

**Attorney Hoderne:** I do have one other question for you. Is it your understanding from your TRC process that this is the last outstanding matter for TRC to approve this phase two cycling?

**Josh Johnson:** Uh, I think it's the last outstanding item, assuming that Kenny moved the dumpster.

**Attorney Hoderne:** That's at the staff level for approval.

**Josh Johnson:** That's correct.

**Attorney Hoderne:** I'd like to call Mr. Burke Robertson, please. You're excused for now, thank you. Can you give us your name and address for the record please?

**Burke Robertson:** I'm Burke Robertson, Public Works Director and I spend most of my time at 105 W Parker St. Graham, NC. 27253.

**Attorney Hoderne:** And can you tell us about your role specifically as it relates to your position on the TRC?

**Burke Robertson:** As a public works director, I review site plans a lot of the same things that Josh reviews, more eyes are better than one, and I also look for sanitation issues, and service issues through (inaudible) zone.

**Attorney Hoderne:** And for the record, TRC is the Technical Review Committee. And did you participate in the TRC process for phase two of the subdivision that we're discussing tonight?

**Burke Robertson:** Yes, ma'am.

**Attorney Hoderne:** Thank you and do you recall the conversations that the previous two witnesses talked about when it was discussed how to handle this difficult elevation change?

**Burke Robertson:** Yes, ma'am. It was. My recommendation was to remove it.

**Attorney Hoderne:** OK, so you're telling to the Council that in these discussions your recommendation was to remove it as well?

**Burke Robertson:** Yes, grades too steep causes too many long-term maintenance issues plus safety issues.

**Attorney Hoderne:** Could you tell the Council a little bit more about this safety and maintenance issue, please?

**Burke Robertson:** Your safety issues, wet pavement, traction, whatever. You're coming down a hill, you got to stop. You can slide and have wrecks at intersections, and trash trucks, especially on wet roads, don't stop really well in winter time. The only nice thing it has is South facing, but it still would have freezing issues that would make it a hazard spot. Due to the grades, no matter how carefully you try to transition it, you wind up at the bottom of the hill.

**Attorney Hoderne:** Do you recognize the email, Exhibit C, that we previously discussed?

**Burke Robertson:** Yes,

**Attorney Hoderne:** Is this an accurate representation of your discussion with Mr. Johnson?

**Burke Robertson:** Yes.

**Attorney Hoderne:** Is there anything else you'd like to tell the Council about you and your colleagues' analysis of this request?

**Burke Robertson:** No.

**Attorney Hoderne:** Have you seen this type of issue before where a stub out or a connection point that maybe would have been nice or that was pre-concentrated by staff was not able to be achieved?

**Burke Robertson:** I've seen some that I wish weren't.

**Attorney Hoderne:** Okay, but none that weren't able to be done.

**Burke Robertson:** They were done before I came here.

**Attorney Hoderne:** Done before you came, okay. Thank you. At this time, I'd like to go ahead and also officially recognize for the record Exhibits A & B. Exhibit A is the staff report from the 2021 special use permit approval that I've referenced tonight. Exhibit B are the minutes from the City Council meeting on May 11, 2021, and that special use permit was previously approved. I've talked tonight about how we have a very narrow inquiry before us. We're only talking about the removal of this connection point, so therefore, I'm going to reference the existing standing valid and very much in effect, aspects of the 2021 approval. So, to the extent that we talk about that item as a historical fact. To offer exhibits A&B into the record. At this point, I'd like to go ahead and talk about the components of the test and speak to those in specificity. So, starting with Element #1, all applicable regulations of the zoning district in which the use is proposed are complied with. So, this is a technical inquiry, it's focused on the zoning district specifically. It's looking at the standards of that zoning district based on the use, things like unit count, lot dimension, lot coverage, and setbacks as such. This is an element of the test that's completely undisturbed by tonight's inquiry. The relocation of our rather the removal of this connection point does not disturb the analysis, the findings of fact and the approval that was found to be that was determined back in 2021. With that said, I will note that your TRC process, that we've already talked about a lot tonight, the one that occurred this year in 2023, for phase two. It does of course, look at those items to ensure that nothing has changed, to ensure that the loss of two units you've heard that staff at its own level, can approve the loss of these units that resulted from this road change. All of that has been reviewed through TRC and the dimension setbacks and lot coverage, all of that is still intact and in compliance with your ordinance. So, I offer as evidence tonight to this point, the staff report for 2023 that Mr. Holland mentioned that's in your packet for tonight's agenda and the testimony and the staff recommendation for approval from your own City

employees and contractors who reviewed element. The TRC review is conclusive evidence of the applicant's compliance with Element #1 of the test.

Element #2, conditions specific to each use identified by the Development Ordinance are complied with. Again, this is another technical and technical inquiry of your test. This time it focuses on any ordinance requirements that stem from the use itself, rather than from the zoning district. So now we're looking specifically at the townhome use. Again, this aspect of the test is completely undisturbed, unaltered, unimpacted by tonight's narrow inquiry. So, I reference Exhibits A & B and the previous existing approval for the special use permit. The townhome uses and its compliance was determined in 2021. It's been reiterated and re-established by the 2023 review and the TRC pending approval and the staff report reflecting that recommendation for approval that's before you tonight.

Element #3, the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. Now we are going to get into some specific new evidence tonight about this because we are of course requesting a plan change. But before we do that, I do want to note that the removal of the road connection, of course, is specific to that site plan. That site plan revision and we're going to talk about that, but I also want to reenter for the record the testimony from the previous two test elements that I just went over. It's relevant here and is a bit redundant, but it's relevant to this element as well because the whole reason that the ordinance exists is to ensure this exact element right here, we're trying to protect the public health and safety. We're trying to ensure that all of your rules and regulations work as they're supposed to. So, the fact that we've met test one and two is materially evident. And just as important here, when we look at Test #3. It's imperative that we applaud the compliance with the zoning laws and the use laws to this prong of the test. So, I just want to mention that. At this point I'd like to call our traffic engineer expert, Ms. Lisa Lundeen, to discuss the exact implications and findings from her expert opinion on the removal of this connection point.

**Mayor Talley:** Can you show me the other two or maybe Aaron, if you could do that with the other two you talked about?

**Attorney Hodiern:** Okay, I think you've got a cursor here. So if you look to the left-hand side of the yellow circle, that's highlighting where we removed the connection, keep going to the left, you see that's Little Creek and yep, he's showing you that that horizontal connection that goes left to right on your screen, that's where the neighborhood is tying into the existing Little Creek stub that was left there and contemplated to serve this open parcel. Then, if we move over to the other side. This is Palmer Drive and again you see the bold area that he's highlighting there, that's the new part of the road that gets connected up to the north or the top of the screen where the existing Palmer Drive stubs into this neighborhood. So, those are the two connection points previously contemplated that are still the plan and will still be connected to provide access.

**Ms. Lisa Lundeen:** Hi, good evening. My name is Lisa Lundeen and I'm a traffic engineer with Exult Engineering. Our offices are located at 304 F West Millbrook Road in Raleigh.

**Attorney Hodiern:** I'll let you go ahead and just provide your testimony and I'll ask any questions if I need to.

**Lisa Lundeen:** Okay. Exalt Engineering previously prepared a detailed traffic assessment to study the traffic conditions of the roadway network surrounding the proposed site. The purpose of that traffic assessment was to analyze the potential traffic impacts of the development and to identify any roadway improvements necessary to accommodate the site traffic. By comparing the condition and the future of

the development that was not built to a condition in the future, as if the development is built, we were able to determine any necessary roadway improvements for this development. In our analysis, it showed that there was available capacity at the intersection of Rogers Road and Wildwood Lane. The analysis also showed that the existing neighborhood roadway network was expected to . . .

**Mayor Talley:** Say that again. What was that first sentence?

**Lisa Lundeen:** About the analysis results? The analysis showed that there is available capacity at the intersection of Rogers Road and Wildwood Lane. It also showed that the existing neighborhood roadway network is expected to not only accommodate the background growth in our study area, but also accommodate the addition of site trips anticipated with the development. Then, since completion of our traffic assessment, there has been a modification to the site plan to remove the Hansen Lane extension that we're speaking about tonight. That site plan modification does not change the analysis presented in the previously submitted and approved traffic assessment. The change just removes the more indirect route to Wildwood Lane. And this change will not have any adverse impact compared to what has already been studied and approved. There will still be available capacity at the main intersection of Rogers Road and Wildwood Lane and the existing neighborhood roadway network is still expected to accommodate the development site trips.

**Attorney Hodiern:** Thank you, Ms. Lundeen. So, is it an accurate summary to say that your analysis suggests that the two remaining connection points at Little Creek Drive and Palmer Drive are adequate and have sufficient capacity to serve this neighborhood?

**Lisa Lundeen:** Yes.

**Attorney Hodiern:** And you mentioned that the Hansen Lane proposed removed connection point, you called it the indirect route.

**Lisa Lundeen:** Yes.

**Attorney Hodiern:** Could you elaborate on that, please?

**Lisa Lundeen:** Sure, it is out of the three connection points that were the most indirect road to get in and out of the neighborhood.

**Attorney Hodiern:** Does that mean that your analysis would show it to be the perhaps least used, just based on its efficiency of how to get into the neighborhood? Is that what that means?

**Lisa Lundeen:** Yes.

**Attorney Hodiern:** Alright, thank you.

**Mayor Talley:** Can we ask questions?

**Attorney Hodiern:** Yes, however, you want to do it.

**Mayor Talley:** How long of a study did you do? How many days?

**Lisa Lundeen:** How many? Traffic that we collected?



**Mayor Talley:** Yes.

**Lisa Lundeen:** It was over one day.

**Mayor Talley:** One day, what day of the week was it?

**Lisa Lundeen:** I believe it's on a Tuesday.

**Mayor Talley:** How many vehicles did you record on a Tuesday?

**Lisa Lundeen:** I would need to look up that number.

**Mayor Talley:** Do you have a specific time?

**Lisa Lundeen:** We collected traffic during the peak hours, which should be 7:00 am to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. I do have the numbers for Rogers Road. We looked at 125 vehicles on the southbound approach of Rogers Road in the a.m. peak hour and 383 for the northbound approach in the a.m. peak hour.

**Mayor Talley:** So, is that a combined total of those two numbers for that morning?

**Lisa Lundeen:** Yes, for the morning on Rogers Road. Then in the p.m. we collected 211 southbound vehicles on Rogers Road.

**Mayor Talley:** 211?

**Lisa Lundeen:** 211 yes, and 136 on northbound Rogers Road.

**Mayor Talley:** So, almost 1000 cars. Is that right?

**Lisa Lundeen:** Correct.

**Attorney Hoderne:** Of course, as distributed but directionally.

**Mayor Talley:** But, that's only that's only four hours out of the whole day.

**Lisa Lundeen:** Peak hours, yes mam.

**Mayor Talley:** So, it's more than that obviously, more cars than just 1000.

**Lisa Lundeen:** Yes, we do study the peak hours in our analysis as approved by DOT and the City of Graham. We don't study the traffic all day. We only study the worst periods of the day. To quantify our recommended approval.

**Mayor Talley:** You don't do like weekends or anything like that.

**Lisa Lundeen:** We do not, not for a residential development.

**Mayor Talley:** Okay, and do you have an estimate of what the new development, how many cars that would add?

**Lisa Lundeen:** I do, yes. The new development is proposed to add 123 a.m. peak hour trips and 163 p.m. peak hour trips.

**Mayor Talley:** 163, how do come up with that?

**Lisa Lundeen:** Those numbers are generated from the Institute of Transportation Engineers. Trip Generation Manual, which is the national manual used by all traffic engineers.

**Attorney Hodiernne:** It's based on land use type and the intensity of that land use.

**Council Member Parsons:** I'm confused, how would more people come home than left? There's 123 in the morning and 116 in the evening.

**Lisa Lundeen:** It's just different times of the day they could be coming home. It's different times of the day. It could be, depending on their, you know, their work schedules, if they're coming home at not the peak hour or leaving not during the typical a.m. peak hour.

**Mayor Talley:** But you've got 70, well, 68 units now under the proposal, and how many bedrooms are in each unit?

**Attorney Hodiernne:** Of the townhomes, which is the only thing under inquiry tonight, there are three bedrooms.

**Mayor Talley:** I mean, there's no way, that can't possibly be correct.

**Attorney Hodiernne:** Well, and again I would respectfully remind us that the inquiry tonight is not to re-examine the validity of a finding that we already know is approved and has already met this test, it's to establish whether or not removing this one connection point changes the functionality and the integrity of those results. So, that's why we've re-engaged Ms. Lundeen at this time to say, hey, does this change what you came up with? Is that going to overburden those other two connection points? Based on the data that we know already worked before. So, that's the relevancy of how we need to look at this amendment in context. So, that's what that's the scope of what I believe the relevant, what I would suggest to you, the relevant inquiry.

**Mayor Talley:** But the only relevancy here under consideration is traffic, is the road use, is the exits out of the development.

**Attorney Hodiernne:** I'm not sure how that's the only relevant question, road use.

**Mayor Talley:** Well, we can't consider any of the other conditions.

**Attorney Hodiernne:** Oh, I see what you mean. Right, so, I think the question before you is, does the removal of this connection point change the ability of the road network to be able to adequately serve this? So here we have a qualified expert who looked at that exact question, who looked at those numbers, who looked at the capacity, the carrying capacity of the other remaining connection points, looked at that distribution to decide whether or not it's still functional. And we have to remember, this is going back

again to the historical context, and I point you to the minutes Exhibit B. We talked about this a lot in 2021 and I'm sure you remember, we have to remember that this piece of property was always predetermined and pre-contemplated by things that happened before all of us that these three access points were the only way it was ever going to get served. So that dye has been cast. We know that this is how this property was going to get accessed. So now we're at the point where we know more. We have more field data. We've been, we know that those connection points, you heard all the technical testimony from your own experts and your own staff and contractors that one of those connection points was not feasible based on compliance with City typical standards, policies, its own objectives and requirements for maintenance and safety, and the ability to meet all the engineering variables that have to come together when hen road intersections meet. So, with that being the case, we asked our traffic expert, does this still work? Do these two remaining connection points that were pre-established that we have to deal with, that we were all left to deal with, that's what serves this property, they're public roads, that's how we get in and out here. Is that going to work? And your expert opinion is?

**Lisa Lundeen:** Yes, it will not impact traffic negatively.

**Mayor Talley:** Yeah, that was all my questions.

**Attorney Hodiern:** Okay, thank you and we can certainly come back to this once we get into discussion, if we need to. I would also like to call Gene Mustin back. And while he's coming up here, I'd like Gene to just discuss the rest of the civil design issues that resulted and flowed from once we realized we needed to remove this once that March e-mail decision was made from the conference with the TRC panel. This connection point needed to be removed. I'd like Gene to talk about what results or impact if any of that had on remaining design issues and your ability to still have compliance with the rest of the code regulations.

**Gene Mustin:** Yes, so, the plans that we provide are all designed together. We do grading plans, utility plans, erosion control plans, stormwater management plans, and roadway network plans and we do a lot of things that go into submitting a set of documents to the TRC for their review. They review them with the state ordinances, codes, and statutes that are applicable and also the local codes and statutes that are applicable. And we look at a lot of different things, obviously, things on the table tonight are not things like utility service or whatever because that's not what we're talking about but we are talking about the number of units that are there and the traffic and the roadway connection. And so, there are State Statutes that provide us guidance on what we're allowed to do in order to keep the functionality of a subdivision intact. Given the State Statutes that are available for us to use and the review with the staff is that we still have vehicular circulation that will allow for cars to come in and out, at least at more than one point, we have two. We can meet the code of ordinances that are established for all of our general design criteria that we can submit for our plans to be reviewed. As far as permits go, you know we have not gone through any permitting yet because we are waiting for TRC to be complete, which cannot be complete until we go through this particular issue. But from all indications from staff, they would recommend that we continue with our permitting which goes local and state in order to proceed. We are still waiting on TRC. The vehicular circulation should still be adequate. That's covered basically by the traffic engineer and in this particular case, the developer actually is down two units, so we lost, he has two units less and the roads are still designed for width and for serviceability, as they would be if the road connection was there. I guess you end up with a little more open space on the plan. Yeah, a little more area of green area where we're not having as many units and not having a road connection. So, I don't think that's a negative impact on the environmental permits or whatever we have. And I think that the plan would still be permissible by staff from a zoning standpoint. Setbacks and that kind of stuff and also from an engineering standpoint with our grading and our stormwater management and road grades.

**Attorney Hodierna:** Mr. Mustin, do you recognize the drawing on the screen?

**Gene Mustin:** Yes.

**Attorney Hodierna:** Everyone, this is Exhibit E in your packet. Is this the phase two submitted TRC plan that was developed after the decision from Mr. Johnson and Mr. Robertson?

**Gene Mustin:** I believe it is.

**Attorney Hodierna:** So, that's why we're seeing that Hansen Lane is now stubbed and there's no connection, and that all the townhomes now front on Little Creek.

**Gene Mustin:** Yes, that's right.

**Attorney Hodierna:** Right. So, is it fair to say that this plan reflects the changes, shiftings, and revisions that had to happen once that connection was lost?

**Gene Mustin:** Yes, that is what we design.

**Attorney Hodierna:** And is this TRC approved or has pending approval on?

**Gene Mustin:** I believe that's correct, yes.

**Attorney Hodierna:** So, all aspects of this redesign plan have been through TRC?

**Gene Mustin:** Yes.

**Attorney Hodierna:** Thank you. That takes us to item #4 in our test. That element is useful, not substantially injure the value of adjoining property, or that the use of the public necessity. The prong of this test that we are working under is that it does not injure the value of adjoining property to speak to that element we have our expert, Glenn Patterson.

**Glenn Patterson:** Good evening, Glenn Patterson, Patterson Appraisals, 885 Cheeks Lane, Graham. About my licensing, I am a state-certified general real estate appraiser since 1992. I've been a real estate broker since 1989, graduated from Appalachian State with a major in real estate and urban analysis. In looking at this kind of project, we're trying to get to something specific to analyze if there's an impact that can be figured out. The only one I could find back in the recent past was in Graham and it was approved in an August meeting off of Lacey Holt in the Lacey Farm development. Whichever ones adjacent to that, that Tonewood Drive is in. I believe that one was approved to be the same kind of thing it was agreed not to be an allowable or it wasn't feasible to be built physically. And so, I looked at data in there, didn't find anything that showed one way or the other. Looked around some other municipalities trying to find some other data that I can look back a little further into the market. There was just not much there, so given this situation, it's my opinion it's not going to make an impact detrimental to abutting or adjoining properties.

**Attorney Hodierna:** So, just for the record could you please remind the Council you're finding back in 2021 that you were expanding upon or referencing back when you looked at this inquiry for tonight?

**Glenn Patterson:** Yes, It's the same thing that it wouldn't affect the properties next door adjoining. Thank you.

**Attorney Hodiernne:** Alright, Element #5 of our test, 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. Again, we have here an element of the test that's unaffected, undisturbed by tonight's amendment request. The elimination of this one roadway connection does not diminish or void the townhome development. Plans in harmony with the area. The general conformity with the development of Graham's planning area as was determined and established with the 2021 Special use permit approval. Again, as evidence for this, I'll direct you to exhibits A&B from 2021, and most importantly, I direct you to the staff report prepared for tonight for the 2023 amendment by your town staff in which they found that they recommend approval for this request and specifically state that it does and is consistent with the Graham 2035 Comprehensive Plan. And just to, for the record, enter in some of the findings of that determination both now and back in 2021. The land use plan calls for suburban residential here that calls for a certain density of three to six units per acre. We're meeting that. It calls for a certain landform which we're meeting with the townhomes. Your 2023 adopted plan calls for housing variety and housing in general. As we all know is a critical issue across the triad and triangle. And so, these are some key features that I'll reiterate and reemphasize tonight for the record that this plan proposal still puts forward even in its amended state before you tonight.

That brings us to the last prong of the test. Satisfactory provision has been made for the following, when applicable, vehicular circulation, parking and loading service entrances and areas, screening utilities, signs, writing and open space. Again, this is site specific. It's a code based technical inquiry. And it's only marginally implicated by tonight's requested amendment to reiterate and reincorporate to this prong of the test some of the previous testimony you've heard. You heard from the traffic engineer expert that this does not impact vehicular circulation based on the existed adequate capacity of the two remaining connection points. We've heard from Mr. Mustin that he's been able to revise the plan. He's presented that revised plan to TRC. It's been approved and its revised state as you see before you and as you've heard from staff, both with Exhibit E from my packet and from the staff report presented to you by staff. So, we have this positive evidence, most significantly from staff your own staff, that this site plan has made the relevant and applicable accommodations for each of these specific elements of your codes and requirements. And again, I'll harken back to test prongs one and two, which also asked us to look at code compliance. I see this number six as a more specific kind of issue-based inquiry into that same broader question, are we meeting the regulations of the Code? Are we able to adequately account for each of these specific items? And the answer is yes. So, with that walk-through of each test with that recounting and reemphasizing of the 2021 validity and current existence of approval, that is still very much in effect tonight and not affected by this amendment request. I would submit to you that the six findings of fact have been met and this special use permit amendment should be issued. This is a limited surgical request. I say again, it does not invalidate those existing approvals and we've presented to you tonight and provided sufficient material competent, relevant evidence before you that establishes the six prongs of the test are still met. And that your code requirements are intact. So, I know that's been a lot of information and so we've got everybody here able to answer questions as we move forward. And I look forward to the discussion. Thank you.

**Mayor Talley:** Amanda, what's the width of the road?

**Attorney Hodiernne:** What's the width of the road, Mr. Mustin?

**Gene Mustin:** 27 feet.

**Attorney Hodiernne:** 27 feet.

**Mayor Talley:** And do you have two car garages at the townhomes?

**Attorney Hoderne:** We have one-car garages and space for one car in front of the garage. We also have a declaration that gets filed. It's probably already been filed for phase one. So, we have an HOA in place. We talked about this back in 2021. And so, the HOA is empowered through that declaration with the authority and ability to address issues, if it becomes an issue with on-street parking. I know that you've alluded to that back when we considered this.

**Mayor Talley:** You're not really making accommodations for on-street parking with a 27-foot road and you've got one-width car driveways with three-bedroom townhouses.

**Attorney Hoderne:** We have two parking spaces per unit and if Mr. Mustin can come back up, I believe we also have some guest parking available. Is that right? If you could come back up to speak to the parking. I believe that there's guest parking. I think we talked about this before. Some overflow parking, could you talk about that? Thank you.

**Gene Mustin:** So, at this point, we have the ability within the development of this plan to provide all of with one car garage. But each driveway can accommodate another two cars. So, we have three cars per unit. That has been accommodated and there are about 1,2,3, - 4,7,8,9. Probably another nine paved spaces that are within the townhome area for additional overflow parking. So, each site should have the ability to park three cars, plus there's, if I counted them correctly, I think it's about 9 additional parking spaces for visitors.

**Attorney Hoderne:** We've also reduced our unit count by two. So, the demand for those overflow spaces have lessened.

**Mayor Talley:** I understand what you're saying, Amanda. And I know you keep saying that over and over, but the reality of it is, is that you put in your drawings for four units to be placed on the road connection that you are saying that you really can't build.

**Attorney Hoderne:** The previous plan had before.

**Mayor Talley:** Right. So, to say that we're not, you're not asking us to give you two more units, when you really if you're not going to put in that road, it eliminates four units. That's really not an argument that you can make that you're giving up to units. You're giving up four units. And then asking us to give you two more units on the other road.

**Attorney Hoderne:** So, I believe my statement and the staff report reflects that it's a net reduction of two units. So, no, we're not trying to stand here and say that it's a reduction of four units. It's a reduction of two and it's a shifting because the four-unit building that you referenced that used to exist along the Hanson Lane connection is no longer there. So, those four units are gone. Two of them are re-picked up if you will, reestablished elsewhere. Two of them are lost.

**Mayor Talley:** But that is an ask.

**Attorney Hoderne:** Actually, it's a staff approved ask that's already been determined at TRC, so it's not part of the request tonight.

**Mayor Talley:** Is that considered in the 10%, Aaron?

**Assistant City Manager Aaron Holland:** So, the reduction that Attorney Hoderne is referencing, that is

a staff-level approval, and the shifting of the units also is a staff-level approval. So, both would qualify. If they were increasing any of them, with the addition of units or anything along those lines, increasing the density that would have to come back before council.

**Mayor Talley:** It's still an ask, though.

**Assistant City Manager Aaron Holland:** Well, that part has already been approved. It's an ask that has already been staff-approved. The only item that's being asked tonight is in reference to the Hanson removal.

**Mayor Talley:** Is the link from the connection there to the other connection at the end, how many feet is that?

**Gene Mustin:** Let me see if I can get that for you. So, from Little Creek to Palmer, is that about what we're asking for? That would be about 1200 feet. (Inaudible) You are talking about from Little Creek Drive all the way to Palmer Drive, the long stretch of Little Creek?

**Mayor Talley:** Our 2035 Plan states as follows, where possible, blocks should be broken up to create street lengths of less than 600 feet between intersections.

**Gene Mustin:** Yes. Okay, so, we have a break in the middle and I believe that is . . . I wish I had a magnifying glass, I can't read my own drawing it is so small. So, we have approximately 1200 feet from the end of Little Creek to Palmer and it's broken up with a stub street to the South in the middle of the drop.

**Attorney Hodiernne:** And that's how that requirement is met.

**Mayor Talley:** I'm sorry, could you say that again?

**Gene Mustin:** So, there is about an 1100-foot of 1200-foot dimension between Little Creek Drive and its extension to Palmer Drive and horizontally across the page and in the middle of that midst there is a stub road to the South that will break up the block that will access into future phases of the development, phase three.

**Council Member Parsons:** Can you read that again, please?

**Mayor Talley:** Sure. Where possible, blocks should be broken up to create street lengths of less than 600 feet between intersections. It says it's desirable that automobile parking be located on the street and behind homes with ingress and egress via rear alleys, and that street rights of way, including sidewalks on both sides, with street trees placed 30 to 40 feet intervals with grass swells. There's not going to be any parking on the street. Right?

**Attorney Hodiernne:** That's not how this is designed. It's got adequate parking as we've, as you determined with your previous questioning, that there are three spaces for each unit. And of course, we have the overflow parking and then . . .

**Mayor Talley:** How far away from the unit is the overflow parking located?

**Gene Mustin:** So, it's not in one location. It is in different locations as you go through the

development. So, we have spaces that are. . .

**Attorney Hoderne:** So, Mr. Mustin has circled 1,2,3,4,5,6 different spots along the Little Creek horizontal road where there are just little inserts of two to three overflow parking spots.

**Gene Mustin:** Actually, I think I count 12, in total.

**Attorney Hoderne:** So, they're just well distributed along the road, so that if anybody needs a guest overflow spot, it's accessible and they don't have to . . .

**Mayor Talley:** Where is that located on this map?

**Attorney Hoderne:** Okay, so I actually just had some specific information given to me that we've actually added 43. Is that right? 43 spaces from the original plan, in this new plan, so the parking adequacy has been increased significantly.

**Gene Mustin:** So, we have single driveways on the first plan and we have double drives on most all of these, and we have 12 additional parking spaces that are on the plan now.

**Mayor Talley:** You've increased the number of driveways, did you do that on all the three units, 3-bedroom units?

**Attorney Hoderne:** We increased the size of the driveway so that it now can . . .

**Gene Mustin:** We increased the size of driveways on every single ending that we increase the size of the driveways on every single end units. I misspoke. Every single end unit has a double driveway. Interior units have a single driveway, have 12 parking spaces that have been paved and interspersed along the development for additional overflow parking.

**Mayor Talley:** What are the 43 spaces? Is that just the difference between the first plan and the second plan?

**Attorney Hoderne:** There's 43 additional dedicated parking spaces now in this revision than from what you saw in 2021. Those 43 spaces are comprised of additional designated driveway spaces and the overflow additional overflow spaces.

**Mayor Talley:** That, too, is staff-approved, Aaron. Parking is, I mean, not that I dislike having parking, so that if you only have a 27-foot wide road, but . . .

**Assistant City Manager Holland:** What they did was increase the size of their driveway that the townhomes have. So that's adding the ability to have an additional spot that a car can . . .

**Mayor Talley:** I don't dislike it, I'm just concerned that we approve something and that you don't have to go back before Council to get anything changed, I mean to get those kinds of, what other changes were staff approved?

**Assistant City Manager Holland:** I don't have the list here, but in reference, I don't have a list in reference to that. The question of can staff approve someone adding a parking spot to an existing lot, I would think, and I'm just speaking from my perspective, Council would be ecstatic that the developer . . .



**Mayor Talley:** I am happy about that. I just. It was my understanding that if changes were made to the existing subdivision, that has to come before Council.

**Assistant City Manager Holland:** This is not a conditional zoning, a conditional zoning, which is site-specific, is totally different, but this being a special use, it's the use that Council's approving, but there are predetermined, pre-approved administrative approvals that staff can do.

**Mayor Talley:** So, if they had two-car parking, did they go to one-car parking? With staff approval?

**Assistant City Manager Holland:** I would have to read, I mean, I don't have it in front of me currently, but I will have to read to see, but I would assume that any density that would be lessened amount or increase in this case, we would have to consider whether or not that would need to come back to council.

**Attorney Hodierno:** Just to the extent it's helpful, the standard rule of thumb in every jurisdiction is if it increases intensity or diminishes functionality, then you have to come back to council.

**Mayor Talley:** It just opened the concern for me of what else has changed from previous submission to this submission, that's all I was asking about.

**Attorney Hodierno:** Understand, yeah, I understand.

**Assistant City Manager Holland:** Yeah, I think from staff perspective. we're only operating with what City Council has approved us to be able to do. And when I said list there's a there's a list that we have in our ordinance that we can say we can do this. We can't go beyond that. That was my reference to the list.

**Attorney Hodierno:** Okay, we're here as needed to answer further questions. Thank you.

**Mayor Talley:** Yeah, I asked some other people that got more sworn in if you'd like to raise your hand.

Someone asked from the audience to speak (Inaudible)

**Mayor Talley:** Certainly.

**City Attorney Bryan Coleman:** I think this is where they're going to have to be determined, you will have to make a determination as a board as to whether they have standing or not to ask questions. He's got to show special damages that are specific to the removal of the road.

Mayor Talley, Okay, if you'd like to come up.

(Inaudible)

**Peter Murphy:** My name is Peter Murphy. I live at 1933 Meadowview Drive. I live two blocks away from this permit that they're putting in for. So, the question that I . . .

**Mayor Talley:** Just hold on just one second. We have to determine whether you have standing to testify at this particular point in the hearing and I just defer to our attorney.

**City Attorney Coleman:** The determination of standing is going to be up to a formal board decision based on whatever information that Mr. Murphy can present that he has suffered special damages because of the removal of Hansen Lane. So. whatever evidence you have to show you have suffered special damages because of the removal of this road.

**Attorney Hodierno:** They have to be particularized, especially distinct to the greater community.

**City Attorney Coleman:** Yeah, basically, it's the central question is has the individual who alleges standing shown that he or she has damages are distinct from those damages to the general public at large.

**Mayor Talley:** So, an example would be like damages to your road that you access your property, that kind of thing.

**Peter Murphy:** No, I have.

**Mayor Talley:** And you seem to be not sure about that, so.

**Peter Murphy:** I just, All I wanted to do is ask some questions for clarity of what the witnesses have brought up, for example. . .

**City Attorney Coleman:** There is. You have to have standing to ask questions.

**Peter Murphy:** Okay, so how do you, how do I get that standing?

**City Attorney Coleman:** You have to show particular damages, particular special damages that are happening to your property caused by the removal of Hanson Road, Hanson Lane.

**Peter Murphy:** Okay, well, you know, I do have.

**City Attorney Coleman:** The board has to determine a formal decision, they'll have to vote as to whether you have standing or not?

**Peter Murphy:** Okay.

**Council Member Chin:** I guess the question I need you to answer is, how are you impacted by the change in closing Hanford Lane where it's not extending down? Hanson Lane.

**Peter Murphy:** Because it's impacting the traffic flow that's going to go directly in front of my house because I'm at the corner of Little Creek and Meadowview Drive and this is taking an access point, one of three access points away, and I will have more vehicle traffic. I will have more pedestrian traffic and it will impact and it also will impact you know my property in other ways. I also have a question on the setup of this is, I've gone through the ordinance, you know, that's in front of us.

**Mayor Talley:** I'm sorry.

**Attorney Hodierno:** Noting for the record for standing.

**Mayor Talley:** So, do we need to make a formal motion?

**City Attorney Coleman:** You guys are making the findings of fact, you're going to make the determination, so he's got to give you guys what you all feel is sufficient evidence that he has a particular damage there and then you'll vote whether or not he has standing.

**Mayor Talley:** So, it's my understanding that the only roads that, just saying that you're going down the

only access is out are going to be Wildwood, Meadowview, which you live on, is that correct Mr. Murphy?

**Peter Murphy:** I live on Meadowview, the corner of Meadowview and Little Creek.

**Mayor Talley:** On Little Creek. Are those the only three ways out?

**Council Member Whitaker:** Palmer.

**Mayor Talley:** Palmer. Okay, there are four ways out. Is that right? Well, really, it's three. It's three ways, but you get, well if you're going to a main road you still have to go down Wildwood, right?

**Council Member Parsons:** Not on Palmer. You go Palmer, you go out Palmer to Ridgecrest, then to Rogers.

**Mayor Talley:** Okay.

**Council Member Parsons:** If you go to Little Creek, you can either do Spring Meadow or Meadowview to Wildwood.

**Mayor Talley:** Like three ways out of the subdivision. Three ways.

**Council Member Whitaker:** No, but they are taking Hanson Lane. They're not going to extend it to Little Creek Drive correct? How is that going to impact, I mean, I don't see. Then they would either have to go out Whisper Ridge to Palmer and then Ridgecrest to Rogers Road. Or they would have to go up to Grandview and go out or over to Grandview and then Spring Meadow and then out to Wildwood. So, I don't really see how it impacts the traffic on Meadowview with that little stretch gone. I don't see how just cutting it out from Whisper Ridge down is going to throw more traffic onto the corner of Little Creek and Meadowview. I mean, maybe I'm not reading that right. Because then they would have to go out. It's right there. And they would have to go out Whisper Ridge to Palmer and out to they would have to go out Grandview to Spring Meadow and out to Wildwood, or they'd have to go out Grandview to Palmer, but they're not going to be coming the other way.

**Council Member Parsons:** That would be if Hanson was connected, if Hanson was not connected, they'll go to Little Creek to one of those three roads. Or back out to Palmer. Either way, they've got to get to Wildwood to get to Rogers Road or Palmer. They can go all the way out to Ridgecrest, but the problem with Palmer is once you come out of the old development into the new development that Keystone built, that's a 25-foot residential narrow road. So that's a very bottlenecked means of digress coming out of there.

**Mayor Talley:** Only 20 foot . . .

**Council Member Parsons:** 25 foot . . . Burke am I correct on that? (Burke shook his head yes)

**Mayor Pro Tem Hall:** I drove this area Saturday and Sunday. If I was coming out of this new subdivision, I'd go up ahead and hit Palmer and go all the way up. That way you'd miss all the traffic going (inaudible). (Inaudible) on top of the hill versus coming down on (inaudible)

**Mayor Talley:** But theoretically, I mean traffic would increase by, you know, by one less connection.

One less option. It's going to increase on any of the other roads. I don't know it's up to the Council. I'll make a motion to allow Mr. Murphy to ask his questions, as I believe that his testimony given that traffic would increase on his road, that being one of the essential six things to consider. Six conditions to consider under Section 10.144 of the Development Ordinance. Do I hear a second to allow him to be able to . . .

**Attorney Hodierno:** I'd have to object to that for the record, for failure to state a particularized damage. That's a general public opinion impact. Just for the record, thank you.

**Mayor Talley:** Okay. You need us to vote on it. Right.

**City Attorney Coleman:** Need you to vote, Yes, mam.

**Mayor Talley:** Can I get a second?

**Council Member Parsons:** I'll second it.

**Mayor Talley:** All in favor?

**Council Member Parsons:** Aye.

**Mayor Talley:** All oppose:

**Council Member Chin:** I

**Council Member Whitaker:** I

**Mayor Pro Tem Hall:** I

**Mayor Talley:** Sorry, Mr. Murphy, I . . .

**Peter Murphy:** All right.

**Tom Boney:** Alamance News, excuse me, what is the vote, Mayor?

**Mayor Talley:** It's three to two. Me and Joey voted in favor of allowing him to be able to ask his questions.

**Peter Murphy:** There's a specific issue with the ordinance. The ordinance, we're being. Somehow someone has to get out here, the ordinance doesn't have anything in it for a very specific . . .

**Council Member Whitaker:** We need to move on, right?

**Attorney Hodierno:** Objection, Mr. Attorney.

**Peter Murphy:** The special . . .

**City Attorney Coleman:** You can, at the end of the items not on tonight's agenda, you are more than welcome . . .

**Peter Murphy:** That's not going to help for this, the special use, the special use . . .

**City Attorney Coleman:** But right now, you're done.

**Peter Murphy:** Yeah, the special use ordinance does not have limited access or limited scope of special use. It does not. There is no, that's written in by the attorney and this whole project has to . . .

**City Attorney Coleman:** That's not admissible, so.

**Mayor Talley:** I'm sorry Mr. Murphy. Is there anyone else who was sworn in that would like to come and speak? If you will state your name and your address and how the closing of Hanson Road in this request under the special use permit affects you.

**Eric Bomhard:** My name is Eric Bomhard. I live at 1813 Springmeadow Drive. I walk on Hanson Drive with my dogs. Okay, my community is predominantly senior citizens.

**Attorney Hodierne:** We need to take a vote on that standing.

**Eric Bomhard:** Never mind, have a good day. *(Left the Council Chamber)*

**Charlie Smith:** Good evening, Mayor and Council Members. I'm Charlie Smith. I live at 616 Whisper Ridge Drive. My property joins off of Hanson. I thank the City Council for the opportunity to speak.

**City Attorney Coleman:** But we've got to figure out if you can speak or not, whether you have particular damages with regards, okay.

**Charlie Smith:** Yes, I think so. I have some facts I'd like to provide to the Council.

**City Attorney Coleman:** Provide the facts that support the damages and vote on it.

**Charlie Smith:** Right, I'll speak plainly, I don't have a law degree.

**Mayor Talley:** You don't have to, Sir.

**Charlie Smith:** You've heard tonight from the developer and the lawyer to ignore and disregard our speech. It is shameful and undemocratic that this special use application can be used to silence the citizens of Graham. Your constituents who pay their taxes and live in the community that will be most affected by this development. I fully agree with the City of Graham, Engineer, and Public Works Director that extending Hanson Lane would be both a safety hazard and an added expense to the City and taxpayers. Hanson Lane should not be an access point. But I question if this application approved in May of 2021, is now valid. Fact one.

**City Attorney Coleman:** You gotta determine whether you, they have to determine whether you have and I'm sorry, I'm sorry, I'm making this complicated but to speak, anybody other than the party to speak has to show they have particular damages. They then determine whether they have standing and then they can ask questions, cross-examine, and have all the rights that the other parties have. But you've got to first determine or express what your damages are.

**Charlie Smith:** Right. Why can't I just speak to the facts? The facts that have been misrepresented. What

occurred back in 2021, and how that's relevant to where we are today. Do I not have a First Amendment right to speak?

**City Attorney Coleman:** Absolutely if . . .

**Mayor Talley:** Every person on this Council wants you to be able to speak to us. Every Council member I can assure you. This particular proceeding is not one that is, you have to go certain rules of evidence and that's why I tried to explain earlier because I try to make sure that the public frames their argument in a way that allows them to be able to have the Council make decisions based on their testimony. So, if you say something and it isn't within these certain rules that I did not make up that the statute determines, North Carolina statutes. It's frustrating for us as well. We want everybody and I think you heard me say earlier, I want everybody to be able to get up and testify. Do you have any evidence that if the road, it's your opinion that you don't want the connection, correct?

**Charlie Smith:** I do not want the connection, but there are other issues that the City Council should hear me out on.

**Mayor Talley:** But, in order to be able to testify in this, you need to speak about how that connection affects you, affects your property in relation to damages if it is allowed versus not being allowed.

Someone from the audience spoke, (inaudible).

**Mayor Talley:** It's just like a court hearing, if you were, you have to follow certain rules of evidence in order to be able to, for this board to be able to find findings of fact. Based on expert testimony or on evidence presented by people who have what's called standing. So, I'm not saying that in my opinion, he owns property there, but you just need to state how having the connection or not having the connection affects your property or you financially in some way.

**Charlie Smith:** All I wanted to do was ask the Council, Section 10.148 of the City Ordinance regards invalidation. And I just wanted to speak plainly to the City Council that, that paragraph says two things that are not being met right now. One is that the original plan that was presented before the City Council in May of 2021, is not the plan. They call it an amendment.

**Attorney Hodierne:** Objection, Mr. Attorney.

**Charlie Smith:** In fact, that's the engineer. The engineer even said tonight, the original plan.

**City Attorney Coleman:** He doesn't have standing. He's got to cease.

**Charlie Smith:** Okay, 24 months, it's been 29 months they haven't broken ground.

**City Attorney Coleman:** Or take a vote.

**Mayor Talley:** Can you talk about how the connection could affect you financially one way or the other?

**Charlie Smith:** It's traffic, the traffic, the traffic is going to be unbearable. The land is not, the land is zoned for R12, medium density. From Whisper Ridge, which is where we live, you know, the engineer said tonight, which I dispute this testimony, he said, point blank, that Hanson Lane was the only section in that topography where you had the extreme grade. That's not true. Think of the logic of that land. It's a

severe slope going all the way down.

**City Attorney Coleman:** You guys need to vote before he keeps testifying.

**Mayor Talley:** Do you, do you believe that an additional 1400 cars coming on the connection for Hanson Drive . . .

**Attorney Hoderne:** Objection Madam Mayor.

**Charlie Smith:** Yes, I also believe that since 2021, they've put another development in of 27 single-family homes that are also going to be using the same road systems.

**Attorney Hoderne:** Objection, irrelevant.

**Mayor Talley:** Let us make a vote first to see if you have standing.

**City Attorney Coleman:** Yeah.

**Mayor Talley:** Is there a motion on the floor to allow Mr. Charlie Smith to have standing and give testimony in this hearing? I make the motion to allow Mr. Charlie Smith to give testimony in this hearing. Do I hear a second?

**Council Member Parsons:** I'll second it.

**Mayor Talley:** All in favor? Aye. All opposed, Aye, Aye, Aye. Sorry. *(Mayor Talley and Council Member Parsons voted in favor. Mayor Pro Tem Hall, Council Member Chin, and Council Member Whitaker voted Nay.)*

**Council Member Parsons:** Madam Mayor, may I say one thing, Sir?

**Someone from the Audience:** Doesn't quality of life count or anything in the legal world?

**Council Member Parsons:** Can I address one thing that you did say? The 24 months on a special use, that has been met, they don't have to necessarily break ground, but they do have to pull permits and continue on with the TRC process and that has been met. Is that what's being questioned? And I think Mr. Holland can back me on that. So, the 29 months that they have been progressively working on the project so that will answer your question.

**Charlie Smith:** That answers one question.

**Council Member Parsons:** Okay.

**Charlie Smith:** The engineering study that was presented, they took data from 2018 traffic patterns of 2018, here we are in 2023. They're adding another development off Little Creek and Luther, which is another 27 homes. All of these cars are going to be competing. It's not Rogers Road. It's getting to Rogers Road that's the issue. They've got to go through Meadowgreen, Meadowview, and Springmeadow, they're all senior citizens. We don't have sidewalks in that neighborhood. So, the point is, if an R12, medium density zoned land that the developer has gone around the law and he's cramming out 177 lots, and it's crazy.

**Council Member Parsons:** And unfortunately that . . .

**Attorney Hodierne:** Objection to the speaker's prior testimony.

**Tom Boney:** Alamance News, Madam Mayor, if I may. I know I can always learn something at these meetings. But I have never seen a special use permit in any jurisdiction in which this issue of damages is a factor that limits people from speaking. I just don't. I just never heard of that before.

**Attorney Hodierne:** 160D 405B.

**Council Member Parsons:** I think because it was previously a quasi-judicial, it has to be quasi-judicial at this time, therefore we have to follow the state statute laws.

**Tom Boney:** I understand that Mr. Councilman I've just never, never heard of that particular qualifier for anybody to speak.

**Attorney Coleman:** Well, they're not witnesses for either party. So, if they're not witnesses and they want to speak, then they have to be determined whether or not they have standing. If it's determined they have standing because they can show special damages with particularity, then they can ask questions. They can have the same rights as the parties.

**Tom Boney:** Well, like I say. I don't know if this is a different interpretation or such a unique situation that it makes it new. But, I have just never seen this kind of limitation on public participation, even on a special use permit. I understand that the Council is free to ignore, be honest, and ignore some of the testimony, but I just don't understand how they are precluded from hearing it in the first place.

**Attorney Coleman:** (showing Tom Boney the state statute and process.) (Inaudible)

**Tom Boney:** Are they not allowed to be a witness opposed to the . . . you said parties, can they not be an opposing party?

**Attorney Coleman:** That's what we're trying to figure out if they're going to be a party, they have to show the standing.

**Tom Boney:** Never seen it before, Mayor. Very unique.

**Mayor Talley:** I made a motion to allow it.

**Tom Boney:** Learn something all the time, but that's a new one.

Someone from the audience is making inaudible comments.

**Mayor Talley:** We can't take testimony from the audience. Is there anyone in the audience that was sworn in that has not spoken yet? Was there anybody else that has sworn, been sworn in? Can I ask how many people here are here on this matter on a different matter? That's who's here on this matter, is that correct? Is there . . . Amanda, could you take the podium for a minute?

**Attorney Hodierne:** Yes, Madam Mayor.



**Mayor Talley:** Are there any other connections, possible connections to send traffic to in exchange for Hanson?

**Attorney Hodierne:** I don't believe so. If we could zoom out, I'll show you why. So, if we keep going, please. Yeah. So, if you look at the significant stream corridor or creek corridor that runs through here. Gene or Mr. Mustin might be able to speak more to this, but this, the only connection points are going to be able to go to the north and then eventually over to the arterials running North and South that come from that. And that's because of the environmental features that essentially hem this area into the South. So, we don't have any stubs to reach out to. If you will, or land to get to by going those other ways and the stream corridor has kind of set that up. So, again, going back to this point of, this has been predetermined and pre-established, and Keystones developed and had to stub out and they did it the way they did it and the others to the north. This access was predetermined to always be these existing stubs. So that's what we're utilizing and we've gotten to that point now where one of those is, as you've heard tonight.

**Mayor Talley:** So, in regards to the additional traffic that would be filtered specifically to Wildwood Lane and areas like that. I've gotten and this has, I didn't get this picture of Wildwood Lane and the condition of the road there in relation to this particular meeting tonight, but it's been several months ago and you know it's been brought up several times. The pictures that we've gotten from Wildwood Lane are pretty damaging.

**Attorney Hodierne:** I'm sorry are you referring to pictures that aren't in evidence tonight?

**Mayor Talley:** Yes.

**Attorney Hodierne:** So, I would not be able to speak to something that I've not had the ability to review or see.

**Mayor Talley:** Have you been out to the property?

**Attorney Hodierne:** Yes, ma'am.

**Mayor Talley:** Have you seen the damage to the roads?

**Council Member Parsons:** They have been repaired.

**Attorney Hodierne:** I would object to, I would not say that I've seen damage. No ma'am.

**Mayor Talley:** Have they patched them?

**Council Member Parsons:** Yeah, they cut them out and put large patches in.

**Mayor Talley:** So, okay, did the developer do that?

**Council Member Parsons:** I think they did the top 4 inches, or did you do the whole thing? I know you were down there quite a bit. I don't know quite, what all y'all did.

**Attorney Hodierne:** I'm not sure what any of that discussion or the picture that was shown was. I'm not sure if there's a question.

**Mayor Talley:** You're welcome to see the picture.

**Attorney Hoderne:** Well, I don't need to if there's a question, I just didn't know.

**Council Member Parsons:** They were repaired and the developer had a . . .

**Mayor Talley:** That's just my general knowledge of Wildwood Lane.

**Council Member Parsons:** They were repaired and the developer did have a pretty large hand in making sure that happened.

**Mayor Talley:** Okay, good. The . . .

**Council Member Parsons:** I have a question, your traffic engineer stated the traffic at Wildwood and Rogers, but nothing was really, I didn't hear anything addressed about the Palmer in Ridgecrest what that would affect, and how it would affect the other streets in the neighborhood. I mean, I know the traffic count on Rogers Road is one thing, but that's kind of irrelevant to the people that live in the neighborhood.

**Attorney Hoderne:** Palmer and Ridgecrest.

**Council Member Parsons:** Yeah, because when you come out of Palmer, you're going to come up to Ridgecrest, and then you're going to turn left on Ridgecrest and right or left on Rogers. More than likely, right because you going to be headed towards town. That is going to be, in my opinion, I'm not an expert witness, but that is going to be the main path of people leaving that neighborhood, because it's not if you . . .

**Attorney Hoderne:** Okay.

**Council Member Parsons:** Because if you come down to Wildwood and Rogers to make a right turn, it is an uphill climb. Pretty significant. So, if you stay on that, but you know nothing was addressed about the impact on Palmer, Ridgecrest, Springmeadow, and Meadowview, it was just the intersection at Wildwood and Rogers. Is there any traffic studies to support, by closing Hanson? How many more people will be going off Palmer? How many more people will be coming to Wildwood? I mean that's a significant determination on how it impacts the neighborhood.

**Attorney Hoderne:** Yes, Sir. I'm going to let the expert come up and answer, but I will reiterate the testimony that I heard that was stated into the record, which was that Hanson is the most indirect, IE the third priority access point in the trip distribution that their study analyzed and therefore you know if you're going to remove one and have to displace those trips, that one's going to be the least impactful one to remove. You are displacing the fewest number of trips because it's being chosen the least. But, so I think she did speak to that. She spoke to the adequacy of the capacity of the remaining Palmer Drive and Little Creek, but I will, I don't want to speak . . .

**Council Member Parsons:** Palmer goes from 31, 27 to where your new development is to 31 in the existing neighborhood to the new development of 25, then back to 31.

**Attorney Hoderne:** The new development of 25?

**Council Member Parsons:** That's the newer, newer part of the development on Palmer, which is . . .

**Attorney Hodierne:** The Keystone, (inaudible).

**Council Member Parsons:** I mean that's a bottleneck.

**Attorney Hodierne:** And unfortunately, that's an existing condition that was already predetermined on this public right of way that we have to connect to. So, I hear you, but it is.

**Council Member Parsons:** I just, my concern is that, is the traffic on that road.

**Attorney Hodierne:** I'll let her speak to that, in addition to what's been on the record.

**Lisa Lundeen:** Sure, so, the capacity of a two-lane roadway is typically about 10,000 to 12,000 vehicles per day. And based on our analysis with the growth in the area, as well as the addition of our site trips we'd only expect to add about 3000 vehicles per day, so that's well below the 10,000 vehicles per day capacity.

**Council Member Parsons:** You're talking about Rogers Road, right? Not the neighborhood. The 25-foot neighborhood road?

**Lisa Lundeen:** Correct. That's a . . .

**Council Member Parsons:** How would that affect the 25-foot neighborhood road?

**Lisa Lundeen:** That is, 10,000 is the capacity for the neighborhood road.

**Council Member Parsons:** It's not. Two cars meeting side by side on a 25-foot road is limiting.

**Mayor Talley:** Especially, I mean if you look at it, there's cars parked on both side of the sides of the road all the time, trailers.

**Council Member Parsons:** They can't park on the 25, period. But they can, I think park on one side of a 27.

**Attorney Hodierne:** I think she's. We'll do this right. The capacities that you're quoting are from what source?

**Lisa Lundeen:** They are from the NCDOT Planning Board.

**Council Member Parsons:** That's for any two-lane road? Regardless of the width of the road?

**Lisa Lundeen:** That is that range that I gave the 10,000 to 12,000 thousand depending on the width of the road. So that lower 10,000 number I believe is a 9-foot lane and the 12,000 number is for 12-foot lanes.

**Attorney Hodierne:** So, to your question, this is I know we all have anecdotal experiences and the things that we bring to the analysis, but this is fact-based evidence in the record that is coming from the expert who knows how to utilize the sources and the modeling for these exact types of analysis.

**Council Member Parsons:** Thank you.

**Mayor Talley:** I have a question for the developer.

**Attorney Hodierne:** We'll need to swear him in, Madam Clerk. You, you mean, Yeah.

**City Clerk Renee Ward:** Do you swear or affirm that the testimony you're about to give today is the truth, the whole truth, and nothing but the truth, say, I do. *(David Michaels said I do)*

**David Michaels:** Thank you. My name is David Michaels, address is 1007 Battleground Avenue in Greensboro, NC.

**Mayor Talley:** Okay, so in regards to tonight's hearing, the only thing that's up for consideration by the Council, because this special use permit was previously approved, is the Hanson connection, is that, would you agree with that statement?

**David Michaels:** Yes.

**Mayor Talley:** If the Council were to agree to no longer require the connection, but request that the developer keep all the other drawings with the addition of the expanded driveways, but get rid of those four lots on the Hanson connection, would the developer be agreeable to that?

**Attorney Hodierne:** We've already lost those lots if I'm understanding your question correctly.

**Mayor Talley:** Well, you're making up two more somewhere else. Is that right?

**David Michaels:** That's correct.

**Mayor Talley:** So instead of going from 70 to 68, would you go from 70 to 66?

**David Michaels:** We're not prepared to offer that now.

**Mayor Talley:** Okay, someone asked. Any other questions, Bonnie? *(Council Member Whitaker nodded no)* Any questions? *(Council Member Chin, no)* Any questions? *(Council Member Parsons, no mam)* *(Mayor Pro Tem Hall, nodded no)*

**Mayor Talley:** I would like to state that I'm always a proponent of people being able to come and, say what they want to be able to say in front of the people that they elect to represent them. I understand that we have certain rules and procedures that we have to go by. But the Council being educated on what information they receive, and what information they have to consider, I think is something that, you know, we need to take into account and so, I find it particularly disturbing to have a developer come and I understand, even when you have someone that doesn't want the connection, which is what the developers are arguing for before the Council. It does lend itself to having some measure of distrust by the public and the existing neighborhoods that are there when you don't want people to testify. But as long as the Council understands what they can and can't consider, I think it's important to allow people the ability to be able to speak. That's just my comment on that. My feeling about . . . I mean, I go to court all the time and people will talk about things that are not relevant and obviously the judge has to step in and ask them to not proceed in order to prejudice, in order not to prejudice the jury or the judge in hearing testimony that they're not allowed to hear. So, we do have to follow certain rules and we appreciate our attorney being

here to try to make sure that some of that is done, but, I do think that our Council members while they want to hear from the public, they also want to follow the rules of law. So, we will continue to try to perfect this process, and I wish anybody that takes the time out of their day to come to speak to any Council that they have the opportunity to be able to do so. My comment about this being suburban residential is that the transportation part it talks about parking being located on the street and that there be sidewalks on both sides of the street and where possible, blocks be broken up every 600 feet. That it would be a pedestrian-friendly design and you would have an area that is allowing for both a mixed-use which I think they have with the different stages here. But the traffic and the transportation concerns me. I, even though the person that testified in regards to the traffic study, I consider them to also accept them to be an expert, but I don't know that studying traffic patterns for four hours a day on a Tuesday would be something that I would accept as being adequate study of how this new development is going to be impacted based on the closure of this additional road. My personal knowledge is of the damage and the existing road conditions that we have there. Which were of concern when this development was approved, and now it's just an additional road access point that would be withdrawn without any number of the units being lowered. I don't know that this is necessarily going to create a pedestrian-friendly design or that it affects the . . . It's a satisfactory, in regards to Section 6, satisfactory provision has been made for vehicle circulation, parking, loading, service entrances, area screening, utilities, signs, lighting, and open space. Or that it would not injure people that have property located there for the increased traffic and then the use would not endanger the public safety for the people that have cars on the road and that sort of thing. I particularly think that roads should be wider based on the number of residents you're going to have going up and down them and an additional 15, or 1000 to 1500 cars in that area could cause some safety issues, particularly in that because of the development the additional development. I'm just one person on the Council, but what is your feeling?

**Council Member Chin:** Madam Mayor, I think the point of order we need to, we have a matter before us, and I think we are getting away from the reason this is a quasi-judicial hearing. We're being asked to consider the proposal by the developer to not extend the road. We're not here to second guess the previous Council that approved it, we can't rewrite it and or undo it.

**Mayor Talley:** I would agree with that.

**Council Member Chin:** We need to address the issue. Yes, we'd like the public to speak. But for such a hearing, we're held to the legal requirements as defined by the state statutes. Your comments would be more appropriate if we were if this was a general open forum and not a quasi-judicial hearing. You know, otherwise, if this was the first time this was brought forward, you all would be allowed to speak.

**Mayor Talley:** A rezoning, public hearing.

**Council Member Chin:** But because it's a special request and it's quasi-judicial, there were six factors that you had to be able to address. One of the six that give yourself standing to talk about what's being proposed. It's not that we don't want to hear you, but there's a time and a place for your comments.

**Council Member Whitaker:** It's not that we don't agree with you either, because I hate that it was ever proved it's a monstrosity. It's . . . but we can't undo what's already been done and that's unfortunate and I hate that. But we do understand. But, we do have a quasi-judicial system we have to go by and as our attorney, you know, read the statute is the statute, unfortunately, so.

**Mayor Pro Tem Hall:** I agree with what Bobby and Bonnie said. You know, we go out of our way every City Council meeting to hear from the public, from the people who put us here. But for this one, this one

is totally outside the norm and requires a great deal of evidence because, if they want to appeal it, it will go to court and that means everybody that is sitting here on Council, plus the witnesses will be summoned to court. That's why we need to dot our Is and cross our Ts.

**Mayor Talley:** Council Member Parsons?

**Council Member Parsons:** I don't have anything else, ma'am.

**Mayor Talley:** I mean, I personally think, even by the testimony given by the petitioner that it will negatively impact other means of access to the property. And I think what you have to consider is that, you know, there's a rule that, you know, if you have over 100 units, this isn't over 100 units, but when you take in the whole different phases, you have to take that into consideration that you need more access points so that you're not just funneling all the traffic onto one particular road. And that's, you know, that's the point of the connectivity. I need to, make a motion for us to close the public hearing, if there's no one else that would like to speak. Do I hear a second?

**Mayor Pro Tem Hall:** I second your motion.

**Mayor Talley:** All in favor of closing the public hearing? (All said Aye) All opposed? (No Nays) And then, you know, what is the developer willing to do in the event that this, what would be the decision, would they just have to move forward with putting the road in if it's voted against?

**Assistant City Manager Holland:** So, I would have to turn to Josh and Burke on that one in the sense that technically, if Council were to deny the request tonight, they technically still have the original one approved. I don't know what negotiations, land-wise, they would be able to do to put the road in to meet the fall acceptability that Josh and Burke had pointed out, but in essence, it will now fall back to the fact that there's an original one already in place.

**Mayor Talley:** So, you know, just to make it clear, we're not here to renegotiate the prior approval from a previous City Council. We're here to just determine whether the connection from Hanson Road should be required by the developer.

**Council Member Parsons:** Yeah, this is just a really awkward thing here, because the road can't be built. I mean the topography of the land; the road can't be built. The neighborhoods approved. It just puts us in a really, in quite a pickle to be honest with you, to try to figure out the best way.

**Mayor Talley:** My opinion is trying to fit a square peg in a round hole.

**Council Member Chin:** Well, the thing is, he took the four townhouses off the ridge, eliminated two, and now that you don't have to extend Hanson down to Little Creek, that's space, is that where you put the extra two townhouses which otherwise would be in the roadway?

**Speaker:** More or less. *(not sure who answered)*

**Council Member Chin:** More or less.

**Mayor Talley:** But they're saving money by not putting the road in, so if.

**Council Member Chin:** That's not who, who are we to question that?

**Mayor Talley:** I understand, I understand that but.

**Council Member Chin:** Our responsibility is to ensure they are complying with our City Ordinances. We're not to be second-guessing them on their saving money or whatever. As private developer that is their decision.

**Mayor Talley:** Yeah, I'm just saying that if we had less development, we'd have less traffic and traffic seems to be the one thing that we're supposed to be considering on this particular request.

**Council Member Chin:** But then you have less development, that means, providing all the services that we've all become accustomed to. You were relying on fewer people to pay the taxes that we will require.

**Council Member Parsons:** I mean, the developments already approved.

**Council Member Chin:** And it's approved.

**Council Member Parsons:** I mean the question is the road can't be built, it's not going to be safe. Is it going to negatively impact Palmer and the other adjacent roads? Yes, it will. So, I guess the question is what do you do because the road can't be built as the land lays but it will negatively, so it's . . .

**Council Member Whitaker:** I mean if you going to . . .

**Council Member Parsons:** You're danged if you do and danged if you don't. If you vote for it, you know it's going to hurt others, some people, but the road can't be built. So, if somebody comes to that stop sign and there's ice on the road and goes over and plows over to some kids in the neighborhood, in the yard across the street. I mean, where do you draw the line? Because that's, you know, negatively impacted and you know somebody that could be injured because of the road.

**Council Member Whitaker:** Well, I understand that the road can't be built, but when this thing was approved, it was approved with another access route, and they've already said they can't provide another route in lieu of Hanson, but they're not doing anything to reduce the traffic.

**Mayor Talley:** There you go. That's what I'm saying.

**Council Member Whitaker:** So, because cutting out two townhomes doesn't really do anything to impact the traffic. So, they've taken away an exit route and an entrance route and offered nothing in return in terms of trying to reduce the impact that taking away that route is going to have. I mean, and that's just my opinion.

**Council Member Parsons:** And you are correct, you are correct.

**Mayor Talley:** I believe that you can put the connection in there, it's just going to be price prohibitive and they don't want to have to pay out that kind of money to be able to put in that kind of a, to make those mitigations and that's fine. You know, but . . .

**Council Member Parsons:** It's safety as much as the . . .

**Council Member Whitaker:** Yeah. I mean, I've driven through that neighborhood a number of times and I will tell you, you know, if people park in the street, there's just not a lot of room to get through there.

**Mayor Talley:** I'm glad they recognized that and added the additional driveway space. I think that was smart on their part to do that because it's hard to market, right?

**Council Member Whitaker:** Yes, that does help. But it doesn't reduce the rate of traffic.

**Mayor Talley:** Correct.

**Council Member Whitaker:** That's what it doesn't do, so. Still got that . . .

**Mayor Pro Tem Hall:** Could you bring your Google map up again?

**Council Member Whitaker:** You still got the same amount of traffic going out, I mean, cutting out two townhomes is . . . that's nothing.

**Mayor Pro Tem Hall:** So, if you look at Hanson now, the amount of traffic going out is not going to change. And if they went up Hanson, they are going to stop at Greenview and going to go over here to Springmeadow and they will go out Palmer. (Inaudible)

**Council Member Parsons:** It is but you are going to increase the traffic coming off of Hanson. You are not going to be able to disperse Whisper Ridge and Grandview, Springmeadow the shorter routes. You are gonna have to loop through other areas.

**Council Member Chin:** When it comes to picking a route to drive, Joey, human nature is purely, is not logical.

**Council Member Parsons:** What's the path of least resistance and they all are going to go Palmer.

**Council Member Chin:** It means drive a little bit further but, I don't have to slow down, you know, drive a little bit further.

**Mayor Pro Tem Hall:** It's actually more because you have to stop at Grandview, turn left or right and then you got to turn again on Springmeadow. Or if you go down to Meadowview it's a straight shot.

**Council Member Parsons:** I agree

**Mayor Pro Tem Hall:** And with Wildwood connecting down in that new subdivision now connects over to 87, that is the best route.

**Council Member Parsons:** It doesn't yet but it's supposed to eventually.

**Mayor Pro Tem Hall:** It does, I drove it.

**Council Member Parsons:** Shannon, Shannon is connected now?

**Mayor Pro Tem Hall:** Yes.

**Motion:**

**Mayor Talley:** I'll just make the motion and you guys can decide yes or no. I make the motion that we



not approve the revision being that the developer offered no concessions in order to mitigate the change that would effectively result in additional traffic on existing roads. That we consider, that I consider that to be not meeting the requirements of Numbers 3, 4, and 6 of the Special Zoning Regulations and that the width of the road was a consideration. I reference Page 37 of the 2035 Plan, Suburban Residential which states that the desired pattern is to have disconnected low-density automobile-oriented patterns and to have connectivity. The automobile being the primary mode of transportation neighborhood should include pedestrian-friendly design with a diverse array of housing around neighborhood centers. It's desirable in these new neighborhoods that automobile parking be located on the street and behind the homes and that where possible the blocks be broken up with links of less than 600 feet between intersections. That new neighborhoods should connect to existing neighborhoods and that the number of units should be taken into consideration under the principle use as it specifically relates to this issue of traffic and how much traffic would be generated even by the testimony given by the expert witness. And that . . . I believe that would negatively impact the other roads which are existing in the neighborhood and wouldn't be harmonious to the existing neighborhood and in general conformity with the Graham 2035 Comprehensive Plan. Do I hear a second?

**Council Member Whitaker:** I second.

**Mayor Talley:** All in favor? (*Talley, Whitaker, and Parsons voted to deny the Special Use Permit request.*) All oppose? (*Chin and Hall voted in favor of the Special Use Permit.*)

Motion passes 3-2 to deny the Special Use Permit.

**Mayor Talley:** It's the desire of the Council, I think to try to allow you to be able to do what you like to do, so hopefully, we'll have additional discussions to try to remediate this at some point. But, I do think you need to take into consideration what impact, closing that connection, is going to have on the existing development. I don't think that we were unreasonable in asking for something to be able to mitigate what those damages would be. Thank you for being here.

#### **ITEM 4: REZONING – STONEHAVEN DRIVE**

A public hearing had been scheduled to consider a request to rezone 19.17 acres located at Stonehaven Drive from R-18, Low-Density Residential to C-R, Conditional Residential for the construction of an 8-lot subdivision. (**Planning Board unanimously recommended approval**)

Assistant City Manager Aaron Holland stated this was a request to rezone 19.17 acres located off of Stonehaven Drive from R-18 (Low-Density Residential to C-R (Conditional Residential) for an 8-lot subdivision. He shared the development's intention was to be serviced entirely by well and septic systems. The development would also be accessed via private roadways. Staff was unable to approve the subdivision as presented due to the fact that the entire subdivision needed to connect to Chartwell Lane which would extend City right-of-way throughout the development, and extend public water and sewer throughout the development. He stated the applicant had requested these items be accepted as adequate conditions to develop the property without the financial constraints of having to pay for a right-of-way and utility extensions. The Planning Board unanimously recommended approval of the request with the condition that Chartwell Lane would not connect to the development.

The public hearing was opened and the following spoke:

Mr. Mike Davis, 4633 Otter Court, Burlington, stated the 19.17 acres was financially landlocked to only be able to put nine lots on it and two that cannot be confirmed if septic will be available for perk test because it is so densely wooded and would like to extend a private drive off of Stonehaven and create eight lots. He stated City water and sewer were financially prohibited from extending utilities just for eight lots with all the requirements. He asked to have discussions about Chartwell regarding the resistance of connecting Chartwell Lane to the development. He stated that they preferred to extend the road off Stonehaven during the construction and then address opening up Chartwell.

Sandra LeFrancois, 973 Stonehaven Drive, spoke in opposition to opening up to Chartwell and would rather have the eight lots coming onto Stonehaven.

Mr. Steven Byrd, 2421 Chartwell Lane, Graham, spoke in opposition to connecting the development to Chartwell and asked that no construction vehicles come through on Chartwell.

Ms. Ramona Kellam, 2333 Lacy Holt Road, Graham, spoke in favor of opening Chartwell for safety reasons to allow emergency vehicles to come into that subdivision.

Mr. Bob Snow, 2431 Knightdale Drive, Graham, spoke about the roads barely meeting State standards with no curbs and no sidewalks. He spoke in opposition to connecting the streets.

Ms. Mary Taylor, 974 Stonehaven Drive, Graham, spoke in opposition to opening the new development to the Valleyfield neighborhood due to safety reasons.

Ms. Xiaoping Johnson, 986 Stonehaven Drive, Graham, spoke in opposition to opening onto Chartwell.

Mr. Tommy Brown, 2408 Whispering Hill Drive, Graham, asked that everyone communicate and decide how to make eight houses work.

Mr. Mike Davis, suggested if Chartwell was opened after the construction, there could be some sort of gate installed for the eight residents.

Council Member Parsons asked the developer his intentions of connecting to Chartwell.

Mr. Davis stated for the convenience and it would make sense. He suggested a remote access gate giving EMS and emergency vehicles the access code.

Mayor Talley stated that it would not make sense to connect a county road to a city road when the county residents do not pay city taxes to help maintain city streets. She stated it would not warrant the connection for eight homes.

Mr. Davis asked the Council to consider not allowing Chartwell to ever be connected.

**Public Hearing Closed:**

Mayor Talley motioned to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Mayor Talley motioned to approve the rezoning of 19.17 acres located at Stonehaven Drive from R-18, Low-Density Residential to C-R, Conditional Residential, and that it does further the Graham 2035

Comprehensive Plan and the City of Graham Development Ordinance and is consistent with Policy 4.3.1: Land Use Patterns, Policy 5.1.1: Housing Variety and Policy 5.2.1: Diverse Neighborhood and with the condition that Chartwell Lane would not connect to the proposed development, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

#### **ITEM 5: TEXT AMENDMENT – BOARD OF ADJUSTMENT ALTERNATES**

A public hearing had been scheduled to consider approval of a text amendment allowing the Board of Adjustment Alternates to take the place of a member of the board in the event a member is absent, needs to be recused, or a seat is vacant and pending an appointment for a regular member.

(Planning Board unanimously recommended approval)

Assistant City Manager Aaron Holland stated as the ordinance was currently written, there are limitations as to how Alternates can take the place of a regular Board of Adjustment member who has to recuse himself or is absent. He stated this text amendment would allow for Alternates to be able to sit in for any member whether it is an ETJ member or City member. He stated the Planning Board unanimously recommended approval.

The public hearing was opened and there were no comments.

#### **Public Hearing Closed:**

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

Mayor Pro Tem Hall motioned to approve the text amendment as written, seconded by Council Member Whitaker. The motion passed unanimously.

#### **PUBLIC COMMENTS:**

Ms. Lucy Gumbodete, 1138 Trollinger Road, Graham, asked the Council to consider allowing a reduction in width for a road to be built into her property.

Assistant City Manager Holland suggested that Ms. Gumbodete meet with Public Works Director Burke Robertson and City Planner Cameron West and have them come back to the Council to see if NCDOT would be willing to put in a State road or if she was able to put in a private road.

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

Mayor Talley shared a citizen's complaint about the shooting range. She stated the discrepancy seemed to be when the range was supposed to stop shooting which was 9:00 p.m. Mayor Talley stated she did not think stopping all shootings at 9:00 p.m. was unreasonable.

Mayor Pro Tem Hall shared that the shooting range was located in Swepsonville across from the old landfill.

Mayor Talley questioned how it could be turned into a shooting range without coming before the Council. She also asked if she needed to tell the citizen the shooting range would close at 9:00 p.m. and if so, the range should close by 9:00 p.m.

City Manager Megan Garner asked where the 9:00 p.m. closing came from.

Mayor Talley stated it was Ben Edwards and he oversees the range.

City Manager Garner stated it was best if she talked with the Police Department and it would be more appropriate for us to start with the Chief and then talk to some of the other agencies who are using the facility and report that information back to City Council by the end of the week.

Mr. Peter Murphy, spoke in reference to City Ordinance, Section 10.148 Invalidation, regarding a Special Use Permits.

### ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Whitaker. The motion passed unanimously. The meeting was adjourned at 10:43 p.m.

*Renee M. Ward, CMC*  
City Clerk



# STAFF REPORT

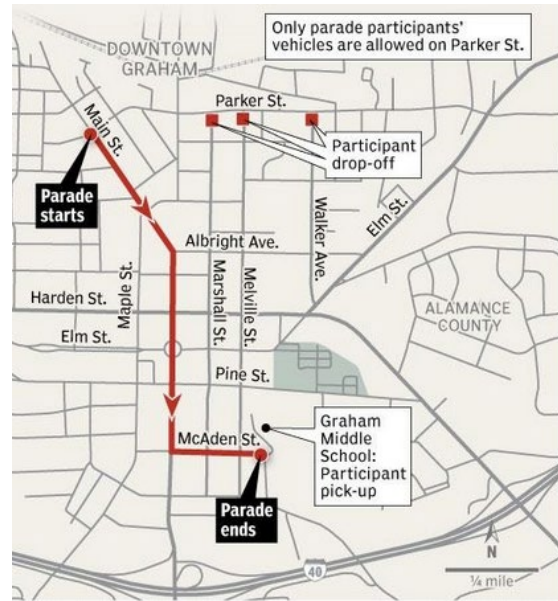
SUBJECT:	STREET CLOSURE FOR GRAHAM CHRISTMAS PARADE
PREPARED BY:	AARON HOLLAND, ASSISTANT CITY MANAGER

## REQUESTED ACTION:

Approve the 62<sup>nd</sup> Annual Graham Christmas Parade request and street closures submitted by the Graham Area Business Association for December 2, 2023.

## BACKGROUND/SUMMARY:

The Graham Area Business Association requests the approval of the 62<sup>nd</sup> Annual Graham Christmas Parade as described in the attached application and the following parade route. The route would include the procession beginning at Parker Street from Sideview to Elm Street, preceding down North Main Street to South Main Street, and ending on McAden Street at Graham Middle School’s parking lot. The requested closure of these streets would be from 8am to 1:30pm (set up and clean up included) and would need to also be approved by NCDOT for any State roads.



## FISCAL IMPACT:

There is no fiscal impact to the City of Graham in order to close the street.

## STAFF RECOMMENDATION:

Approval. The various City departments that may be involved have reviewed the request and have provided the organizer with pertinent information that will need to be satisfied.

## SUGGESTED MOTION(S):

I move we approve the request from the Graham Area Business Association for the 62<sup>nd</sup> Annual Graham Christmas Parade on December 2, 2023, which includes the closure of any listed City streets and pending approval from NCDOT for the closure of State roads.



1. Your email: grahamcinema@triadbiz.rr.com  
 2. Event name (if applicable): Graham Christmas Parade  
 3. Reason for the event (be specific): religious annual parade  
 4. Event date(s): December 2, 2023

5. Provide your event's setup, start, end, and cleanup times. (Ex: Name of Event 6:30 a.m. - 8 a.m. setup | 8 a.m. event start | 2 p.m. event ends | 2 p.m. - 4 p.m. cleanup):

8 am Parker St. closed from Sidenew to Elm St.

6. Event category Rec Ctr. Parking lot for horses. Climax St. and Main to McAden St. E McAden St. to Middle School. Lineup by 9am Parade starts at 10 am until 1 pm.

Please check all that apply appropriate category for your event.

- Concert/Performance
- Exhibit
- Farmer's Market
- Festival/Fair
- Parade/Procession
- Run/Walk
- Food Truck Rodeo
- Other: \_\_\_\_\_

7. Where are you requesting for your event to occur?

Be specific identifying street names or City facilities being requested for use?

see above

8. Does your event include the request to close streets?

Yes  No

9. Identify the street(s) you are requesting to have closed for your event.

Parker St. Main St. McAden St. Climax St.

10. Identify your street closure time(s) and will you anticipate when they will return to normal traffic flow.

8 am - 1 pm or earlier. Open as soon as parade concludes



11. What is your anticipated event attendance total? 2000

12. Does your event include musical entertainment?

Yes  No

13. Where will your musical entertainment be located?

on street in parade

14. Will sound amplification be used?  Yes  No

If yes, provide the start time and end time.

10 - 1 pm

15. Will inflatables or similar devices be used at your event?  Yes  No

If yes, please describe. \*Please note, Insurance requirements must be met in order to offer this activity.

16. Does your event include the use of fireworks, rockets, lasers, or other pyrotechnics?

Yes  No

If yes, please describe. \*\*\*Note: These requests will be subject to the approval of the City of Graham Police & Fire Departments in conjunction with State Laws governing this type of activity.

17. Will alcohol be served, sold or consumed at your event?

Yes  No

If you answered yes to the question above, please check all that apply to your event.

Alcohol will be available free of charge

Alcohol will be by purchase only

Alcohol being served and or sold at my event includes

Beer only

Wine only

Beer & Wine



18. Describe your security plan to ensure the safe sale and or distribution of alcohol at your event.

N/A

19. Does your event include food concession and/or food preparation areas?

Yes  No

If yes, please select the method of cooking that pertains to your event.

- Gas
- Electric
- Charcoal
- Other: \_\_\_\_\_

20. Do you plan to provide portable toilets at your event?

Yes  No

If yes, list the total number of portable toilets: 3

1 at Parker and Cates Circle  
1 at Main and Parker  
1 at Culp on Parker

21. Portable toilet company name: Lloyd's Portajohns

If no, please explain \_\_\_\_\_

22. Explain your plan for cleanup and removal of trash, waste, and garbage during & after your event.

Street sweeper usually follows parade route

Does your event require additional trash receptacles?

Yes  No

But we do need barricades

If yes, what is the requested number of additional trash receptacles? \_\_\_\_\_

23. Will there be any tents, canopies or temporary structures at your event?

Yes  No





24. Applicant name and affiliated agency if applicable

Graham Christmas Parade Committee sponsored by  
Graham Area Business Assoc.

25. Applicant's Address

Po Box 872 Graham, NC 27253

26. Applicant's phone number

336-516-7036

27. Applicant's email address

grahamcinema@triadbiz.rr.com

28. Provide the event's point of contact if different from the applicant. (First & Last name, Phone number, & Email Address)

Chuck Talley 336-516-7036  
chucktalley21@hotmail.com

29. How many years has this event taken place? 61 years Please do not contact any

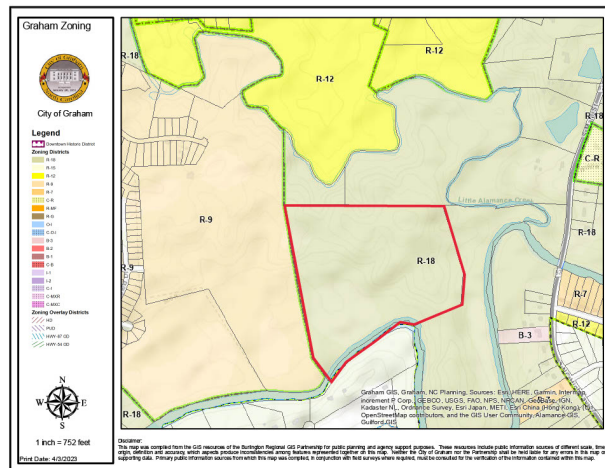
other agencies (i.e. Alamance  
County Rescue) The parade committee handles  
this. Thanks.

  
**STAFF REPORT**

<b>SUBJECT:</b>	<b>ANNEXATION OF 53.904 +/- ACRES</b>
<b>PREPARED BY:</b>	<b>CAMERON WEST, PLANNER</b>

**REQUESTED ACTION:**

Approve the resolution fixing a date of December 12, 2023, for a public hearing on the question of a contiguous annexation pursuant to G.S. 160A-31 for a tract of land totaling 53.904-acres.



**BACKGROUND/SUMMARY:**

The 53.904-acre area being considered for annexation is contiguous. The Developer is planning to connect to public water and sewer to this site for their residential properties.

Approval of this resolution does not finalize the annexation as Council is required to advertise and conduct a public hearing, followed by a vote on an annexation ordinance. Following a public hearing, approval of an Annexation Ordinance is the final step for Council in the

**FISCAL IMPACT:**

New residential property generally creates positive tax revenue for the City, and because the public services are being connected at this site, the cost to the City is minimal.

**STAFF RECOMMENDATION:**

Approval.

**SUGGESTED MOTION(S):**

1. I move we approve the resolution directing the City clerk to investigate a petition received under G.S. 160A-31 for potential contiguous annexation of GPIN 8882178503.
2. I move we approve the resolution fixing date of December 12, 2023 for a public hearing on the question of annexation pursuant to G.S. 160A-31 for 53.904 (+/-) acres.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**

**UNDER G.S. 160A-31**

**(GPIN: 8882178503) (AN2308)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on November 13, 2023, by the Graham City Council; and

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

**WHEREAS**, the City Council of the City of Graham deems it advisable to proceed in response to this request for annexation.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Graham:  
That the City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the result of her investigation.

---

Jennifer Talley, Mayor

ATTEST:

---

Renee M. Ward, City Clerk

**RESOLUTION FIXING DATE OF DECEMBER 12, 2023, FOR A PUBLIC HEARING ON QUESTION OF A  
CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 53.904 +/- ACRES**

**(AN2308)**

**WHEREAS**, a petition requesting annexation of the contiguous area described herein has been received; and

**WHEREAS**, certification by the City Clerk as to the sufficiency of the petition has been made; and

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on December 12, 2023.

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

Legal Description GPIN#: 8882178503

**Legal Description:**

BEGINNING AT AN IRON PIPE FOUND LOCATED AT THE MOST SOUTH EASTERLY CORNER OF THE PARCEL DESCRIBED HEREON, BEING THE TRUE POINT OF BEGINNING, AND HAVING THE FOLLOWING NORTH CAROLINA STATE PLANE COORDINATES: NC NAD 83 N:82751.037  
E:1882308.671

THENCE FOLLOWING TWENTY (20) COURSES:

1. SOUTH 66 DEGREES 09 MINUTES 09 SECONDS WEST FOR 433.73 FEET TO AN IRON PIPE FOUND; THENCE 2. SOUTH 65 DEGREES 56 MINUTES 09 SECONDS WEST FOR 29.97 FEET TO AN IRON REBAR SET; THENCE 3. NORTH 40 DEGREES 24 MINUTES 03 SECONDS WEST FOR 91.81 FEET TO AN IRON REBAR SET; THENCE 4. NORTH 83 DEGREES 47 MINUTES 39 SECONDS WEST FOR 107.81 FEET TO AN IRON REBAR SET; THENCE 5. SOUTH 70 DEGREES 33 MINUTES 04 SECONDS WEST FOR 162.59 FEET TO AN IRON REBAR SET; THENCE 6. SOUTH 57 DEGREES 50 MINUTES 40 SECONDS WEST FOR 524.65 FEET TO AN IRON REBAR SET; THENCE 7. SOUTH 40 DEGREES 20 MINUTES 32 SECONDS WEST FOR 281.27 FEET TO AN IRON REBAR SET; THENCE 8. SOUTH 33 DEGREES 24 MINUTES 21 SECONDS WEST FOR 183.51 FEET TO AN IRON REBAR SET; THENCE 9. NORTH 39 DEGREES 22 MINUTES 49 SECONDS WEST FOR 9.69 FEET TO AN IRON REBAR FOUND; THENCE 10. NORTH 39 DEGREES 15 MINUTES 35 SECONDS WEST FOR 199.75 FEET TO AN IRON REBAR FOUND; THENCE 11. NORTH 10 DEGREES 42 MINUTES 17 SECONDS WEST FOR 1838.54 FEET TO AN IRON PIPE FOUND; THENCE 12. SOUTH 88 DEGREES 53 MINUTES 02 SECONDS EAST FOR 131.73 FEET TO AN IRON PIPE FOUND; THENCE 13. SOUTH 01 DEGREES 41 MINUTES 25 SECONDS WEST FOR 131.72 FEET TO A STONE MONUMENT FOUND; THENCE 14. SOUTH 89 DEGREES 23 MINUTES 52 SECONDS EAST FOR 626.58 FEET TO AN IRON PIPE FOUND; THENCE 15. SOUTH 89 DEGREES 31 MINUTES 11 SECONDS EAST FOR 393.59 FEET TO AN IRON REBAR SET; THENCE 16. SOUTH 89 DEGREES 34 MINUTES 18 SECONDS EAST FOR 300.27 FEET TO AN IRON REBAR SET; THENCE 17. SOUTH 89 DEGREES 35 MINUTES 26 SECONDS EAST FOR 199.76 FEET TO AN IRON REBAR SET; THENCE 18. SOUTH 89 DEGREES 31 MINUTES 09 SECONDS EAST FOR 115.39 FEET TO AN IRON PIPE FOUND; THENCE 19. SOUTH 17 DEGREES 02 MINUTES 26 SECONDS EAST FOR 714.51 FEET TO AN IRON PIPE FOUND; THENCE 20. SOUTH 04 DEGREES 44 MINUTES 07 SECONDS WEST FOR 330.98 FEET TO SAID POINT OF BEGINNING.

SAID PARCEL CONTAINING 2,348,038 SQUARE FEET OR 53.90 ACRES OF LAND, MORE OR LESS.

Attest:

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

\_\_\_\_\_  
Renee M. Ward, Interim City Clerk

**SURVEYOR'S CERTIFICATION:**

I, JOSHUA A. MONTAZERI, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK SEE, PAGE MAP; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK SEE, PAGE MAP; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY AS CALCULATED IS 1:10,000+; AND THAT THE PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED.

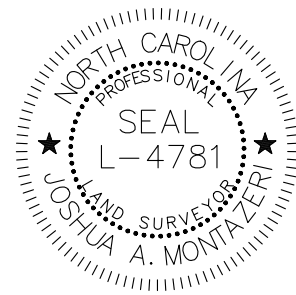
REGARDING ORIENTATION AND CONTROL POINT COORDINATES:  
I, JOSHUA A. MONTAZERI, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: CLASS 1
- (2) POSITIONAL ACCURACY: 1:50,000+
- (3) TYPE OF GPS FIELD PROCEDURE: VRS-RTK
- (4) DATES OF SURVEY: SEPTEMBER 18, 2020
- (5) DATUM/EPOCH: NAD83/2011
- (6) PUBLISHED/FIXED-CONTROL USE: CORS
- (7) GEOID MODEL: NCGE01D 12B GRS80
- (8) COMBINED GRID FACTOR(S): 0.99995931
- (9) UNITS: US SURVEY FEET

I, JOSHUA A. MONTAZERI, CERTIFY THAT THIS IS A SURVEY OF AN EXISTING PARCEL OR PARCELS OF LAND, OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 24th. DAY OF SEPTEMBER, 2020.

*Joshua A. Montazeri*  
PROFESSIONAL LAND SURVEYOR



**CITY OF GRAHAM ANNEXATION APPROVAL**

ANNEXATION APPROVED BY THE GRAHAM CITY COUNCIL ON THE DAY OF \_\_\_\_\_, 2020, WITH AN EFFECTIVE DATE OF \_\_\_\_\_ PROVIDED THAT THE PLAT BE RECORDED WITHIN SIXTY DAYS OF FINAL APPROVAL.

BY \_\_\_\_\_ MAYOR DATE \_\_\_\_\_  
ATTEST \_\_\_\_\_ CITY CLERK DATE \_\_\_\_\_

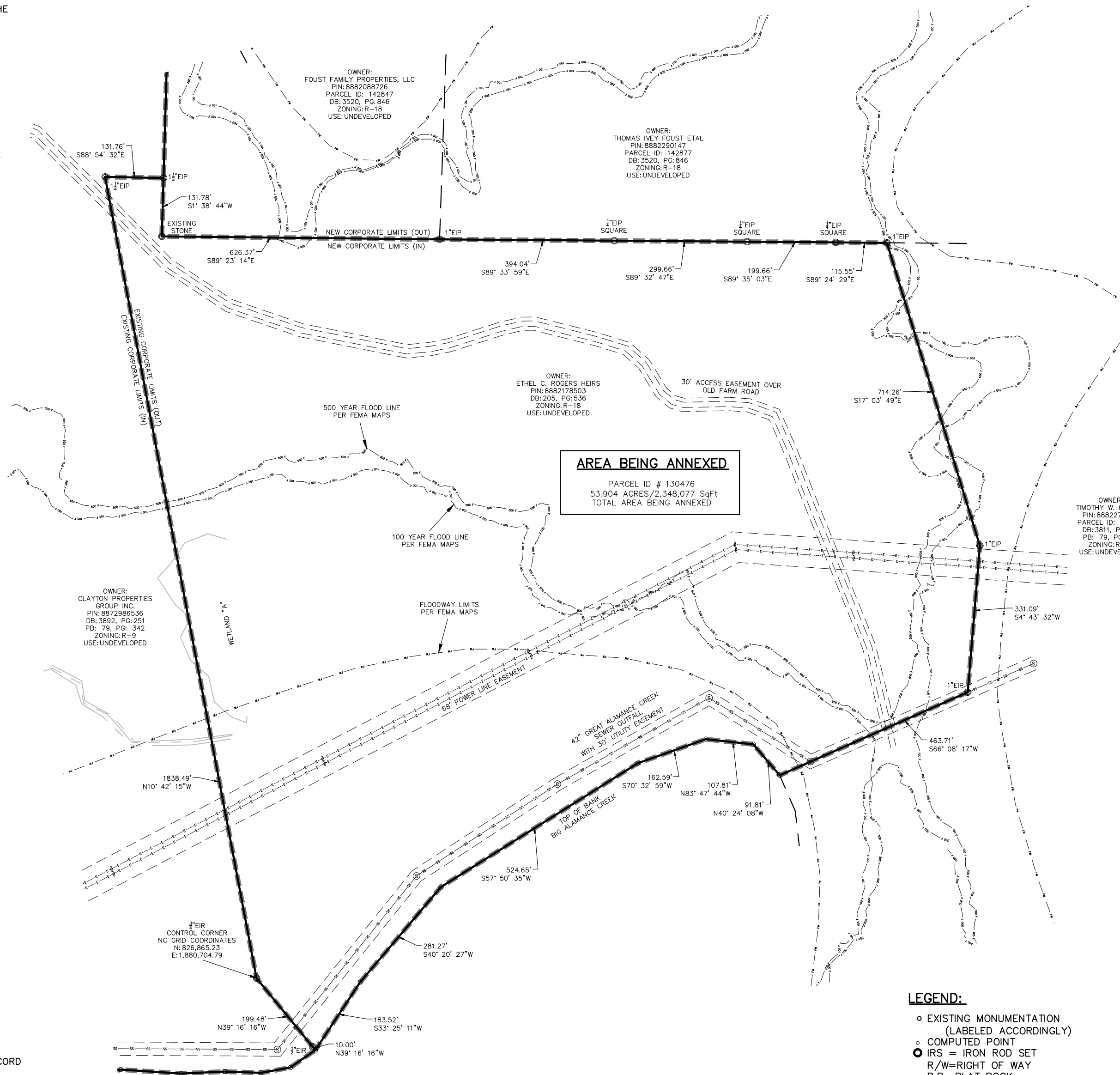
**REVIEW OFFICER'S CERTIFICATE  
ALAMANCE COUNTY, NORTH CAROLINA**

I, \_\_\_\_\_ COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

SIGNED: \_\_\_\_\_ DATE \_\_\_\_\_

**SURVEY NOTES:**

1. THIS PROPERTY IS SUBJECT TO ANY EASEMENTS, AGREEMENTS, OR RIGHTS-OF-WAY OF RECORD PRIOR TO THE DATE OF THIS MAP WHICH WERE NOT APPARENT AT THE TIME OF OUR FIELD INSPECTION.
2. THE SURVEYOR HAS NOT PERFORMED A TITLE SEARCH, THEREFORE, THIS MAP IS SUBJECT TO ANY AND ALL FACTS THAT AN ACCURATE TITLE SEARCH MAY DISCLOSE.
3. NO SUBSURFACE INVESTIGATION HAS BEEN DONE AT THIS TIME. UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM ACTUAL FIELD LOCATIONS AND/OR MAPS BY OTHERS.
4. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE INDICATED.
5. BEARINGS AROUND SUBJECT PROPERTY ARE ORIENTED TO THE BEARING BASE REFERENCE IN THE NORTH ARROW. ALL GRID BEARINGS ARE SO NOTED.
6. IRON PINS (#4 REBAR) SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
7. A PORTION OF THE SUBJECT PROPERTY DOES LIE WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA MAP # 3710887200K, 3710888300K, 3710887300K, 3710888200K, 3710888300K, DATED 11/17/2017.

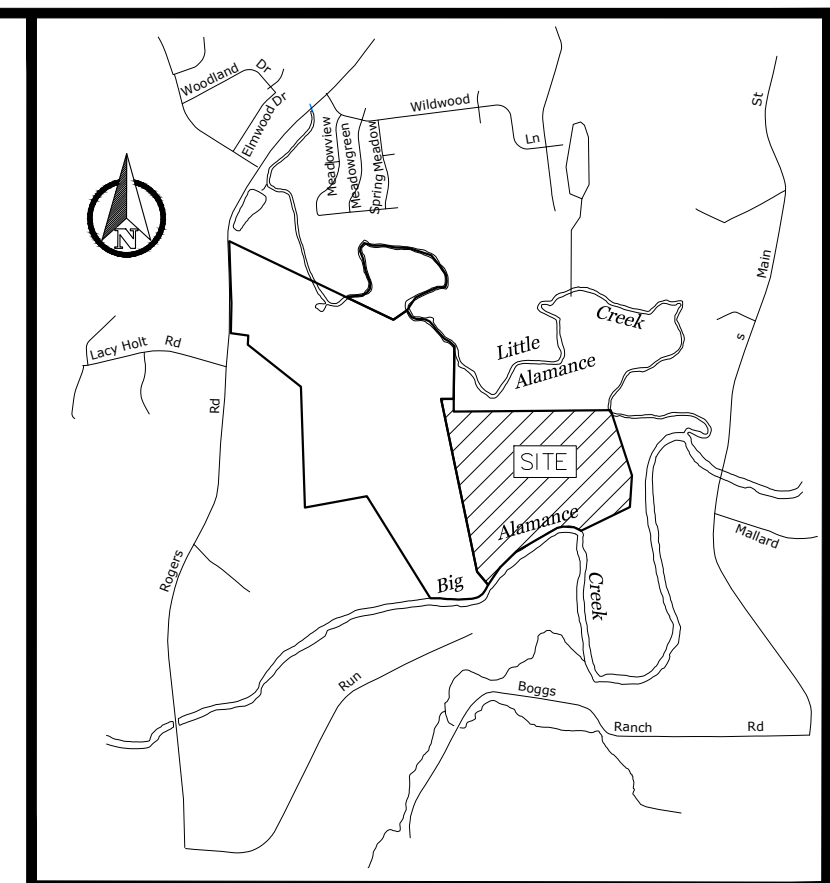


SCALE: 1" = 200'

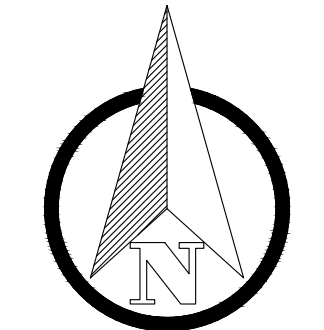
**LEGEND:**

- o EXISTING MONUMENTATION (LABELED ACCORDINGLY)
- o COMPUTED POINT
- o IRS = IRON ROD SET
- R/W=RIGHT OF WAY
- P.B.=PLAT BOOK
- DB=DEED BOOK
- PG.=PAGE
- ===== GME SURVEYED BOUNDARY LINE
- GME SURVEYED TIE LINE
- ADJACENT PROPERTY LINE

TOWNSHIP: GRAHAM  
MUNICIPALITY: CITY OF GRAHAM, ETJ  
COUNTY: ALAMANCE  
STATE: NORTH CAROLINA  
MAP PREPARATION DATE: SEP 24, 2020  
SCALE: 1" = 200'



VICINITY MAP  
SCALE: 1" = 2000'



NC GRID  
NAD 83, NSRS 2011

**PROPERTY DATA:**

- 1) DEED REFERENCE: DB 205, PG 536, PB 79, PG 266
- 2) PARCEL ID # 142862
- 3) PARCEL PIN # 8882178503
- 4) PROPERTY AREA: 53.904± ACRES
- 5) EXIST. NO. OF LOTS: 1 LOT
- 6) CURRENT ZONING: R-18 (GRAHAM ETJ)
- 7) OWNER: ETHEL C. ROGERS HEIRS  
1526 ROGERS ROAD  
GRAHAM, NC 27253
- 8) NO WETLANDS PERMITTING HAS BEEN UNDERTAKEN AT THIS TIME.

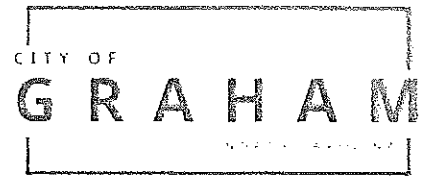
**FINAL PLAT**

CORPORATE LIMITS EXTENSION  
CITY OF GRAHAM  
TAX PARCEL ID # 142862



7A WENDY CT  
GREENSBORO, NC 27409  
Tel: 336.294.9394  
CORPORATE CERTIFICATE #P-0826  
www.greenmountainengineers.com

# VOLUNTEER BOARD & COMMISSION APPLICATION



The following application is used by the Graham City Council to identify individuals interested in serving on a City board or commission. To ensure that your application will receive full consideration, please answer all questions completely. For more information and details about each board, please visit [cityofgraham.com/boards-commissions](http://cityofgraham.com/boards-commissions)

Name: John B. Harrington Email Address: john@mcclurefuneralservice.com  
 Home Address: 310 West Pine St Mailing Address: P.O. Drawer 267  
 City, State, Zip: Graham, NC 27253 City, State, Zip: Graham, NC 27253  
 Home Phone: 336-227-2711 Alternate Phone: 336-213-2109

Please list the board(s) and/or commissions on which you are currently serving:

Sports Hall of Fame, /GFD/ GABA/ALCOATS/ea

Please select up to, two (2) boards and/or commissions from the list below for which you would like to be considered and indicate your preference for each selection (1 = first choice and 2 = second choice):

- |  |  |
|--|--|
| <input type="checkbox"/> Alcohol Beverage Control Board      | <input checked="" type="checkbox"/> Historical Museum Advisory Board |
| <input type="checkbox"/> Appearance/Tree Commission          | <input type="checkbox"/> Historic Resources Commission               |
| <input type="checkbox"/> Canine Review Board                 | <input type="checkbox"/> Planning Board/Board of Adjustment          |
| <input type="checkbox"/> Graham Housing Authority            | <input type="checkbox"/> Recreation Commission                       |
| <input type="checkbox"/> Library Committee (Alamance County) | <input type="checkbox"/> Economic Development & Marketing Committee  |

Note: If you wish to change your selections for desired board(s) and/or commission(s) you will need to file a new application with the City Clerk. Only the most recent application on file will be presented to City Council.

## RELEVANT EXPERIENCE

Current employer/retired: McClure Funeral Service.

Employer address: 1030 S. main st. City, State, Zip: GRAHAM, NC 27253

Job title and description of responsibilities:

General manager.

Which of the following relevant knowledge, skills, abilities, interest, and/or experiences would you bring to the board(s) or commission(s) to which you are applying (select all that apply):

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> History                 | <input type="checkbox"/> Legal                             | <input checked="" type="checkbox"/> Critical Thinking       |
| <input checked="" type="checkbox"/> Architecture            | <input type="checkbox"/> Graphic Design                    | <input checked="" type="checkbox"/> Data Analysis           |
| <input checked="" type="checkbox"/> Research                | <input checked="" type="checkbox"/> Creativity             | <input checked="" type="checkbox"/> Active-Listening        |
| <input type="checkbox"/> Program Development                | <input checked="" type="checkbox"/> Marketing/Social Media | <input checked="" type="checkbox"/> Effective Communication |
| <input checked="" type="checkbox"/> Historical Preservation | <input checked="" type="checkbox"/> Economic Development   | <input checked="" type="checkbox"/> Education & Outreach    |
| <input checked="" type="checkbox"/> Event Planning          | <input checked="" type="checkbox"/> Community Organizing   | <input checked="" type="checkbox"/> Conflict Resolution     |
| <input checked="" type="checkbox"/> Landscape Design        | <input checked="" type="checkbox"/> Athletics/Sports       | <input checked="" type="checkbox"/> Time Management         |
| <input type="checkbox"/> Gardener/Arborist                  | <input checked="" type="checkbox"/> Problem Solving        | <input type="checkbox"/> Other: _____                       |
| <input checked="" type="checkbox"/> Adaptability            | <input checked="" type="checkbox"/> Interpersonal Skills   |   |

Why do you believe you would be an asset to the board(s) and/or commission(s) to which you are applying?

Have you attended a meeting of the board(s) and/or commission(s) for which you are applying?

- Yes     No

Have you met with the chairperson or Staff Liaison of the board(s) and/or commission(s) for which you are applying?

- Yes     No

Additional relevant information:

**For City Clerk Use Only**  
Date Received:

Thank you for your interest in the City of Graham's boards and commissions. Submit this application by email to: Renee Ward at or in person to: City Clerk's Office | 201 South Main Street | or mail to: City Clerk P.O. Drawer 357, Graham, NC, 27253





# STAFF REPORT

SUBJECT:	BUDGET AMENDMENT – WELLNESS INITIATIVE
PREPARED BY:	MELANIE KING, FINANCE OFFICER

### REQUESTED ACTION:

Approve the budget amendment to increase budgeted Professional Services in Administration by \$10,000 (from \$40,000 to \$50,000).

### BACKGROUND/SUMMARY:

The City of Graham has regularly administered several wellness initiatives for the well being of city staff as a means to both encourage staff to take their health seriously and to potentially minimize medical claims and absences due to illness. Programs such as flu shot clinics, biometric wellness screenings, and annual health fairs work towards accomplishing these goals. Over the course of the past 10 years, the Flexible Spending Account plans administered by the City have experienced approximately \$15,000 in forfeitures. Staff is asking that \$10,000 of these forfeiture funds be allocated from fund balance in order to assist in the administration of City wellness program.

### FISCAL IMPACT:

The additional \$10,000 in budget will increase expenditures as well as revenues as this amount is coming from available fund balance.

### STAFF RECOMMENDATION:

Approval

### SUGGESTED MOTION(S):

I move we approve the budget amendment to increase budgeted Professional Services in Administration by \$10,000 (from \$40,000 to \$50,000).



**CITY OF GRAHAM  
BUDGET AMENDMENT ORDINANCE  
2023-2024**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT  
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:**

**Section 1.**

<b>GENERAL FUND DEPARTMENT/ACCOUNT</b>	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Administration / Professional Services	40,000.00	50,000.00	10,000.00		10,000.00
	<b>40,000.00</b>	<b>50,000.00</b>	<b>10,000.00</b>	-	<b>10,000.00</b>

**Section 2.**

<b>GENERAL FUND REVENUES</b>	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	1,450,941.00	1,460,941.00	10,000.00		10,000.00
	<b>1,450,941.00</b>	<b>1,460,941.00</b>	<b>10,000.00</b>	-	<b>10,000.00</b>

Adopted this 13th day of November 2023.

Attest:

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

\_\_\_\_\_  
Renee M. Ward, City Clerk



**STAFF REPORT**

<b>SUBJECT:</b>	BUDGET AMENDMENT – WASTEWATER TRACTOR
<b>PREPARED BY:</b>	MELANIE KING, FINANCE OFFICER

**REQUESTED ACTION:**

Approve the budget amendment to increase budgeted Wastewater Capital Outlay Equipment by \$50,000 (from \$140,000 to \$190,000).

**BACKGROUND/SUMMARY:**

The Wastewater Treatment Plant has a tractor vital to operations that is currently out of service with no back in service date estimable. This tractor is 12 years old and has been used to spread over 33 million gallons of biosolids at the city farm. The Treatment Plant needs to purchase a new tractor in order to ensure continued operations. The tractor to be purchased is a John Deere 617M with a total cost of \$183,210.50. The city will purchase this equipment via a 4 year lease agreement with annual payments.

**FISCAL IMPACT:**

The additional \$50,000 in budget will increase expenditures as well as revenues as this amount is coming from available fund balance.

**STAFF RECOMMENDATION:**

Approval

**SUGGESTED MOTION(S):**

I move we approve the budget amendment to increase budgeted Wastewater Capital Outlay Equipment by \$50,000 (from \$140,000 to \$190,000).

**CITY OF GRAHAM**

**BUDGET AMENDMENT ORDINANCE**

**2023-20204**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT  
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:**

**Section 1.**

**GENERAL FUND**

DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Wastewater Treatment Plant / Capital Outlay Equipment	140,000.00	190,000.00	50,000.00		50,000.00
	<b>140,000.00</b>	<b>190,000.00</b>	<b>50,000.00</b>	-	<b>50,000.00</b>

**Section 2.**

**GENERAL FUND**

REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	444,625.00	494,625.00	50,000.00		50,000.00
	<b>444,625.00</b>	<b>494,625.00</b>	<b>50,000.00</b>	-	<b>50,000.00</b>

Adopted this 13th day of November 2023.

Attest:

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

\_\_\_\_\_  
Renee M. Ward, City Clerk

**CITY OF GRAHAM  
RELEASE ACCOUNTS**

**NOVEMBER**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
5125	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$373.26
5126	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$64.65
5127	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$25.09
5128	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$374.87
5129	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$221.75
3590	2023	BURKE, LISA	APPEAL OF ASSESSMENT	107.06
7685	2023	BOUDREAULT, DONALD	APPEAL OF ASSESSMENT	\$200.39
2827	2023	CAPITAL BANK NA	APPEAL OF ASSESSMENT	\$429.99
4582	2023	CARLTON, SHAUNNA DAUM	APPEAL OF ASSESSMENT	\$172.80
8103	2023	CAROLINA PROPERTY HOLDINGS	APPEAL OF ASSESSMENT	\$626.74
340	2023	CARTER, JANICE L	APPROVED FOR HOMESTEAD EXEMPTION	\$302.50
5012	2023	CHI, DENNIS	APPEAL OF ASSESSMENT	\$90.98
4131	2023	CLARIDA, JENNIFER LYNN	APPEAL OF ASSESSMENT	\$77.41
7713	2023	CLARK, DARRYL H	APPEAL OF ASSESSMENT	\$59.40
4566	2023	DIXON, EVAN	APPEAL OF ASSESSMENT	\$197.80
1945	2023	EICHMANN, GARY	APPEAL OF ASSESSMENT	\$59.44
1173	2023	GARNER, MEGAN	APPEAL OF ASSESSMENT	\$220.98
4087	2023	GIBSON, MICHAEL	APPEAL OF ASSESSMENT	\$153.94
6950	2023	GOLDEN, WILLIAM CHAD	APPEAL OF ASSESSMENT	\$160.69
1993	2023	GRAHAM DUPLEX LLC	APPEAL OF ASSESSMENT	\$41.01
6866	2023	GRAHAM HOUSING LTD PARTNERSHIP	APPEAL OF ASSESSMENT	\$6,587.17
2767	2023	GRAHAM MANOR ASSOCIATES LP	APPEAL OF ASSESSMENT	\$8,305.42
2877	2023	HARMON, JOHN W	APPEAL OF ASSESSMENT	\$94.00
7480	2023	HUFFMAN, LINDSEY J	APPEAL OF ASSESSMENT	\$185.80
6887	2023	HULICK, ALAIN R	APPEAL OF ASSESSMENT	\$280.58
4312	2023	KIMREY, DOUGLAS S	APPEAL OF ASSESSMENT	\$250.05
4712	2023	LEIGH, PRESTON	APPEAL OF ASSESSMENT	\$54.44
704	2023	MAPLE & MARKET I LLC	APPEAL OF ASSESSMENT	\$212.60
705	2023	MAPLE & MARKET I LLC	APPEAL OF ASSESSMENT	\$325.01
6944	2023	MARTIN, DENNIS S	APPEAL OF ASSESSMENT	\$129.77
1886	2023	MAY, SQUARED LLC	APPEAL OF ASSESSMENT	\$108.09
5352	2023	MCKINNEY, MICHAEL LYNN	APPROVED FOR HOMESTEAD EXEMPTION	\$296.70
5058	2023	MURPHY, PETER	APPEAL OF ASSESSMENT	\$309.67

# NOVEMBER

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
2575	2023	NOMADIC VIEW LLC	APPEAL OF ASSESSMENT	\$73.25
6578	2023	NORFOLK VILLAGE LMTD PTSP	APPEAL OF ASSESSMENT	\$3,881.18
3285	2023	OWEN, JEANNE W LIFE ESTATE	APPEAL OF ASSESSMENT	\$322.08
7448	2023	PARSONS, JOSEPH A	APPEAL OF ASSESSMENT	\$122.07
80	2023	PERKINS, SHARON D	APPEAL OF ASSESSMENT	\$78.45
3970	2023	PERRY, MARJORIE	APPEAL OF ASSESSMENT	\$28.91
4883	2023	RITZ, KRISTEN R	APPEAL OF ASSESSMENT	\$79.75
5543	2023	RIVER STREET HOLDINGS LLC	APPEAL OF ASSESSMENT	\$407.94
2739	2023	ROYSTER, MACK L	APPEAL OF ASSESSMENT	\$240.67
4842	2023	SCHMID, LONNY LIFE ESTATE	APPEAL OF ASSESSMENT	\$123.29
3738	2023	SCOTT MAYO HOLDINGS LLC	APPEAL OF ASSESSMENT	\$11,077.13
5933	2023	SLIVINSKI, JOHN F JR	APPEAL OF ASSESSMENT	\$544.55
5217	2023	SMITH, PAMELA J	APPEAL OF ASSESSMENT	\$95.79
2861	2023	SWEENEY, NANCY L	APPEAL OF ASSESSMENT	\$172.80
5291	2023	TEER, ANN EULISS	APPEAL OF ASSESSMENT	\$75.37
2907	2023	THOMPSON, GALE	APPEAL OF ASSESSMENT	\$104.98
3499	2023	WARD & WARD RENTALS LLC	APPEAL OF ASSESSMENT	\$550.47
13408	2023	WELLS FARGO FINANCIAL LEASING	APPEAL OF ASSESSMENT	\$19.01
1023	2023	WHICKER, CHRISTIAN ETUX	APPEAL OF ASSESSMENT	\$119.40
5791	2023	WOODARD, TROY W JR	APPEAL OF ASSESSMENT	\$70.87
2260	2023	YOUNGER, SHERRY R	APPEAL OF ASSESSMENT	\$99.10
5130	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$338.33
5131	2023	630 W HARDEN ST	APPEAL OF ASSESSMENT	\$422.10
6928	2023	CLARK, KENNETH BRADLEY	APPEAL OF ASSESSMENT	\$319.59
4098	2023	CRESCENT OAKS OWNER LLC ETAL	APPEAL OF ASSESSMENT	\$3,767.83
6206	2023	CURTIS, JANE MCNAIR	APPEAL OF ASSESSMENT	\$40.33
3338	2023	ENOCH, CHLOE L	APPEAL OF ASSESSMENT	\$156.33
11910	2023	JORDAN, MATTTHEW CALE	SOLD BOAT	\$55.08
2329	2023	LEIMBERGER, JEFFREY DAVID	APPEAL OF ASSESSMENT	\$403.05
1105	2023	LONG, ANTONY B	APPEAL OF ASSESSMENT	\$23.62
1656	2023	MASSINGILL, BRADLEY	APPEAL OF ASSESSMENT	\$148.16
54	2023	MAY, SQUARED LLC	APPEAL OF ASSESSMENT	\$93.17
6927	2023	MORTON, MICHELE JONES	APPEAL OF ASSESSMENT	\$314.08
4253	2023	RADCLIFFE, MELVIN F JR	APPEAL OF ASSESSMENT	\$156.50
1498	2023	RIVER STREET HOLDINGS LLC	APPEAL OF ASSESSMENT	\$53.27



**NOVEMBER**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
7817	2023	RONEY, GLENDA C	APPEAL OF ASSESSMENT	\$202.96
4779	2023	SDG GRAHAM I LLC	APPEAL OF ASSESSMENT	\$5,547.61
1028	2023	SPADAVECCHIA, JOSEPH	APPEAL OF ASSESSMENT	\$20.41
7027	2023	TURNER, B C II	APPEAL OF ASSESSMENT	\$63.66
3018	2023	VONCANON, JOSHUA	APPEAL OF ASSESSMENT	\$161.80
<b><i>TOTAL RELEASES</i></b>				<b><i>\$51,674.99</i></b>

**CITY OF GRAHAM  
REFUNDS**

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**NOVEMBER**

<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR REFUND</u>	<u>REFUND AMOUNT</u>
3583	2023	OBAUGH, JONATHAN A	APPEAL OF ASSESSMENT	103.69
1464	2023	RAFAEL, JAMES G DDS	APPEAL OF ASSESSMENT	37.71
1483	2023	RAFAEL, JAMES G DDS	APPEAL OF ASSESSMENT	41.01
4593	2023	GETTIG, ELIZABETH A	APPEAL OF ASSESSMENT	\$56.60
2179	2023	HORNBUCKLE, MARY H	APPROVED FOR HOMESTEAD EXEMPTION	\$269.10
1768	2023	MYERS, JOSEPH C JR	APPEAL OF ASSESSMENT	\$119.87
2573	2023	ABELE, PATRICK	APPEAL OF ASSESSMENT	7.25
2980	2023	MURR, THOMAS WOODROW JF	APPEAL OF ASSESSMENT	\$66.08
2118	2023	EBERLIN, LYNNE W	APPEAL OF ASSESSMENT	90.90
4950	2023	KJELLEN, TERRANCE	APPEAL OF ASSESSMENT	275.62
4827	2023	STORE MASTER FUNDING	APPEAL OF ASSESSMENT	4665.15

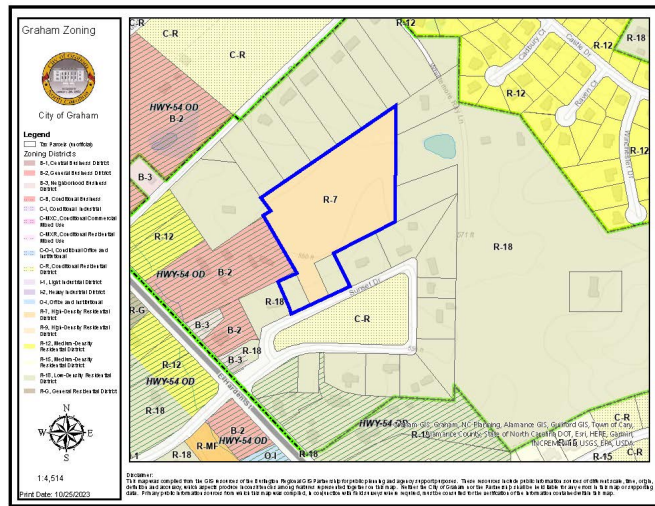
***TOTAL REFUNDS***      ***5,732.98***

  
**STAFF REPORT**

<b>SUBJECT:</b>	<b>ANNEXATION OF 7.8 +/- ACRES OFF SUNSET DRIVE</b>
<b>PREPARED BY:</b>	<b>CAMERON WEST, PLANNER</b>

**REQUESTED ACTION:**

Approve the Annexation Ordinance to Extend the Corporate Limits of the City of Graham, North Carolina for a tract of land totaling 7.8-acres off Sunset Drive.



**BACKGROUND/SUMMARY:**

The attached petition is a request for the Council's approval for an extension of the corporate limits to include the subject properties. The area being considered for annexation is located off of Little Creek Drive and contains approximately 7.84 - acres total. Water and sewer are being extended into Sunset Drive for the development.

**FISCAL IMPACT:**

New Residential development generally creates positive tax revenue for the City, and because the public services are being connected at this site, the cost to the City is minimal.

**STAFF RECOMMENDATION:**

Approval.

**SUGGESTED MOTION(S):**

1. I move we approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for 7.8 (+/-) acres off Sunset Drive.



# Graham Zoning



City of Graham

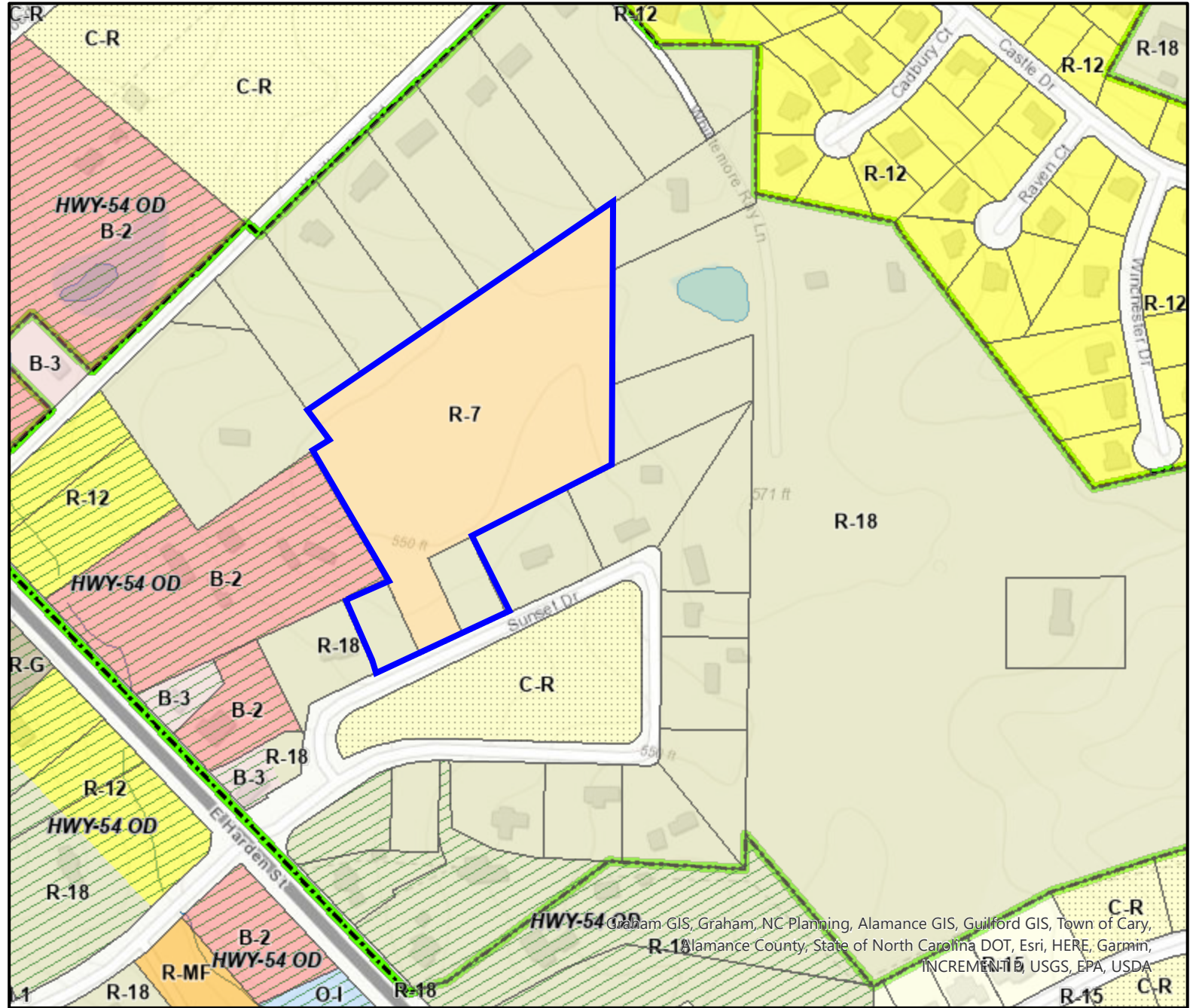
## Legend

- Tax Parcels (unofficial)
- Zoning Districts**
- B-1, Central Business District
- B-2, General Business District
- B-3, Neighborhood Business District
- C-B, Conditional Business
- C-I, Conditional Industrial
- C-MXC, Conditional Commercial Mixed Use
- C-MXR, Conditional Residential Mixed Use
- C-O-I, Conditional Office and Institutional
- C-R, Conditional Residential District
- I-1, Light Industrial District
- I-2, Heavy Industrial District
- O-I, Office and Institutional
- R-7, High-Density Residential District
- R-9, High-Density Residential District
- R-12, Medium-Density Residential District
- R-15, Medium-Density Residential District
- R-18, Low-Density Residential District
- R-G, General Residential District



1:4,514

Print Date: 10/25/2023



Graham GIS, Graham, NC Planning, Alamance GIS, Guilford GIS, Town of Cary, Alamance County, State of North Carolina DOT, Esri, HERE, Garmin, INCREMENTAL, USGS, EPA, USDA

**Disclaimer:**

This map was compiled from the GIS resources of the Burlington Regional GIS Partnership for public planning and agency support purposes. These resources include public information sources of different scale, time, origin, definition and accuracy, which aspects produce inconsistencies among features represented together on this map. Neither the City of Graham nor the Partnership shall be held liable for any errors in this map or supporting data. Primary public information sources from which this map was compiled, in conjunction with field surveys where required, must be consulted for the verification of the information contained within this map.

**SURVEYOR'S CERTIFICATE:**

To: Triad Classic Homes, LLC

"I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 2713 - page 0205, or other reference source E.B. 35, P.G. 71 ...); that the boundaries not surveyed are indicated as drawn from information in Book ... page ... or other reference source ... that the ratio of precision or positional accuracy is ... and that this map conforms to the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1800)."

The field work was completed on September 19, 2023;

Date of Map: Sept. 21, 2023. Revised:

Executed this 21ST day of SEPT., 2023

Registration No. L-3330

Peter E. Ghid

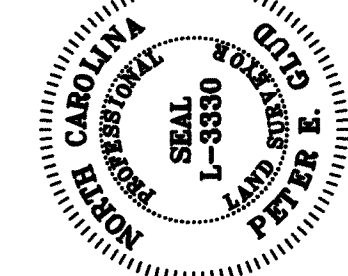
621 Eugene Court

Greensboro, N.C.

27401

Signature

Date



**FLOOD CERTIFICATION:**

No portion of this property is located in a 100 Year Flood Plain or in an identified "Flood Prone Area" (Zone X) as defined by FEMA and U.S. Dept. of Homeland Security, Community-Planete Number 372188850000, effective 08/01/2023, or any other reference source. If the property is located in a Flood Plain, the Flood Plain boundaries shall be shown on this map, along with the Flood Plain designation, dated November 27, 2023, as amended, unless otherwise shown on accompanying plat.

**MISCELLANEOUS NOTES:**

AREA DETERMINED BY COORDINATE METHOD  
ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET.  
LINES SHOWN DASHED ARE NOT A PART OF THIS SURVEY AND ARE TAKEN FROM REFERENCES SHOWN HEREON.  
PROPERTY CORNERS REFERENCED AS SHOWN.

OBSERVED IN THE PROCESS OF PERFORMING THE FIELD WORK FOR THE PURPOSE OF DETERMINING THE POSITION AND LOCATION OF PROPERTY BOUNDARIES.

THE BOUNDARY LINES OF THE PROPERTY ARE CONTIGUOUS AND CONTAIN NO GAP, GORES OR OVERLAPS.

THERE IS NO OBSERVABLE EVIDENCE OF THE SITE BEING USED AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.

**WETLAND NOTE**  
THERE WAS NO VISIBLE EVIDENCE OF DELINEATED WETLANDS PRESENT DURING THE TIME OF THIS SURVEY.

**UTILITY NOTES:**

1) THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE AND ARE NOT TO BE CONSIDERED WARRANTIES HEREIN. SURFACE EVIDENCE UTILITIES WERE SHOWN AND THE LOCATION OF ANY SUBSURFACE UTILITIES SHOWN.

2) BEFORE DIGGING IN THIS AREA, CALL "N.C. ONE CALL CENTER" 1-800-633-4349 FOR FIELD LOCATIONS (REQUESTED FOR GROUND MARKERS) OF UNDERGROUND UTILITIES.

**SITE DATA**

TOTAL AREA: 7.84 ± ACRE  
341,890 ± SQ. FT.  
PIN: 14763  
(State ID) 888483820  
GPIN: 14-7598  
ADDRESS: 1018 E HARDEN STREET  
DIED REFERENCE: D.B. 2713, P.G. 2005  
PLAT REFERENCE: PL. 42, PL. 71

BOUNDARY INFORMATION TAKEN FROM FIELD DATA BY BORUM, WADE & ASSOCIATES, P.A. AND RECORDED INFORMATION. BASE BEARING - MAD 83 / NSRS-2011 COORDINATE ROTATION. REFERENCE PUBLISHED MONUMENT - CONKUN "

Northing 838739.49 ft  
Easting 1889870.40 ft  
ELEV 547.7 ft NAVD 88  
Combined Factor 0.99994903

**EXISTING PROPERTY OWNERS**

KETH WAYNE DODSON  
3545 POINT WILLEN ROAD  
HAW RIVER, NC 27126

RIVER WALK 54, LLC  
3705 W PARKER STREET  
GREENSBORO, NC 27403

APRIL M. BILINGS TRUST  
SHAW-CRIS FOR THE BILINGS TRUST  
558 OXON ROAD  
GRAHAM, NC 27453

MAD 83(2011)  
PUBLISHED NCSS  
MON. "CONKUN"  
Northing 838739.49 ft  
Easting 1889870.40 ft  
ELEV 547.7 ft  
Combined Factor 0.99994903

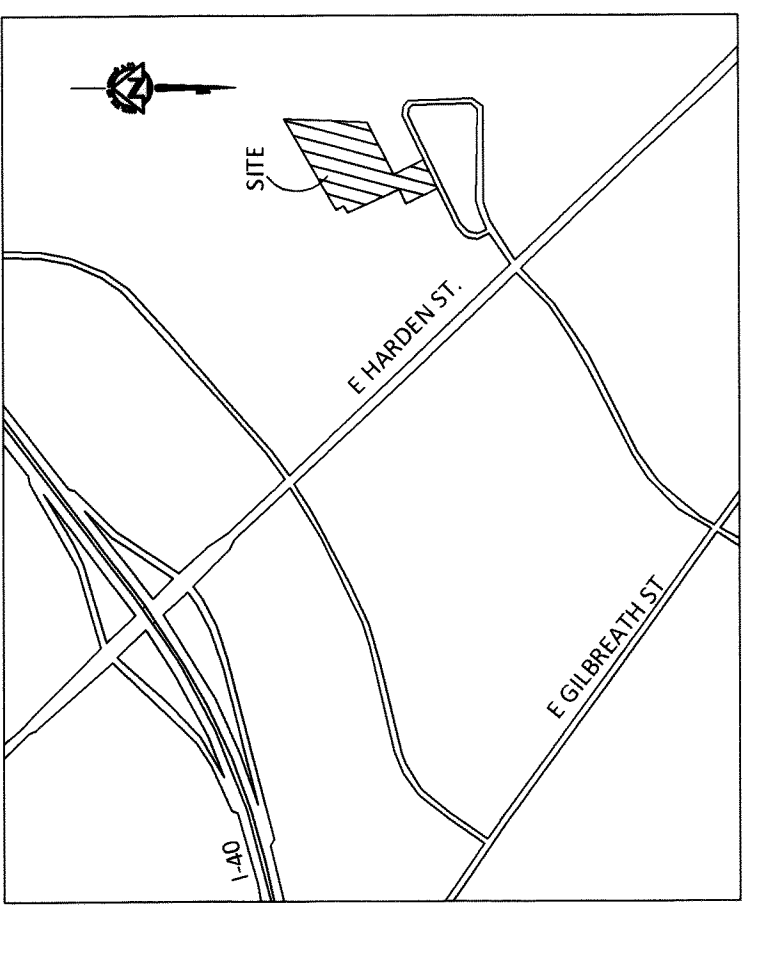


**Borum, Wade & Associates, P.A.**  
621 Eugene Court, Suite 100, Greensboro, NC 27401-2711  
PO Box 1889, Greensboro, NC 27420-1882  
Phone: 336-275-6971 Fax: 336-275-3719  
Web: www.bworum.com  
N.C. License # P.L. 00688

**PRELIMINARY MAP**  
NOT FOR REGISTRATION, CONVEYANCES,  
OR SALES

SCALE

PROJECT:



**TITLE DESCRIPTION**  
840 SUNSET DRIVE  
ALL that certain piece, parcel or tract of land laying and being in Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

Beginning at an Existing Iron Pipe said corner being in the Northern margin of Sunset Drive having a 407' right of way and being the southwest corner of Riverwalk LLC (either now or formerly as described in instrument deed book 3959 page 0944 in the Alamance County Register of Deeds and having a parcel number 147602 and also being the southeast corner of Salvador Leon either now or formerly as described in instrument deed book 3263 page 017 in the Alamance County Register of Deeds and having a parcel number 147600 and also being located North 32 deg. 45 min. 11 sec. West with a grid distance of 2221.87 feet from NCGS 1488870.40 ft Thence with the corner North 29 deg. 45 min. 02 sec. West and a distance of 188.28 feet to an existing iron pipe said point being the north west corner of the before mentioned Salvador Leon and the southern corner of James C. Brown either now or formerly as described in instrument deed book 2568 with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned Salvador Leon and the north east corner of the before mentioned James C. Brown and having a parcel number 147598 Thence with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned Salvador Leon and the north east corner of the before mentioned James C. Brown and having a parcel number 147613 Thence with the corner North 30 deg. 22 min. 24 sec. West and a distance of 309.46 feet to an existing iron pipe said point being the north east corner of the before mentioned James C. Brown and the north west corner of the before mentioned Keith Dodson and the south west corner of Betsy White (heirs) either now or formerly as described in instrument deed book 473 with the corner North 35 deg. 41 min. 06 sec. West and a distance of 69.04 feet to a new iron pipe said point being the most south east corner of the before mentioned Betsy White (heirs) the most north west corner of the before mentioned Keith Dodson and the south west corner of Amber Meeks either now or formerly as recorded in instrument deed book 3034 page 032 in the Alamance County Register of Deeds and having a parcel number 147630 Thence with the corner North 43 deg. 45 min. 42 sec. East and a distance of 795.98 feet to an existing iron pipe said corner being the most north eastern corner of the before mentioned Keith Dodson and the southern corner of Marion Whittemore either now or formerly in instrument deed book 3914 page 213 in the Alamance County Register of Deeds and having a parcel number 147673 and the north west corner of Sandra Whittemore either now or formerly in instrument deed book 777 page 310 in the Alamance County Register of Deeds and having a parcel number 147076 Thence with the corner North 11 deg. 16 min. 41 sec. East and a distance of 84.23 feet to an existing iron pipe said corner being the north eastern corner of the before mentioned Keith Dodson and the southern corner of the before mentioned Keith Dodson and the north west corner of Ray Whittemore either now or formerly as recorded in instrument deed book 896 page 348 in the Alamance County Register of Deeds and having a parcel number 152571 and also the north west corner of Kennon Whittemore either now or formerly in instrument deed book 770 in the Alamance County Register of Deeds and having a parcel number 147688 Thence with the corner South 45 deg. 30 min. 00 sec. East and a distance of 180.00 feet to the corner of the before mentioned Keith Dodson and also being the south west corner of the before mentioned Kennon Whittemore and the northern corner of Ricky Apple now or formerly as recorded in the Alamance County Register of Deeds and having a parcel number 147668 Thence with the corner South 64 deg. 06 min. 31 sec. West and a distance of 334.92 feet to an existing iron pipe said corner being the southern corner of the before mentioned Keith Dodson and the north west corner of David Allison now or formerly in instrument deed book 211 page 12 min. 50 sec. East and a distance of 177.65 feet to a new iron pipe in the northern margin of Sunset Drive Thence South 65 deg. 08 min. 54 sec. West and a distance of 103.00 feet to a new iron pipe Thence with the corner and the northern margin of Sunset Drive South 66 deg. 26 min. 14 sec. West and a distance of 200.39 feet to an existing iron pipe and Point and Place of Beginning said property containing 7.84 acres +/-.

**LEGEND**  
PROP. PROPOSED  
RECD. REQUIRED  
D.B. DEED BOOK  
P.B. PLAT BOOK  
P.G. PAGE NUMBER  
B/C BACK OF CURB  
E.X. EXISTING

**SYMBOL LEGEND**  
POWER POLE  
LIGHT POLE  
CATCH BASIN (CB)  
CURB INLET (CI)  
DRAINAGE INLET (DI)  
STW MH  
SAN MH  
SAN MANHOLE  
FIRE HYDRANT  
TELEPHONE MANHOLE  
WATER VALVE  
TELEPHONE BOX  
UNDERGROUND WATER  
UNDERGROUND SEWER  
OVERHEAD POWER  
FENCE



**OWNER/DEVELOPER**  
TRIAD CLASSIC HOMES, LLC  
1030 WESTSIDE DRIVE  
GREENSBORO, NORTH CAROLINA  
CONTACT: NED PIERCE  
336-402-6106

**DRAWN BY:** SWR  
**DATE:** Sept. 20, 2023  
**REVISIONS:** \*\*\*2023

**SHEET TITLE**  
BOUNDARY SURVEY FOR  
TRIAD CLASSIC HOMES, LLC

**FILE NO.:** P:\NEP\_PIECE\GRAHAM\_SUNSET\BOUNDARY  
**DRAWING SCALE:** 1"=50'  
**PLAN SHEET NO.:** C-2004

1"=50'  
0 25 50 100 150 200'  
GRAPHIC SCALE



Attn: Mail Box  
J. Bryan Coleman Attorney

**ANNEXATION ORDINANCE  
TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF GRAHAM, NORTH CAROLINA  
FOR A 7.8-ACRE TRACT OF LAND OFF SUNSET DRIVE (AN2307)**

**WHEREAS**, the Graham City Council has been petitioned under G.S. 160A-58 to annex the area described below; and

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

**WHEREAS**, the City Clerk has certified the sufficiency of the petition, and a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 6:00 P.M. on November 13, 2023, after due notice by publication on November 2, 2023; and

**WHEREAS**, the Graham City Council finds that the petition meets the requirements of G.S. 160A-58.

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

**Section 1.** By virtue of the authority granted by G.S. 160A-58, the following described territory is hereby annexed and made part of the City of Graham as of **November 13, 2023**:

**Legal Description GPIN#: 8884806770, 8884818184, &8884808737**

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

Beginning at an Existing Iron Pipe said corner being in the Northern margin of Sunset Drive having a 40' right of way and being the southwest corner of Riverwalk LLC Eather now or formerly as described in instrument deed book 3959 page 0944 in the Alamance County Register of Deeds and having a parcel number 147602 and also being the southeast corner of Salvador Leon either now or formerly as described in instrument deed book 3263 page 017 in the Alamance County Register of deeds and having a parcel number 147600 and also being located North 32 deg. 45 min 11 sec. West with a grid distance of 2221.87 feet from NCGS Monument Conklin Nad 83/ 2011 and having grid coordinates Northing 838739.49 ift and Easting 14889870.40 ift Thence with the corner North 23 deg.45 min. 02 sec. West and a distance of 168.28 feet to an existing iron pipe said point being the north west corner of the before-mentioned Salvador Leon

and the southern corner of James C. Brown either now or formerly as described in instrument deed book 2568 page 151 in the Alamance County Register of Deeds and having a parcel number 147598 Thence with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned James C. Brown and the south west corner of Keith Dodson either now or formerly as described in instrument deed book 2713 page 205 in the Alamance County Register of deeds and having a parcel number 147613 Thence with the corner North 30 deg. 22 min. 24 sec. West and a distance of 309.46 feet to an existing iron pipe said point being the north east corner of the before-mentioned James C. Brown and the north west corner of the before-mentioned Keith Dodson and the southeastern corner of Betsy White (Heirs) either now or formerly as described in instrument deed book 473 page 920 in the Alamance County Register of Deeds Thence with the corner North 55 deg. 55 min 10 sec. East and a distance of 41.97 feet to an existing iron pipe said point being the north west corner of the before-mentioned Keith Dodson and the south east corner of the before-mentioned Betsy White (Heirs) Thence with the corner North 35 deg. 41 min. 06 sec. West and a distance of 69.04 feet to a new iron pipe said point being the most south east corner of the before-mentioned Betsy White (Heirs) the most north west corner of the before-mentioned Keith Dodson and the south west corner of Amber Meeks either now or formerly as recorded in instrument deed book 3634 page 521 in the Alamance County Register Deeds and having a parcel number 147610 Thence with the corner North 55 deg. 24 min. 01 sec. East and a distance of 795.98 feet to an existing iron pipe said corner being the most north eastern corner of the before mentioned Keith Dodson and the southern corner for Marion Whittemore either now or formerly in instrument deed book 3914 page 213 in the Alamance County Register of Deeds and having a parcel number 147673 and the north west corner of Sandra Whittemore either now or formerly in instrument deed book 772 page 310 in the Alamance County Register of Deeds and having a parcel number 147676 Thence with the corner South 00 deg. 38 min 40 sec. West and a distance of 384.23 feet to an existing iron pipe said corner being the northeastern corner of the before mentioned Keith Dodson and the south west corner of Ray Whittemore Either now or formerly as recorded in instrument deed book 896 page 348 in the Alamance County Register of Deeds and having a parcel number 152571 and also the north west corner of Kennon Whittemore either now or formerly in instrument deed book 235 page 70 in the Alamance County Register of Deeds and having a parcel number 147675 Thence with the corner South 02 deg. 40 min. 39 sec. West and a distance of 180.21 feet to an existing iron pipe said corner being the south east corner of the before-mentioned Keith Dodson and also being the south west corner of the before-mentioned Kennon Whittemore and the northern corner of Ricky Apple now or formerly as recorded in the Alamance County Register of Deeds and having a parcel number 147668 Thence with the corner South 64 deg. 06min.51 sec. West and a distance of 334.92 feet to an existing iron pipe said corner being the southern corner of the before mentioned Keith Dodson and the north west corner of David Wilson now or formerly in instrument deed book 3295 page 275 in the Alamance County Register of Deeds Thence with the corner South 25 deg. 12 min. 50 sec. East and a distance of 177.65 feet to a new iron pipe in the northern margin of Sunset Drive Thence South 65 deg. 08 min. 54 sec. West and a distance of 103.00 feet to a new iron pipe Thence with the corner and the northern margin of sunset Drive South 66 deg. 26 min. 14 sec. West and a distance of 200.39 feet to an existing iron pipe and Point and Place of Beginning said property containing 7.84 acres +/-.

**Adopted this, the 13<sup>th</sup> day of November 2023.**

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Jennifer Talley, Mayor, City of Graham

ATTEST:

APPROVED AS TO FORM:

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Renee M. Ward, City Clerk

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Bryan Coleman, City Attorney



# STAFF REPORT

Prepared by Evan Workman, Planner

## Sunset Drive C-R (CR2303)

**Type of Request:** Conditional Rezoning

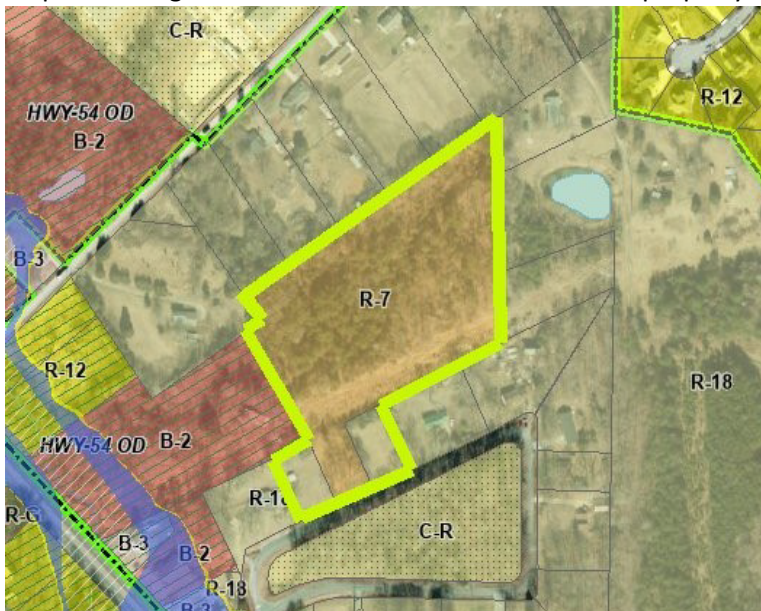
### Meeting Dates

Planning Board on October 17, 2023

City Council on November 13, 2023

### Summary

This is a request to rezone 7.8 acres at Sunset Drive (GPINs: 8884806770, 8884818184, & 8884808737) from R-7 (High-Density Residential) and R-18 (Low-Density Residential) to C-R (Conditional Residential) to construct at least 42 Town homes. The site plans to connect to public water and sewer through Sunset Drive. The development plans to have one access point, a private drive connected to Sunset Drive. This project is within the recommended density of 3 to 6 dwelling units/ acre. TRC has noted the piece of land abutting parcel 147609 should be a Type C landscaping buffer rather than the D noted on the plans and to show the distances between buildings to ensure the necessary distance requirement is being met. TRC has also required the utilities in the roadways throughout the development be public and not private as noted on the plans and a sidewalk is to be installed along the full frontage of Sunset Drive. Planning Board recommended approval with conditions that the site plan include the distance between buildings to allow 20 feet separation between buildings, the landscape buffer for the lot line abutting parcel #147609 must be changed from a Type D to a Type C, Water and Sewer are to be public, sidewalks must be installed along the full frontage of Sunset Drive, and no landscape buffer is required along the Duke Power easement side of the property.



### Contact Information

Client Representative: Amanda Hodierné  
 804 Green Valley Road, Ste. 200  
 Greensboro, NC 27408  
 336.609.5137  
 amanda@isaacsonsheridan.com

#### Location

Sunset Drive

#### GPINs:

8884806770, 8884818184,  
8884808737

#### Current Zoning

R-7 (High-Density Residential) & R-18 (Single Family Residential)

#### Proposed Zoning

C-R (Conditional Residential)

#### Overlay District

N/A

#### Surrounding Zoning

R-18, B-2 (Hwy 54 OD), and a previously approved CR (CR 2001, still undeveloped)

#### Surrounding Land Uses

Single Family, Vacant

#### Size

7.8 Acres

#### Public Water & Sewer

Yes

#### Floodplain

No

#### Staff Recommendation

Approval w/ conditions



Graham Zoning



City of Graham

Legend

Downtown Historic District

Zoning Districts

- R-18
- R-15
- R-12
- R-9
- R-7
- C-R
- R-MF
- R-G
- C-1
- C-Q1
- B-3
- B-2
- B-1
- C-B
- I-1
- I-2
- C-1
- C-MDR
- C-MDC

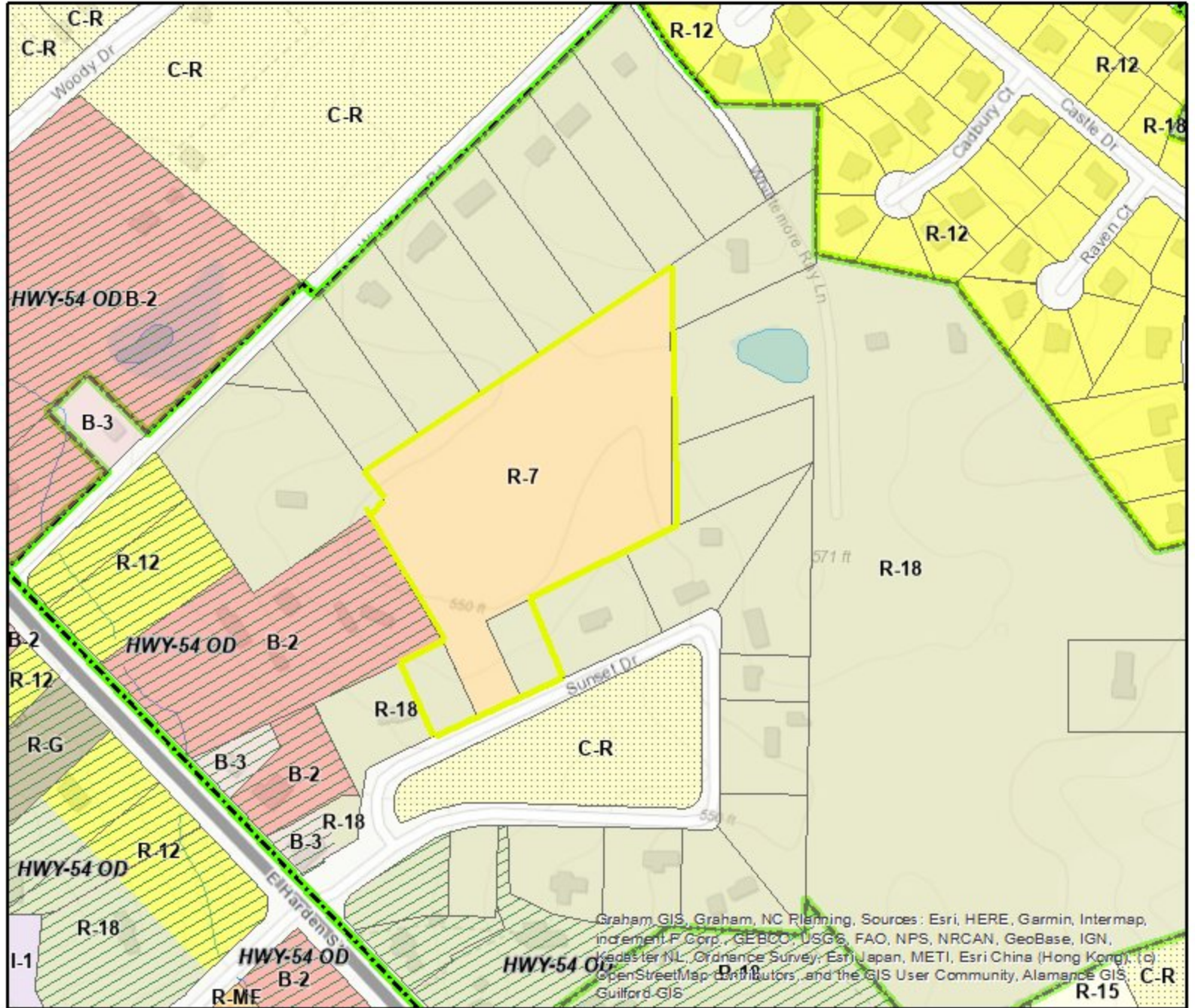
Zoning Overlay Districts

- HD
- PUD
- HWY-87 OD
- HWY-54 OD



1 inch = 374 feet

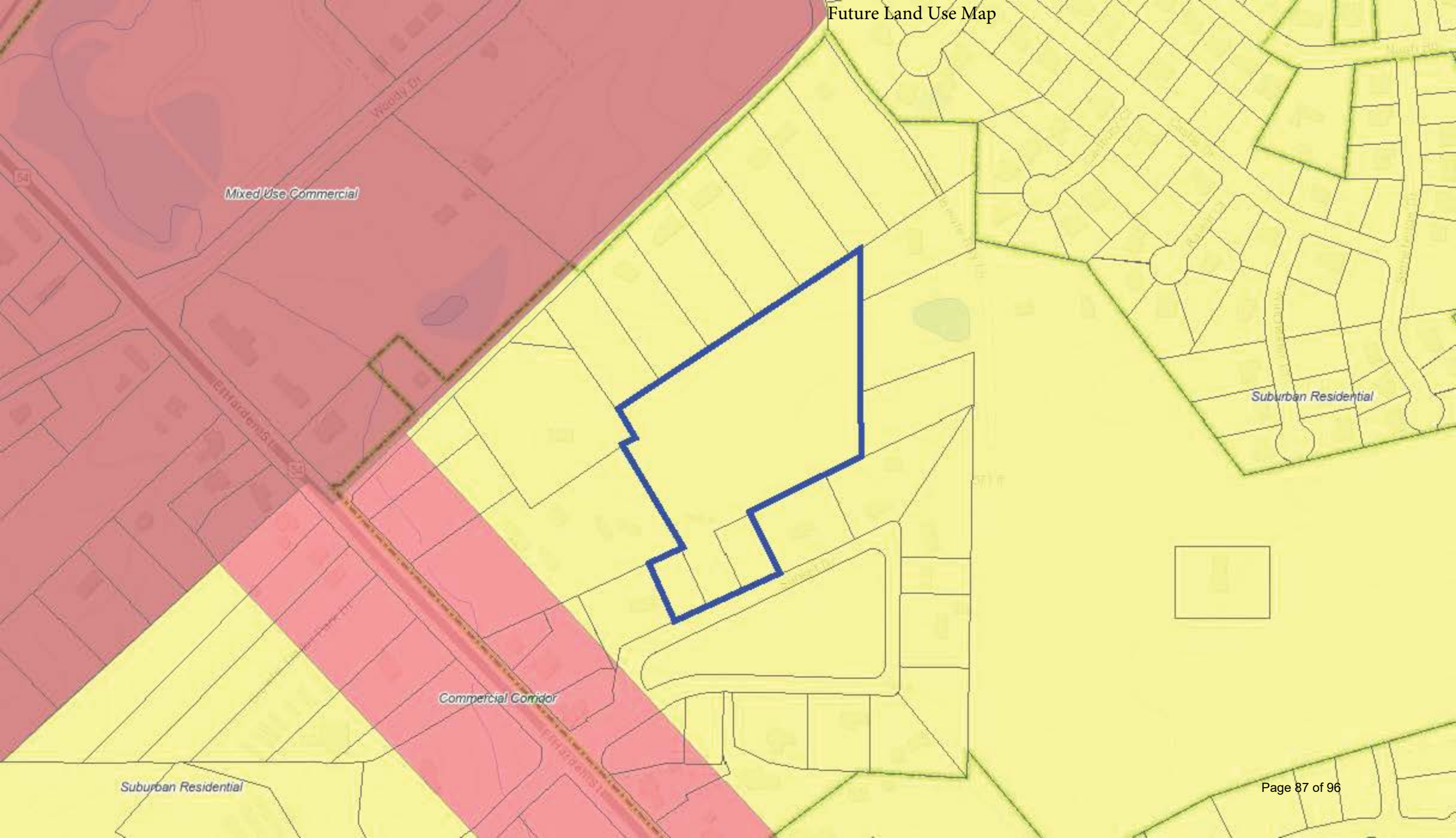
Print Date: 10/2/2023



Graham GIS, Graham, NC Planning. Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Alameda GIS, Guilford GIS

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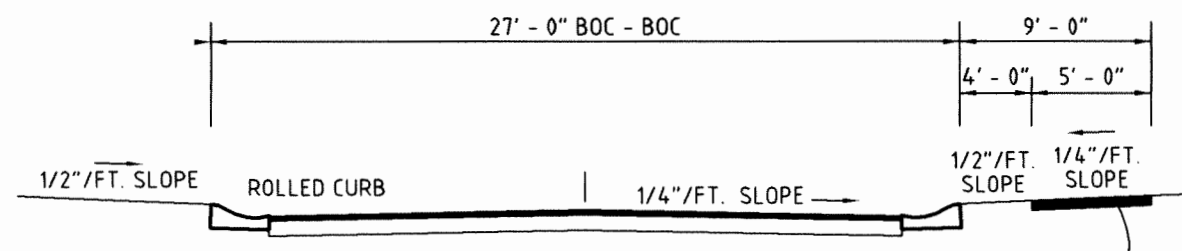
Mixed Use Commercial

Suburban Residential

Commercial Corridor

Suburban Residential





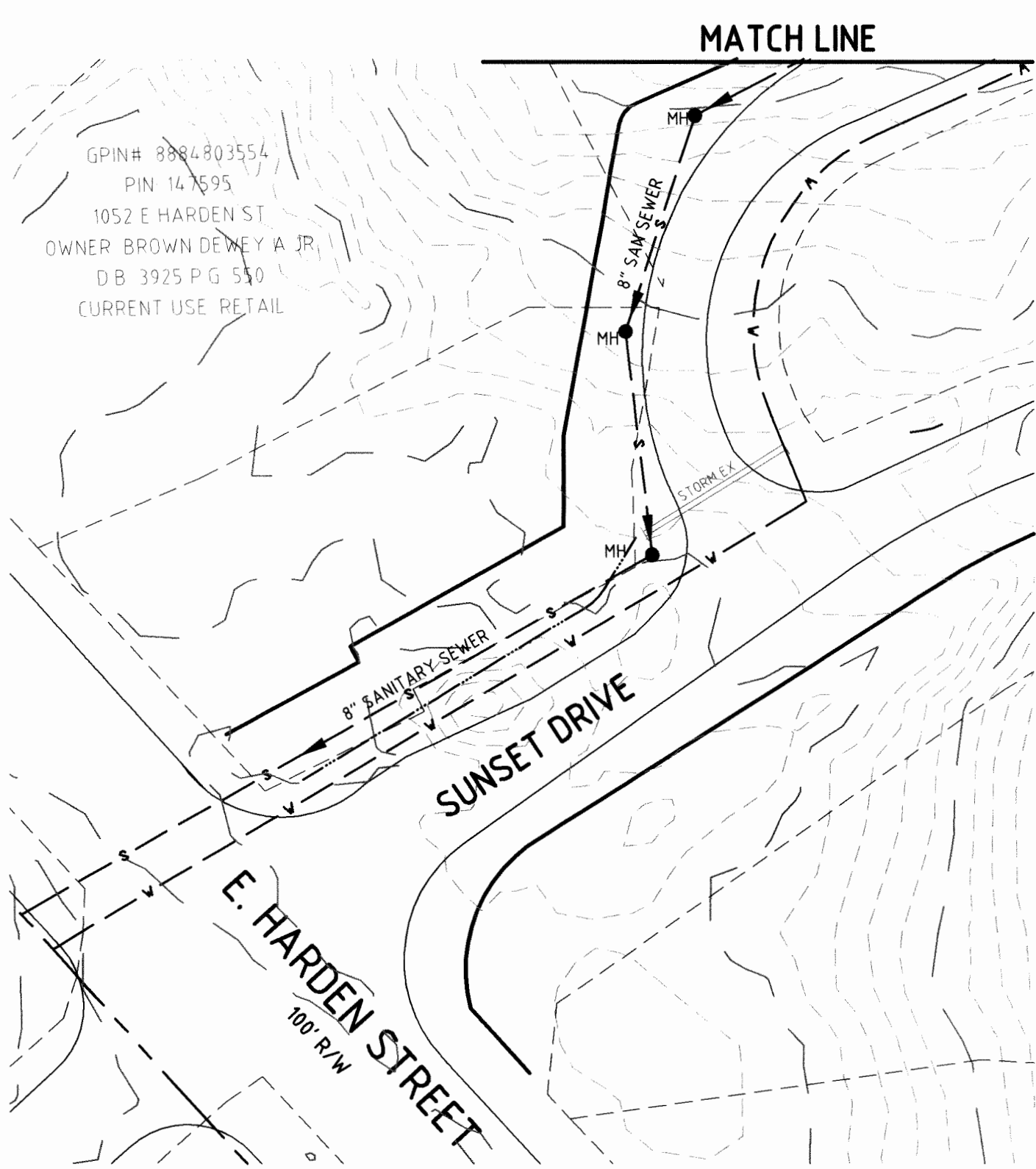
PRIVATE ACCESS DRIVE TYPICAL SECTION (PUBLIC)  
SCALE: 1/8" = 1 FT.

**SYMBOLS LEGEND**

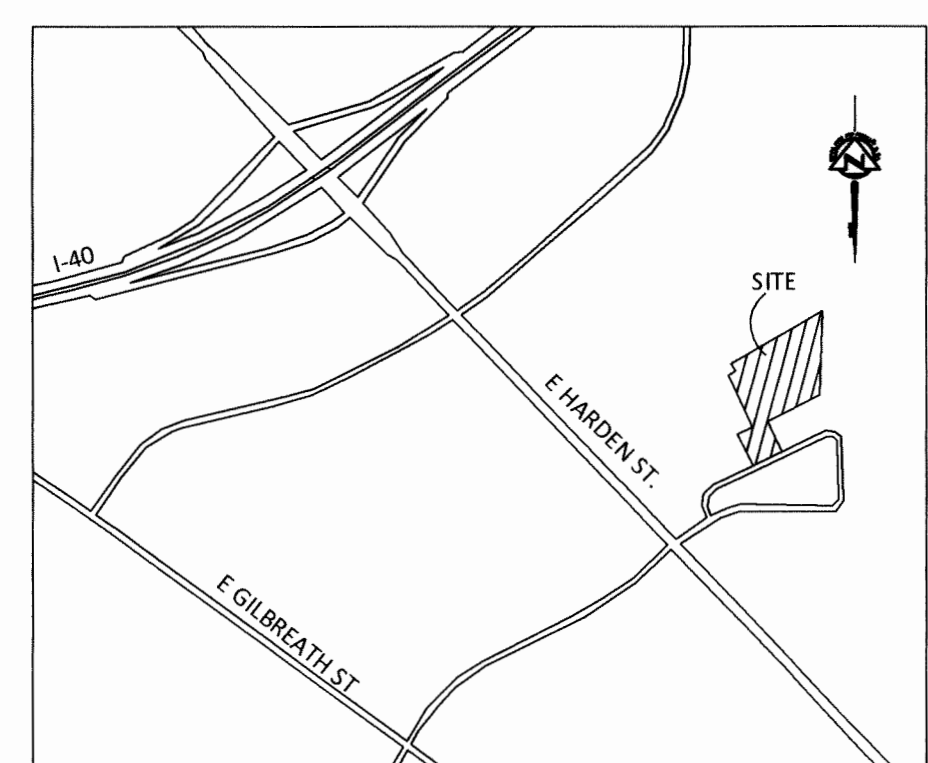
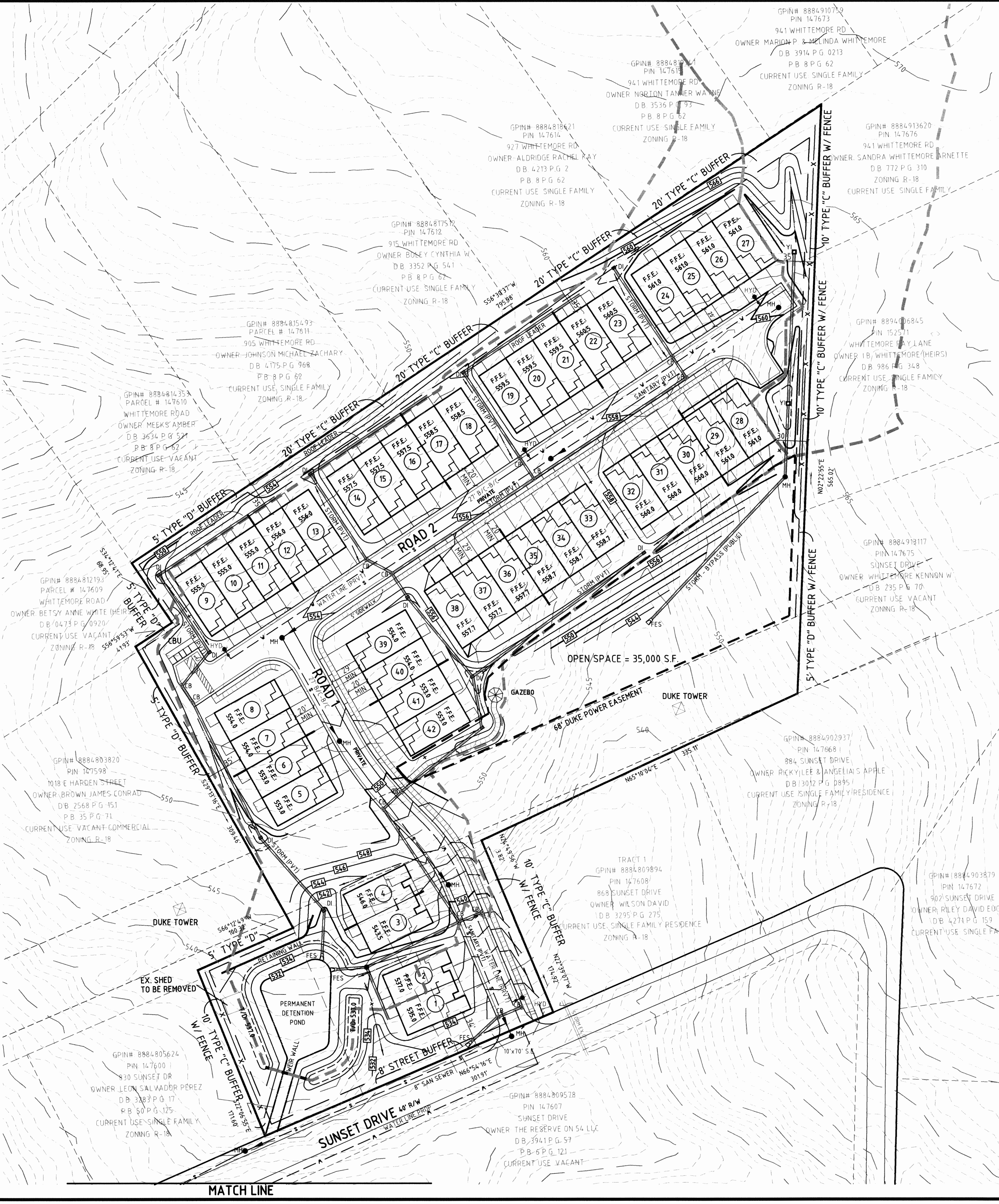
EXISTING	
RIGHT-OF-WAY	---
STORM SEWER	—S—S—
OVERHEAD UTILITY	—OH—
UTILITY POLE	⊕
WATER	—W—
WATER VALVE	⊙
FIRE HYDRANT	⊕
SAN SEWER	—S—
SAN SEWER MANHOLE	⊙
PROPOSED	
STORM SEWER	—S—S—
STORM MANHOLE	⊙
CATCH BASIN	⊕
DROP INLET	⊕
YARD INLET	⊕
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SAN SEWER MANHOLE	⊙
WATER LINE	—W—
FIRE HYDRANT	⊕

**EXISTING PROPERTY OWNERS**

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3566 MOUNT WILLEN ROAD  
HAW RIVER, NC 27258
- RIVER WALK 54, LLC  
3705 W. MARKET STREET  
GREENSBORO, NC 27403
- APRIL M. BILLINGS TRUST  
SHAWN CHRISTOPHER MAJORS TRUST  
C/O APRIL M. BILLINGS TRUSTEE  
359 DIXON ROAD  
GRAHAM, NC 27253



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VICINITY MAP  
1" = 1000'

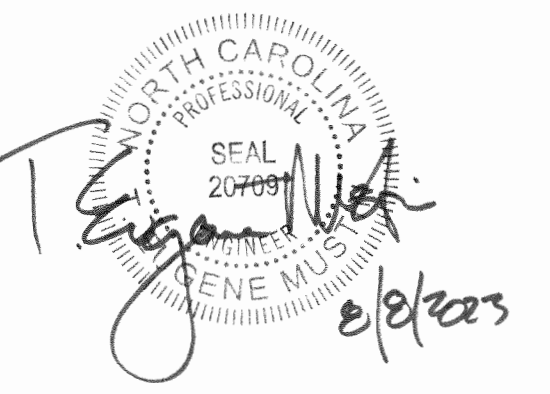
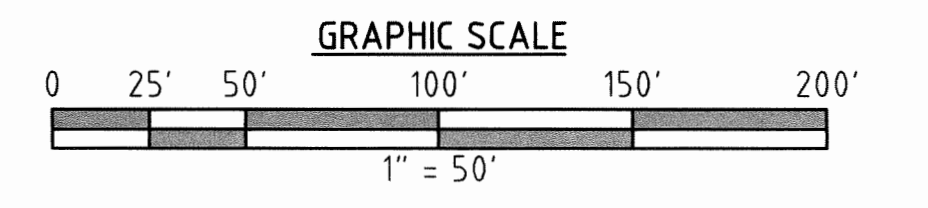
**SITE DATA**

TOTAL AREA:	7.8 AC. (+/-)
PARCEL #:	147613
G-PIN:	8884818184
D.B. AND P.G.	2713-205
P.B. AND P.G.	35-71
CURRENT USE:	VACANT
PARCEL #:	147605
G-PIN:	8884808737
D.B. AND P.G.	4175-747
P.B. AND P.G.	6-121
CURRENT USE:	VACANT
PARCEL #:	147602
G-PIN:	8884806770
D.B. AND P.G.	3959-944
P.B. AND P.G.	6-121
CURRENT USE:	SHED
ZONING EXISTING:	R-7 AND R-18
ZONING PROPOSED:	CONDITIONAL RESIDENTIAL
PROPOSE USE:	TOWNHOMES
NUMBER OF UNITS:	42
DENSITY:	5.4 UNITS/AC.
PROPOSE USE:	TOWNHOMES
PARKING REQD:	42 x 2 = 84 SPCS.
PARKING PROP.:	3/UNIT x 42 = 126
OPEN SPACE PRVD:	0.8 AC (35,000 S.F.)
OPEN SPACE RQD:	7.8 AC x 10% = 0.78 AC
	3.5 AC. +/- = 45%

**BUILT-UPON AREA**

LEGEND	
PROP.	PROPOSED
REQD.	REQUIRED
D.B.	DEED BOOK
P.B.	PLAT BOOK
P.G.	PAGE NUMBER
B/C	BACK OF CURB
E.X.	EXISTING

- SITE NOTES:**
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  - ON-SITE ACCESS TO BE PRIVATE DRIVES.
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PROJECT:  
**PRELIMINARY DRAWING NOT FOR CONSTRUCTION**

**SUNSET LANDING TOWNHOMES**  
840, 848, AND 858 SUNSET DRIVE  
ALAMANCE COUNTY  
GRAHAM, NORTH CAROLINA

OWNER/DEVELOPER:  
**TRIAD CLASSIC HOMES, LLC**  
1030 WESTSIDE DRIVE  
GREENSBORO, NORTH CAROLINA  
CONTACT: NED PIERCE  
336-402-6106

DRAWN BY: TEM  
DATE: AUG 8, 2023  
REVISIONS: 4-27-2023

SHEET TITLE:  
**PRELIMINARY ZONING PLAN**

FILE NO: F:\NED PIERCE\GRAHAM SUNSET\SB SKETCH  
DRAWING SCALE: 1" = 50'  
PLAN SHEET NO.



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

Future Land Use Suburban Residential Principal Uses: Suburban residential neighborhoods are primarily settings for existing and future single family detached housing, but may also contain additional housing typologies and low-impact supporting uses in neighborhood activity centers. Affordable detached homes within attractive walkable neighborhoods will continue to make Graham an attractive place to live for people who work in Graham and surrounding communities.

### Applicable Policies:

- **Policy 5.1.1 Housing Variety.** Encourage a mix of housing types within Graham to increase choice. These can include single family dwellings units, multifamily dwelling units, small units, pre-fabricated homes, co-housing and clustered housing. *This project would construct additional high-density housing.*
- **Policy 5.2.1: Diverse Neighborhood.** Encourage a mix of housing types within Graham, including detached, duplex, multifamily, town homes, and live-work units. *The proposed zoning would allow for town homes.*
- **Future Land Use:** The proposed zoning would be consistent with the Future Land Use plan for the area.

#### Planning Type

Neighborhoods

#### Development Type

Suburban Residential

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

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

#### Appropriate Density

3-6 dwelling units per acre

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### Staff Recommendation

Based on the *Graham 2035 Comprehensive Plan* and the *City of Graham Development Ordinance*, staff recommends **approval** of the rezoning per applicable policies above and consistent with the recommendations of the Planning Board. TRC does recommend requiring utilities to be public with necessary easements due to neighborhood roadways being private.

### Planning Board Recommendation:

Approval with conditions that:

1. The site plan include the distance between buildings to allow 20 feet separation between buildings.
2. The landscape buffer for the lot line abutting parcel #147609 must be changed from a Type D to a Type C.
3. Water and Sewer are to be public.
4. Sidewalks must be installed along the full frontage of Sunset Drive
5. No landscape buffer is required along the Duke Power easement side of the property.

# Graham Zoning



City of Graham

## Legend

Downtown Historic District

### Zoning Districts

- R-18
- R-15
- R-12
- R-9
- R-7
- C-R
- R-MF
- R-G
- C-1
- C-Q1
- B-3
- B-2
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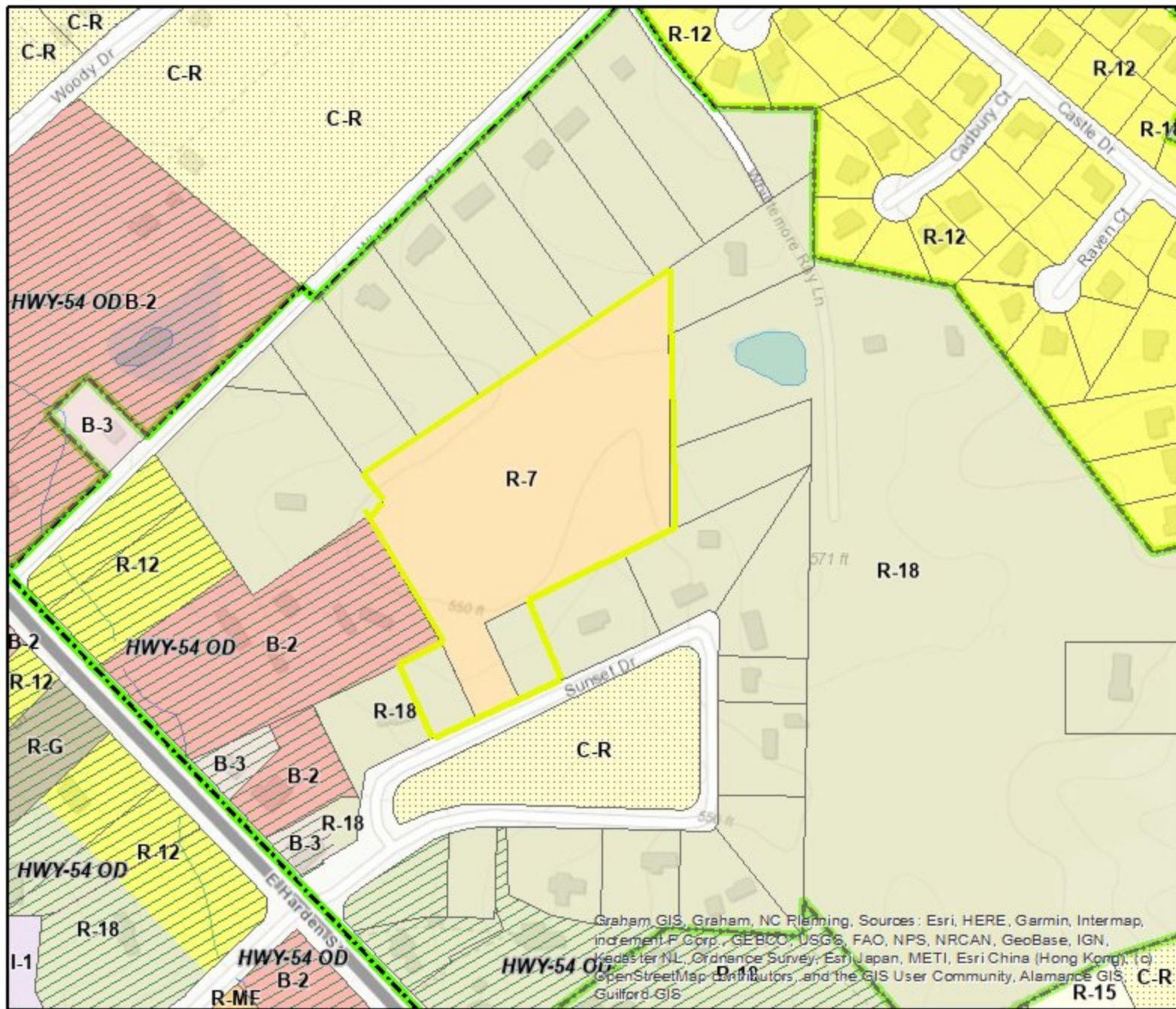
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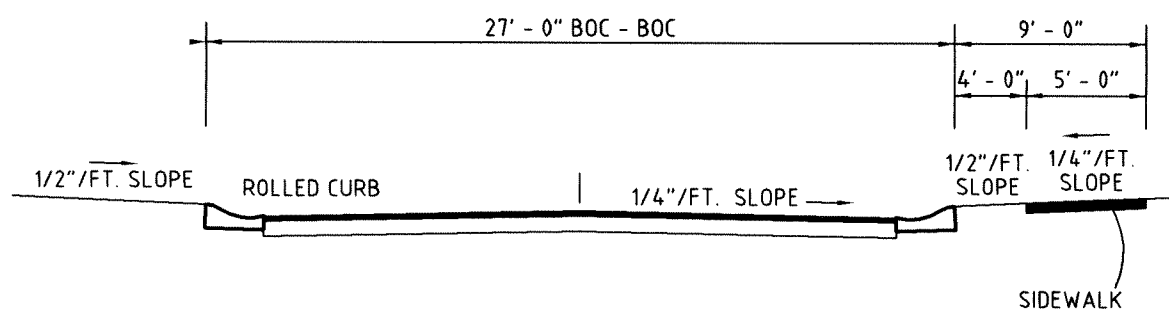
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**PRIVATE ACCESS DRIVE TYPICAL SECTION (PUBLIC)**  
SCALE: 1/8" = 1 FT.

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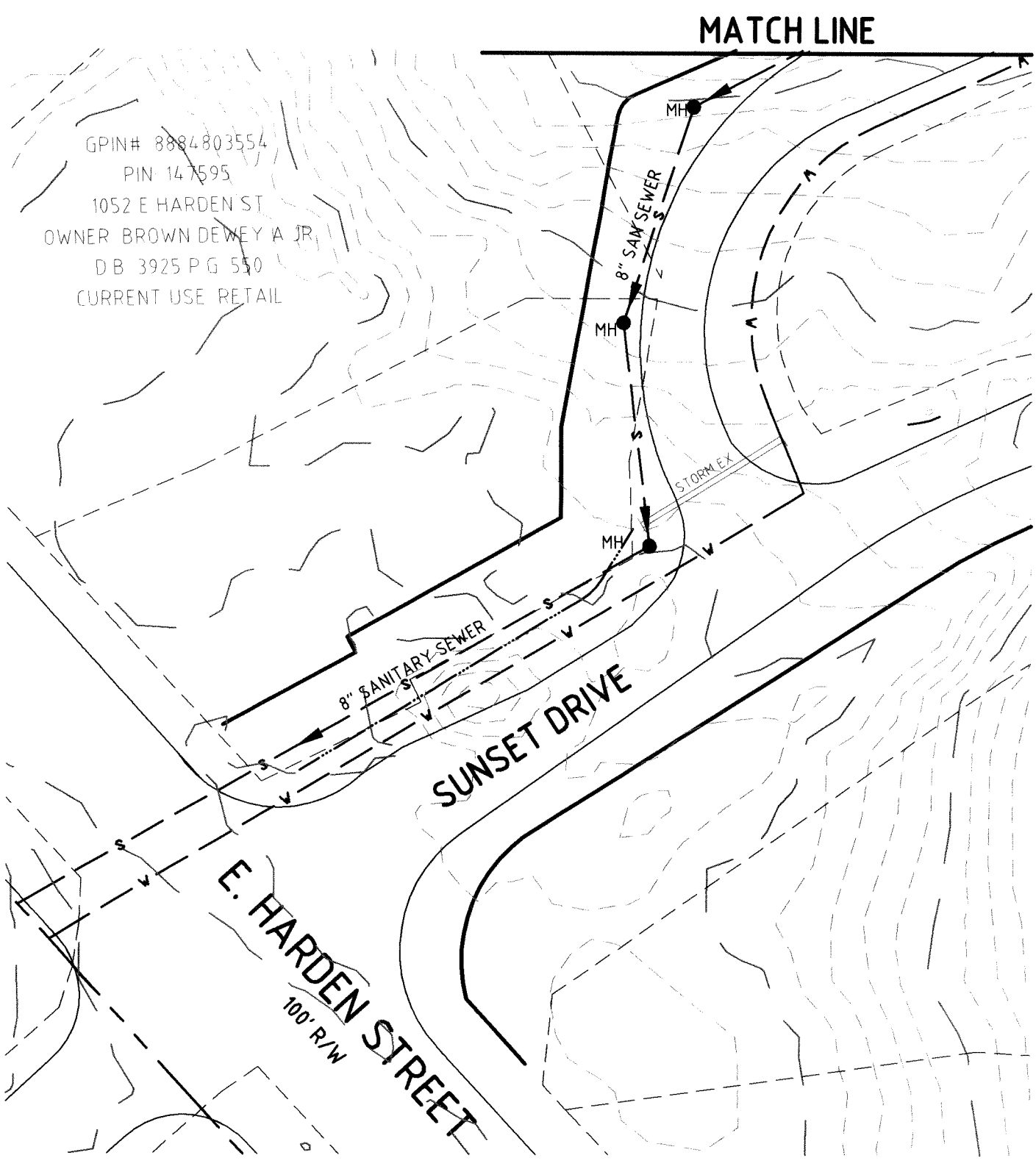
EXISTING	
RIGHT-OF-WAY	---
STORM SEWER	—S—S—
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WATER	—W—
WATER VALVE	—V—
FIRE HYDRANT	—FH—
SAN SEWER	—S—
SAN SEWER MANHOLE	—SM—

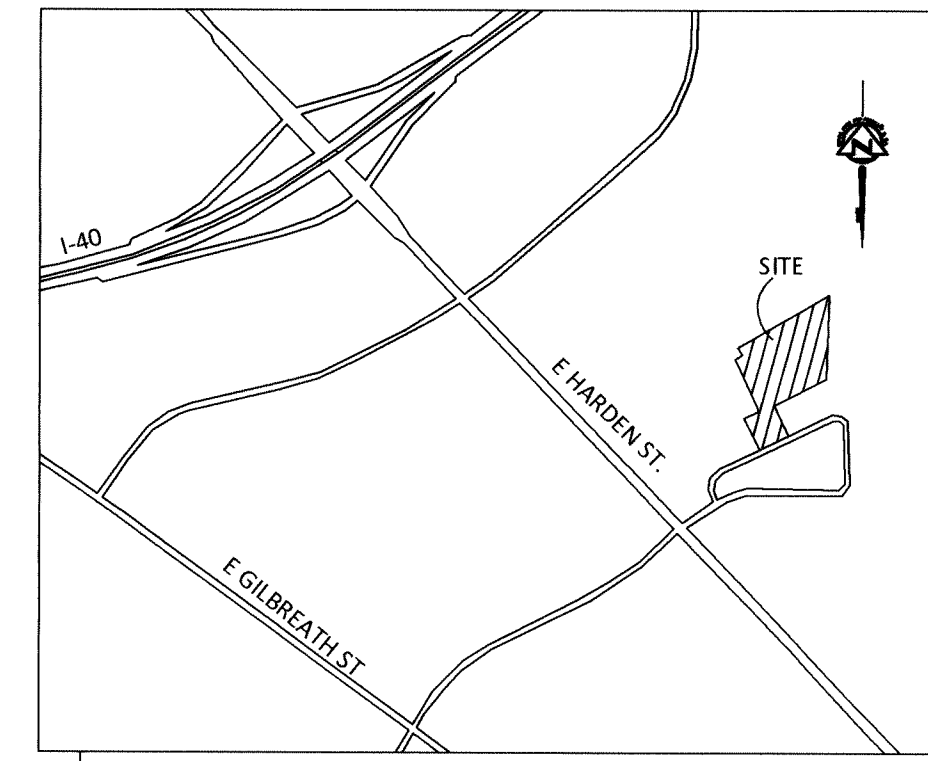
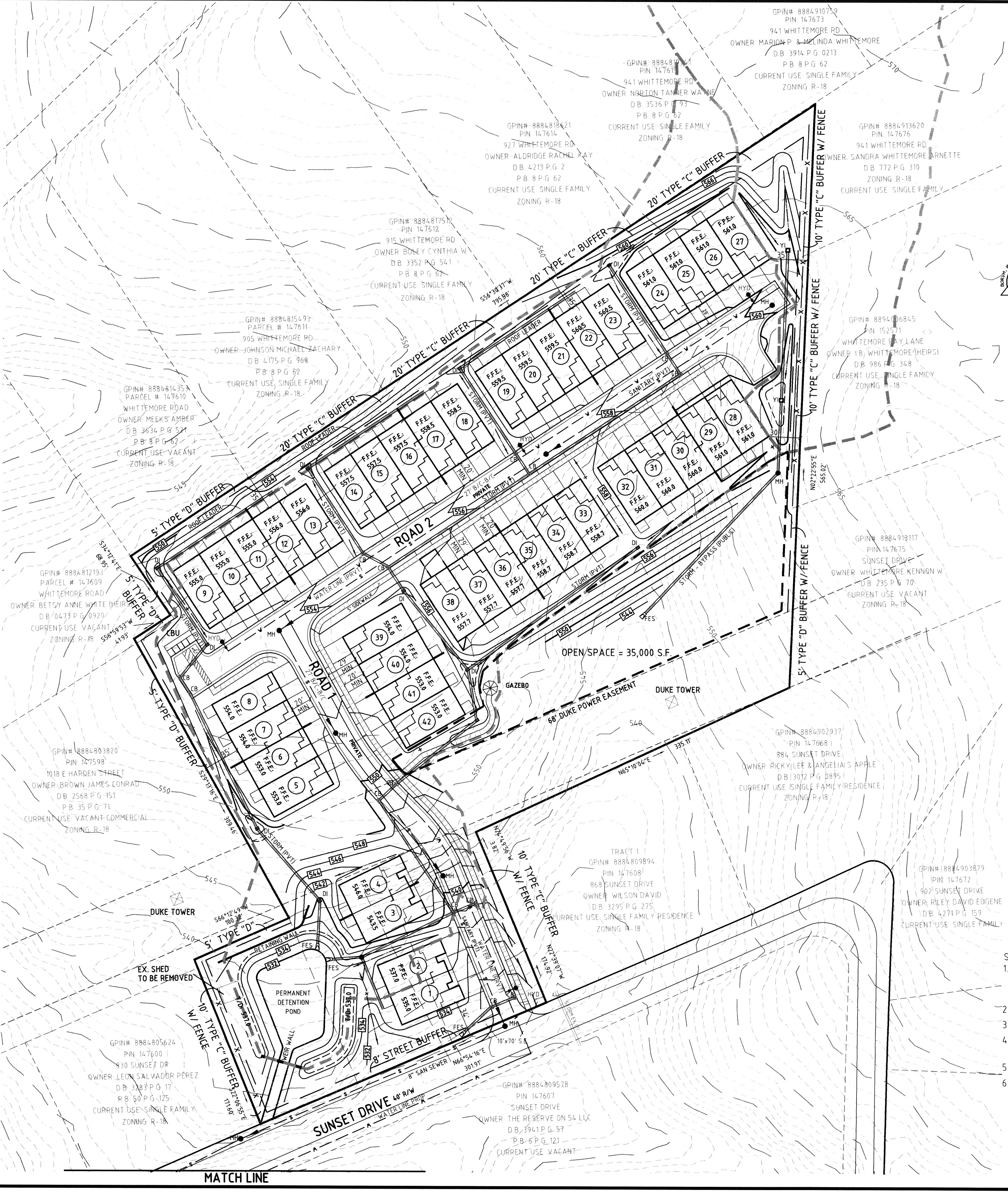
PROPOSED	
STORM SEWER	—S—S—
STORM MANHOLE	—SM—
CATCH BASIN	—CB—
DROP INLET	—DI—
YARD INLET	—YI—
SAN SEWER	—S—S—
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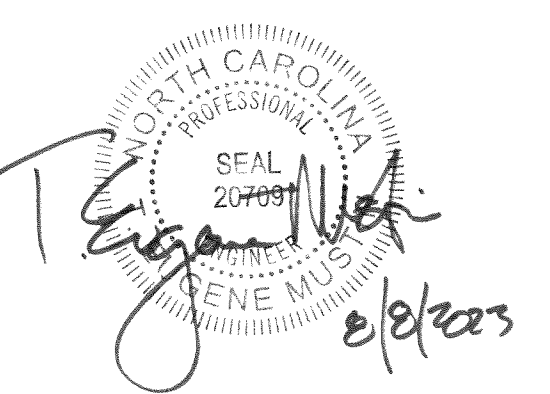
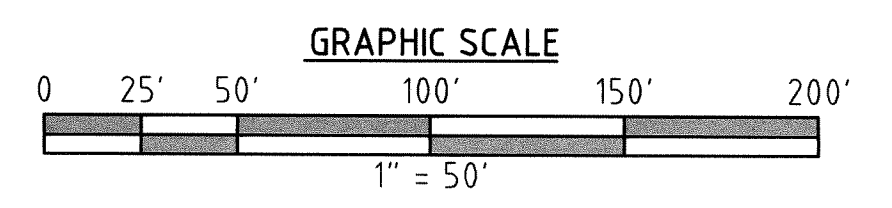
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**PRELIMINARY DRAWING NOT FOR CONSTRUCTION**

**SUNSET LANDING TOWNHOMES**  
840, 848, AND 858 SUNSET DRIVE  
ALAMANCE COUNTY  
GRAHAM, NORTH CAROLINA

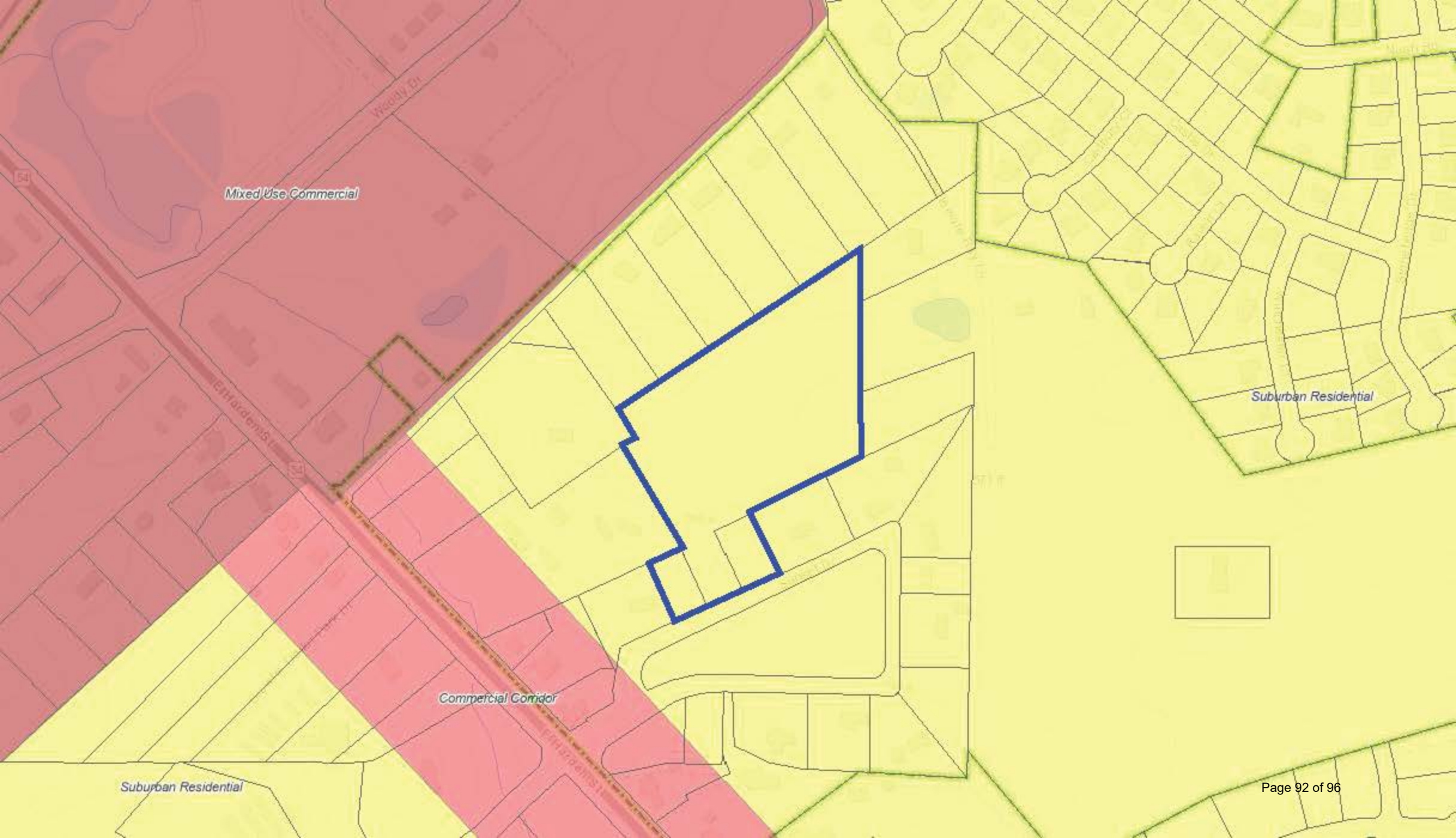
OWNER/DEVELOPER:  
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1030 WESTSIDE DRIVE  
GREENSBORO, NORTH CAROLINA  
CONTACT: NED PIERCE  
336-402-6106

DRAWN BY: TEM  
DATE: AUG. 8, 2023  
REVISIONS: 4-27-2023

SHEET TITLE:  
**PRELIMINARY ZONING PLAN**

FILE NO: F-NEED PIERCE/GRAHAM SUNSET/SB SKETCH  
DRAWING SCALE: 1"=50'  
PLAN SHEET NO.





Mixed Use Commercial

Woody Dr

Entarden St

Suburban Residential

Commercial Corridor

Suburban Residential

  
**GRAHAM**  
 NORTH CAROLINA  
**STAFF REPORT**

<b>SUBJECT:</b>	STERIGENICS DEVELOPMENT FEES WAIVER REQUEST
<b>PREPARED BY:</b>	AARON HOLLAND, ASSISTANT CITY MANAGER

**REQUESTED ACTION:**

Approve request by Sterigenics to waive the Water and Sewer System Development Fees.

**BACKGROUND/SUMMARY:**

Sterigenics is currently constructing a new 70k square foot facility at their location off Bakatsias Lane. As noted in the letter submitted by the company, the concern for lack of sufficient water supply and pressure to accommodate their fire suppression needs has prompted them to install a new 8” water supply to the facility to address the issue. The following scope of work has been provided:



- Installation of 1,600 lf of 8” ductile iron pipe (DIP, as required by the City of Graham)
- Directional boring under Jimmie Kerr Road and Bakatsias Lane
- Connection to existing 12” main alongside Jimmie Kerr Road
- During design review the City of Graham requested the connection to existing 6” main along Bakatsias Lane to provide a back-feed supply to City of Graham water system.

The new water main and connection to existing infrastructure ultimately improves the conditions for this development area now and for the future. The cost of the total scope of work is approximately \$550,000.

**FISCAL IMPACT:**

The estimated Water and Sewer System Development Fees totals approximately \$49k. The cost for the new line that will improve infrastructure reliability for that area is approximately \$550k.

**STAFF RECOMMENDATION:**

Approval. The costs of upgrading this line is greatly offset by the company performing the work vs the City, which is also a tremendous savings to our citizens.

**SUGGESTED MOTION(S):**

I move we approve the request by Sterigenics to waive the Water and Sewer System Development Fees as described in the supporting documents.



November 2, 2023

Dear Ms. Garner,

Sterigenics is pleased with the progress we are making with the City of Graham toward our new 70,000 SF facility. In addition to the investment, we're equally proud of the approximately 20+ jobs we will create for those individuals who will help operate and manage this facility. This new facility will complement the different services we currently provide at our existing facility in Haw River constructed and operating since 1983.

With that said, one outstanding item we are quite concerned about is the lack of sufficient water supply and pressure to accommodate our fire suppression needs in the new building. Sterigenics has agreed to install a new 8" water supply to our new facility to address the issue.

Sterigenics submitted a design of the new water main for approval with the City of Graham. We have received comments back and are working through the final details for approval and permitting. In bullet point fashion, here is some of the scope of work required:

- Installation of 1,600 lf of 8" ductile iron pipe (DIP, as required by the City of Graham)
- Directional boring under Jimmie Kerr Road and Bakatsias Lane
- Connection to existing 12" main alongside Jimmie Kerr Road
- During design review the City of Graham requested the connection to existing 6" main along Bakatsias Lane to provide a back-feed supply to the City of Graham's water system.

The new water main and connection to existing infrastructure ultimately improves the conditions for this development area now and for the future. The cost of the total scope of work is at least \$550,000 based on what we know today. We need to occupy the new building in 2Q 2024. Hence our sense of urgency.

We respectfully request the City of Graham waive the Water and Sewer System Development Fees of \$46,200 per the attached worksheet. Please advise us of when this matter will come before the Graham City Council so that we can underscore the severity of this issue and provide any additional information as may be requested by members of Council.

Thank you for your immediate attention to this issue. As always, please reach out to me directly if you have comments or questions.

Sincerely,

**Shawn Ansari**

VP of Engineering

Sterigenics, A Sotera Health company

sansari@sterigenics.com

**City of Graham Project Billing Statement**

**Project: Waterline extension**

**Statement Number:**

**Date: 10/25/2023**

**Development Fees**

Application Type	Quantity	Quantity Type	Unit Cost	Misc Rec Code	Total	Date Paid
Major Subdivision - Preliminary Plat Review Fee (5 or more lots - min. \$200)		Lots	\$ 10.00		\$ -	
Planned Unit Development Rezoning Request - per acre (min \$200 - max \$500)		Acres	\$ 5.00		\$ -	
General Rezoning Request		Flat	\$ 200.00		\$ -	
Conditional Rezoning Request		Flat	\$ 300.00		\$ -	
Special Use Permit		Flat	\$ 300.00		\$ -	
Final Plat - Major Subdivision (5 or more lots)		Flat	\$ 50.00		\$ -	
Final Plat - Minor Subdivision (up to 5 lots)		Flat	\$ 25.00		\$ -	
Variance Request		Flat	\$ 300.00		\$ -	
Non-Residential Site Plan TRC Review Fee (excluding subdivision)	1	Flat	\$ 250.00		\$ 250.00	
Annexation		Flat	\$ 250.00		\$ -	
Administrative Amendment to Council Approved Plans		Flat	\$ 100.00		\$ -	
Wireless Telecommunications Facility (legal review only)		Flat	\$ 500.00		\$ -	
<b>DEVELOPMENT FEES SUBTOTAL</b>					\$ 250.00	

**Water and Sewer System Development Fees**

Due prior to Meter setting

Customer Type and Meter Size	Quantity	Water	Wastewater	Total	Misc Rec Code	Total	Date Paid
		\$/Connection	\$/Connection	\$/Connection			
Residential Dwelling Unit (3/4" Meter - 2 BR)		\$1,100	\$1,100	\$2,200		\$ -	
Residential Dwelling Unit (3/4" Meter - 3 BR)		\$1,650	\$1,650	\$3,300		\$ -	
Residential Dwelling Unit (3/4" Meter - 4 BR)		\$2,200	\$2,200	\$4,400		\$ -	
Residential Dwelling Unit (3/4" Meter - 5 BR)		\$2,750	\$2,750	\$5,500		\$ -	
All Other Zoning Categories/Uses - 3/4" Meter		\$1,100	\$1,100	\$2,200		\$ -	
All Other Zoning Categories/Uses - 1" Meter		\$1,837	\$1,837	\$3,674		\$ -	
All Zoning Categories/Uses - 1.5" Meter		\$3,663	\$3,663	\$7,326		\$ -	
All Zoning Categories/Uses - 2" Meter		\$5,863	\$5,863	\$11,726		\$ -	
All Zoning Categories/Uses - 3" Meter		\$12,837	\$12,837	\$25,674		\$ -	
All Zoning Categories/Uses - 4" Meter	1	\$23,100	\$23,100	\$46,200		\$ 46,200.00	
All Zoning Categories/Uses - 6" Meter		\$47,663	\$47,663	\$95,326		\$ -	
<b>W/S DEVELOPMENT FEES SUBTOTAL</b>						\$ 46,200.00	

**Plan Review and Inspection**

Note: Plan Review Fees are due 1/2 at initial submittal of construction documents to TRC and balance due prior to TRC approval

Plan Review and Inspections			Misc Rec Code	Total	Date Paid
<b>Streets</b>	<b>Quantity</b>	<b>Unit Cost</b>			
LF Public Street =		\$ 2.00		\$ -	
LF Private Street =		\$ 1.00		\$ -	
<b>Water Lines</b>					
LF WL =	1610	\$ 1.50		\$ 2,415.00	
<b>Sanitary Sewer Lines</b>					
LF SS =	0	\$ 1.50		\$ -	
<b>Storm Sewer Lines</b>					
LF Storm =		\$ 1.00		\$ -	
<b>Water/Sewer Services</b>					
Number of Lots =		\$ 100.00		\$ -	
Number of Services =		\$ 50.00		\$ -	
Water Service Larger than 1" =	1	\$ 200.00		\$ 200.00	
Sewer Service Larger than 4" =	1	\$ 200.00		\$ 200.00	
RPZ (if applicable)	1	\$ 200.00		\$ 200.00	
<b>Stormwater Management Plan</b>					
Low Density Plan Review		\$ 150.00		\$ -	
High Density Plan Review - Number of Devices =		\$ 1,000.00		\$ -	
<b>Riparian Buffer Impact Application</b>					
Exempt Buffer Disturbances	0	\$ 25.00		\$ -	
Non-exempt Buffer Disturbances	0	\$ 250.00		\$ -	
<b>Floodplain Development Permit Review Fee</b>					
Flat Fee	0	\$ 50.00		\$ -	
Impacts to Floodway - Required FEMA Permitting	0	\$ 250.00		\$ -	
<b>Water System</b>					
Fire Flow Test (each)		\$ 1,200.00		\$ -	
<b>Sanitary Sewer Lift Stations</b>					
Number of Devices =	0	\$ 5,000.00		\$ -	
Additional Services				\$ -	
<b>PLAN REVIEW AND INSPECTIONS SUBTOTAL</b>				<b>\$ 3,015.00</b>	

Note: When the Town deems that plan reviews and construction oversight are beyond what it considers to be routine, the Town has at its discretion to charge additional fees to cover expenses and are to be paid these additional expenses prior to acceptance of new construction or occupancy being permitted. Non-routine or excessive inspections will include holiday and weekend inspections and after-hours work. Non-routine or excessive inspections may include repeat inspections due to contractor failure or lack of coordination by the contractor. Non-routine or excessive inspections will be charged at a minimum of \$100/hour.

	Total	Date Paid
<b>DEVELOPMENT FEES SUBTOTAL</b>	<b>\$ 250.00</b>	
<b>WATER AND SEWER SYSTEM DEVELOPMENT FEES SUBTOTAL</b>	<b>\$ 46,200.00</b>	
<b>PLAN REVIEW AND INSPECTIONS SUBTOTAL</b>	<b>\$ 3,015.00</b>	
<b>TOTAL FEES DUE</b>	<b>\$ 49,465.00</b>	
<b>TOTAL AMOUNT PAID</b>	<b>\$ -</b>	
<b>BALANCE DUE</b>	<b>\$ 49,465.00</b>	





**CITY OF GRAHAM**  
P.O. DRAWER 357  
201 SOUTH MAIN ST.  
GRAHAM, NC 27253  
PHONE (336) 570-6700  
FAX (336) 570-6703

MEMO: Sterigenics Water and Sewer Development Fees

To: Aaron Holland, Assistant City Manager  
From: Josh Johnson, City Engineer

Date: November 6, 2023

Sterigenics is building a new industrial facility at the corner of Bakatasias Lane and Porter Avenue. This facility will expand their involvement within Graham as they currently operate a facility next door on Porter Avenue.

The Bakatasias Lane and Porter Avenue area is served by an older dead end 6" line that has limited fire flow. This is due to line size, line age, and the dead-end condition. In order to meet the fire flow requirements to build in this location, Sterigenics needed to either provide on-site water storage or to increase the fire flow available to the site. After consideration, the developer has chosen to extend a City owned waterline from Jimmie Kerr Road down Bakatasias Lane to the site. This 8" waterline will serve not just the Sterigenics site but also will improve the fire flow throughout the area along Bakatasias Lane and Porter Avenue. The alignment is included as an attachment.

#### **Conclusion**

The proposed waterline has an estimated cost of about \$550,000 which is consistent with industry pricing. The waterline represents a pretty significant improvement to the City's existing water system and if the City were completing it would be eligible for funding through the use of water and sewer development fees. As such the request from Sterigenics to waive the associated fees appears reasonable.

Utility



City of Graham

Legend

Water

- Water Treatment Plant
- Water Tank
- Hydrants
- Valves
- Meters-Main
- Meters-Residential
- Lines

Sewer

- Waste Water Treatment Plant
- Sewer MHS
- Sewer Pump
- Sewer Lines

Jimmie Kerr Road



Graham GIS, City of Graham, NC, Alamance GIS, Guilford GIS, Graham Utility, Town of Cary, Alamance County, State of North Carolina DOT, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, NC OnaMap, NC Center for Geographic Information and Analysis, NC 911 Board, The USGS National Hydrography Dataset (NHD)



1:5,000

Print Date: 11/6/2023

Disclaimer:

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