

City of Graham

City Council Meeting Minutes

January 9, 2024



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on January 9, 2024, 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 - *Absent*

CALL TO ORDER:

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

INVOCATION & PLEDGE OF ALLEGIANCE

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

CONSENT AGENDA:

- a. To approve the December 12, 2023, Regular Meeting Minutes, December 18, 2023, Special Meeting-Budget Planning Session and to approve and seal the December 12, 2023, Closed Session meeting minutes.
- b. To approve tax releases totaling \$200.23 and tax refunds totaling \$362.10.

CITY OF GRAHAM REFUNDS				
JANUARY				
ACCT#	YEAR	NAME	REASON FOR REFUND	REFUND AMOUNT
2815	2023	PEGUES MAHLON	QUALIFIED FOR HOMESTEAD EXEMPTION	362.10

CITY OF GRAHAM RELEASE ACCOUNTS				
JANUARY				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
11498	2023	FIRST CITIZENS BANK & TRUST	ASSET CORRECTIONS	\$109.83
12541	2023	BROOKS, MICHAEL	TAXPAYER PASSED AWAY JULY 2022	\$13.51
11426	2023	SANCHEZ, VERONICA MOJICA	MOBILE HOME LOCATED IN BURLINGTON	\$16.58
11426	2022	SANCHEZ, VERONICA MOJICA	MOBILE HOME LOCATED IN BURLINGTON	\$29.63
11426	2021	SANCHEZ, VERONICA MOJICA	MOBILE HOME LOCATED IN BURLINGTON	\$30.68

- c. To approve a resolution awarding a police badge and service side arm to Retired Police Officer Christopher T. Denny.

**RESOLUTION AWARDING POLICE BADGE AND
SERVICE SIDE ARM TO
POLICE OFFICER II CHRISTOPHER T. DENNY**

WHEREAS, Christopher T. Denny was an employee of the City of Graham as a member of the Graham Police Department for 19 years;

WHEREAS, G.S. 20-187.2 permits the awarding of badges and service side arms of deceased or retiring members of State, City, and County Law Enforcement agencies.

NOW, THEREFORE, BE IT BE RESOLVED BY THE GOVERNING BODY OF THE CITY OF GRAHAM, NORTH CAROLINA THAT: The City of Graham does hereby award the service side arm and badge to Christopher T. Denny for his many years of service to the City of Graham upon securing the necessary permit(s) according to G.S. 14-402 and receipt of one dollar (\$1.00).

Adopted this the 9th day of January 2024.

- d. ~~To approve a budget amendment for \$25,909.83, from the City of Graham ARPA Fund Account to replace the first floor at the Police Department.~~ **Removed from the agenda.**
- e. To approve the City of Graham Pay Plan revisions effective January 14, 2024, and to approve a Budget Amendment for \$128,706.00, for departmental adjustments.

<p>CITY OF GRAHAM</p> <p>BUDGET AMENDMENT ORDINANCE</p> <p>2023-2024</p> <p>BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT</p> <p>THE 2023 - 2024 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:</p>

Section 1. DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
GF - Administration					
Salaries	459,000.00	468,581.00	9,581.00		9,581.00
FICA	36,000.00	36,733.00	733.00		733.00
Retirement	56,000.00	57,232.00	1,232.00		1,232.00
Supplemental Retirement	22,000.00	22,480.00	480.00		480.00
GF - Information Technologies					
Salaries	83,000.00	84,965.00	1,965.00		1,965.00
FICA	7,500.00	7,651.00	151.00		151.00
Retirement	11,500.00	11,753.00	253.00		253.00
Supplemental Retirement	5,000.00	5,099.00	99.00		99.00
GF - Finance					
Salaries	201,000.00	209,133.00	8,133.00		8,133.00
FICA	15,500.00	16,123.00	623.00		623.00
Retirement	26,000.00	27,046.00	1,046.00		1,046.00
Supplemental Retirement	10,000.00	10,407.00	407.00		407.00
GF - Police Department					
FICA	295,000.00	297,118.00	2,118.00		2,118.00
Retirement	475,000.00	478,887.00	3,887.00		3,887.00
Supplemental Retirement	175,000.00	176,384.00	1,384.00		1,384.00
GF - Fire Department					
Salaries	937,000.00	947,083.00	10,083.00		10,083.00
FICA	72,000.00	72,772.00	772.00		772.00
Retirement	98,000.00	99,296.00	1,296.00		1,296.00
Supplemental Retirement	35,000.00	35,505.00	505.00		505.00
GF - Inspections P/Z					
Salaries	489,000.00	495,615.00	6,615.00		6,615.00
FICA	37,500.00	38,006.00	506.00		506.00
Retirement	55,000.00	55,850.00	850.00		850.00
Supplemental Retirement	21,500.00	21,831.00	331.00		331.00
GF - Streets and Highways					
FICA	38,000.00	38,598.00	598.00		598.00
Retirement	63,500.00	64,505.00	1,005.00		1,005.00
Supplemental Retirement	25,000.00	25,391.00	391.00		391.00
GF - City Garage					
Salaries	151,000.00	152,636.00	1,636.00		1,636.00
FICA	12,000.00	12,126.00	126.00		126.00
Retirement	19,500.00	19,711.00	211.00		211.00
Supplemental Retirement	8,000.00	8,082.00	82.00		82.00
GF - Sanitation					
Salaries	432,000.00	440,798.00	8,798.00		8,798.00
FICA	33,500.00	34,174.00	674.00		674.00
Retirement	56,000.00	57,131.00	1,131.00		1,131.00
Supplemental Retirement	17,000.00	17,440.00	440.00		440.00
GF - Recreation					
Salaries	546,000.00	550,452.00	4,452.00		4,452.00
FICA	42,000.00	42,341.00	341.00		341.00
Retirement	48,000.00	48,573.00	573.00		573.00
Supplemental Retirement	19,000.00	19,223.00	223.00		223.00
GF - Graham Mebane Lake					
Salaries	165,500.00	166,755.00	1,255.00		1,255.00
FICA	13,000.00	13,097.00	97.00		97.00
Retirement	8,500.00	8,662.00	162.00		162.00
Supplemental Retirement	3,500.00	3,563.00	63.00		63.00
GF - Athletic Facilities					
Salaries	199,000.00	199,399.00	399.00		399.00
FICA	15,500.00	15,531.00	31.00		31.00
Retirement	22,000.00	22,052.00	52.00		52.00
Supplemental Retirement	8,500.00	8,520.00	20.00		20.00
GF - Property Maintenance					
Salaries	468,500.00	478,788.00	10,288.00		10,288.00
FICA	36,500.00	37,287.00	787.00		787.00
Retirement	56,000.00	57,322.00	1,322.00		1,322.00
Supplemental Retirement	20,000.00	20,515.00	515.00		515.00
WS - Admin Water Bill & Meter					
Salaries	383,000.00	384,364.00	1,364.00		1,364.00
FICA	29,500.00	29,605.00	105.00		105.00
Retirement	40,000.00	40,176.00	176.00		176.00
Supplemental Retirement	16,000.00	16,069.00	69.00		69.00

WS - Water & Sewer Distribution		-			
FICA	39,000.00	39,592.00	592.00		592.00
Retirement	65,000.00	65,995.00	995.00		995.00
Supplemental Retirement	25,500.00	25,887.00	387.00		387.00
WS - Maintenance & Lift Station		-			
Salaries	98,000.00	101,940.00	3,940.00		3,940.00
FICA	7,500.00	7,802.00	302.00		302.00
Retirement	8,000.00	8,507.00	507.00		507.00
Supplemental Retirement	3,500.00	3,697.00	197.00		197.00
WS - Water Treatment Plant		-			
Salaries	737,000.00	752,237.00	15,237.00		15,237.00
FICA	56,500.00	57,666.00	1,166.00		1,166.00
Retirement	88,500.00	90,458.00	1,958.00		1,958.00
Supplemental Retirement	34,500.00	35,262.00	762.00		762.00
WS - Wastewater Treatment Plant		-			
Salaries	784,000.00	793,741.00	9,741.00		9,741.00
FICA	60,000.00	60,746.00	746.00		746.00
Retirement	94,500.00	95,752.00	1,252.00		1,252.00
Supplemental Retirement	37,000.00	37,488.00	488.00		488.00
	8,756,500.00	8,885,206.00	128,706.00	-	128,706.00

Section 2. REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
GF - Police Department					
Salaries	3,839,700.00	3,855,021.00		15,321.00	15,321.00
GF - Streets and Highways					
Salaries	493,000.00	500,185.00		7,185.00	7,185.00
WS - Water & Sewer Distribution					
Salaries	509,000.00	548,984.00		39,984.00	39,984.00
GF Fund Balance Appropriation	1,460,941.00	1,527,157.00	66,216.00		66,216.00
	6,302,641.00	6,431,347.00	66,216.00	62,490.00	128,706.00

Adopted this 9th day of January 2024.

City of Graham Pay Plan

Job Title	Recommended Grade	Minimum	Midpoint	Maximum
Sanitation Collector	11	\$35,571.50	\$44,464.38	\$53,357.25
General Maintenance Worker I Property Maintenance	12	\$37,350.08	\$46,687.60	\$56,025.11
General Maintenance Worker I Streets	12			
Police Traffic Enforcement Officer	12			
Field Operations Worker (entry-level)	13	\$39,217.58	\$49,021.97	\$58,826.37
-	-			
Athletics Facilities Technician	14	\$41,178.46	\$51,473.07	\$61,767.69
Field Operations Equipment Technician	14			
Field Operations Tech I (Utility Maintenance Worker I)	14			
General Maintenance Worker II Property Maintenance	14			
General Maintenance Worker II Streets	14			
Parks Maintenance Technician	14			
Property Evidence Technician	14			

Athletics Facilities Technician II	15	\$43,237.38	\$54,046.73	\$64,856.07
Customer Service Representative	15			
Equipment Operator I Property Maintenance	15			
Equipment Operator I Streets	15			
Field Operations Equipment Operator I (Utility Equip Oper)	15			
Field Operations Tech II (Utility Maintenance Worker II)	15			
Fleet Service Technician	15			
Office Assistant	15			
Parks Maintenance Technician II	15			
Plant Maintenance Mechanic I	15			
Police Cadet	15			
Police Records Clerk	15			
Treatment Plant Technician	15			
Utility Billing Technician	15			
Athletics Facilities Technician III	16	\$45,399.25	\$56,749.06	\$68,098.88
Equipment Operator II Property Maintenance	16			
Equipment Operator II Streets	16			
General Maintenance Worker III Property Maintenance	16			
General Maintenance Worker III Streets	16			
Maintenance and Relief Treatment Plant Operator I	16			
Parks Maintenance Technician III	16			
Sanitation Collector/Equipment Operator	16			
Water Quality Technician I	16			
Equipment Operator III Property Maintenance	17	\$47,669.21	\$59,586.52	\$71,503.82
Equipment Operator III Street	17			
Field Operations Equipment Operator II (Utility Equip Oper)	17			
Field Operations Tech III (Utility Maintenance Worker III)	17			
Human Resource Assistant	17			
Laboratory Technician I	17			
Landscape Specialist	17			
Maintenance and Relief Operator II	17			
Plant Maintenance Mechanic II	17			
Police Administrative Assistant	17			
Public Works Assistant	17			
Senior Customer Service Representative	17			
Treatment Plant Operator I	17			
Water Quality Technician II	17			
Accounting Technician I (with payroll)	18	\$50,052.67	\$62,565.84	\$75,079.01
Crew Leader	18			
Fleet Technician	18			
Lake Warden	18			
Treatment Plant Operator II	18			

Water Quality Technician III	18			
Zoning & Inspection Technician	18			
Field Operations Equipment Operator III (Utility Equip Oper)	19	\$52,555.31	\$65,694.13	\$78,832.96
Fire Engineer (Fire Equipment Operator)	19			
Laboratory Technician II	19			
Maintenance Relief Operator III	19			
Parks & Athletic Facilities Maintenance Supervisor	19			
Plant Maintenance Mechanic III	19			
Police Officer I	19			
Public Works Assistant II	19			
Senior Accounting Technician	19			
Street Maintenance Supervisor	19			
Tax Collector	19			
Water Billing Supervisor	19			
Zoning & Inspection Technician II	19			
Zoning Enforcement Officer	19			
Recreation Center Supervisor	20	\$55,183.07	\$68,978.84	\$82,774.61
Recreation Marketing Supervisor	20			
Treatment Plant Operator III	20			
Athletic Supervisor	21	\$57,942.23	\$72,427.78	\$86,913.34
Code Enforcement Officer I	21			
Fire Master Engineer	21			
Laboratory Technician III	21			
Planner I	21			
Police Officer II	21			
Property Maintenance Supervisor	21			
Recreation Program Manager	21			
Fire Inspector	22	\$60,839.34	\$76,049.17	\$91,259.01
Fire Lieutenant	22			
Network/PC Technician	22			
Pretreatment Coordinator	22			
Sanitation Supervisor	22			
City Clerk	23	\$63,881.31	\$79,851.63	\$95,821.96
Code Enforcement Officer II	23			
Fleet Superintendent	23			
Planner II	23			
Police Sergeant	23			
Field Operations Supervisor (Distribution & Collections Supervisor)	24	\$67,075.37	\$83,844.21	\$100,613.06

Laboratory Supervisor	24			
Plant Maintenance Supervisor	24			
Plant Operations Supervisor	24			
Property Maintenance Superintendent	24			
Street Superintendent	24			
Code Enforcement Officer III	25	\$70,429.14	\$88,036.42	\$105,643.71
Environmental & Lab Services Superintendent	25			
Fire Captain	25			
Police Lieutenant	25			
	26	\$73,950.60	\$92,438.24	\$110,925.89
Field Operations Superintendent	27	\$77,648.13	\$97,060.16	\$116,472.19
Police Captain	27			
Wastewater Plant Superintendent	27			
Water Plant Superintendent	27			
Field Operations Manager/Assistant Utilities Director	28	\$81,530.53	\$101,913.16	\$122,295.80
Assistant Police Chief	29	\$85,607.06	\$107,008.82	\$128,410.59
Utilities Compliance Manager/Deputy Utilities Director	29			
Director of Human Resources/Risk Management	30	\$89,887.41	\$112,359.26	\$134,831.12
Recreation & Parks Director	30			
IT Director	31	\$94,381.78	\$117,977.23	\$141,572.67
Inspections Director	32	\$99,100.87	\$123,876.09	\$148,651.31
Fire Chief	33	\$104,055.91	\$130,069.89	\$156,083.87
Public Works Director	33			
Finance Director	34	\$109,258.71	\$136,573.39	\$163,888.07
Police Chief	34			
Utilities Director	34			
Assistant City Manager	39	\$139,444.88	\$174,306.10	\$209,167.32
Mayor		\$771.86/month		
Council Member		\$473.84/month		

Motion by Council Member Whitaker to approve consent agenda items a, b, c, and e, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

PUBLIC HEARINGS:

ITEM 1: REZONING – 53.904 ACRES – NEAR MAYFIELD DRIVE

A public hearing was continued to consider rezoning 53.904 acres from R-18 (Low-Density Residential) to C-R (Conditional Residential) to extend the Fourth Phase of Rogers Springs to construct an additional 85 single-family homes, located near Mayfield Drive.

(Planning Board recommended approval - 7-0)

(Continued from the December 12, 2023, City Council Meeting)

Assistant City Manager Aaron Holland stated this item was before Council last month and continued to this month's meeting with the applicant looking to update the plan based on Council comments to show at least 70-foot lot widths. He stated that staff did take it to TRC for preliminary discussions and there was nothing to prevent the petitioner from widening the lots to 70 feet. He stated the petitioner was here to speak on the rezoning.

The public hearing was opened and the following spoke:

Mr. Jason Ewing from Shugart Homes, 221 Jones Town Road, Winston-Salem, NC, stated the revised site plan was available and asked if the Council had any questions.

Mayor Talley asked Mr. Ewing to review the changes that were made from the last Council meeting.

Mr. Ewing stated the lots had all been widened to a minimum of 70 feet per the conversation with Council in December which, provided a deeper gap between the building footprints. He stated there were some lots, based on the geometry of the connecting streets, that ended up being wider than 70 feet.

Mayor Talley asked if the project went from 92 homes to 85 homes.

Mr. Ewing stated that the original request was 92 homes in Phase Four and widening the lots to 70 feet reduced the density by 7 homes.

Mayor Talley inquired about setbacks and asked if the petitioner would be agreeable to 15-foot setbacks.

Mr. Ewing stated he was okay with making the site setback larger and usually liked an additional foot just for surveying and asked if 12 feet would work for the Council.

Mayor Talley stated she would agree to 12 feet and asked if the Council was agreeable.

Mr. Ewing and Council agreed to 12 feet setbacks.

Mr. Chris Foust, 4990 Hwy 62 South, spoke in favor of the rezoning but shared that the Council was making it difficult for developers to develop when you no longer want R-9, only R-12 and R-18, especially when you have only difficult sites in town that are left for development. He asked the Council to not frown on development because of density. He shared those residents in these housing developments will shop and eat in Graham.

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

Motion by Council Member Whitaker to approve the rezoning of 53.904 acres located off Mayfield 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 it is consistent with Policy 5.1.1 and 3.3.2, and Strategy 4.3.1 per the *Graham 2035 Comprehensive Plan* and with the condition that all lots meet the 9,000 square foot requirement, each lot to have at least a 70-foot wide lot width, the active open space incorporated as recreational use such as a dog park, gazebo, playground, etc., to install fencing around the active open space area if appropriate, and a minimum of 12-foot setbacks, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

ITEM 2: ANNEXATION – 53.904 ACRES – NEAR MAYFIELD DRIVE - AN2307

A public hearing was continued to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 53.904 located near Mayfield Drive.

(Continued from the December 12, 2023, City Council Meeting)

Assistant City Manager Holland stated 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 Mayfield Drive and contains approximately 53.90 +/- acres total. Water and sewer are located adjacent to this property within the Mayfield Drive right of way, and the applicants wish to tie onto the City’s infrastructure. He stated 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.

The public hearing was opened and there were no comments.

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 53.904 located near Mayfield Drive, seconded by Council Member Whitaker. The motion passed unanimously.

ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF GRAHAM, NORTH CAROLINA FOR A 53.904-ACRE TRACT OF LAND OFF OF MAYFIELD DRIVE (AN2308)

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 public hearing on the questions of this annexation was held at City Hall, 201 S Main Street, Graham at 6:00 P.M. on January 9, 2024, after due notice by publication November 30, 2023; and

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

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of January 9, 2024:

Legal Description GPIN#: 8882178503

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.

Adopted this, the 9th day of January 2024.

ITEM 3: SPECIAL USE PERMIT – 616 HOLLOW STREET – GROUP HOME

A public hearing was continued to consider a Special Use Permit for a group home for property located at 616 Hollow Street.

(Continued from the December 12, 2023, City Council Meeting)

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

Assistant City Manager Holland: This is a request for a Special Use Permit for a Group Home for property located at 616 Hollow Street. There is an existing single-family dwelling on the site. Under the current Development Ordinance, a Group Home is a facility with support and supervisory personnel that provides room and board, personal care, or habilitation services in a residential environment for not more than six people. Granting this Special Use Permit would permit up to six unrelated individuals to reside within the unit. The Planning Board reviewed the application and forwarded the item to the Council without a recommendation. The Attorney will need to read the statement relating to the special use process and swear in any individuals who may wish to speak. This is a Special Use request; the applicant must prove to meet the following six Findings of Fact:

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

Mayor Talley: This is a public hearing for those witnesses who have taken the oath if you are wishing to testify in this matter, I need you to come forward and raise your right hand and put your hand on the Bible, right?

Assistant City Manager Holland: So, the attorneys have to read the statement first and then we can swear in the individuals.

Mayor Talley: Oh, okay.

City Attorney Bryan Coleman: 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 cases. 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 the right to present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the City Council. General witness

testimony is limited to facts. No opinions. For certain topics, this Council needs to hear 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 that 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, anyone who wants to testify or be a witness to please come forward and take the oath.

Attorney Colman administered the oath to Ms. Linda Montgomery and Assistant City Manager Aaron Holland.

Linda Montgomery: Hello, good evening, my name is Linda Montgomery, and my address is 2076 Jefferies Cross Road, Burlington. I'm here tonight to petition the court for this special use permit for a group home. As you said, it can go up to six residents, I am only going to house four. As I was telling the previous meeting, no you all the step before, there are two staff members at all times. So, there would be a staff member to two kids, supervision at all times, and none of the residents are ever permitted to leave the premises, even to go outside by themselves. It's high supervision. Some of these kids do have behavior problems but that's why I limited it to two to one ratio. I know that security was a question at the meeting I was at before, and we plan on having the whole package, the cameras, and alarms on windows and doors. Staff will have a handheld device at all times that will make a noise if the kids try to open a window or go outside. Kitchen utensils, knives, and anything sharp is locked up in another room, in a staff room where the kids cannot get hold of it. We have restraint training in place for mental health and IDD. De-escalation training plus incentives to make it favorable for the kids to stay and not try to run. They have some, group homes have a history of kids running that's why I limited it to four children for this particular home. I'm trying to produce and provide a therapeutic environment for these kids. Some of them are taken out of the home, not on their own doing. It could be from their parents. There is an intense screening process too. I do not plan on taking the worst of the worst. I'm looking to take ones that are looking to improve and that are willing to take the classes. We are going to offer classes not offered in traditional schooling, like credit classes, how to keep a bank account, and what you are to expect when you age out. A lot of these kids age out and go into homelessness. They have nowhere to go after that and quite frankly a lot of these group homes don't teach them life skills, they don't know anything when they come out. They don't know anything about a budget, financial aid, or school, they don't have anyone to guide them. So, with the therapeutic atmosphere that is going to be counseling, I'm trying to work out with a Counselor now to come to the house so that transportation does not have to be provided. But all transportation will be provided by staff. If I could work it out where they can come into the house, that limits missing school and being absent from things they need to be in.

I am currently in the process of getting a program started with Burlington Christian Academy now to put these kids in a different environment, a more structured, smaller classroom, with more one-to-one working with them. My Son graduated from BCA so I know they have a very good track record with some of the less fortunate kids. It is expensive to go there, so I trying to start some type of program so the children can go through DSS, that they will have an opportunity for a scholarship plus maybe some type of financial aid program that they will work with me or DSS to get these kids into that program.

There was a question I had about the property devaluation or if it's going to improve property value. When it is up and running, right now the property is completely fenced in. There may be one panel that's down because they had to do some work on the side of the house and I'm not sure if that is up yet. But, as I get up and running I do plan on making upgrades to the landscaping of the area. Right now, it is not the prettiest but I do plan on replacing the entire fencing in the yard. There is nothing wrong with it now it's

just a little bit older from where, you know, wear and tear, so I do want to improve the fencing area around there. I've been looking into . . . there is a stone wall I'm going to get replaced, and maybe possibly paving the driveway.

The kids that will be there may be of driving age, but because of the environment they are in they will be placed by DSS and it's a level three group home, they are not permitted to drive. So, the parking is only for staff and there will be two at all times. So, two cars maybe three at the most, if I'm there during a shift or what have you. There is also room to park in the back of the house. You can open one of the gates and go up to the back where it is easier to access if you like a . . . where I had lived there previously, that's what we did to get me up into the house.

I was hoping, some of the neighbors that were supporting me were going to be here tonight but they are not. I guess when talking to some of the neighbors, their main concern was safety. Questions were asked if I have insurance. I have extensive insurance. I'll be paying \$1100 to \$1500 a month for insurance in the event something does happen but with my small numbers and staff training, I do not anticipate that happening. I plan on starting the jobs at a fairly decent wage, I haven't quite figured out to the number yet but I'm trying to attract people who want to work and I need quality workers for these kids, not somebody who is just coming in. So, the training is going to be extensive, the application process will have to do a background checks as well as the kids. I do background checks on kids with DSS. I ask them the nitty gritty, I don't turn kids away because of a bad behavior, I look more at whether or not they are open to change. You have to meet these kids, you have to engage with them. So, it is not so much as if they call me up and say hey, I got a kid, I'm taking them. No, there is a screening process. So, the neighbors were concerned about the worst of the worst. I do not plan on taking the worst of the worst. Procedures are . . . if it happens that they do not work out at the house, they will be given a 30-day notice and they will be transferred. If the behavior is severe enough from just where I have worked, I've seen them take them out in as little as 72 hours. There is not a security risk for the neighborhood. Quite honestly, I feel that being in a neighborhood would be much more beneficial for these kids. They need a family atmosphere almost. Sometimes they just need someone to listen to them and care. So, that's what we are trying to provide is a family atmosphere for these kids, but with the realization of what they are to expect. I have articles here that show there are upwards to a little over 11,000 children in foster care right now with hardly any foster care homes to put these children in. They are staying the nights in prisons, in emergency rooms, on DSS couches, and at any given time there are 50 kids at a time staying in these unfavorable places. A lot of times they are locked into a room and cannot have access to the outside, they are confined to a room kind of like solitary confinement. When they end up sleeping at DSS offices it requires two workers to take care of these kids. So, its causing strain on the workers, there are having to get to paid to do this, I'm just trying to offer an outlet, a positive outlet, and a therapeutic outlet for these kids and not exclude them to these institutions and try to show them there is better than the path they are currently on.

I must apologize, with the storm, I had packets together and salvaged what I could. We had a little accident so I was not able to have one for everybody, so I apologize for that.

I apologize for the pictures as well; the house is not put together. We kind of started to slow down with trying to do things because I was getting ahead of myself and I did not realize the extent of the process to open it. So, I had started getting stuff for the group home and stuff, so we had thrown it in there, and due to my little debacle coming out of the house I grabbed old packets, these are the house but the pictures are quite a mess, and I apologize.

Mayor Talley: This isn't foster care, right?

Ms. Montgomery: No, it's a group home, so there will be five referrals through DSS mainly for placement.

Mayor Talley: And you said your insurance is between \$1100 and \$1500 a month?

Ms. Montgomery: Yes, mam.

Mayor Talley: Have you ever had a group home before?

Ms. Montgomery: No, I've worked at them, I've never owned one. But, I have worked at them since I've been, let's see, since I was 20 years old. I'm 42, it's been 23 years. I've worked at behavioral homes starting in Rhode Island. Mainly these kids were kids straight from the Juvenile Justice Center and placed in step down before they went home. That involved sexual abuse (inaudible) and behavioral (inaudible) themselves. Down here I was mainly focused on family care homes with the elderly but I did work with some of the IDD population focusing mostly on down syndrome. I do have custody of a brother with Down Syndrome so we do a lot of programs with him and I volunteer a lot of times with them. Being down here I worked with quite a few kids that are in the system right now. I work closely with DSS trying to do things I can to help better the kids. I currently have, actually family members in the system so at her group home I have a lot of experience of going in there and volunteering with the girls and helping out with them. So I have kind of a behavioral background but no I have not ever owned one.

Mayor Talley: So, you the one here, you haven't owned a group or worked in a group home that's got level three offenders, is that right?

Ms. Montgomery: No, in Rhode Island I did, it just hasn't been here in North Carolina. I was in medication aid for a group home in Providence Rhode Island it was for a teen-based firm 12 to 17 years old and there were three separate houses.

Mayor Talley: And what level were they?

Ms. Montgomery: They were level three. There was constant supervision, well up there it was based on letters, not numbers. But, it would equate to a level three. It was constant 24-hour supervision staff at all times and two staff (inaudible).

Council Member Whitaker: Are you currently licensed in North Carolina?

Ms. Montgomery: Well, I have started the licenser process but through advice talking to some of the people (inaudible) they advised me that maybe I should go through this process first and then, I'm not projected to open anytime soon. It would be within the next couple of months because it does take, after speaking to the people about insurance it does take a month to a month and a half, sometimes two months to get the insurance because it's so extensive of what I do need for it to cover everything. And, the fees associated with licenser, I can go ahead and get the licenser all day but if I can't get the approval, I'm kind of dead in the water. So, I was a little stuck about what I should do with that. I did not know if I should go ahead and apply, but then if I'm denied, I just halted my brakes a little bit.

Mayor Talley: I'm kind of confused because I thought there was a moratorium on the group homes right now. Did you have to get permission from, I thought, Aaron, I was trying to look in the report. It was on the first home when it was on in December. What's the name of the organization?

Ms. Montgomery: That would be . . . my organization?

Mayor Talley: No, it was listed on the paperwork from December's meeting. They are out of Charlotte, aren't they? Aren't they the ones that approved that agency that approves group homes?

Ms. Montgomery: That would be through, (inaudible) I do have a letter of recommendation, I hope to God that . . . they have sent me a letter of recommendation, so I do have their support. I apologize, I'm so embarrassed, I cannot believe that this happened. Unfortunately, I do not have a hard copy of the letter of recommendation, oh yes, I do. (She hands the Council a copy of the letter.)

Mayor Talley: Are you currently renting that location at 616 . . . ?

Ms. Montgomery: At that location, it's a family location, technically my mother-in-law owns the location but she had allowed me to take it over if I'm allowed to open the group home. I've been managing the family care home for the past five years and I'm pretty confident it's just a change in paperwork basically.

Council Member Whitaker: You said you were going to have four kids, is that what you said?

Ms. Montgomery: Yes.

Council Member Whitaker: And what ages would they be roughly?

Ms. Montgomery: Generally, the ages for a group home tend to be older children, but I've seen them from about nine to usually 16, or 17, depending on the child. It does depend on the referrals when they come in but I naturally can't room, once I get an age group in there, that's the age I will try to stay with because I can't room certain ages with other ages and certain backgrounds with behavioral reports. They may have to a single room versus a shared room. There's only one room that would be shared the other two would be single rooms. But, I could only have three depending on what the history is with the child and whether they could room or not. So, then that would be two staff for three children.

Council Member Whitaker: I understand.

Mayor Talley: So, since this letter is a letter of support for facilities to be located in this area, but it says it is not an endorsement for it to be interpreted as any guarantee of contact, referrals, business, or occupancy of beds. So, is that saying that they, VIA Health out of Asheville, are they the ones that actually have the licenses from the State?

Ms. Montgomery: Well I have to file with the State as well with VIA. So, I have to adhere to the rules and regulations for both entities. So, once I get the licenser from the State, VIA will accredit me as a (inaudible) group home.

Mayor Talley: Is that a guarantee?

Ms. Montgomery: Well, when I talked to the head lady there that deals with licensing of group homes, from what I understand, if they give me a letter of support that they deem there is a need for the group home. Some of the kids not having placement, I got that letter within a day. And then I just have to go through the pretty much paperwork process, but with the fees associated, again, I kind of, after talking to her, she was like it might be a good idea to get the okay before we go ahead and jump the gun and do all of this and then I have all this stuff and can't do anything with it.

Mayor Talley: And you are saying you would have two, you would be having to pay for two people per child?

Ms. Montgomery: Yes, two employees, there has to be two staff members on at all times.

Mayor Talley: For all four children?

Ms. Montgomery: Yes.

Mayor Talley: okay, so it's not two per child though, right?

Ms. Montgomery: No, no mam, I meant two children per one staff.

Mayor Talley: Okay, and then, are some of the, would all these children be from Alamance County that currently live in Alamance County or are they being brought in from other counties?

Ms. Montgomery: Well that's the issue here. Alamance County does not have very many placements. I have a niece and two nephews that were from Alamance County and they have had to be placed in separate counties all over the state because of lack of placement. Sometimes, depending on the child and the issue whether it's a risk of a parent wanting to find the child or the child wanting to run they do like to place them in other counties so there is nowhere to run and there is no incentive like I can run two blocks over and go to so and so's house. So, it really depends on the child, the referral that I get, that's what the intake packet would be that would include, it's going to be, I would need to know details before I take these kids. I'm not trying to cause my staff grief, the neighborhood grief, I don't want to be sticking out like a sore thumb. The purpose is therapeutic and that's what I intend. So, if the child has to fit, if you will, and be able to be a suitable fit for the house, for the safety of the staff, the safety of the children, and just smooth running of the business in general.

Mayor Talley: So, level three what kind of crimes would be associated with like, if you could explain for the Council the difference between level 1, level 2, and level 3?

Ms. Montgomery: Well, level one, I believe level one was defined as non-traditional foster placement, level two was therapeutic foster placement, and level three was group home. For example, I have a niece in level three, what ended her there was runaways, she was posting inappropriate pictures online, stealing, and things of that nature. Not going to school and her mother not taking a proactive approach to stop these behaviors. Anything that is scheduled level four would not be an option, that is psychiatric, that's lock-up. So, the children I would be working with, come can have behaviors and some just come from a circumstance of their environment. Like, I have another nephew, her brother who is in a level, well it's a foster home. Had he been in a group home, it would have been a level three. But it's therapeutic placement but he's there just because of the trauma endured from the other three in the house. So, he's in a placement you know, not doing, for his own doing. So, it varies, it really does, but I'm really trying to make sure I do a screening process so I get kids that I can be effective with. I'm not trying to open this up as a mom-and-pop shop and just do whatever, no, being in the system with these kids and working with them and volunteering, I see the voids, I see what they are missing. The lack of just basic needs sometimes. One of those articles I just sent around, I mean one of the kids had to be in lockup and there were like black worms swimming in the toilet. He was in the jail and happened to be locked up and he's being in there 23 hours a day it's just, the mental strain that causes these kids to have to be in emergency rooms and the lockup unit most of the time so they can't leave. But, they don't have staff trained to sit there and watch these kids. The ones that are there to watch people are psychiatric patients. These kids are not there for that so they

are often put off into a separate lockup unit at the hospital and just left there. And, some have been there for to 50 nights. So, if I can provide a place, a placement, I know it's minimal, I mean it will only be four children, but it's four children not staying in jail cells or not staying in emergency rooms or on DSS couches.

The trailers that they have. I don't know if you guys have seen them, it's just, I'm trying to do something good and try to bring them in and if I can make a difference, at least a couple of kids, that's what I'm striving for. These kids are going to age out at 18 and they are going to be wandering our streets.

Mayor Talley: I commend you for what you are trying to do, I think what I have seen in the past though is that when they have put group homes in, it is usually away from highly dense populations like more out in the County so that they can't run away easily because its miles and miles away from the next house. It's definitely not in the area that is urban. They can't get on a bus, they can't hitch a ride with somebody in a car that is passing by, that kind of thing. I just question why you would pick an urban area versus an area out kind of secluded I guess.

Ms. Montgomery: Well, I guess I don't see as a barrier being in a high-density neighborhood, actually, I think what helped sway me at the last meeting was one of the board members growing up in foster care, so it made a difference to him, he's on the planning board. So, growing up in a neighborhood, for him, he voiced that there was no objection to it because there was nothing wrong with it. These kids need to be shown that they can succeed and that they can come out of their circumstances. If you just throw them to the wolves or whatever, you know, they are going to survive on their own. So, that's why I don't see a difference whether it be county or the urban area because supervision will be so high. At the group home that I have worked at the kids actually get quite mad at us because we are in their business so much there is not much that we miss. When they come in they get temp check, they are patted down, bags are emptied, they are searched, you know, safety is the number one priority. And then we are going to (inaudible) and we are going to try to get them to a place where they can be productive. So, I don't see where there is a difference whether it be urban, quite frankly, urban brings everything closer, community centers, YMCA. I'm a big sports fan, my kids are all in sports, and one is in the band. I push for those things and that's what I'm going to be pushing for the group. If my kids do it, these kids will do it. So, I'm trying to enrich their lives and try to make a difference. I mean whether it is in the County or the urban area, I mean, I have a farm out in the County, farm animals, and they can come out there and enjoy the farm animals too, so they get a little bit of both experiences. I just never felt like it was that much of a big deal.

Mayor Talley: How many staff members are you looking to have?

Ms. Montgomery: I have four so far and depending on how many kids I start off with, I mean, it is going to be slow, I'm not going to have like a whole houseful. I mean I could but it's only three kids, three to four. So, if I need to expand, I do have options for people to do that, they just have not gone through the training process yet.

Mayor Talley: But, they would have to be there 24 hours a day, so that would be a minimum of eight people if you are going to have two per . . .

Council Member Whitaker: 12-hour shifts.

Mayor Talley: You can only work, I mean are you doing more than 40 hours a week?

Ms. Montgomery: If I have to at first, then I will. That's not an issue for us. I did not think about how many people that I should have trained at first but given that I'm not going to be opening for at least another

two months that does give me time and I do have three other people who are interested that I have run background checks on. I just kind of stopped and right after Thanksgiving things got halted. We had COVID at Christmas and I did not get to go ahead and continue with some of the training. The holidays came and it was just a big mess and now we are getting back on track to making sure I can get the training in place so if I need more employees I can go ahead and get them trained.

Mayor Talley: The complaints I hear from people who work at group homes have been that they are supposed to be relieved from their shift and no one comes in to relieve them, what is your protocol for handling situations where employees are sick or they don't come into work, they don't report to work, what is your protocol?

Ms. Montgomery: Well, I guess, considering I'm on call 24/7 besides my husband, we will switch off and I guess I would technically have six employees at this time if you count us two. So, I am planning on having, I have, we will have phones just for the business and I will be on call 24/7 as well as my husband if it is not me, it will be him. So, we will cover anything that needs to be covered in that instance.

Council Member Whitaker: I had a question about the property values in the neighborhood that you had mentioned that it would not negatively affect property values, what types of, do you have any type of corroboration for that in terms of any studies that have been done or anything like that?

Ms. Montgomery: I don't know of any studies that would be done, I was just going based on we are getting estimates on a stone wall that needs to be replaced. The front area does not look that pretty, I'm trying to spruce the area up with a different landscape. Maybe possibly paving the driveway. Right now, it's gravel on like dirt . . . there is plenty of parking but I'm trying to make it look a little bit better, plus with the fencing the newer look right now it has been there since, Lord knows way before we had the property. So, it is looking a little outdated. I want to update everything and I want to eventually, we are looking into trying to get the back area just flattened out a little bit because when you do go to park it is a little bit of an incline. But, small cars and even trucks can get up there, but I'm just trying to make it look better and more appealing. There is a cement pad in the backyard for a basketball court for the kids. So, with all that being in a contained area, I'm just upgrading the house, making it look better. We currently put up, on the front porch, railings and it's all wooded in now and trying to update the appearance.

Council Member Whitaker: We appreciate that you are trying to upgrade the property but my concern is, like you said, not so much the way it looks even, but with the stigma of having a group home in a neighborhood like that. I was hoping you would have some kind of professional study or something you could show us that would show us there would be no devaluation of the properties or that other group homes have not caused a devaluation of a property, or surrounding properties. Because you know there are some people who don't want to buy a home in an area if they know that there is a group home there. That's kind of what I was looking for. I know that you intend to keep the property up and you are going to do things to improve it, but my concern is for the surrounding properties and what it might do to their resale value and things like that. Does that make sense?

Ms. Montgomery: It does, but being like a group home, I don't plan on advertising out in the front yard like "Hey, this is a group home." There are privacy issues with the kids. You know HIPPA, even the parents can't know where they are at. The only person that knows where they are is DSS. They can't have electronics so there is no outside communication, like hey, I'm here, come get me. So, with the improvements and the supervision, they can't be outside without staff. So, you know damage to other people, I don't, I really feel it's highly unlikely. But, I don't have any studies, professionally. I did not even think about it.

Mayor Talley: When you are applying for a special use permit one of the things in applying is providing expert testimony either from an appraiser or somebody that has expert knowledge in things to be able to provide that kind of documentation.

Council Member Parsons: That's item number four under the six conditions that you are required to meet.

Mayor Talley: Have you in working in the group homes, have you had situations in which you have had to call law enforcement?

Ms. Montgomery: We did call, we had one incident where we called because the child was starting to harm themselves. Once they go to the point where they threaten to, suicide or try to physically harm another person, then we have to call for hospital evaluation. That's the main thing. The group homes that I worked at we did come up with incentive programs. Now, kids, I'm going to leave, I'm going to leave. But when you talk to them with de-escalation tactics, we have incentives for them there. A lot of group homes don't allow then tv or gaming systems. These are things you have to work for, for points. So, a lot of times the kids, when you see that you care and you are there for them and they have things awarded to them that they didn't have before and it's a more comfortable environment you don't have to deal with runners. They have been in the system, 9 times out of 10, and they know where they are coming from and they have already been in a better place. That's why I'm trying, maybe an upgrade to the group home scene, I guess you could say. It had a very successful outcome. I have to say. I know one kid that threatened to leave but I don't know of any runaways. You know, based on how the program was run. Will I not have any, I can't say.

Mayor Talley: Is there anybody else here to testify in regard to this special use permit? Any other Council Members have any questions?

Council Member Chin: I'm concerned that you think through your staffing plan to ensure that you have, because it's 24/7. And so . . .

Ms. Montgomery: I'm sorry, I don't think I made this clear. There are other programs within the DSS system that we can take advantage of, which would be Community Navigator, the Say So Program, and Links. Some of these programs offer assistance to these kids, they come and get them, and do mentorships. So, it is not so much as them going to be at the house all the time, you know, of course, I would have to vamp up my employees. But, I apologize, I'm just all over the place. But, when they come home from school we have therapy, groups, or mentorship, it really depends on the child's behavior plan and what they have in place with DSS when they come into the facility. But, there are a bunch of different programs whether it be drug abuse behavior specialist, just the mentorship in general, so they will be out of the house in the community interacting and not just kind of school home. It's more than that and we are trying to make it as normal as a family, like it's a family with four kids. To me, it's really not much different but I've been in the field for so long that to me that's really what I'm trying to portray. I don't plan on having a sign out front saying, you know, come in, it's a group home. Some of the residents may know.

Council Member Chin: I appreciate what you are trying to do.

Council Member Whitaker: It's a wonderful thing that you are trying to do.

Mayor Talley: So, we are going to need a motion to close the public hearing.

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

Mayor Talley: Do I hear a second?

Council Member Chin: Second.

Mayor Talley: All in favor? (All Council Members stated aye) Opposed? Motion carries.

I would like to make a motion that we deny the special use permit based on the conditions that it does not further the goals of *The Graham 2035 Comprehensive Plan* and is not in conformance with the Suburban Residential development type.

- The development does not comply with the standards of the Development Ordinance.
- The development does not meet all six conditions required by Section 10.144 of the *Development Ordinance*.
- The use will materially endanger public health or safety if located where it is proposed and developed according to the plan submitted.
- It will substantially injure the value of adjoining property or that the use is a public necessity.
- The location and character of the use if developed according to the plan as submitted was not in harmony with the area which is primarily residential, where the development is to be located, and in general conformity with the plan of development for the Graham Planning area.

It just doesn't meet all the six conditions in which to allow special use in that particular area. Do I hear a second?

Mayor Pro Tem Hall: I second your motion.

Mayor Talley: There is a motion and a second on the floor, any discussion? All in favor, aye (All Council Members stated aye) All opposed? Motion carries.

Mayor Talley: We wish you the best of luck, mam. I just think that the location in which you want to place that it just not, it just does not meet all the requirements that would have to be met in order to be approved. But, we do wish you the best of luck in that field. I know it's a difficult job and we appreciate your willingness to be able to handle that.

NEW BUSINESS:

ITEM 4: COUNCIL DISCUSSION – SPECIAL USE PERMIT PROCESS

The City Council discussed the legal process of Special Use Permits.

Assistant City Manager Aaron Holland asked that Planning Board Chairman Dean Ward assist with conversations. He stated this issue was brought up at last month's meeting at the request of the Planning Board for Council to add this item to the January meeting to discuss how they would like to handle the Special Use process moving forward. He stated it used to be a two-step process of having two quasi-judicial hearings per se. The request would go through the Planning Board and then it would be passed to the Council for the final decision. He stated North Carolina General Statute 160D was implemented and went

away from the two-step process mainly because the applicants were placed into a situation of having two quasi-judicial hearings. He stated that now the Planning Board reviews the application packet and makes a recommendation to the Council as to whether it is a complete application. He stated that after evaluating recent requests, the Planning Board was coming to Council to see whether we want to maintain that process or have the applicant go to one board, either the Board of Adjustment, which is already a quasi-judicial board, and hear the item or come straight to Council to hear the item. He stated there was also talk about doing away with Special Use and looking into other mechanisms, such as conditional zoning to handle the special use items which would then make it legislative and flow through the Planning Board with recommendations to the Council.

Assistant City Manager Holland asked the Council to advise staff on how to move forward with the special use permit process in the future.

Mayor Talley stated that she had reached out to the City of Mebane including City Attorney Lawson Brown regarding their special use permit process. She stated that City Attorney Lawson shared that special use permits still had a viable purpose, especially with large industrial-type uses or requests to use the property for sexually oriented purposes. City Attorney Lawson suggested that boards and Councils have training so they know the legalities of quasi-judicial hearings. She suggested taking the Planning Board out of it and if someone has a special use request, it would come directly to Council and it would either be a yes or a no. She stated Council would have the opportunity to meet with the legal counsel in the event of a no to be able to make sure the Council was wording the decision correctly and legally.

City Attorney Bob Ward stated there could be an element of prejudice that could enter into it once it is heard by one body and goes to the other. He stated it was best to have it heard by one board and make that decision and this would develop consistency in the way things are heard and the way you approach it and make decisions.

Mayor Talley stated she was concerned about how people are given notice about such hearings. She asked how people were notified of special use permit hearings.

Assistant City Manager Holland stated staff sends letters to adjoining property owners beyond what is legally required. He stated the notices were also posted on the property, which was a bright yellow sign, notification mailings, and an ad published in the paper. He stated you hope to hit everyone with one of these mechanisms making them aware of the meeting. He stated that individuals attending only want to attend one meeting and staff encourages them to attend the Planning Board meeting where changes can be made before going to Council.

Mayor Talley stated there needed to be something specified in the process to ensure notices are sent above and beyond what the law requires. She also asked that something be placed in the application that it does not mean a decision would be made that night by the Council. She shared that due to not being able to look at the property or do any research ahead of time, she did not want to feel obligated to make a decision right then.

Assistant City Manager Holland stated he was nervous to say that it would come to Council twice because it is quasi-judicial and it is the same board hearing it.

Mayor Talley stated that she didn't think it needed to be put in writing but was just saying she was not going to be pressured to make a decision without always getting all the answers that she needed to make a good decision.

Assistant City Manager Holland stated that was the Council's prerogative. He stated if the Council felt uncomfortable making that decision, he just did not know if you would want to put out that it may or may not be voted on because the expectation was to have a vote. He stated if the Council wished to have it tabled, they could do so.

Mayor Talley asked if the Planning Board encourages applicants to go to conditional.

Assistant City Manager Holland stated yes.

Mayor Talley talked about requiring adequate traffic studies and not just a one-day study. City Attorney Ward stated Council could make that more in-depth than by just checking the box that a traffic study had been conducted.

Assistant City Manager Holland asked if it was the pleasure of Council that staff bring back a text amendment, whichever direction we go in, any changes would have to come back with a text amendment. He asked if that was something Staff needed to work on where it was routed to one meeting.

Mayor Talley stated yes, directly to the Council so there isn't the argument by the applicant they are being disenfranchised by going through both Planning Board meetings, which is quasi-judicial, and then to Council.

Mr. Tom Boney, Alamance News, asked what was broken that needed fixing. He stated the current system as he understood looks at the proposed project, while it may be a special use permit it is not required to be a quasi-judicial hearing at the planning board phase. He stated that the Mebane Planning Board hears a special use permit but not under sworn testimony. It hears it, makes a recommendation and it goes to the Mebane City Council. He stated the vetting aspect of coming through the Planning Board was invaluable screening that serves both the Council and the public well in terms of making sure the applicant or developer was ready and had things filled out in the proposal. He urged Council based on various Councils here and mainly in Mebane that the Council and the public are well served to have the screening of an initial presentation at a Planning Board level.

Mayor Talley stated she did not disagree with that and questioned whether this came up because someone was disenfranchised by having to go through the two meetings, was that the reason.

Planning Board Chairman Dean Ward stated he brought it to Staff's attention because he thought it was a waste of time at the present when the Board was being instructed not to take any action. He stated the Board could sit there and listen for two hours but not take any action, no recommendations and to send it on to Council. He stated this was a waste of time for the Planning Board to hear a special use permit request if the board could not act.

Mayor Talley asked if there was a reason the Board could not make a recommendation.

City Attorney Ward stated they could make a recommendation even if it is not sworn testimony but with the understanding it would be a two-step process. He stated he could see potential issues if the Planning Board votes on it in lieu of making a recommendation.

After further discussions, it was the Council's consensus to have Staff review Mebane's Planning Board process of hearing special use permits and report back to the Council.

PUBLIC COMMENT PERIOD

Mr. Joshua Bear, 219 W. Harden Street, Graham, spoke about water pooling at the crosswalk downtown specifically the one where Harden Street meets Main Street. He also spoke about speeding on Harden and Maple Avenue.

CITY STAFF COMMENTS

No comments.

CITY COUNCIL COMMENTS

Mayor Talley shared that Bank of America would be closing effective April 2024, and would like for Council to reach out to them to make sure this property would not get demolished but be preserved.

Council Member Chin asked if a mirror could be installed on Gilbreath and Maple where it is difficult to see southbound traffic.

Mayor Talley asked about one-way signage on Court Square due to people going the wrong way around the Court House.

Council Member Whitaker shared there had been some misconduct regarding an Advisory Board member and asked if the Council would hold a special session to investigate and look into that situation. The Council consensus was to hold a special meeting regarding the misconduct of an Advisory Board member.

CLOSED SESSION:

City Council considered 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 and to discuss personnel pursuant to N.C.G.S. 143-318.11(a)(6).

Motion by Council Member Whitaker to go 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 and to discuss personnel pursuant to N.C.G.S. 143-318.11(a)(6), seconded by Council Member Chin. The motion passed unanimously.

Motion by Mayor Talley to return to open session, seconded by Council Member Whitaker. The motion passed unanimously.

Mayor Talley shared the Council met with the attorney and also discussed personnel.

Mayor Talley motioned to increase the City Manager's salary to \$162,000, effective January 14, 2024, seconded by Council Member Chin. The motion passed unanimously.

ADJOURN

Council Member Whitaker motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 8:56 p.m.

Renee M. Ward, CMC
City Clerk