

# **City of High Point**

*Municipal Office Building  
211 South Hamilton Street  
High Point, NC 27261*



## **Meeting Agenda**

**Monday, November 17, 2008**

**4:45:00 PM**

**Council Chambers**

## **Committee of the Whole**

*Rebecca R. Smothers, Mayor  
M. Christopher Whitley, Mayor Pro Tem  
Latimer B. Alexander, IV, William S. Bencini,  
John Faircloth, Michael D. Pugh, Bernita Sims,  
Lisa M. Stahlmann, Ronald B. Wilkins*

**ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE****PRESENTATION OF ITEMS****FINANCE COMMITTEE - Council Member Whitley, Chair****Committee Members: Bencini, Faircloth and Pugh****(all were present)****Chairman Whitley asked Committee Member Faircloth to chair the Finance portion of the Agenda.***Committee Members - Bencini, Faircloth, Pugh***080296****Contract - Bid No. 30 - Soccer Complex/Miracle League Field**

Approval of contract awarding Bid No. 30 for the construction of the Soccer Complex/Miracle League Field at the High Point Athletic Complex on School Park Road. Purchasing and Parks and Recreation recommends that contract be awarded to Brooks General Contractors in the amount of \$1,871,917.00 which is the lowest responsive and responsible bidder meeting specifications.

**11/17/2008      Committee of the Whole      approved****080298****Contract Extension - Breece Engineering - West Lexington Avenue Sanitary Sewer**

Council is requested to approve a contract extension in the amount of \$150,000.00 with Breece Engineering to add new sanitary sewer outfall construction to serve a portion of West Lexington Avenue. Specifically, this line will be extended to serve the property at the intersection of Wallburg High Point Road and W. Lexington Avenue as well as property owned by the Allred Family and Doug Carty.

**11/17/2008      Committee of the Whole      approved****080299****Purchase of Property - Proposed Fire Station on West Lexington Avenue**

Council is requested to authorize staff to proceed with the purchase of property located on West Lexington Avenue for a proposed new fire station. Property belongs to Bruce Clodfelter, Jr and wife Janet W. Clodfelter.

**11/17/2008      Committee of the Whole      approved****080312****Budget Ordinance Amendment - Neal F Austin Library Expansion**

Council is requested to adopt a Capital Project Ordinance Amendment for Contributions in the amount of \$60,000.00 for the Neal F. Austin Library Expansion.

**11/17/2008      Committee of the Whole      adopted**



**080313****Southside Redevelopment - Unity Builders, Inc.**

Council is requested to approve contract with Unity Builders, Inc. to construct eleven homes on city owned property in the Southside community and authorize the city attorney to convey the parcels to the developer.

11/17/2008      Committee of the Whole      approved

**PUBLIC SAFETY COMMITTEE - Council Member Alexander, Chair**

**Committee Members: Faircloth, Stahlmann, Pugh and Wilkins**

**(all were present)**

*Committee Members - Faircloth, Stahlmann, Pugh, Wilkins*

**080300****Ordinance Amendment - Presence of Sex Offenders in City Parks and Recreation Centers**

Council is requested to adopt an amendment to the High Point Code of Ordinances to create a new Section 12-1-15, Article 12, Chapter 1 entitled Presence of Registered Sex Offenders in City parks and City recreation centers prohibited.

**080293****Amendment to the Code of Ordinances - Section 12 - "Offenses"**

Monday, November 3, 2008 at 5:30 p.m. is the date and time established by City Council to receive public comments on the following changes to the High Point Code of Ordinances:

A new section 12-1-13 - Aggressive Solicitation Prohibited

A new section 12-1-14 - Urinating or Defecating on any public place

Amendment to section 12-1-4 - Possession or consumption of malt beverages and unfortified wine on streets and city property.

*This item will be discussed at a City Manager's Briefing on Tuesday, November 18th at 4:40 p.m.*

**PUBLIC SERVICES COMMITTEE - Council Member Sims, Chair**

**Committee Members: Alexander and Pugh**

**(all were present)**

**Chairman Sims reported there were no matters on tonight's Agenda for consideration by the Public Services Committee.**

*Committee Members - Alexander, Pugh*

*Committee Members - Alexander, Sims, Whitley, Wilkins*

**PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair**

**Committee Members: Faircloth, Sims, Stahlmann and Whitley**

**(all were present)**

*Committee Members - Faircloth, Sims, Stahlmann, Whitley*

**080301****Resolution of Intent - Street Abandonment 08-23 - Friends Avenue**

Approval of a resolution of intent that establishes a public hearing date of Tuesday, January 20, 2009 at 5:30 p.m. to consider a request by the Technical Review Committee for the abandonment of a 50-foot wide unimproved portion of right-of-way, known as Friends Avenue, west of Worth Street and north of Wesley Drive.

11/17/2008      Committee of the Whole      adopted

**080302****Resolution of Intent - Street Abandonment 08-24 - Cliffside Avenue**

Approval of a resolution of intent that establishes a public hearing date of Tuesday, January 20, 2009 at 5:30 p.m. to consider a request by the Technical Review Committee for the abandonment of a 30-foot wide unimproved portion of right-of-way, known as Cliffside Avenue, between Martin Street and Cassell Street.

11/17/2008      Committee of the Whole      adopted

**080303****Resolution of Intent - Street Abandonment 08-25 - Sales Street**

Approval of a resolution of intent that establishes a public hearing date of Tuesday, January 20, 2009 at 5:30 p.m. to consider a request by the Technical Review Committee for the abandonment of a 16-foot wide unimproved right-of-way, unnamed, east of Sales Street between Triangle Lake Road and Roberts Lane.

11/17/2008      Committee of the Whole      adopted

**PUBLIC HEARINGS ON ITEMS**

**Prior to the public hearings being held, those persons desiring to speak regarding quasi-judicial matters were duly sworn.**

**080304****Ordinance - Rezoning Case 08-17 - City of High Point - Gallimore Dairy Road**

A request by the City of High Point City Council to rezone an approximately 32 acre parcel from the Conditional Use Light Industrial (CU-LI) District to an Agricultural (AG) District. The site is lying at the northwest corner of Gallimore Dairy Road and Pegg Road.

11/17/2008      Committee of the Whole      adopted

**080305****Land Use Plan Amendment Case 08-04 - Eastchester Park Partners, LLC**

A request by Eastchester Park Partner, LLC to change the land use designation for approximately 4.7 acres from the Moderate Density Residential designation to an Office designation. The site is lying 250 feet east of Eastchester Drive, between Ambassador Court and Lassiter Drive. In addition, the request includes consideration of a recommendation by the Planning & Development Department for additional parcels lying along the south side of Lassiter Drive and west of Guyer Street to be designated Office.

11/17/2008      Committee of the Whole      approved

**080306****Ordinance - Rezoning Case 08-18 - Eastchester Park Partners, LLC****a. Conditional Use Public & Institutional (CU-PI) District.**

A request by Eastchester Park Partners, LLC to rezone an approximately 0.6 acre parcel from the Residential Single Family-9 (RS-9) District to a Conditional Use General Office Moderate Intensity (CU GO-M) District. The site is lying at the northwest corner of Guyer Street and Lassiter Drive (109 Lassiter Drive).

**b. Major Amendment to Conditional Use Permit 07-32**

A request by Eastchester Park Partners, LLC to amend the permit to add approximately 0.6 acres into the permit, to amend landscaping requirements and to add architectural design conditions.

**11/17/2008 Committee of the Whole adopted**

**080307****Special Use Permit 08-04 - Anco-Eaglin, Inc.**

A request by Anco-Eaglin, Inc., for a Special Use Permit to allow an Industrial & Commercial Machinery use in a Light Industrial (LI) District. This site is lying along the south side of Lorraine Avenue, approximately 300 feet west of Alleghany Street.

**11/17/2008 Committee of the Whole approved**

**080308****Ordinance - Rezoning Case 08-19 - City of High Point - Shadybrook Road**

A request by the City of High Point Parks & Recreation Department to rezone approximately 16.5 acres from the Residential Single Family-9 (RS-9) District and Residential Multifamily-8 (RM-8) District to a Public & Institutional (PI) District. This site is lying along the west side of Shadybrook Road, approximately 250 feet south of School Park Drive.

**11/17/2008 Committee of the Whole adopted**

**080309****Ordinance - Rezoning Case 08-20 - Wrennovation, LLC****a. Conditional Use Highway Business (CU-HB) District.**

A request by Wrennovation, LLC to rezone approximately 0.98 acres from the Light Industrial (LI) District to a Conditional Use Highway Business (CU-HB) District. The site is lying along the south side of E. Kivett Drive, approximately 715 feet east of the Business 85 on-ramps (3718 E. Kivett Drive). This site is within the city's extraterritorial jurisdiction (ETJ).

**b. Conditional Use Permit 08-20**

A request by Wrennovation, LLC for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, vehicular access and landscaping.

**11/17/2008 Committee of the Whole adopted**

**080310****Ordinance - Rezoning Case 08-21 - Harris Teeter, Inc. - Main Street District**

A request by Harris Teeter Inc., to rezone approximately 2.62 acres from the General Business (GB) District to the Main Street (MS) District. This site is lying at the northeast corner of E. Dayton Avenue and Montgomery Street.

11/17/2008      Committee of the Whole      adopted

**080311****Resolution - Street Abandonment Case 08-22 - Harris Teeter, Inc./Lyles Holding, Inc. - Montgomery Street**

A request by Harris Teeter Inc. and Lyles Holdings, Inc., to abandon a portion of an improved 50-foot wide right-of-way, known as Montgomery Street, between E. Dayton Avenue and Irbywood Avenue.

11/17/2008      Committee of the Whole      adopted

**ADJOURNMENT**

Right of Way

Henry T. Moon, III  
RIGHT OF WAY AGENT



MEMO

November 4, 2008

To: Fred Baggett

From: Henry T. Moon

HTM

Subject: Purchase of property for future Fire Station on Lexington Ave. near High Point  
Walburg Rd.

Attached find a purchase contract for a 2.615 acre tract on Lexington Ave. Asst. Chief Martha Younts has reviewed the site for suitability for their needs and its location in regards to their response time and feels it meets their needs. It is requested that you seek Council approval for this purchase at the 11/17/08 Council meeting.

Chief Taylor and Asst. Chief Younts will be at the Finance meeting and Council meeting to answer questions.

Attached also is a survey of same. Public Service advises that we have High Point City water across the front of this tract. There is High Point City sewer services not far behind this tract. We would need to acquire easements from two owners and extend the line but Engineering advises that it is doable.

High Point City electric lines go as far as High Point Walburg Road so could be easily extended the short distance to this tract.

If you have any questions, please advise.

Cc: David Taylor  
Martha Younts  
Gary Edwards  
Chris Thompson  
Keith Pugh

City of High Point, P.O. 230, 211 South Hamilton Street, High Point, NC 27261 USA  
Phone: 336.883.3247 Fax: 336.883.3683 Cell: 336.688-6624  
E-mail: [henry.moon@highpointnc.gov](mailto:henry.moon@highpointnc.gov)

## OFFER TO PURCHASE AND CONTRACT

**The City of High Point**, as Buyers, hereby offers to purchase and **Bruce S. Clodfelter, Jr. and wife, Janet W. Clodfelter**, as Seller, upon acceptance of said offer, agrees to sell and convey, all of that plot, piece or parcel of land described below, together with all improvements located thereon and such fixtures and personal property as are listed below (collectively referred to as the "Property"), up on the following terms and conditions:

**1. REAL PROPERTY:** Located in the County of Davidson, State of North Carolina, being known as and more particularly described as:

Street Address: Tax Map 1630100000019

Legal Description: BEGINNING at an iron stake in the South line of West Lexington Avenue Extension, the corner of the property of John Moore, and running thence a curve along the line of West Lexington Avenue, the chord of which is South 71 degrees 50 minutes West and 388.75 feet to a iron stake at the corner of the property of Royals; running thence South 10 degrees East along the line of Royals 280.64 feet to an iron stake in the line of A.A. Moore; running thence South 87 degrees East along the line of Moore 289.54 feet to an iron stake at Moore's corner; running thence North 04 degrees 21 minutes 28 seconds East along the line of Moore 413.95 feet to the point and place of the BEGINNING, the same containing 2.615 acres, more or less and being described according to a survey prepared by Davis-Martin & Associates, dated 3/10/76 and designated as Job No. S-10433.

See deed recorded in Book 145 at Page 63 and Will of R. E. L. Hayworth.

☐ All ☐ A portion of the property in Deed Reference: Book 596, Page No. 649, Davidson COUNTY, NC

**NOTE:** Prior to signing this Offer to Purchase and Contract, Buyer is advised to review Restrictive Covenants, if any, which may limit the use of the Property, and to read the Declaration of Restrictive Covenants, By-Laws, Articles of Incorporation, Rules and Regulations, and other governing documents of the owners' association and/or the subdivision, if applicable.

**3. PURCHASE PRICE:** The purchase price is \$85,000.00 and shall be paid as follows:

(a) **\$0.00**, EARNEST MONEY DEPOSIT with this offer.

(b) \$85,000.00 BALANCE of the purchase price in cash at Closing.

**4. CONDITIONS:**

(a) There must be no restriction, easement, zoning or other governmental regulation that would prevent the reasonable use of the Property for purposes.

(b) **The Property must be in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted.**

(c) All deeds of trust, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Closing such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

(d) Title must be delivered at Closing by GENERAL WARRANTY DEED unless otherwise stated herein, and must be fee simple marketable title, free of all encumbrances except: ad valorem taxes for the current year (prorated through the date of Closing); utility easements and unviolated restrictive covenants that do not materially affect the value of the Property; and such other encumbrances as may be assumed or specifically approved by Buyer. The Property must have legal access to a public right of way.

**5. SPECIAL ASSESSMENTS:** Seller warrants that there are no pending or confirmed governmental special assessments for sidewalk, paving, water, sewer, or other improvements on or adjoining the Property, and no pending or confirmed owners' association special assessments, except as follows: None

Seller shall pay all owners' association assessments and all governmental assessments confirmed through the time of Closing, if any.

**6. PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated and either adjusted between the parties or paid at Closing: (a) Ad valorem taxes on real property shall be prorated on a calendar year basis through the date of Closing; (b) Ad valorem taxes on personal property for the entire year shall be paid by the Seller unless the personal property is conveyed to the Buyer, in which case, the personal property taxes shall be prorated on a calendar year basis through the date of Closing. (c) All late listing penalties, if any, shall be paid by Seller. (d) Rents, if any, for the Property shall be prorated through the date of Closing. (e) Owners' association dues and other like charges shall be prorated through the date of Closing.

**7. CLOSING EXPENSES:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this agreement, and for excise tax (revenue stamps) required by law. Buyer shall pay for recording the deed and for preparation and recording of all instruments required to secure the balance of the purchase price unpaid at Closing.

**8. EVIDENCE OF TITLE:** Seller agrees to use his best efforts to deliver to Buyer as soon as reasonably possible after the Effective Date of this contract, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust and easements relating to the Property.

**9. LABOR AND MATERIAL:** Seller shall furnish at Closing an affidavit and indemnification agreement in form satisfactory to Buyer showing that all labor and materials, if any, furnished to the Property within 120 days prior to the date of Closing have been paid for and agreeing to indemnify Buyer against all loss from any cause or claim arising therefrom.

**10. REASONABLE ACCESS:** Seller will provide reasonable access to the Property (including working, existing utilities) through the earlier of Closing or possession by Buyer, to Buyer or Buyer's representatives for the purposes of appraisal, inspection, and/or evaluation. Buyer may conduct a walk-through inspection of the Property prior to Closing.

**11. CLOSING:** Closing shall be defined as the date and time of recording of the deed. All parties agree to execute any and all documents and papers necessary in connection with Closing and transfer of title on or before **12/31/08** at a place designated by Buyer. The deed is to be made to City of High Point.

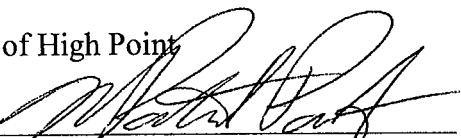
**12. OTHER PROVISIONS AND CONDITIONS:** This Contract is subject to City Council approval.

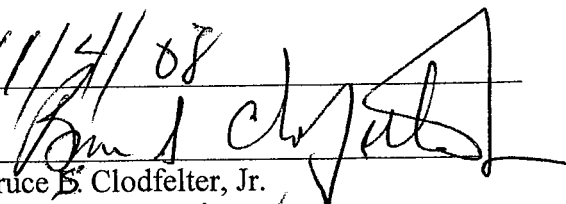
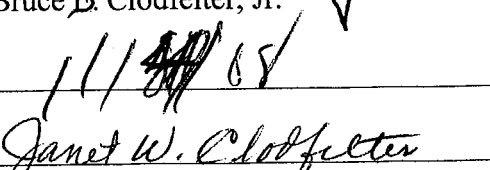
**13. PARTIES:** This contract shall be binding upon and shall inure to the benefit of the parties i.e., Buyer and Seller and their heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

**14. SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

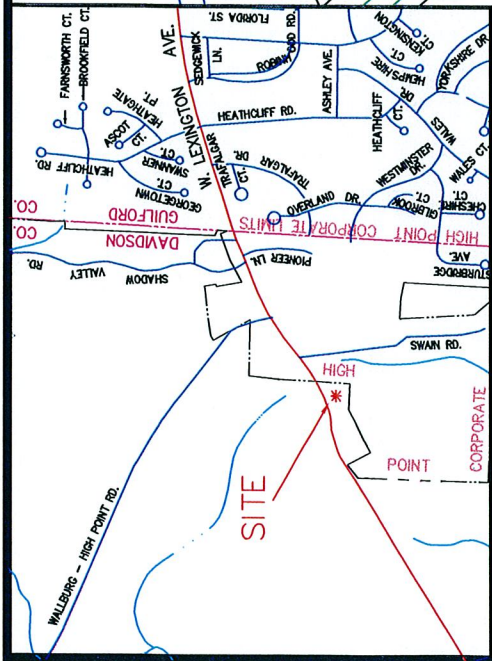
**15. ENTIRE AGREEMENT:** This contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a REALTOR or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them.

**16. NOTICE AND EXECUTION:** This offer shall become a binding contract (the "Effective Date") when signed by both Buyer and Seller and such signing is communicated to the offering party. This contract is executed under seal in signed multiple originals, all of which together constitute one and the same instrument, with a signed original being retained by each party.

City of High Point  
By:   
Assistant City Manager

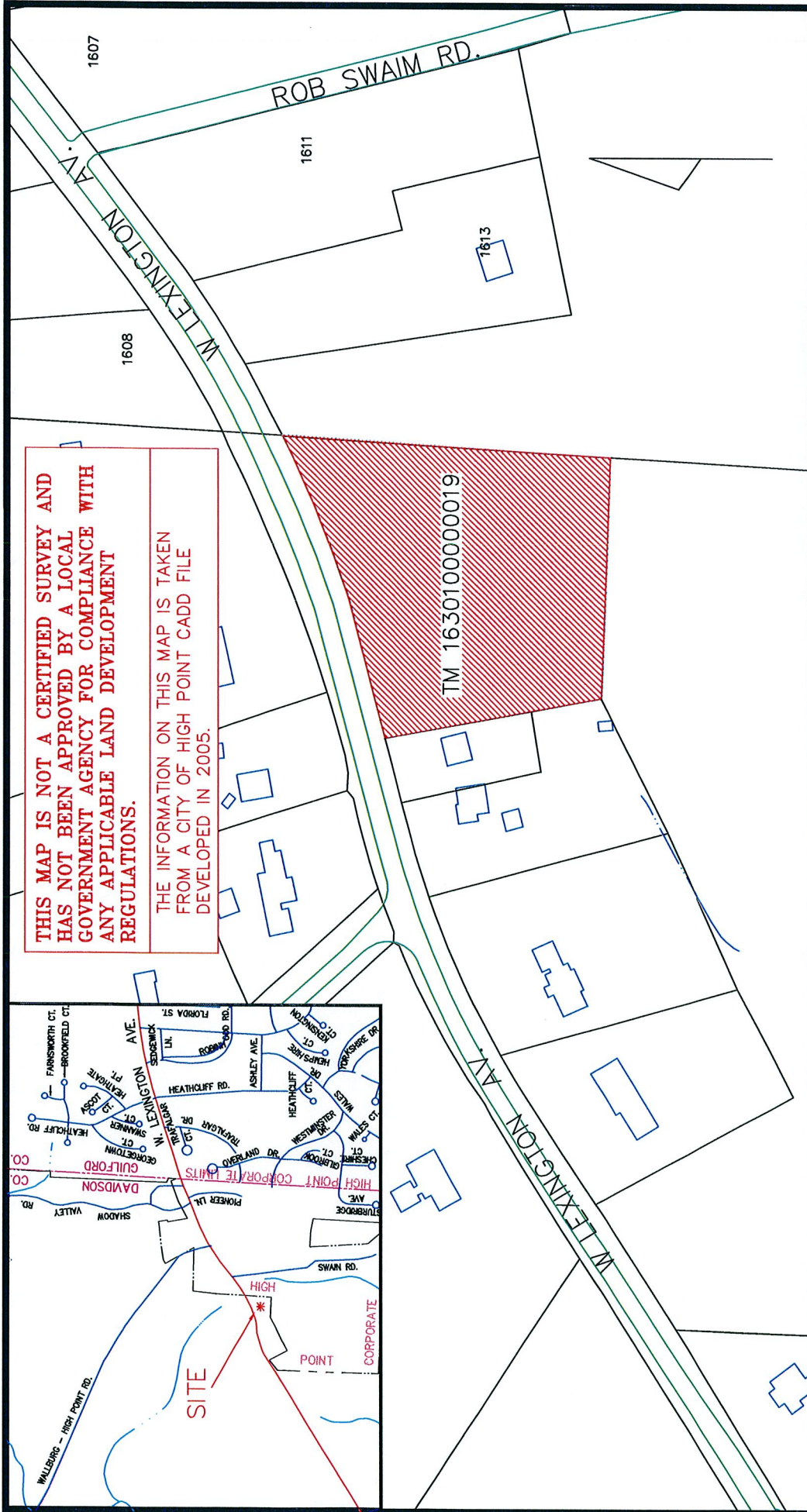
Date: 11/4/08  
Seller:   
Bruce B. Clodfelter, Jr.  
Date: 11/4/08  
Seller:   
Janet W. Clodfelter





THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN APPROVED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

THE INFORMATION ON THIS MAP IS TAKEN FROM A CITY OF HIGH POINT CADD FILE DEVELOPED IN 2005.



CITY OF HIGH POINT  
NORTH CAROLINA

PURCHASE OF PROPERTY FOR FUTURE  
FIRE STATION.

ENGINEERING SERVICES  
DEPARTMENT

PROPERTY OF BRUCE S. CLODFELTER, JR.  
WEST LEXINGTON AVENUE EXTENSION  
APPROXIMATELY 2.615 ACRES  
DAVIDSON CO. TM 16301000000019

SCALE: N.T.S.

BY: MBN

PROJECT: 2403 DATE: NOV. 2008



## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Harris Teeter Inc. and Lyles Holdings, Inc.,** **Street Abandonment Case 08-22**

A request by Harris Teeter Inc. and Lyles Holdings, Inc., to abandon a portion of an improved 50-foot wide right-of-way, known as Montgomery Street, between E. Dayton Avenue and Irbywood Avenue.

Mr. Mark Schroeder presented this request and recommended approval of the case as outlined in the staff report.

Speaking in favor of the request was Gilbert Gates of 300 N. Main Street, attorney for the applicant.

Mr. Gates stated that the applicant realizes that all lots would need to be combined into one tract since they are closing off access to it. He advised that the neighbors were happy to hear about the proposed closing of Montgomery Street since it's the location of nightly drag racing and this will help prevent it. Mr. Gates advised that the applicant will need to control access to the site by having a security gate on each end of the street.

The Planning & Zoning Commission recommended *approval*, by a vote of 7-0, of Street Abandonment Case 08-21.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
STREET ABANDONMENT CASE # SA08-22  
October 28, 2008**

|                                                                 |                       |                                                                                                                                                        |
|-----------------------------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant:</b><br>Harris Teeter Inc. and Lyles Holdings Inc. |                       | <b>Request:</b><br>Abandonment of an improved portion of Montgomery Street located east of N. Main Street between Irbywood Drive and E. Dayton Avenue. |
| <b>Street Classifications</b>                                   |                       |                                                                                                                                                        |
| <b>Street Name</b>                                              | <b>Classification</b> | <b>R/W and Pavement Width</b>                                                                                                                          |
| <b>Montgomery Street</b>                                        | Local Street          | Approx. 50 ft. R/W – 32 ft<br>(face of curb to face of curb)                                                                                           |
| Irbywood Drive                                                  | Local Street          | Approx. 50 ft. R/W – 18 ft. ribbon                                                                                                                     |
| E. Dayton Avenue                                                | Collector             | Approx. 50 ft. R/W – 32 ft<br>(face of curb to face of curb)                                                                                           |

|                                        |               |                                                                   |                                                          |
|----------------------------------------|---------------|-------------------------------------------------------------------|----------------------------------------------------------|
| <b>Adjacent Zoning and Current Use</b> |               |                                                                   |                                                          |
| North                                  | RS-7<br>CU GB | Residential Single-family and<br>Conditional Use General Business | Single family dwelling<br>Dairy Products (manufacturing) |
| South                                  | GB            | General Business                                                  | Power Sub-station                                        |
| East                                   | GB            | General Business                                                  | Tractor Trailer storage/parking                          |
| West                                   | MS            | Main Street                                                       | Dairy Products (manufacturing)                           |

**STAFF ANALYSIS**

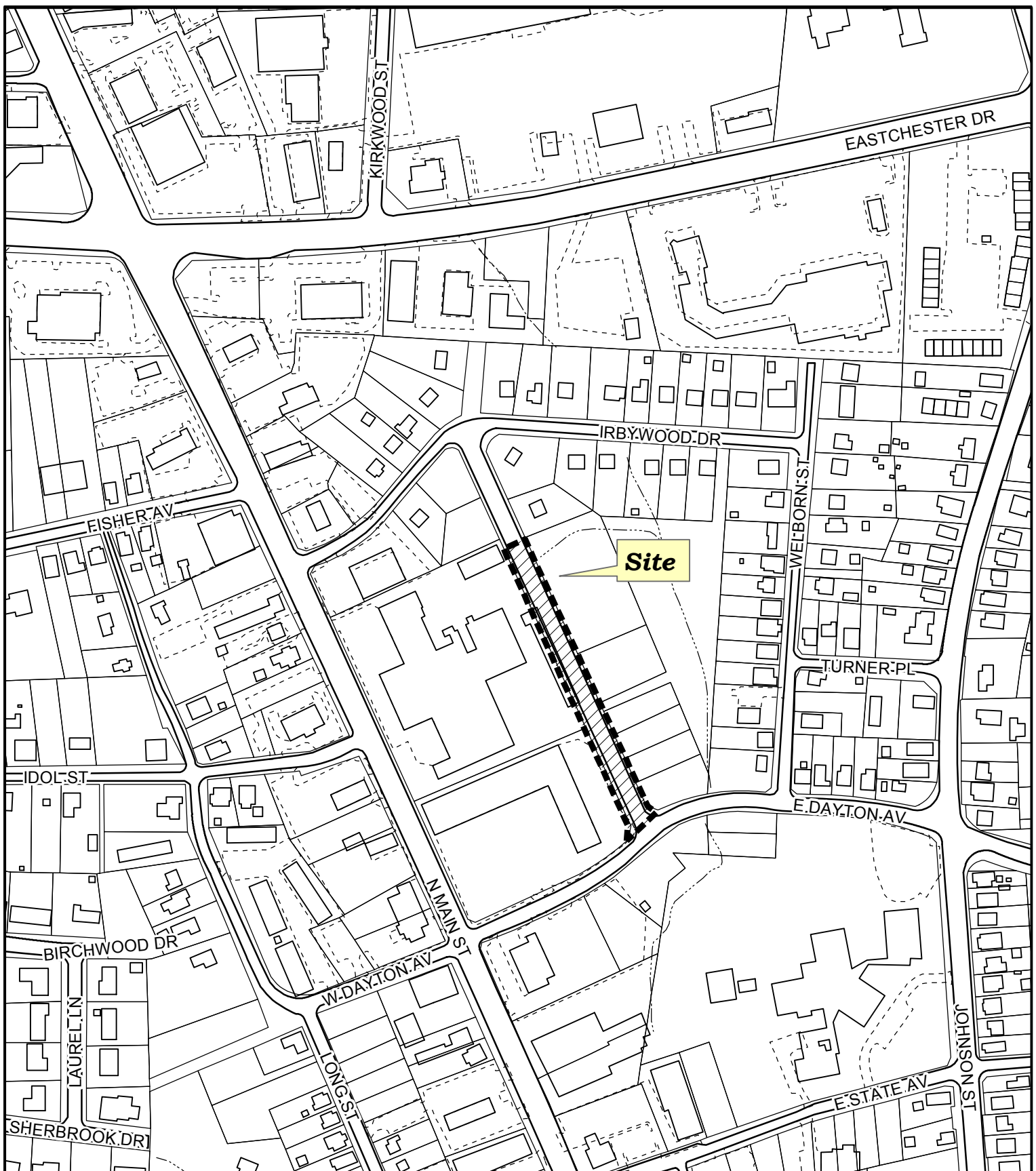
The area of the street right-of-way considered for abandonment is a 50 foot wide by 682 foot long improved right-of-way containing approximately 34,100 sq. ft. The applicants are requesting that the public interest in the right-of-way be abandoned to improve their operations manufacturing a food product. Abandonment of the right-of-way would also enable the applicant to address security issues. The Hunter Farms dairy products manufacturing facility currently operates on both the west and east side of Montgomery Street.

If approved, this existing right-of-way will be equally divided between the abutting property owners. The TRC reviewed this request on September 30, 2008 and October 15, 2008 and identified several issues that must be addressed prior to abandonment of the right-of-way. Prior to approval of the abandonment the following must occur: 1) Prepare an Exclusion Map to combine individual lots that abut the closed portion of the right-of-way and establish utility easements. The document would be prepared assuming approval of the abandonment and must be ready for recordation in order for the abandonment to proceed.

The abandonment of the public's interest and conveyance of the right-of-way to abutting property owners as regulated will not deny the abutting property owners reasonable access to their property.

**STAFF RECOMMENDATION**

Provided the necessary exclusion map has been submitted and approved, the Planning and Development Department recommends approval of the requested street right-of-way abandonment based on preliminary findings that it is not contrary to the public interest, and that no property in the vicinity of the street abandonment would be deprived of reasonable means of ingress or egress.



## STREET ABANDONMENT REQUEST 08-22

Applicant: Hunter Farms, Inc.  
Lyles Holdings, Inc.  
Area: 0.943 acres



Location of requested street abandonment

Planning & Development  
Department

City of High Point

Date: October 14, 2008



Scale: 1"=300'

y:/ba-pz/2008/pz/sa08-22.mxd



Looking west toward Montgomery Street between E. Dayton Ave. and Irbywood Dr.



Looking north down Montgomery Street from E. Dayton Avenue





Montgomery Street looking south toward E. Dayton Avenue



Existing residential driveway just north of the proposed Street Abandonment



**A RESOLUTION AMENDING THE LAND USE PLAN FOR THE HIGH POINT PLANNING AREA**

**WHEREAS**, the City Council of the City of High Point adopted the Land Use Plan for the High Point Planning Area on April 6, 2000, and

**WHEREAS**, changing circumstances may warrant that from time to time a particular land use designation be changed from one classification to another; and

**WHEREAS**, a public hearing was held before the City Council of the City of High Point on November 17, 2008 regarding a proposed amendment to said Land Use Plan for the High Point Planning Area,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:**

**SECTION 1.** That the Land Use Plan for the High Point Planning Area be amended by redesignating Guilford County Tax Parcels 287-2-1, 16, 17, 18, 19, 20, 21, 23, 24, parts of Guilford County Tax Parcels 287-2-8, 9, 25, 26 and Guilford County Tax Parcels 287-1-7, 8, 9, 10 and 11 from Moderate Density Residential to Office, as per the map on the reverse side.

**SECTION 2.** Should any section or provision of this resolution be declared invalid, such decision shall not affect the validity of remaining portions of this resolution.

**SECTION 3.** This resolution shall become effective immediately upon adoption.

Adopted by City Council  
this 17th day of November, 2008

  
Lisa Vierling, City Clerk



The complete file for this Land Use Plan Map Amendment may be inspected at the City of High Point Department of Planning and Development, Municipal Office Building, 211 South Hamilton Street, High Point, North Carolina.

Eastchester Park Partners, LLC 080305

## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Harris Teeter Inc.**

### **Zoning Case 08-21**

A request by Harris Teeter Inc., to rezone approximately 2.62 acres from the General Business (GB) District to the Main Street (MS) District. This site is lying at the northeast corner of E. Dayton Avenue and Montgomery Street.

Mr. Shannon presented this request to the Commission and recommended approval as outlined in the staff report.

Speaking in favor of the request was Mr. Gilbert Gates of 300 N. Main Street, attorney for Harris Teeter.

Mr. Gates stated that the proposed property is actually owned by Lyles Chevrolet Company, Inc. and is leased, with an option to purchase, by Harris Teeter although that option cannot be exercised for several years. Because the dairy products facility deals with a food product, the FDA has specific security measure that must be met. He stated that the rezoning would permit Harris Teeter to enhance their parking security, improve truck access and make other much needed improvements. In conclusion, Mr. Gates stated that the triangular area Mr. Shannon pointed out lying east of the site is also owned by Lyles Chevrolet Company, Inc., it is completely undevelopable and creates a natural buffer that will remain undisturbed.

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval*** of Zoning Case 08-21 and Street Abandonment 08-22, by a vote of 7-0.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-21  
October 28, 2008**

|                                          |                                                                                 |
|------------------------------------------|---------------------------------------------------------------------------------|
| <b>Applicant:</b><br>Harris Teeter, Inc. | <b>Owner:</b><br>Lyles Holding, Inc.                                            |
| <b>Proposal:</b> To rezone 2.75± acres.  | <b>From: GB</b> General Business District<br><b>To: MS</b> Main Street District |

**Site Information**

|                                   |                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                   | Lying at the northeast corner of E. Dayton Avenue and Montgomery Street. The site is also known as Guilford County Tax Parcel 221-7-1 thru 5, 7 and 18 (portion).                                                                                                                                                                                      |
| <b>Site Acreage</b>               | Approximately 2.75 acres.                                                                                                                                                                                                                                                                                                                              |
| <b>Current Land Use</b>           | Truck parking for adjacent dairy products manufacturing facility lying along the opposite side of Montgomery Street.                                                                                                                                                                                                                                   |
| <b>Physical Characteristics</b>   | The site is graveled for truck parking and has a relatively flat terrain.                                                                                                                                                                                                                                                                              |
| <b>Prox. to Water &amp; Sewer</b> | City water and sewer utilities are currently available in this area. There is a 6-inch water line running along both E. Dayton Avenue and Montgomery Street. A 15-inch sewer line is running along Montgomery Street and a separate 8-inch sewer line, running in a north south direction, through the undeveloped wooded lot west of the zoning site. |
| <b>Stormwater/ Drainage</b>       | The site is subject to the Oak Hollow Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential development with an impervious surface area that is greater than 24% or more of the site.                                                                    |
| <b>Overlay Districts</b>          | Oak Hollow Lake GWA.                                                                                                                                                                                                                                                                                                                                   |

**Site Access & Street Classification**

| <b>Street Name</b>                   | <b>Classification</b>                                                                             | <b>Approximate Frontage</b> |
|--------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------|
| Montgomery Street                    | Local Street                                                                                      | 695 ft.                     |
| E. Dayton Avenue                     | Collector Street                                                                                  | 135 ft.                     |
| <b>Traffic Impact Analysis (TIA)</b> | A TIA is not required due to the size of this site, requested zoning district and allowable uses. |                             |

**Surrounding Area Zoning and Current Use**

|              |             |                                      |                                       |
|--------------|-------------|--------------------------------------|---------------------------------------|
| <b>North</b> | <b>RS-7</b> | Residential Single-Family-7 District | Single family dwelling                |
| <b>South</b> | <b>GB</b>   | General Business District            | Vacant utility substation             |
| <b>East</b>  | <b>RS-7</b> | Residential Single-Family-7 District | Undeveloped                           |
| <b>West</b>  | <b>MS</b>   | Main Street District                 | Dairy products manufacturing facility |

| School District Information         |  |
|-------------------------------------|--|
| Not applicable to this zoning case. |  |

| Relevant Land Use Policies and Related Zoning History                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relevant Community Growth Vision Statement Goals &amp; Objectives</b> | This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.                                                                                                                                                                                                                                                                                                                            |
| <b>Land Use Map Designation</b>                                          | The site has a Community/Regional Commercial land use designation. This classification includes a wider range of retail or service uses intended to serve the entire community and nearby regional customers.                                                                                                                                                                                                                                                                  |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b>                 | The following goals and objectives of the Land Use Plan are relevant to this request:<br>Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses.<br>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.  |
| <b>Relevant Area Plans</b>                                               | <u>Core City Plan</u> - This plan adopted in February 2007 provides recommendations for improving the city's central core. It recommended the adoption of urban design standards for the North and South Main Street corridor to ensure that an urban development pattern continues. One of the specific implementation measures was to create a new zoning district for the Main Street Corridor. The result of this recommendation was the Main Street (MS) zoning district. |
| <b>Related Zoning History</b>                                            | The area west of the zoning site, fronting along N. Main Street, was rezoned in March 2008 to the MS District.                                                                                                                                                                                                                                                                                                                                                                 |

**Background Information:**

The applicant is requesting rezoning of this 2.75 acre area to the MS District in order to allow for future expansion of the adjacent dairy production facility along the opposite side of Montgomery Street and fronting along N. Main Street. The zoning site is currently being leased and has been used for parking of trucks related to the dairy process facility for several decades. In the next 5 – 10 years, the applicant's representative stated that Harris Teeter, Inc. will purchase the zoning site and include it into the land area associated with the dairy production facility. They have also submitted an application to close that portion of Montgomery Street fronting the site.

Because truck parking related to the dairy facility was being conducted upon the zoning site prior to the adoption of the current Development Ordinance (prior to 1992), it is considered an existing non-conforming use which may continue in its current manner. However, it cannot be expanded or permitted to make significant improvements. The rezoning and street closing will allow the truck parking to be improved and more efficiently integrated into the overall dairy processing facility.

**Issues:**

**Major Issues**

- ❖ None

**Minor Issues**

❖ **Compatibility with adjacent residential neighborhood:**

Objectives #9 and #11 of the Land Use Plan speaks to having a transition in land uses and buffering between more and less intensive land uses. Compatibility with the adjacent residential neighborhood to the east of the zoning site would be the primary area of consideration. However, staff does not see this as an issue that would prevent approval of this request based upon the following:

- The site's current GB District zoning allows a similar intensity of uses as permitted within the proposed MS district. The dairy products manufacturing facility has been operating at the current location since the 1940's and the use of the zoning site as a truck parking area for the facility has been going on for several decades. Thus, this request will not be introducing a new use/activity into this area.
- There is a tree-covered triangular shape parcel lying between the zoning site and the adjacent residential area to the east that is not included in this zoning request. This parcel is zoned RS-7 and owned by Lyles Holding, Inc., the property owner of this current application. A non-classified stream and flood zone area runs through the middle of this triangular parcel thus limiting its development potential and allowing it to continue to act as a buffer/transition area between the zoning site and the adjacent residential area. Also, the current truck parking activity extends onto this abutting triangular shape parcel. Under this zoning proposal all truck parking will only be upon the zoning site, thus the parking of trucks will be moved approximately 60 feet westward (away from the adjacent residential area) and a planting yard will be required to be established along the site's eastern property line.
- The dairy products manufacturing use immediately to the west of the site was discussed during creation of the MS District in March 2008, because large industrial uses are not usually found in urban settings like the one envisioned for the district. As a result, specific development standards were created that apply to the future expansion of this use.
- This entire area, from Eastchester Drive southward, is part of the Core City Area which promotes more intensity urban development patterns. The requested MS District is intended to be used in compact urban areas and the provision for large buffer areas between uses, as would be found in a more suburban setting, were not included in these development standards because the Core City area is intended to allow higher intensity urban land use patterns.

**Recommendation:**

**Staff Recommends Approval**

The Planning and Development Department recommends that the request by Harris Teeter, Inc, to rezone approximately 2.75 acres from the General Business District (GB) District to a Main Street (MS) District be approved.



This recommendation is made based on the staff's conclusion that the request is consistent with the City's Land Use Plan, consistent with the surrounding zoning and development in this area, and that based upon requirements of the Development Ordinance the rezoning of this property will not negatively impact the adjoining property owners.

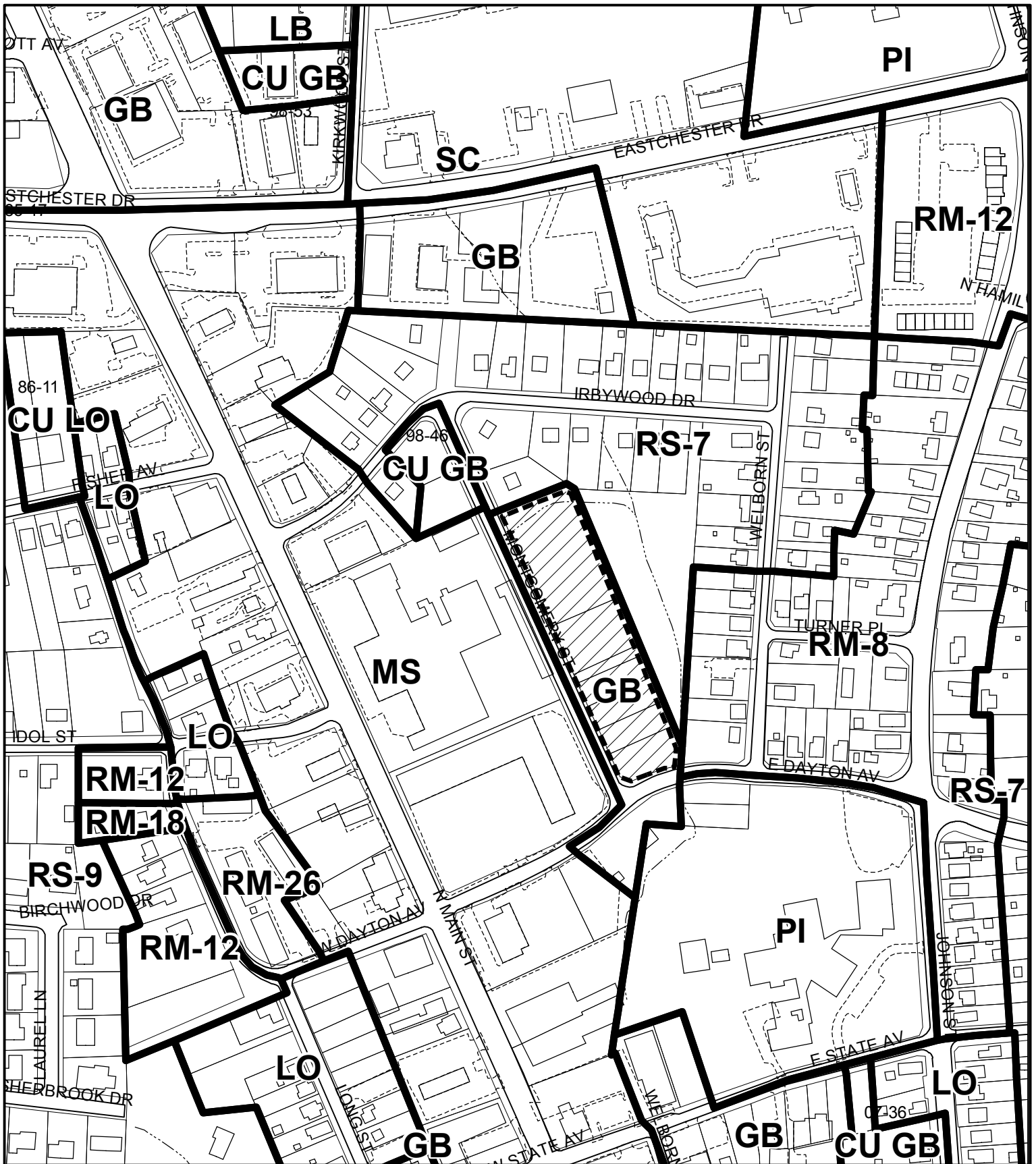
#### **Action by the Planning and Zoning Commission**

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

#### **Action by the City Council**

- A. Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.
- B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request, is reasonable and in the public interest because: 1) the site's land use plan designation of Community/Regional Commercial is appropriate for many of the uses allowed in the MS District, including the expansion of the existing dairy products manufacturing facility, 2) the current nonconforming truck parking activity has existed upon this site for decades and the current GB District zoning allows for many of the same uses as in the requested MS District; thus, the request will not be introducing any significantly different or higher intensity uses than what has historically been conducted upon the site; and 3) the formalization of the truck parking use will allow for improvements to be made that will provide for safer traffic flow and upgrades to the visual appearance of the site which will enhance the overall image of the surrounding area.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.



## REZONING CASE 08-21

**From: General Business**  
**To: Main Street**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

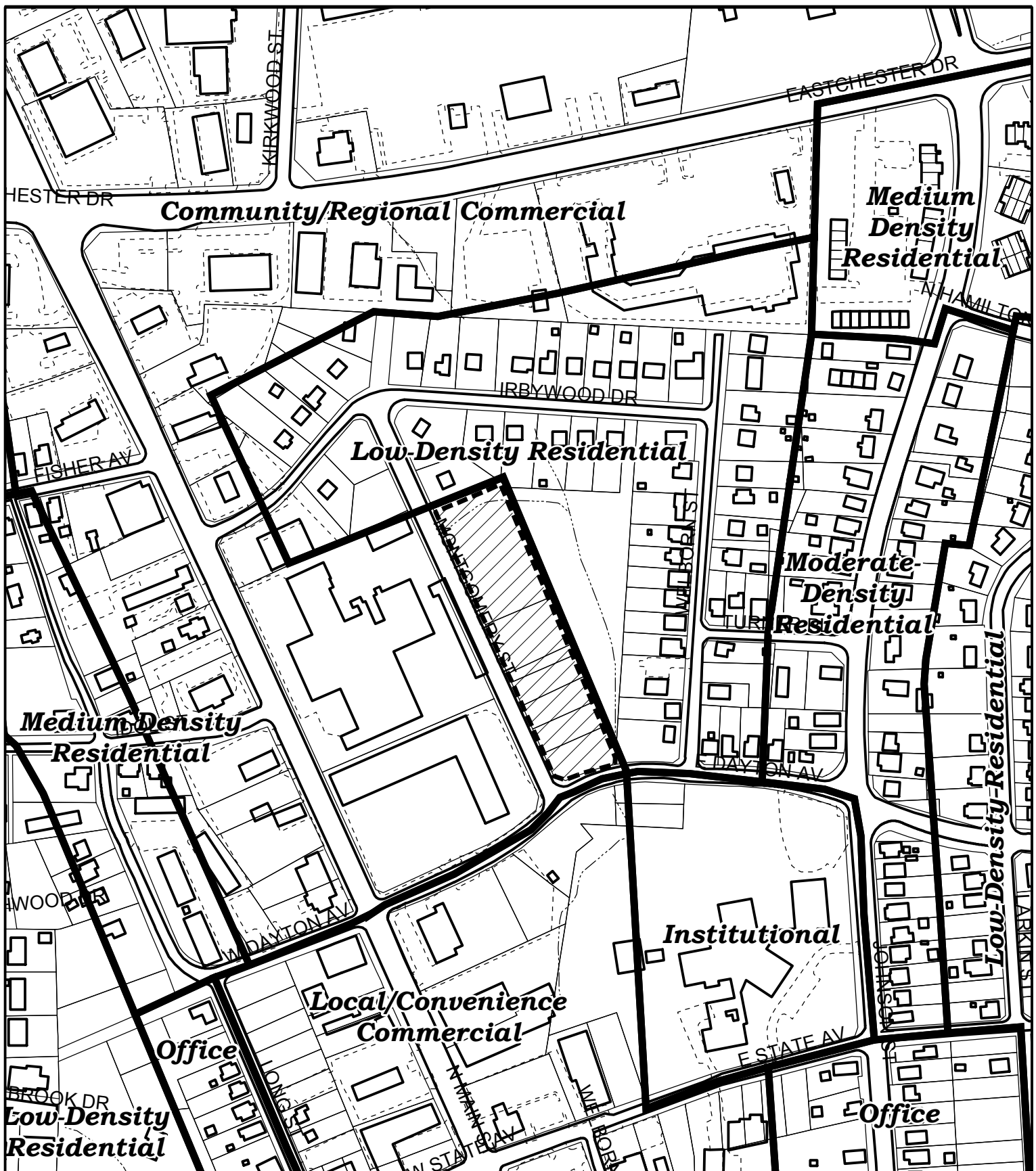
**Planning & Development  
 Department**

**City of High Point**

**Date: October 10, 2008**



**Scale: 1"=300'**  
 y:/ba-pz/2008/pz/08-21.mxd



# **REZONING CASE 08-21**

## **Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

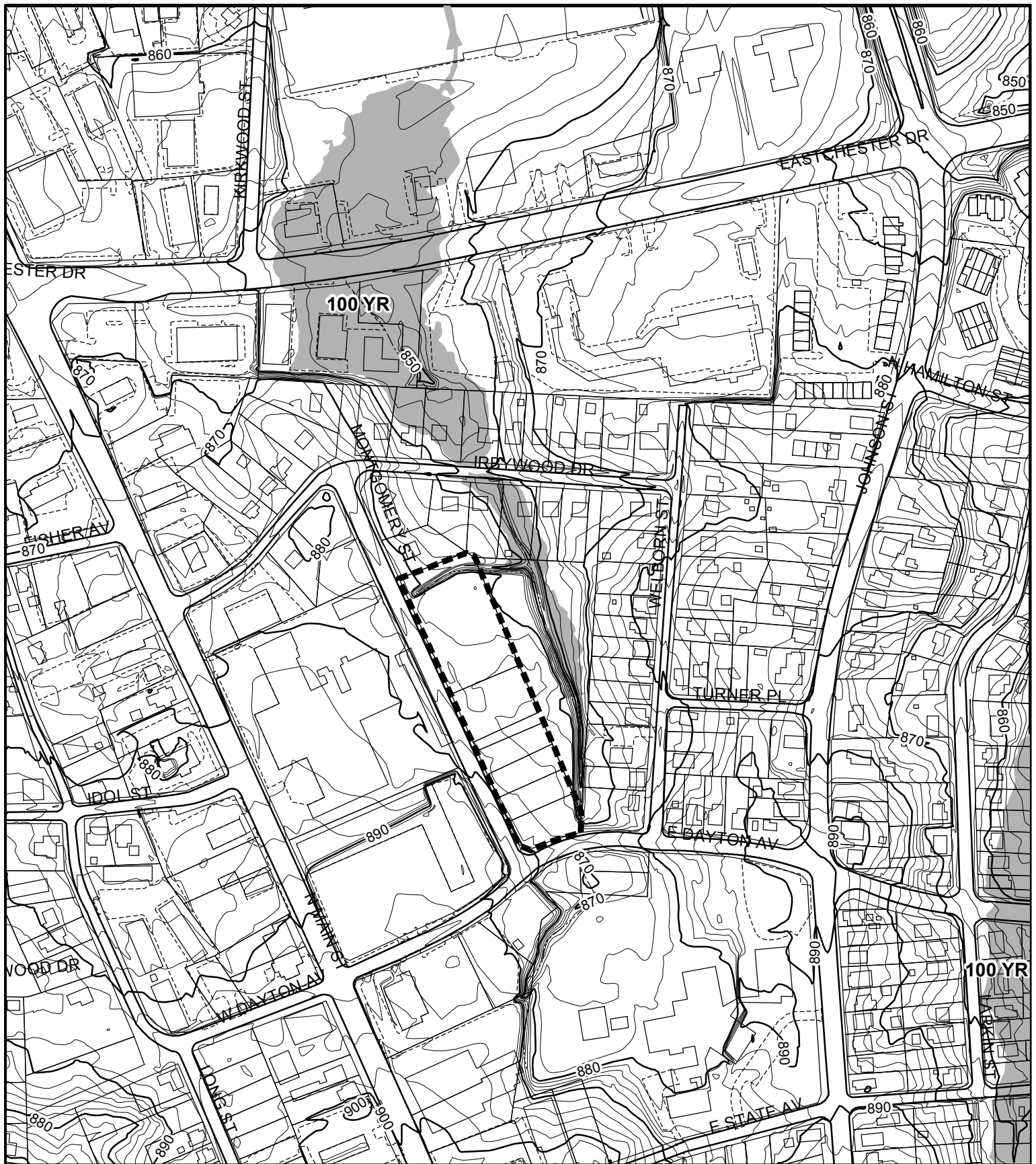
**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=400'**

y:/ba-pz/2008/pz/z08-21.mxd



# REZONING CASE 08-21

## Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 21, 2008



Scale: 1"=300'

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# REZONING CASE 08-21





STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

GUILFORD COUNTY

CONTRACT NO. 42120-11/08-070

INTERLOCAL AGREEMENT  
FOR CONSTRUCTION OF  
MIRACLE FIELD IN HIGH POINT

THIS AGREEMENT, made and entered into this 6<sup>th</sup> day of November, 2008, effective as of the 2nd day of October, 2008, by and between GUILFORD COUNTY, hereinafter referred to as "COUNTY," and the CITY OF HIGH POINT, hereinafter referred to as "CITY";

W I T N E S S E T H :

WHEREAS, for purposes of providing recreational facilities to the citizens of Guilford County, the Guilford County Board of Commissioners authorized the use of not to exceed One Hundred Thousand (\$100,000) Dollars of parks and recreation bond proceeds; and

WHEREAS, said funds are to be used by the City for purposes of constructing the "Miracle Field" on city-owned land in High Point, and which facility will be open to all Guilford County residents on equal terms.

NOW, THEREFORE, it is agreed, in consideration of the mutual covenants, promises and agreements contained herein, as follows:

1. The County will reimburse the City for bills or invoices submitted monthly showing the authorized expenditure of sums up to and including One Hundred Thousand (\$100,000) Dollars.
2. The City will follow all applicable state and federal laws for expenditure of public monies for capital projects. It is understood and agreed that all monies reimbursed to the City up to and including One Hundred Thousand (\$100,000) Dollars shall be solely and exclusively to reimburse for capital improvements pertaining to said recreational facility.
3. The CITY recognizes that Miracle Field will be partially funded with the proceeds of tax-exempt bonds issued by GUILFORD COUNTY. As a result, the CITY recognizes that the manner in which such property is utilized could have an adverse effect on the exclusion from gross income of the interest paid on such bonds. In order to prevent the interest becoming subject to federal income tax, the CITY will comply with the provisions of Revenue Procedure 97-13, attached hereto, and in addition will advise the COUNTY of all proposed contracts which grant any party (any person, corporation, partnership, charity, or other entity other than a government entity) a preferential right to use the property, regardless of the length of time of such contract. The CITY need not notify the COUNTY with regard to any contract granted on a first come-first serve basis to members of the general public, so long as such contract does not grant any preferential right to a continuous use of the property.
4. General Provisions.
  - a. Relationship of Parties. The COUNTY and the CITY shall not be construed as joint ventures or general partners of each other and neither shall have the power to bind nor obligate the other party except as set forth in this Agreement.
  - b. Assignment. This Agreement is not assignable by either party.



- c. Benefits and Obligations. The covenants and agreements herein contained shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.
- d. Notices. All notices provided for in this Agreement shall be in writing.
- e. Governing Law. This Agreement shall be construed under the provisions of the law of the State of North Carolina.
- f. Good Faith. The parties mutually agree to deal in good faith one with the other in all respects in performing their respective duties under this agreement.
- g. Entire Agreement. This Agreement contains the entire agreement between the parties and cannot be modified except by an instrument in writing signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

ATTEST:

Ephemia D. Vardmides  
Clerk to the Board

This instrument has been preaudited in the manner  
Required by the Local Government Budget and Fiscal  
Control Act.

[Signature]  
Finance Director

APPROVED AS TO FORM & LEGALITY:

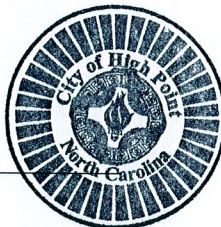
[Signature] 11/7/08  
County Attorney's Office

ATTEST:

[Signature]  
City Clerk

This instrument has been preaudited in the manner  
required by the Local Government Budget and Fiscal  
Control Act.

[Signature]  
City Finance Director



GUILFORD COUNTY

By: [Signature]  
Deputy County Manager

APPROVED AS TO CONTENT:

[Signature]  
Property Management/General Services Department  
Department Representative

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature] 12/8/08  
County Attorney's Office

CITY OF HIGH POINT

By: [Signature]  
City Manager

APPROVED AS TO FORM & LEGALITY:

[Signature]  
City Attorney

## Rev. Proc. 97-13

### SECTION 1. PURPOSE

The purpose of this revenue procedure is to set forth conditions under which a management contract does not result in private business use under § 141(b) of the Internal Revenue Code of 1986. This revenue procedure also applies to determinations of whether a management contract causes the test in § 145(a)(2)(B) of the 1986 Code to be met for qualified 501(c)(3) bonds.

### SECTION 2. BACKGROUND

#### .01 Private Business Use.

(1) Under § 103(a) of the 1986 Code, gross income does not include interest on any state or local bond. Under § 103(b)(1) of the 1986 Code, however, § 103(a) of the 1986 Code does not apply to a private activity bond, unless it is a qualified bond under § 141(e) of the 1986 Code. Section 141(a)(1) of the 1986 Code defines "private activity bond" as any bond issued as part of an issue that meets both the private business use and the private security or payment tests. Under § 141(b)(1) of the 1986 Code, an issue generally meets the private business use test if more than 10 percent of the proceeds of the issue are to be used for any private business use. Under § 141(b)(6)(A) of the 1986 Code, private business use means direct or indirect use in a trade or business carried on by any person other than a governmental unit. Section 145(a) of the 1986 Code also applies the private business use test of § 141(b)(1) of the 1986 Code, with certain modifications.

(2) Corresponding provisions of the Internal Revenue Code of 1954 set forth the requirements for the exclusion from gross income of the interest on state or local bonds. For purposes of this revenue procedure, any reference to a 1986 Code provision includes a reference to the corresponding provision, if any, under the 1954 Code.

(3) Private business use can arise by ownership, actual or beneficial use of property pursuant to a lease, a management or incentive payment contract, or certain other arrangements. The Conference Report for the Tax Reform Act of 1986, provides as follows:

The conference agreement generally retains the present-law rules under which use by persons other than governmental units is determined for purposes of the trade or business use test. Thus, as under present law, the use of bond-financed property is treated as a use of bond proceeds. As under present law, a person may be a user of bond proceeds and bond-financed property as a result of (1) ownership or (2) actual or beneficial use of property pursuant to a lease, a management or incentive payment contract, or (3) any other arrangement such as a take-or-pay or other output-type contract.

2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-687-688, (1986) 1986-3 (Vol. 4) C.B. 687-688 (footnote omitted).

(4) A management contract that gives a nongovernmental service provider an ownership or leasehold interest in financed property is not the only situation in which a contract may result in private business use.

(5) Section 1.141-3(b)(4)(i) of the Income Tax Regulations provides, in general, that a management contract (within the meaning of § 1.141-3(b)(4)(ii)) with respect to financed property may result in private business use of that property, based on all the facts and circumstances.

(6) Section 1.141-3(b)(4)(i) provides that a management contract with respect to financed property generally results in private business use of that property if the contract provides for compensation for services rendered with compensation based, in whole or in part, on a share of net profits from the operation of the facility.

(7) Section 1.141-3(b)(4)(iii), in general, provides that certain arrangements generally are not treated as management contracts that may give rise to private business use. These are—

(a) Contracts for services that are solely incidental to the primary governmental function or functions of a financed facility (for example, contracts for janitorial, office equipment repair, hospital billing or similar services);

(b) The mere granting of admitting privileges by a hospital to a doctor, even if those privileges are conditioned on the provision of de minimis services, if those privileges are available to all

qualified physicians in the area, consistent with the size and nature of its facilities;

(c) A contract to provide for the operation of a facility or system of facilities that consists predominantly of public utility property (as defined in § 168(i)(10) of the 1986 Code), if the only compensation is the reimbursement of actual and direct expenses of the service provider and reasonable administrative overhead expenses of the service provider; and

(d) A contract to provide for services, if the only compensation is the reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties.

(8) Section 1.145-2(a) provides generally that §§ 1.141-0 through 1.141-15 apply to § 145(a) of the 1986 Code.

(9) Section 1.145-2(b)(1) provides that in applying §§ 1.141-0 through 1.141-15 to § 145(a) of the 1986 Code, references to governmental persons include section 501(c)(3) organizations with respect to their activities that do not constitute unrelated trades or businesses under § 513(a) of the 1986 Code.

.02 *Existing Advance Ruling Guidelines.* Rev. Proc. 93-19, 1993-1 C.B. 526, contains advance ruling guidelines for determining whether a management contract results in private business use under § 141(b) of the 1986 Code.

### SECTION 3. DEFINITIONS

.01 *Adjusted gross revenues* means gross revenues of all or a portion of a facility, less allowances for bad debts and contractual and similar allowances.

.02 *Capitation fee* means a fixed periodic amount for each person for whom the service provider or the qualified user assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of services actually provided to covered persons varies substantially. For example, a capitation fee includes a fixed dollar amount payable per month to a medical service provider for each member of a health maintenance organization plan for whom the provider agrees to provide all needed medical services for a specified period. A capitation fee may include a variable component of up to 20 percent of the total capitation fee designed to

protect the service provider against risks such as catastrophic loss.

.03 *Management contract* means a management, service, or incentive payment contract between a qualified user and a service provider under which the service provider provides services involving all, a portion of, or any function of, a facility. For example, a contract for the provision of management services for an entire hospital, a contract for management services for a specific department of a hospital, and an incentive payment contract for physician services to patients of a hospital are each treated as a management contract. See §§ 1.141-3(b)(4)(ii) and 1.145-2.

.04 *Penalties* for terminating a contract include a limitation on the qualified user's right to compete with the service provider; a requirement that the qualified user purchase equipment, goods, or services from the service provider; and a requirement that the qualified user pay liquidated damages for cancellation of the contract. In contrast, a requirement effective on cancellation that the qualified user reimburse the service provider for ordinary and necessary expenses or a restriction on the qualified user against hiring key personnel of the service provider is generally not a contract termination penalty. Another contract between the service provider and the qualified user, such as a loan or guarantee by the service provider, is treated as creating a contract termination penalty if that contract contains terms that are not customary or arm's-length that could operate to prevent the qualified user from terminating the contract (for example, provisions under which the contract terminates if the management contract is terminated or that place substantial restrictions on the selection of a substitute service provider).

.05 *Periodic fixed fee* means a stated dollar amount for services rendered for a specified period of time. For example, a stated dollar amount per month is a periodic fixed fee. The stated dollar amount may automatically increase according to a specified, objective, external standard that is not linked to the output or efficiency of a facility. For example, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry are objective external standards. Capitation fees and per-unit fees are not periodic fixed fees.

.06 *Per-unit fee* means a fee based on a unit of service provided specified in the contract or otherwise specifically determined by an independent third party, such as the administrator of the Medicare program, or the qualified user. For example, a stated dollar amount for each specified medical procedure performed, car parked, or passenger mile is a per-unit fee. Separate billing arrangements between physicians and hospitals generally are treated as per-unit fee arrangements.

.07 *Qualified user* means any state or local governmental unit as defined in § 1.103-1 or any instrumentality thereof. The term also includes a section 501(c)(3) organization if the financed property is not used in an unrelated trade or business under § 513(a) of the 1986 Code. The term does not include the United States or any agency or instrumentality thereof.

.08 *Renewal option* means a provision under which the service provider has a legally enforceable right to renew the contract. Thus, for example, a provision under which a contract is automatically renewed for one-year periods absent cancellation by either party is not a renewal option (even if it is expected to be renewed).

.09 *Service provider* means any person other than a qualified user that provides services under a contract to, or for the benefit of, a qualified user.

#### SECTION 4. SCOPE

This revenue procedure applies when, under a management contract, a service provider provides management or other services involving property financed with proceeds of an issue of state or local bonds subject to § 141 or § 145(a)(2)(B) of the 1986 Code.

#### SECTION 5. OPERATING GUIDELINES FOR MANAGEMENT CONTRACTS

.01 *In general.* If the requirements of section 5 of this revenue procedure are satisfied, the management contract does not itself result in private business use. In addition, the use of financed property, pursuant to a management contract meeting the requirements of section 5 of this revenue procedure, is not private business use if that use is functionally related and subordinate to that management contract and that use is not, in substance, a separate contractual agreement (for example, a separate lease of a portion of the financed property). Thus,

for example, exclusive use of storage areas by the manager for equipment that is necessary for it to perform activities required under a management contract that meets the requirements of section 5 of this revenue procedure, is not private business use.

.02 *General compensation requirements.*

(1) *In general.* The contract must provide for reasonable compensation for services rendered with no compensation based, in whole or in part, on a share of net profits from the operation of the facility. Reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties is not by itself treated as compensation.

(2) *Arrangements that generally are not treated as net profits arrangements.* For purposes of § 1.141-3(b)(4)(i) and this revenue procedure, compensation based on—

(a) A percentage of gross revenues (or adjusted gross revenues) of a facility or a percentage of expenses from a facility, but not both;

(b) A capitation fee; or

(c) A per-unit fee is generally not considered to be based on a share of net profits.

(3) *Productivity reward.* For purposes of § 1.141-3(b)(4)(i) and this revenue procedure, a productivity reward equal to a stated dollar amount based on increases or decreases in gross revenues (or adjusted gross revenues), or reductions in total expenses (but not both increases in gross revenues (or adjusted gross revenues) and reductions in total expenses) in any annual period during the term of the contract, generally does not cause the compensation to be based on a share of net profits.

(4) *Revision of compensation arrangements.* In general, if the compensation arrangements of a management contract are materially revised, the requirements for compensation arrangements under section 5 of this revenue procedure are retested as of the date of the material revision, and the management contract is treated as one that was newly entered into as of the date of the material revision.

.03 *Permissible Arrangements.* The management contract must be described in section 5.03(1), (2), (3), (4), (5), or (6) of this revenue procedure.

(1) *95 percent periodic fixed fee arrangements.* At least 95 percent of the compensation for services for each annual period during the term of the

contract is based on a periodic fixed fee. The term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 15 years. For purposes of this section 5.03(1), a fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(2) *80 percent periodic fixed fee arrangements.* At least 80 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee. The term of the contract, including all renewal options, must not exceed the lesser of 80 percent of the reasonably expected useful life of the financed property and 10 years. For purposes of this section 5.03(2), a fee does not fail to qualify as a periodic fixed fee as a result of a one-time incentive award during the term of the contract under which compensation automatically increases when a gross revenue or expense target (but not both) is reached if that award is equal to a single, stated dollar amount.

(3) *Special rule for public utility property.* If all of the financed property subject to the contract is a facility or system of facilities consisting of predominantly public utility property (as defined in § 168(i)(10) of the 1986 Code), then "20 years" is substituted—

(a) For "15 years" in applying section 5.03(1) of this revenue procedure; and

(b) For "10 years" in applying section 5.03(2) of this revenue procedure.

(4) *50 percent periodic fixed fee arrangements.* Either at least 50 percent of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee or all of the compensation for services is based on a capitation fee or a combination of a capitation fee and a periodic fixed fee. The term of the contract, including all renewal options, must not exceed 5 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the third year of the contract term.

(5) *Per-unit fee arrangements in certain 3-year contracts.* All of the

compensation for services is based on a per-unit fee or a combination of a per-unit fee and a periodic fixed fee. The term of the contract, including all renewal options, must not exceed 3 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the second year of the contract term.

(6) *Percentage of revenue or expense fee arrangements in certain 2-year contracts.* All the compensation for services is based on a percentage of fees charged or a combination of a per-unit fee and a percentage of revenue or expense fee. During the start-up period, however, compensation may be based on a percentage of either gross revenues, adjusted gross revenues, or expenses of a facility. The term of the contract, including renewal options, must not exceed 2 years. The contract must be terminable by the qualified user on reasonable notice, without penalty or cause, at the end of the first year of the contract term. This section 5.03(6) applies only to—

(a) Contracts under which the service provider primarily provides services to third parties (for example, radiology services to patients); and

(b) Management contracts involving a facility during an initial start-up period for which there have been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues and expenses (for example, a contract for general management services for the first year of operations).

.04 No Circumstances Substantially Limiting Exercise of Rights.

(1) *In general.* The service provider must not have any role or relationship with the qualified user that, in effect, substantially limits the qualified user's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

(2) *Safe harbor.* This requirement is satisfied if—

(a) Not more than 20 percent of the voting power of the governing body of the qualified user in the aggregate is vested in the service provider and its directors, officers, shareholders, and employees;

(b) Overlapping board members do not include the chief executive officers of the service provider or its governing body or the qualified user or its governing body; and

(c) The qualified user and the service provider under the contract are not related parties, as defined in § 1.150-1(b).

## SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 93-19, 1993-1 C.B. 526, is made obsolete on the effective date of this revenue procedure.

## SECTION 7. EFFECTIVE DATE

This revenue procedure is effective for any management contract entered into, materially modified, or extended (other than pursuant to a renewal option) on or after May 16, 1997. In addition, an issuer may apply this revenue procedure to any management contract entered into prior to May 16, 1997.

## DRAFTING INFORMATION

The principal author of this revenue procedure is Loretta J. Finger of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue procedure contact Loretta J. Finger on (202) 622-3980 (not a toll-free call).

## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Wrennovation, LLC**

### **Zoning Case 08-20**

**a. Conditional Use Highway Business (CU-HB) District.**

A request by Wrennovation, LLC to rezone approximately 0.98 acres from the Light Industrial (LI) District to a Conditional Use Highway Business (CU-HB) District. The site is lying along the south side of E. Kivett Drive, approximately 715 feet east of the Business 85 on-ramps (3718 E. Kivett Drive). This site is within the city's extraterritorial jurisdiction (ETJ).

**b. Conditional Use Permit 08-20**

A request by Wrennovation, LLC for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, vehicular access and landscaping.

Mr. Shannon presented this request to the Commission and recommended approval as outlined in the staff report. He noted that the primary difference between this request and the previous request, which was withdrawn by the applicant during the June 16, 2008 City Council meeting, is the ditch improvement required in the right-of-way along the front of the site.

Speaking in favor of the request was Abigaile Pittman of 210 Louise Avenue in High Point, a planning consultant. Ms. Pittman explained the withdrawal of the applicant's previous request was due to confusion over the driveway and right-of-way improvements required.

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval*** of Zoning Case 08-20 by a vote of 7-0.



**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-20  
October 28, 2008**

| <b>Applicant/Owner:</b><br>Wrennovation, LLC |                                                                                                                                                                                                                                                                            |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Proposal:</b> To rezone 0.98± acres.      | <b>From:</b> <b>LI</b> Light Industrial District<br><br><b>To:</b> <b>CU-HB</b> Conditional Use Highway Business District                                                                                                                                                  |
| <b>Site Information</b>                      |                                                                                                                                                                                                                                                                            |
| <b>Location</b>                              | Lying along the south side of E. Kivett Drive, approximately 715 feet east of the Business 85 on-ramps (3718 E. Kivett Drive). The site is also known as Guilford County Tax Parcel 94-7041-C-0949-00-012.                                                                 |
| <b>Site Acreage</b>                          | Approximately 0.98 acre.                                                                                                                                                                                                                                                   |
| <b>Current Land Use</b>                      | Industrial/commercial building.                                                                                                                                                                                                                                            |
| <b>Physical Characteristics</b>              | The site has a gentle sloping terrain with the high point being along the site's E. Kivett Drive frontage.                                                                                                                                                                 |
| <b>Prox. to Water &amp; Sewer</b>            | The site is currently served by City water but is not served by City sewer utilities. The nearest sewer line is located approximately 1,800 feet west of the site at the intersection of E. Kivett Drive and Harvey Road.                                                  |
| <b>Stormwater/ Drainage</b>                  | The site is subject to the Randleman Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential development with an impervious surface area that exceeds 12% or more of the site. |
| <b>Overlay Districts</b>                     | Randleman General Watershed Area (GWA)                                                                                                                                                                                                                                     |

| <b>Site Access &amp; Street Classification</b> |                                                                                                   |                             |
|------------------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------|
| <b>Street Name</b>                             | <b>Classification</b>                                                                             | <b>Approximate Frontage</b> |
| E. Kivett Drive                                | Major Thoroughfare                                                                                | 126 ft.                     |
| <b>Traffic Impact Analysis (TIA)</b>           | A TIA is not required due to the size of this site, requested zoning district and allowable uses. |                             |

| <b>Surrounding Area Zoning and Current Use</b> |           |                                                            |                                                |
|------------------------------------------------|-----------|------------------------------------------------------------|------------------------------------------------|
| <b>North</b>                                   | <b>LI</b> | Light Industrial District<br>(City of High Point ETJ Area) | Single family dwelling and undeveloped parcel. |
| <b>South</b>                                   | <b>AG</b> | Agricultural District                                      | Municipal landfill                             |
| <b>East</b>                                    | <b>LI</b> | Light Industrial District<br>(City of High Point ETJ Area) | Truck and automotive repair facility           |
| <b>West</b>                                    | <b>HB</b> | Highway Business District<br>(City of High Point ETJ Area) | Undeveloped                                    |

| School District Information         |  |
|-------------------------------------|--|
| Not applicable to this zoning case. |  |

| Relevant Land Use Policies and Related Zoning History    |                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Land Use Map Designation</b>                          | The site has a Local/Convenience Commercial land use designation. This classification includes moderate-intensity convenience retail or service uses, generally serving small, local neighborhoods.                                                                                                                                          |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b> | The following objective of the Land Use Plan is relevant to this request:<br><br>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses. |
| <b>Relevant Area Plans</b>                               | None                                                                                                                                                                                                                                                                                                                                         |
| <b>Related Zoning History</b>                            | A similar request was submitted by the applicant earlier this year (Zoning Case 08-08). That request was withdrawn by the applicant at the City Council public hearing.                                                                                                                                                                      |

**Background Information:**

The site is currently developed with an approximately 8,000 square foot building. The Planning & Development Department was made aware that a bingo facility was operating on the site without all required permits. Upon further investigation it was determined that this use is not a permitted use in the LI District. Thus, the applicant requested rezoning to allow a bingo facility use upon the site.

The primary difference between this request and the previous proposal reviewed earlier this year is regarding right-of-way improvements in front of the site. At the time of the previous submittal, staff was concerned with the lack of properly designed access and parking; and recommended the applicant remove the gravel lying in the right-of-way along the site's frontage as a way of improving it. The applicant did not agree with this recommendation and withdrew that application.

Because this site fronts a State maintained road, the applicant later met with both the City's Transportation Department and the North Carolina Department of Transportation (NCDOT) as to what they would require in regards to access and improvements. NCDOT noted that in order to issue permits they would require a drainage ditch along the site's frontage. It is anticipated that from the edge of the pavement, the applicant will establish a stabilized shoulder area and then a ditch with a 4 to 1 slope. Preliminary estimates are this will be 10 to 20 feet wide. To install these improvements the gravel in the area where the ditch is to be installed will need to be removed and seeded. The installation of the ditch will enforce the use of the new driveway, prevent illegal parking in the E. Kivett Drive right-of-way and further protect the newly installed planting yard.

As part of the zoning request, the applicant has submitted a conditional use permit and has offered to install a paved driveway access to city standard, install a street planting yard along the site's front property line and install a drainage swale/ditch, to NCDOT standard, in the right-of-way in front of the site.

**Issues:**

**Major Issues**

- ❖ None

**Minor Issues**

- ❖ None

**Findings:**

Section 9-3-13 of the Development Ordinance requires that certain findings be made before a Zoning Map Amendment and Conditional Use Permit may be approved. Based on the applicant's submittal and proposed conditions as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

**That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds**

**Compliance**

- ❖ The site's E. Kivett Drive frontage has been graveled up to the roadway travel lanes and has no formal driveway access point. Vehicles enter and exit the site in any manner desired. As part of this zoning request, the applicant has submitted a Conditional Use Permit in which they have offered to install a driveway access point to E. Kivett Drive in accordance with the City's driveway ordinance and to install a ditch across the sites E. Kivett drive frontage to drain stormwater run-off. This will improve the safety of the patrons using the site.
- ❖ The installation of the ditch across the site's frontage will prevent illegal parking in the right-of-way, provide safer ingress/egress movement for patrons using the site and will provide for safer vehicular movement for the general motoring public along E. Kivett Drive.

**That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds**

**Compliance**

- ❖ Along the opposite side of this segment of E. Kivett Drive are single family dwellings. The requested rezoning from a LI District to a HB District will prohibit industrial type uses that may have a more severe negative impact upon these adjacent residential property owners as the area transforms and nonresidential land uses become more prevalent in this immediate area.

**That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds**

|                   |                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | ❖ The site has a Local/Convenience Commercial land use designation, which is intended for moderate-intensity convenience retail, or service uses. Although the site's current LI District zoning permits some retail uses, the requested HB District is more consistent with the overall purpose and intent of the Local/Convenience Commercial land use designation. |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Recommendation:**

**Staff Recommends Approval**

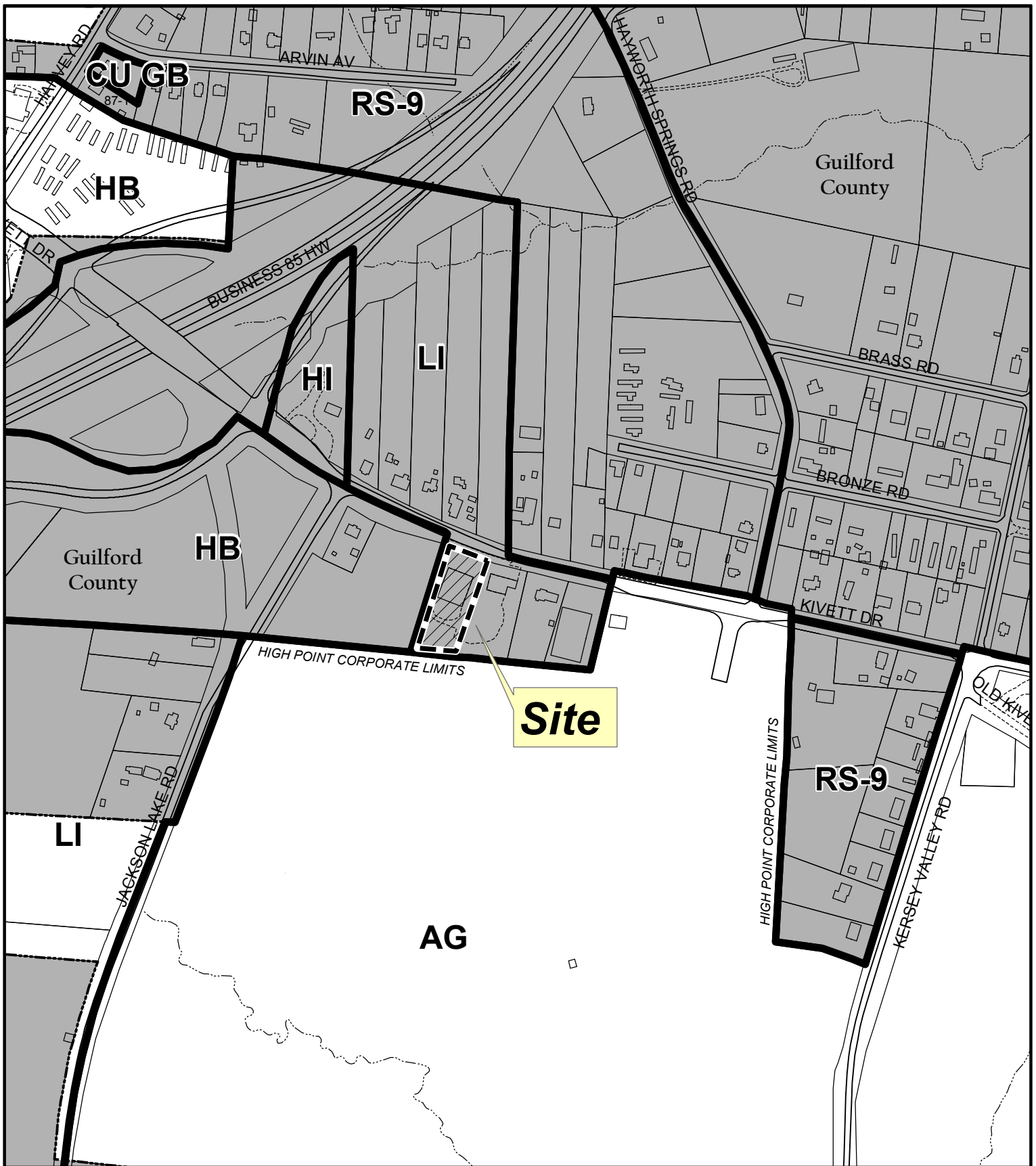
The Planning and Development Department recommends approval of the request by Wrennovation, LLC, to rezone approximately 0.98 acres from a Light Industrial (LI) District to a Conditional Use Highway Business (CU-HB) District and the accompanying Conditional Use Permit.

This recommendation is made based on the staff's conclusion that the request is consistent with the City's Land Use Plan, and that based upon requirements of the Development Ordinance and conditions offered in the Conditional Use Permit, the rezoning of this property will not produce additional negative impacts on the adjoining property owners.

**Action by the City Council**

- A. Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.
- B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request, is reasonable and in the public interest because: 1) it meets the required findings for a conditional use zoning district as written in this report; 2) the area proposed for rezoning has a Local Convenience/Commercial Land Use Map designation and the requested CU-HB District is generally consistent with that land use plan designation, 3) the requested CU-HB District will not permit industrial type uses upon the site, thus ensuring development will be more in harmony with adjacent residential uses as the area transforms and nonresidential land uses become more prevalent in this area; and 4) the installation of a formal driveway access point to the site and the installation of a ditch across the site's frontage will direct traffic to this driveway will improve public safety.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.



## REZONING CASE 08-20

**From: Light Industrial**  
**To: Conditional Use Highway Business**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

**Planning & Development  
 Department**

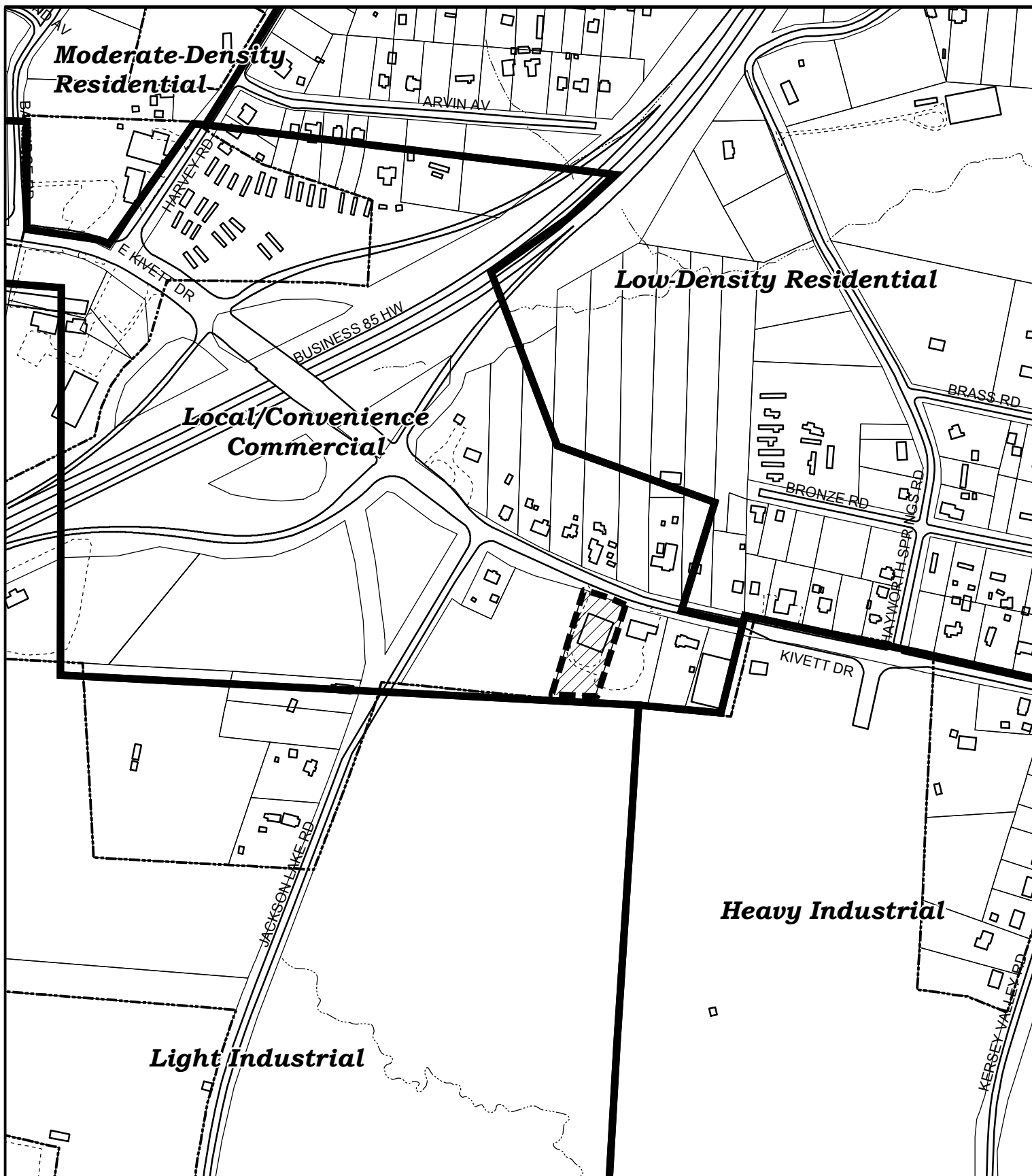
**City of High Point**

**Date: October 10, 2008**



**Scale: 1"=400'**  
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# **REZONING CASE 08-20**

## **Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

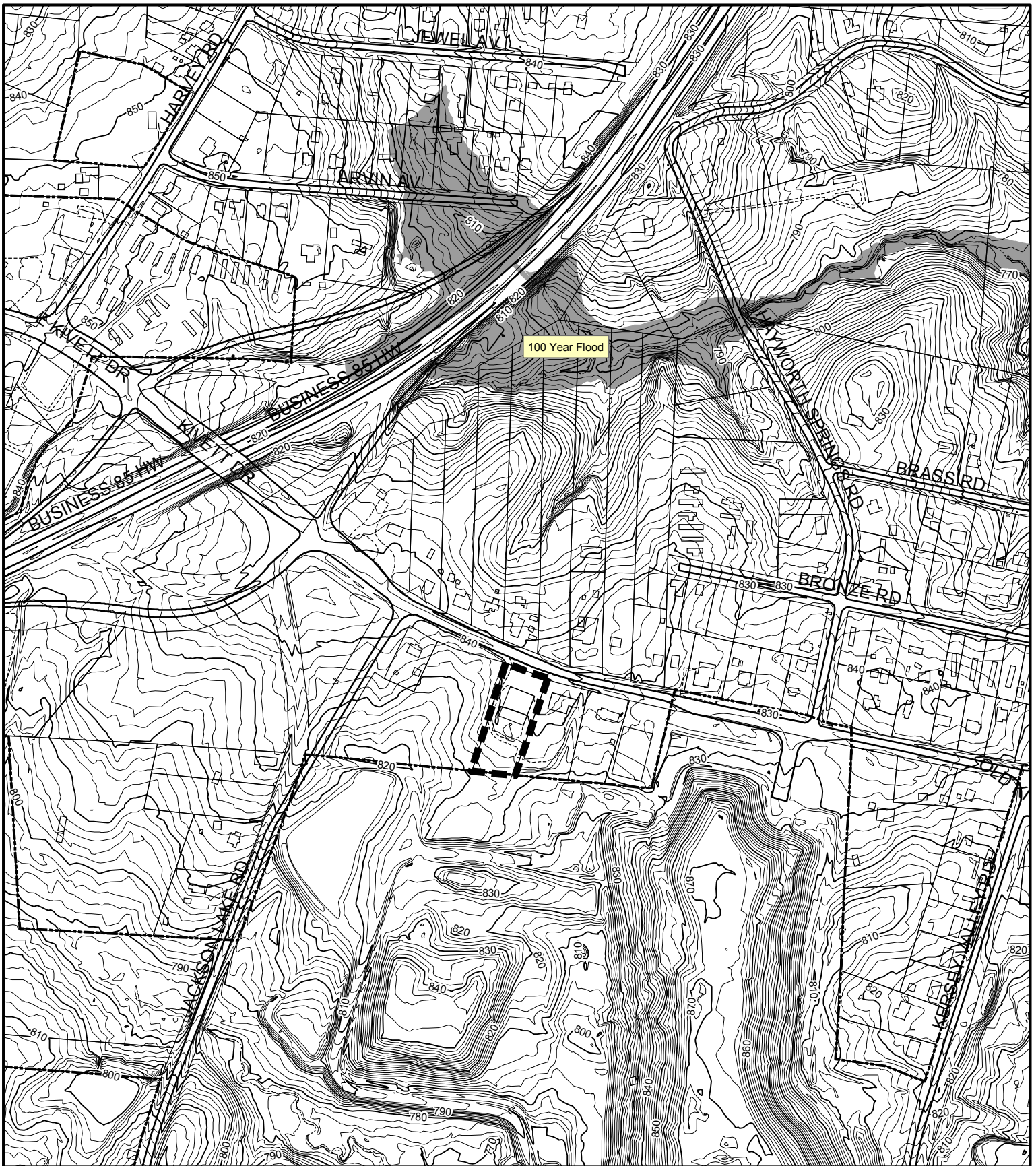
**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=400'**

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# REZONING CASE 08-20

## Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 21, 2008



Scale: 1"=400'

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# REZONING CASE 08-20





**APPLICATION FOR A CONDITIONAL USE PERMIT**

**CITY OF HIGH POINT, NORTH CAROLINA  
Conditional Use Highway Business (CU-HB) District**

**September 15, 2008**  
**(Submitted)**

TO THE CITY COUNCIL OF THE CITY OF HIGH POINT:

The undersigned hereby respectfully requests that the High Point City Council, pursuant to Title 9, Chapter 3 of the City Code, grant a Conditional Use Permit for the following use(s), subject to the following conditions:

- I. USES: Any of the land uses allowed in the Highway Business (HB) District shall be permitted, subject to the development and dimensional requirements of the Development Ordinance and subject to the specific conditions of this Permit.
- II. CONDITIONS:
  1. Transportation:
    - a. Access:
      - 1). Only one (1) point of access shall be permitted to E. Kivett Drive.
      - 2). The zoning site's driveway access to E. Kivett Drive shall be improved to meet the driveway ordinance requirements. A permit shall be obtained and required access installed by April 30, 2009. The zoning site's frontage will be required to be re-graded to a typical ditch cross-section. All disturbed areas will need to be reshaped and reseeded to provide proper drainage for the roadway and prevent erosion of the shoulder and ditch. All parking for the facility will be required to be off of the right-of-way
    - b. The City of High Point Transportation Director and the North Carolina Department of Transportation (NCDOT) shall approve all construction and improvements.
  2. Landscaping: A Street Yard shall be installed along the zoning site's E. Kivett Drive frontage. An alternate landscaping plan shall be submitted and approved prior to installation, utilizing a minimum five (5) foot wide planting yard. This Street Yard shall be required to be installed by April 30, 2009.

**DESCRIPTION OF PROPERTY:**

Approximately 0.98 acres lying along the south side of E. Kivett Drive, approximately 715 feet east of the Business 85 on-ramps. The site is addressed as 3718 E. Kivett Drive also known as Guilford County Tax Parcel 94-7041-C-0949-00-012.

An application has been duly filed requesting that the above described property be rezoned from the Light Industrial (LI) District to a Conditional Use Highway Business (CU-HB) District. It is understood and acknowledged that if the property is rezoned as requested and the Conditional Use Permit authorized, the property described in this request will be perpetually bound by the use(s) authorized and the conditions imposed, unless subsequently changed or amended as provided for in Title 9, Chapter 3 of the City Code.

The City Council may add additional conditions to make the necessary findings of fact required for approval of a Conditional Use Permit.

It is further understood and acknowledged that plans for any development to be made pursuant to any such Conditional Use Permit so authorized shall be submitted to the Technical Review Committee and/or other approval authorities for review in the same manner as other such plans now required to be approved by the City of High Point.





September 23, 2008

**To:** Lee Burnette, Director of Planning and Development  
**From:** Mark McDonald, P.E., Transportation Director   
**Subject:** **Rezoning Case #08-20**, Wrennovation, LLC. Property located southside of Kivett Drive, approximately 715' east of Business 85 NB ramp.

---

My staff and I have reviewed the rezoning request and have the following comments:

A traffic impact analysis was not required for this development. To require a traffic study the proposed development must be expected to produce at least one hundred and fifty (150) trips in the AM or PM peak hour. In order to mitigate the development's impact on the surrounding roadway network the following improvements will be required:

Access

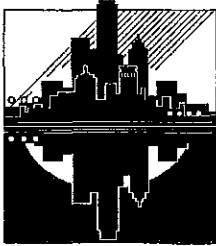
The proposed rezoning site shall have one point of access to Kivett Drive. The driveway on Kivett Drive for this property must be improved to meet the driveway ordinance requirements. This drive will require an appropriately sized concrete pipe to carry the roadway drainage under the drive. The right-of-way across the frontage will be required to be regarded to a typical ditch section which directs the flow to the new driveway pipe and discharges into the wooded area west of the property. All disturbed areas will need to be reshaped and reseeded to provide proper drainage for the roadway and prevent erosion of the shoulder and ditch. All parking for the facility will be required to be off of the right-of-way. If the existing use changes in the future, HPDOT and NCDOT may make additional comments.

The City of High Point Transportation Director and the North Carolina Department of Transportation (NCDOT) shall approve all construction and improvements.

If you have any questions or would like to further discuss this case, please advise.

# **Citizens Information Meeting Report Zoning Case 08-20**

Submitted by: Abigaile Pittman on behalf of  
Wrennovation, LLC



## M. ABIGAILE PITTMAN, AICP

210 Louise Avenue  
High Point, North Carolina 27262  
(336) 885-4928 (H) • FAX: (336) 885-9542 • [abigaile@northstate.net](mailto:abigaile@northstate.net)

DATE: October 6, 2008

TO: Herb Shannon, Planner, City of High Point Planning Dept.

FROM: Abigaile Pittman, AICP

RE: Wrennovation, LLC Citizen Information Meeting Report  
for 3718 E. Kivett Drive

The required citizen information meeting for the Wrennovation, LLC rezoning at 3718 E. Kivett Drive was held on Monday, October 6, 2008 from 6:30 to 7:30 p.m. The notice we sent is attached for your review as is the city statement that was included, and the mailing labels (property owners within 300 feet). There were only about 10 property owners that received notice, and since this was the second meeting for this request within several months, I added some explanation in the letter I sent to the neighbors. The meeting was held at the rezoning site, and not a single person showed up.

CHAMBERS ANNE B  
4819 TUMBLEWEED DR  
GREENSBORO NC 274078032

EAST WILLIAM A & VICKI C BOBBY RAY &  
SANDY K LARUE  
3720 KIVETT DR  
HIGH POINT NC 27263

HUTCHENS KEITH A  
5 CUB DR  
THOMASVILLE NC 273609261

JOHNSON GEORGE L & JENNY N  
3721 KIVETT DR  
JAMESTOWN NC 272829167

LE PHO  
3713 KIVETTE DR  
JAMESTOWN NC 272820000

MASHBURN ERNIE S & LORI B  
2730 KIVETT DR  
GREENSBORO NC 27407

NEESE MAJESTA CASE  
3715 KIVETT DRIVE  
JAMESTOWN NC 272820000

PANDO MANUEL ALBERTO  
3723 KIVETT DR  
JAMESTOWN NC 272820000

ROSE-RED LLC  
1211 YORKSHIRE DR  
HIGH POINT NC 27262

WAGNER PATSY HORTON  
1211 YORKSHIRE DR  
HIGH POINT NC 272627345

WRENNOVATION LLC  
P O BOX 667  
JAMESTOWN NC 27282

You are invited to: A Neighborhood Meeting

Regarding: Wrennovation, LLC has re-submitted a rezoning application for the property located at 3718 E. Kivett Drive. The request is for a Conditional Use Highway Business (CU HB) District. (The prior request last April was withdrawn to find a solution of how to handle access along the property frontage because it is currently wide open. The NC Dept. of Transportation is requiring that a ditch be installed along the frontage, and a 12-inch pipe installed under a defined driveway entrance that will be located at the property's northwestern edge.)

You are invited to a Drop-In Session to ask any questions you may have.

WHEN? Monday, October 6, 2008  
Any time between 6:30 p.m. and 7:30 p.m.

WHERE? 3718 E. Kivett Drive (the Carolina Bingo site)

*If you need additional information please contact Abigaile Pittman at 688-3055*



**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT,  
NORTH CAROLINA, THAT NEW SECTIONS 12-1-13 AND 12-1-14 BE ADDED  
TO ARTICLE 12, CHAPTER 1 OF THE CODE OF ORDINANCES TO READ AS  
FOLLOWS:**

The High Point Code of Ordinances is amended to add the following new section to read as follows:

**"Sec. 12-1-13. Aggressive Solicitation Prohibited.**

(A) The council finds that:

(1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.

(2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

(3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.

(4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(B) In this section:

(1) AGGRESSIVE MANNER means:

(a) intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) following the person being solicited, if that conduct is:

(i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

- (ii) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (c) continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;
- (d) intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- (e) using obscene or abusive language or gestures toward the person being solicited;
- (f) approaching the person being solicited in a manner that:
  - (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) AUTOMATED TELLER MACHINE means a device, linked to a bank's account records, which is able to carry out banking transactions.

(3) AUTOMATED TELLER FACILITY means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

(4) BANK includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

(5) BUS means a vehicle operated by a transit authority for public transportation.

(6) CHECK CASHING BUSINESS means a person in the business of cashing checks, drafts, or money orders for consideration.

(7) PUBLIC AREA means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

(8) SOLICIT means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(C) A person commits an offense if the person solicits:

- (1) in an aggressive manner in a public area;
- (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
- (3) within 25 feet of:
  - (a) an automated teller facility;
  - (b) the entrance or exit of a bank; or
  - (c) the entrance or exit of a check cashing business; or
- (4) at a marked crosswalk.
- (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;

(D) A culpable mental state is not required, and need not be proved, for an offense under Subsection (C)(2), (3), or (4).

(E) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.

(F) Violation of this section is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00)

**This Ordinance is effective upon adoption.**

*Adopted by the High Point City Council on the 18<sup>th</sup> day of November, 2008.*

Lisa B. Vierling, MMC  
City Clerk

## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **City of High Point**

### **Zoning Case 08-19**

A request by the City of High Point Parks & Recreation Department to rezone approximately 16.5 acres from the Residential Single Family-9 (RS-9) District and Residential Multifamily-8 (RM-8) District to a Public & Institutional (PI) District. This site is lying along the west side of Shadybrook Road, approximately 250 feet south of School Park Drive.

Mr. Shannon presented this request to the Commission and recommended approval as outlined in the staff report. Mr. Allen Oliver, City of High Point Parks & Recreation Director, was available to answer questions from the Commission and public.

Speaking neither in favor nor opposition was Ms. Abigaile Pittman of 210 Louise Avenue in High Point, a planning consultant. She wanted staff to be aware of the 100 year old tree on eastern portion of the site where the future school is proposed and requested that when the landscaping plans are reviewed that the tree be saved, if possible.

Speaking in opposition of the request was Ms. Barbara Browning of 106 E. Bellevue Drive and Mr. Raymond Brown of 918 Old Winston Road in High Point. They raised the following concerns:

- Permanent wildlife displacement.
- Too much activity in this area currently with the existing stadium (i.e. speeding, inadequate parking, lighting and noise).
- Historical value of the ruins of an old farm located on the site.
- Buffer for noise reduction and to deter foot traffic to and from the stadium or proposed athletic field.

In regards to the buffer questions, Mr. Shannon and Mr. Oliver noted that the Development Ordinance does not require buffering between single family dwellings and parks or athletic fields. To address drainage and stormwater control issues, grading may be up to the abutting property lines; however, based upon current draft plans the actual soccer field will be from 100 to 150 feet from abutting properties.

The Planning & Zoning Commission recommended **approval** of Zoning Case 08-19 by a vote of 7-0.

Separate from their zoning recommendation, the Commission requested that the City Council consider a future amendment to the Development Ordinance to require security fencing around the perimeter of its parks and athletic fields.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-19  
October 28, 2008**

|                                                                            |                                                                                                                                                              |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant:</b><br>City of High Point<br>(Parks & Recreation Department) | <b>Owner:</b><br>City of High Point and<br>Guilford County Board of Education                                                                                |
| <b>Proposal:</b> To rezone 16.5± acres.                                    | <b>From:</b> <b>RS-9</b> Residential Single Family-9<br><b>RM-8</b> Residential Multifamily-8<br><br><b>To:</b> <b>PI</b> Public & Institutional<br>District |

**Site Information**

|                                   |                                                                                                                                                                                                                                               |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                   | Lying along the west side of Shadybrook Road, approximately 250 feet south of School Park Drive. The site is also known as Guilford County Tax Parcel 300-4-1 thru 7 and 300-3-1 & 3.                                                         |
| <b>Site Acreage</b>               | Approximately 16.5 acre.                                                                                                                                                                                                                      |
| <b>Current Land Use</b>           | Undeveloped.                                                                                                                                                                                                                                  |
| <b>Physical Characteristics</b>   | The site has a moderately sloping terrain and is heavily wooded.                                                                                                                                                                              |
| <b>Prox. to Water &amp; Sewer</b> | City water and sewer utilities are currently available in this area. There are existing water lines with the School Park Road and Shadybrook Road right-of-ways. Additionally, there is a sewer line within the Shadybrook Road right of way. |
| <b>Stormwater/ Drainage</b>       | The site is within Tier 4 of the Oak Hollow Lake Watershed Critical Area. Development within this area is limited to 2 units per acre or 50% impervious coverage                                                                              |
| <b>Overlay Districts</b>          | Oak Hollow Lake Watershed Critical Area (WCA); Tier 4                                                                                                                                                                                         |

**Site Access & Street Classification**

| <b>Street Name</b> | <b>Classification</b> | <b>Approximate Frontage</b> |
|--------------------|-----------------------|-----------------------------|
| Shadybrook Road    | Collector Street      | 550 ft.                     |

|                                      |                                                                                                   |
|--------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Traffic Impact Analysis (TIA)</b> | A TIA is not required due to the size of this site, requested zoning district and allowable uses. |
|--------------------------------------|---------------------------------------------------------------------------------------------------|

**Surrounding Area Zoning and Current Use**

|              |                            |                                                                            |                                                     |
|--------------|----------------------------|----------------------------------------------------------------------------|-----------------------------------------------------|
| <b>North</b> | <b>PI</b>                  | Public & Institutional District                                            | Undeveloped                                         |
| <b>South</b> | <b>RS-9</b><br><b>RM-8</b> | Residential Single Family-9 District<br>Residential Multifamily-8 District | Single family dwellings and multifamily development |
| <b>East</b>  | <b>RS-7</b>                | Residential Single Family-7 District                                       | Undeveloped                                         |
| <b>West</b>  | <b>RS-9</b>                | Residential Single Family-9 District                                       | Single family dwellings                             |



| School District Information         |  |
|-------------------------------------|--|
| Not applicable to this zoning case. |  |

| Relevant Land Use Policies and Related Zoning History                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relevant Community Growth Vision Statement Goals &amp; Objectives</b> | Obj. 1H: Support the continued growth of the City's educational institutions for their many educational, cultural and economic benefits;<br><br>Obj. 2C: Enhance existing neighborhood parks and recreational facilities, and create new ones where needed.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Land Use Map Designation</b>                                          | Except for approximately 4.5 acres at the southeastern portion of the site designated as Moderate-Density Residential, the majority of the site has an Institutional land use designation. These classifications are defined below: <ul style="list-style-type: none"><li>• <b>Moderate-Density Residential:</b> This classification includes a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities shall range from five to eight dwelling units per gross acre.</li><li>• <b>Institutional:</b> Public, quasi-public and institutional uses on large tracts are included in this classification.</li></ul> |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b>                 | The following goal and objectives of the Land Use Plan are relevant to this request:<br>Goal #4: Ensure that all required public services and facilities are sequenced to meet demands of development.<br>Obj. #2. Protect and preserve environmentally sensitive locations including designated open space and watershed critical areas from inappropriate development.<br>Obj. #7. Evaluate the location and adequacy of existing and proposed parks and recreational facilities when considering new development.                                                                                                                                                                                       |
| <b>Relevant Area Plans</b>                                               | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Related Zoning History</b>                                            | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

**Background Information:**

This is a proposal submitted by the City of High Point's Parks & Recreation Department, in conjunction with Guilford County Board of Education. The eastern 7 acres of the site, fronting along Shadybrook Drive, is owned by the Guilford County Board of Education and is being considered as a location for a school in the future. The remaining 9 acres of the site is owned by the City of High Point and proposed to be developed for recreational facility and athletic fields (soccer fields). Both future development proposals include the zoning site and the abutting land area to the north fronting along School Park Road, which is also owned by the City and the Board of Education.

Athletic fields and schools are permitted in residential districts, with Special Use Permit approval by City Council, and both uses are permitted by right in the PI District. The applicant elected to submit for a rezoning since the land to the north of the zoning site is owned by the City and Board of Education, and is currently zoned PI District.

The requested PI District will not be introducing new land uses or zoning into this area. The majority of this zoning site and land area lying south of School Park Road site is designated upon the City's Land Use Map as Institutional. Also, similar uses currently exist in this area, as the A.J. Simeon complex and the Shadybrook Elementary school campus are lying to the north of School Park Road.

**Issues:**

**Major Issues**

❖ None

**Minor Issues**

❖ None

**Recommendation:**

**Staff Recommends Approval**

The Planning and Development Department recommends approval of the request by the City of High Point, to rezone approximately 16.5 acres from the Residential Single Family-9 (RS-9) District and Residential Multifamily-8 (RM-8) District to a Public & Institutional (PI) District.

This recommendation is made based on the staff's conclusion that the request is consistent with the City's Land Use Plan and that the rezoning of this property will not negatively impact the adjoining property owners.

**Action by the Planning and Zoning Commission**

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

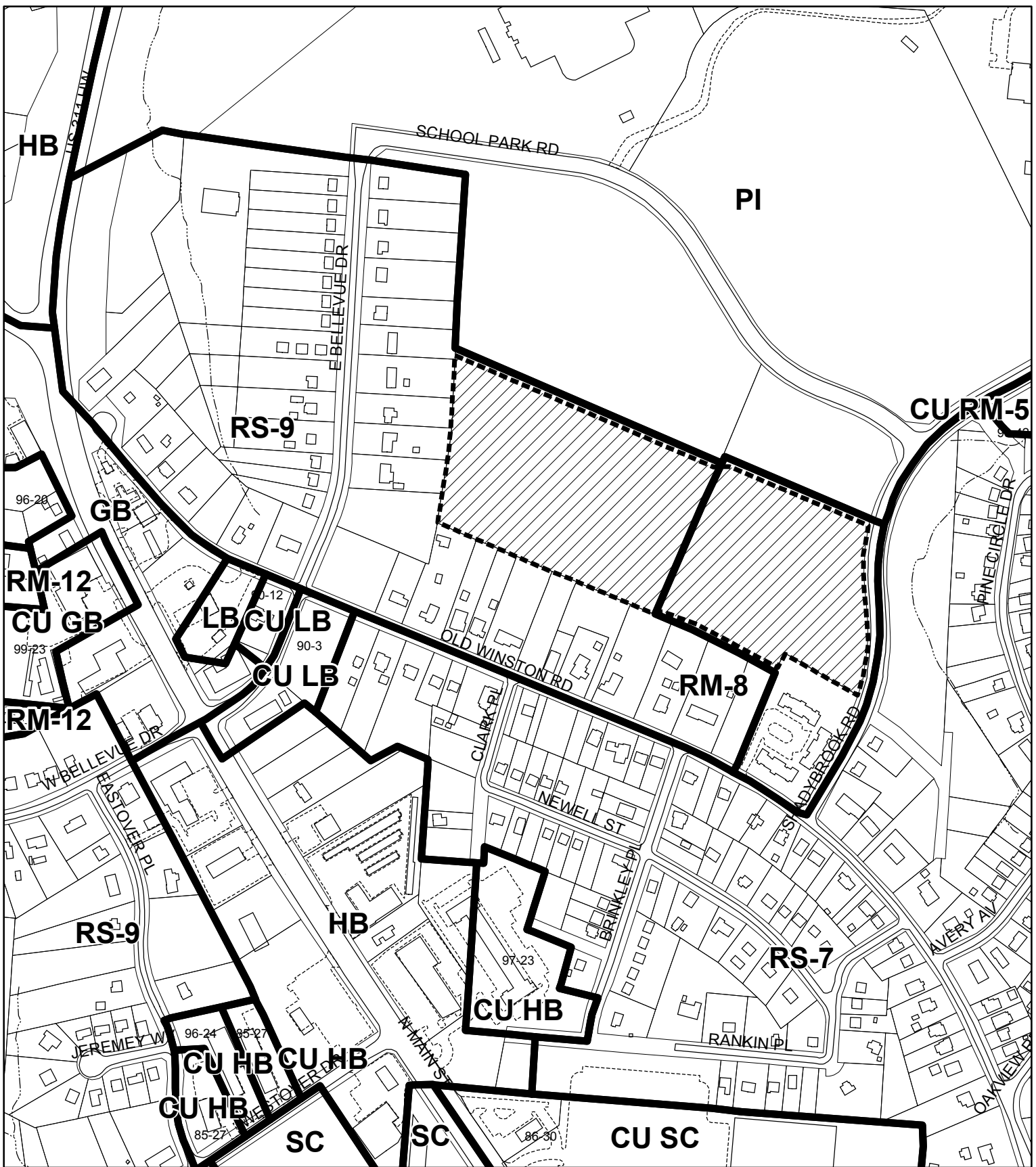
**Action by the City Council**

- A. Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with

additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.

- B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request, is reasonable and in the public interest because: 1) the requested PI District is consistent with the City's Land Use Plan and has a Institutional Land Use Map designation; 2) the requested PI District is consistent with the surrounding zoning in this area; and 3) proposed development will not be introducing new land uses into this area given that there is an existing recreation complex and elementary school directly north of School Park Road.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.



## REZONING CASE 08-19

**From: Residential Single Family-9 and  
Residential Multifamily-8**

**To: Public & Institutional**

**Existing Zoning Boundary**

**Subject Property Boundary**



**Planning & Development  
Department**

**City of High Point**

**Date: October 10, 2008**



**Scale: 1"=400'**

y:/ba-pz/2008/pz/z08-19.mxd

The map displays a city layout with several distinct land use zones. The zones are labeled as follows:

- Local/Convenience Commercial**: Located in the top left corner.
- Institutional**: Located in the top right corner.
- Community/Regional Commercial**: Located in the bottom left corner.
- Moderate Density Residential**: Located in the center-right area, shaded with diagonal lines.
- Low-Density Residential**: Located in the bottom left corner, adjacent to the Community/Regional Commercial zone.
- Low-Density Residential**: Located in the bottom right corner, adjacent to the Moderate Density Residential zone.

Key streets and landmarks include:

- School Park**: A street running horizontally across the top.
- Old Winston**: A street running horizontally across the center.
- Newell**: A street running horizontally across the center.
- Brinkley**: A street running vertically in the center.
- Rankin**: A street running horizontally in the bottom center.
- Westover**: A street running horizontally in the bottom left.
- Easter**: A street running vertically in the bottom left.
- Jeremy**: A street running horizontally in the bottom left.
- Shadybrook**: A street running diagonally in the top right.
- Pine Circle**: A street running diagonally in the top right.
- Bellevue**: A street running vertically in the center.
- Clark**: A street running vertically in the center.
- Wain**: A street running vertically in the center.
- Carver**: A street running vertically in the center.
- Garner**: A street running diagonally in the bottom right.

A large area in the center-right is shaded with diagonal lines, indicating a specific land use zone. The map also shows various building footprints and street layouts.

**Moderate  
Density  
Residential**

## Low-Density Residential

## Low-Density Residential

## Land Use Plan

**\_\_\_\_\_**

**■ ■ ■ ■ ■ ■ ■ ■**

**Date: October 21, 2008**



**Scale: 1'=400'**  
y:/ba-pz/2008/pz/z08-19.mxd



# REZONING CASE 08-19

Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 21, 2008

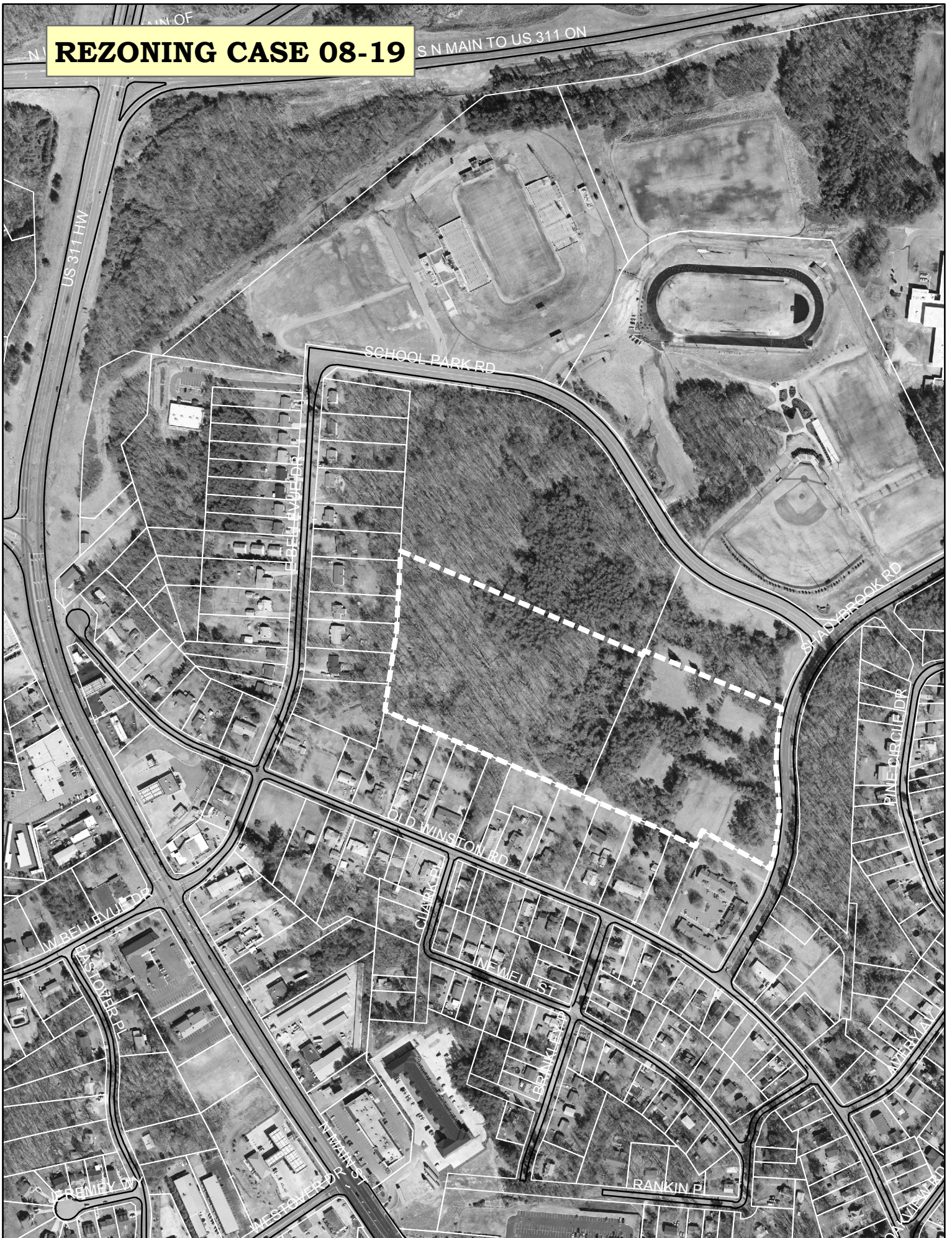


Scale: 1"=400'

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# REZONING CASE 08-19





|                                                  |
|--------------------------------------------------|
| <b><u>BID INFORMATION AND RECOMMENDATION</u></b> |
|--------------------------------------------------|

**BID:** #30-110508

**DATE OPENED:** 11/05/08

**DESCRIPTION:** School Park Road Soccer Complex/Miracle League Field

**BID PACKAGES DISTRIBUTED:** 20

**DEPARTMENT:** Parks & Recreation

SOURCE OF FUNDS: 411410-533701 411001007405 40202  
411410-533701 411001007605 40202

**BUDGETED AMOUNT:** \$ 1,550,000.00  
\$ 425,000.00

**RECOMMENDED AWARD**

| QUANTITY | DESCRIPTION                                             | UNIT PRICE     | TOTAL PRICE    |
|----------|---------------------------------------------------------|----------------|----------------|
| 1 LT     | SCHOOL PARK ROAD SOCCER<br>COMPLEX/MIRACLE LEAGUE FIELD | \$1,871,917.00 | \$1,871,917.00 |

**PURPOSE:** The Contract work consists of constructing the Soccer Complex and Miracle League Field.

**COMMENTS:** Bid award recommendation is for acceptance of the Base Bid plus Alternates 1, 2 and 4.

**BID TABULATION**

See Attached

The **PARKS AND RECREATION DEPARTMENT** and the **PURCHASING DIVISION** recommend that the contract for **SCHOOL PARK ROAD SOCCER COMPLEX AND MIRACLE LEAGUE FIELD** be awarded to **BROOKS GENERAL CONTRACTORS**, the lowest responsible and responsive bidder meeting specifications, in the amount of **\$1,871,917.00**

DATE OF RECOMMENDATION: November 11, 2008.

\_\_\_\_\_  
Strib Boynton, CITY MANAGER

**School Park Road Soccer Complex****Bid #30-110508****City of High Point****Bid Date: November 5, 2008****2:00 P.M.****Bid for Single Prime**

| <b>Contractor Name</b>                | <b>Total Base Bid</b> | <b>Alt #1<br/>Baseball Field<br/>Facility</b> | <b>Alt #2<br/>Entire<br/>Champions<br/>Plaza</b> | <b>Alt #3<br/>Northern Half of<br/>Champions<br/>Plaza</b> | <b>Alt #4<br/>Shelter</b> | <b>Alt #5<br/>Up Grade of<br/>the Ball Fields</b> | <b>Total Base Plus Alt.<br/>#1, #2 &amp; #4</b> |
|---------------------------------------|-----------------------|-----------------------------------------------|--------------------------------------------------|------------------------------------------------------------|---------------------------|---------------------------------------------------|-------------------------------------------------|
| <b>Brooks General Contractors</b>     | <b>1,449,045.00</b>   | <b>341,220.00</b>                             | <b>49,752.00</b>                                 | 32,377.00                                                  | <b>31,900.00</b>          | 351,500.00                                        | <b>1,871,917.00</b>                             |
| <b>M &amp; M Builders Inc</b>         | 1,557,360.00          | 345,000.00                                    | 60,000.00                                        | 39,500.00                                                  | 26,000.00                 | 25,000.00                                         | 1,988,360.00                                    |
| <b>Central Builders Inc of Mebane</b> | 1,572,810.00          | 344,000.00                                    | 57,000.00                                        | 39,000.00                                                  | 35,000.00                 | 391,000.00                                        | 2,008,810.00                                    |
| <b>Mountain Creek Contractors</b>     | 1,642,335.00          | 249,500.00                                    | 77,500.00                                        | 47,500.00                                                  | 49,500.00                 | 149,500.00                                        | 2,018,835.00                                    |
| <b>Hodgin Construction Company</b>    | 1,689,612.00          | 302,300.00                                    | 68,800.00                                        | 43,200.00                                                  | 31,100.00                 | 256,300.00                                        | 2,091,812.00                                    |
| <b>Ike's Construction</b>             | 1,714,105.00          | 308,000.00                                    | 60,000.00                                        | 50,000.00                                                  | 30,000.00                 | 327,000.00                                        | 2,112,105.00                                    |
| <b>Bar Construction</b>               | 1,663,600.00          | 372,200.00                                    | 72,200.00                                        | 55,400.00                                                  | 32,300.00                 | 396,700.00                                        | 2,140,300.00                                    |
| <b>Hamlett Assocs</b>                 | 1,730,011.00          | 368,278.00                                    | 89,937.00                                        | 63,424.00                                                  | 35,977.00                 | 383,612.00                                        | 2,224,203.00                                    |
| <b>Paul Howard Construction</b>       | 1,921,305.00          | 340,200.00                                    | 72,200.00                                        | 52,400.00                                                  | 36,800.00                 | 313,400.00                                        | 2,370,505.00                                    |
| <b>Larco Construction</b>             | 2,010,312.00          | 346,500.00                                    | 41,900.00                                        | 32,100.00                                                  | 29,300.00                 | 306,500.00                                        | 2,428,012.00                                    |
| <b>Sullivan Eastern Inc</b>           | 2,179,480.00          | 372,000.00                                    | 50,000.00                                        | 110,000.00                                                 | 43,000.00                 | 458,000.00                                        | 2,644,480.00                                    |



MEMORANDUM

To: Pat Pate  
Assistant City Manager

From: Allen Oliver  
Parks and Recreation Director

Date: November 8, 2008

Subject: Bid Recommendation

On November 5, 2008 bids were opened for the Soccer Complex / Miracle League Field at the High Point Athletic Complex. The project will include 5 soccer fields, concession/restroom building, picnic shelter, parking for 150 cars and the Miracle League Field.

I would like to recommend awarding the contract to Brooks General Contractors in the amount of \$1,871,917.00 as the lowest responsive and responsible bidder meeting specifications. The contractor should complete the project in 6 months with a completion date of approximately June of 2009.

I have attached the recommendations of Site Solutions along with the bid award summary and the bid tabulation sheet.

I will be more than glad to answer question you may have on this project.

## Engineering Services Department

**B. Keith Pugh, P.E.**

DIRECTOR



Date: November 5, 2008

To: Pat Pate, Assistant City Manager

From: Keith Pugh, Engineering Services *BKP*

Re: Council Extension Change Order Approval for West Lexington Avenue Sanitary Sewer – City Contract ENG-2006-15 – General Water, Sewer & Storm Drainage Improvements

City Council is being asked to approve a contract extension with Breece Enterprises to add new sanitary sewer outfall construction to serve a portion of West Lexington Avenue. Specifically, this line will be extended to serve the property at the intersection of Wallburg High Point Road and W. Lexington as well as satisfy an existing court order to serve property owned by the Allred family and Mr. Doug Carty.

The proposed sewer outfall line consists of 1,662 feet of pipe extending from an existing outfall south of West Lexington Avenue. The line will proceed northward through the Carty property until it intersects West Lexington. The line will be bored and encased beneath West Lexington and then extended to the east to serve the Corner Grill. The depth of the line in Lexington will allow it to be extended approximately 200 feet in either direction at some point in the future to serve additional properties. This work is being added at the City's request. The City has submitted for permits from NCDOT and NCDENR for this work. Easements for this work are in place.

Engineering Services and Public Services recommend that Council approve extension change order #9 in the amount of \$150,000. The original contract amount was \$893,783.00. Change Orders #1 through #8 increased the contract value to \$1,559,322.00. Approval of Change Order #9 will bring the entire contract amount to \$1,709,322.00.

The contract completion date will be extended to December 31, 2008.

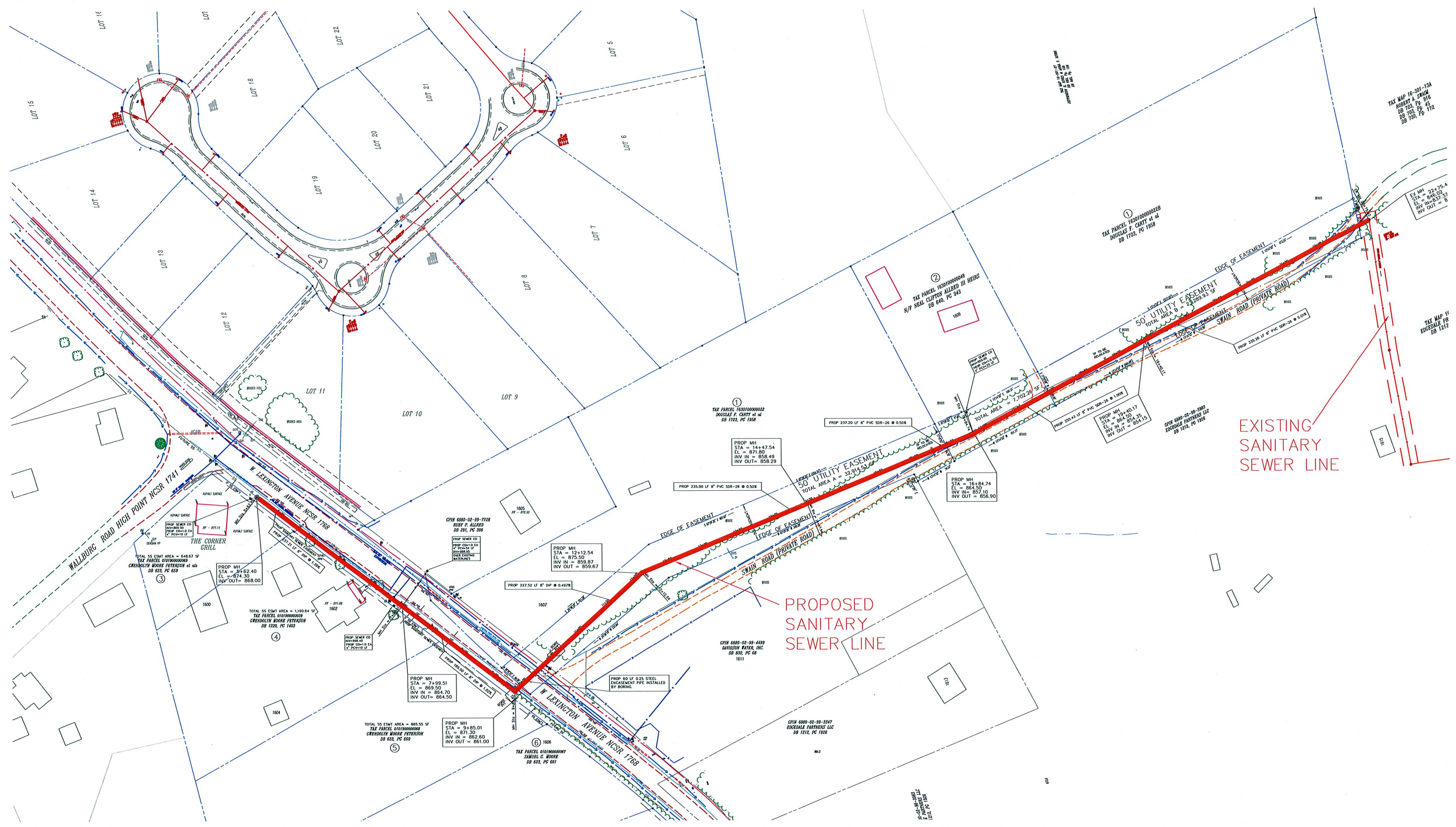
Funding is available in:

421779-533701-421001010105 40201      \$150,000

/bkp

Cc: Mr. Jeff Moore, Finance  
Mr. Bob Martin, Purchasing Division  
Mr. Chris Thompson, Public Services  
Mrs. Lou Hedrick, Budget  
Mr. Leon Adams, Adams and Clark Enterprises, Inc.





EXISTING  
SANITARY  
SEWER LINE

PROPOSED  
SANITARY  
SEWER LINE

TAX MAP 16-301-13A  
ROBERT A. SWAIN  
DB 723, PG. 916  
DB 730, PG. 145  
DB 730, PG. 172

EX MH = 226.75.4  
STA = 846.02.4  
INV IN = 847.37  
INV OUT = 8

TAX MAP 11  
EDGETOWN PR  
DB 1212

TAX PARCEL 1630100000022B  
DOUGLAS F. CARTY & J  
DB 1723, PG 1538

TAX PARCEL 1630100000048  
N/P NEAL CLIFTON ALLRED III HEIRS  
DB 640, PG 943

TAX PARCEL 1630100000032  
DOUGLAS F. CARTY & J  
DB 1723, PG 1538

PROP MH  
STA = 14+47.54  
EL = 871.80  
INV IN = 858.49  
INV OUT = 858.29

PROP 235.00 LF 8" PVC SDR-26 @ 0.50%

50' UTILITY EASEMENT  
TOTAL AREA A = 32,911.53 SF

PROP MH  
STA = 16+84.74  
EL = 864.50  
INV IN = 857.10  
INV OUT = 856.90

PROP 255.43 LF 8" PVC SDR-26 @ 1.00%

PROP MH  
STA = 19+40.17  
EL = 864.50  
INV IN = 854.35  
INV OUT = 854.15

CPIN 6880-02-38-3388  
KROENKE PARTNERS LLC  
DB 1211, PG 1326

CPIN 6880-02-39-7728  
RUBY P. ALLRED  
DB 281, PG 306

PROP MH  
STA = 12+12.54  
EL = 875.50  
INV IN = 859.87  
INV OUT = 859.67

PROP 227.52 LF 8" DIP @ 0.497%

CPIN 6880-02-39-4499  
DAVIDSON WATER, INC.  
DB 830, PG 68  
1611

CPIN 6880-02-39-3347  
KROENKE PARTNERS LLC  
DB 1212, PG 1326

TAX PARCEL 0101000000007  
SAMUEL C. MOORE  
DB 623, PG 681

TOTAL SS ESMT AREA = 885.55 SF  
TAX PARCEL 0101000000008  
CRENDOLIN MOORE PETERSON  
DB 623, PG 680

PROP MH  
STA = 9+85.01  
EL = 871.30  
INV IN = 862.60  
INV OUT = 861.00

TOTAL SS ESMT AREA = 1,190.64 SF  
TAX PARCEL 0101000000009  
CRENDOLIN MOORE PETERSON  
DB 1226, PG 1403

PROP MH  
STA = 3+62.40  
EL = 874.30  
INV IN = 868.00  
INV OUT = 868.00

TOTAL SS ESMT AREA = 648.67 SF  
TAX PARCEL 0101000000000  
CRENDOLIN MOORE PETERSON et als  
DB 623, PG 659



REC. 11-3-08

# PETITION

To The Mayor and City Council, High Point, North Carolina:

We the undersigned Business Owners, Managers, or Citizens hereby Petition for the Adoption of the Code of Ordinances Amendments as submitted for consideration on the November 3<sup>rd</sup> 2008 Agenda. Specifically being:  
Aggressive Solicitation, Urinating or Defecating on Public Places, Alcoholic Beverage Open Container.

Smith's Hardware by Steven Smith / Jeff Adal  
Splash Splash Car Wash by David Bogen, Manager  
The Peppermill Cafe by Edna Orphanides VP  
The Peppermill Cafe by Nicholas A Asprogiannis Pres.  
Jersey Mikes - Maryanne Waldon  
Jersey Mikes - David Brown - citizen  
Jersey Mikes - Eric Austin citizen  
Stephanie Hart - citizen  
Parcom Wireless - Christy Parker  
Dollar General - Chae Boyd Manager on Duty  
CitiFinancial - by Napa Longalce  
New Life Nutrition - Guy. Hano  
ISHIKAWA Japan Res - Shiroshi  
GOINPOSTAL - Jack Oughten OWNER  
Direct Ins manager - ~~James~~  
Rainbow Laundry Centers Inc. Tim Ann Attwood  
Dental Works - Wendy McPherson (Manager)  
Dental Works - Kristi Smith (Citizen)  
Dental Works - Reine Shaffer (Citizen)  
Dental Works - Rebecca Shae (Owner)  
Dental Works - Charlene Torg (Citizen)  
Dental Works - B. Gray (Owner)  
Aerons - ~~Michael~~ (Manager)  
Michael A Co  
Aeror's ~~Amos~~ (Manager)  
Jits Fashion (Betty manager)  
CATO Corporation Christie Hammond - Manager  
Cato Kathy Jander part manager  
Cato Spanish Leach 2nd manager  
Beneficial Janice Baldwin

Raushile shak

~~Mr. Haggerty~~  
~~James H. Haggerty~~  
~~James Haggerty~~  
Don White

~~James Haggerty~~  
Shannon M. Darsa  
Scott Proctor

Blue Nails  
Charlie's Tobacco  
Senise Clark

McDonald's S. main st.  
Food Lion CEO. Manager  
Food Lion Astanga

Food Lion  
Food Lion Stocking

Family Dollar Store manager  
High point electronic

1st National Bank W. Fairfield  
Kodia's Hack

Tobacco  
Alise

MS Wimers - As. Manager

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA, THAT NEW SECTION 12-1-13 BE ADDED TO ARTICLE 12, CHAPTER 1 OF THE CODE OF ORDINANCES TO READ AS FOLLOWS:**

The High Point Code of Ordinances is amended to add the following new section to read as follows:

**“Sec. 12-1-13. Aggressive Solicitation Prohibited.**

(A) The council finds that:

(1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.

(2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

(3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.

(4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(B) In this section:

(1) AGGRESSIVE MANNER means:

- (a) intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- (b) following the person being solicited, if that conduct is:
  - (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - (ii) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

- (c) continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;
- (d) intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- (e) using obscene or abusive language or gestures toward the person being solicited;
- (f) approaching the person being solicited in a manner that:
  - (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) AUTOMATED TELLER MACHINE means a device, linked to a bank's account records, which is able to carry out banking transactions.

(3) AUTOMATED TELLER FACILITY means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

(4) BANK includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

(5) BUS means a vehicle operated by a transit authority for public transportation.

(6) CHECK CASHING BUSINESS means a person in the business of cashing checks, drafts, or money orders for consideration.

(7) PUBLIC AREA means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

(8) SOLICIT means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

- (C) A person commits an offense if the person solicits:
- (1) in an aggressive manner in a public area;
  - (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
  - (3) within 25 feet of:
    - (a) an automated teller facility;
    - (b) the entrance or exit of a bank; or
    - (c) the entrance or exit of a check cashing business; or
  - (4) at a marked crosswalk.
  - (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;
- (D) A culpable mental state is not required, and need not be proved, for an offense under Subsection (C)(2), (3), or (4).
- (E) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.
- (F) Violation of this section is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00)

Adopted the 18<sup>th</sup> day of November 2008

  
Lisa B. Vierling, MMC  
City Clerk





## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Anco-Englin, Inc.**

### **Special Use Permit Case 08-04**

A request by Anco-Englin, Inc., for a Special Use Permit to allow an Industrial & Commercial Machinery use in a Light Industrial (LI) District. This site is lying along the south side of Lorraine Avenue, approximately 300 feet west of Alleghany Street.

Mr. Shannon presented this request to the Commission and recommended approval as outlined in the staff report.

Speaking in favor of the request was the applicant's representative, Mr. Ed Powell of Davis-Martin-Powell, Inc. at 6415 Old Plank Road, High Point. Mr. Powell stated that he recognizes the increased landscaping standards recommended by staff along the site's U.S.311 Bypass frontage and they have no objections to this condition recommended by staff.

No one spoke in opposition to the request.

The Planning & Zoning Commission recommended ***approval*** of Special Use Permit Case 08-04 by a vote of 7-0. This recommendation of approval included the staff's recommendation for higher tree planting rate along the site's U.S.311 Bypass frontage.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
SPECIAL USE PERMIT 08-04  
November 10, 2008  
*Revised***

|                                                                                                                                                |                                                                                                                                                                                                                                                                                                              |                                    |  |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|--|
| <b>Applicant:</b><br>Anco-Eaglin, Inc.                                                                                                         |                                                                                                                                                                                                                                                                                                              | <b>Owner:</b><br>C. Wayne McDonald |  |
| <b>Proposal:</b> A Special Use Permit request to allow an Industrial & Commercial Machinery Use (SIC3500) in a Light Industrial (LI) District. |                                                                                                                                                                                                                                                                                                              |                                    |  |
| <b>Site Information</b>                                                                                                                        |                                                                                                                                                                                                                                                                                                              |                                    |  |
| <b>Location</b>                                                                                                                                | This site is lying along the south side of Lorraine Avenue, approximately 300 feet west of Alleghany Street. The site is also known as Guilford County Tax Parcel 130-2-67, 77 & 78.                                                                                                                         |                                    |  |
| <b>Site Acreage</b>                                                                                                                            | Approximately 10.2± acres.                                                                                                                                                                                                                                                                                   |                                    |  |
| <b>Current land use</b>                                                                                                                        | Undeveloped.                                                                                                                                                                                                                                                                                                 |                                    |  |
| <b>Physical Characteristics</b>                                                                                                                | The site is heavily wooded and has a moderately to severely sloping terrain, which drains from east to west. A perennial stream and 100 year flood zone area runs along the western portion of the site.                                                                                                     |                                    |  |
| <b>Prox. to Water &amp; Sewer</b>                                                                                                              | City water and sewer utilities are currently available in this area. An 8-inch sewer line runs along Lorraine Avenue and along the western boundary of the site near the stream. A 6-inch water line runs along Lorraine Avenue.                                                                             |                                    |  |
| <b>Stormwater/ Drainage</b>                                                                                                                    | The site is subject to the Randleman Lake General Watershed Area requirements of the water supply watershed regulations. Development with an impervious surface area that is 12% or more of the site requires engineered stormwater measures. Maximum impervious area is 50% and may be increased up to 70%. |                                    |  |
| <b>Overlay Districts</b>                                                                                                                       | Randleman General Watershed Area (GWA)                                                                                                                                                                                                                                                                       |                                    |  |

| <b>Site Access &amp; Street Classification</b> |                                                                                     |                             |
|------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------------|
| <b>Street Name</b>                             | <b>Classification</b>                                                               | <b>Approximate Frontage</b> |
| Lorraine Avenue                                | Local Street                                                                        | 420 ft.                     |
| U.S. 311 Bypass                                | Major Thoroughfare<br>(limited access)                                              | 905 ft.                     |
| <b>Traffic Impact Analysis (TIA)</b>           | A TIA is not required to allow the requested Industrial & Commercial Machinery use. |                             |

| Surrounding Area Zoning and Current Use |           |                           |                                                        |
|-----------------------------------------|-----------|---------------------------|--------------------------------------------------------|
| <b>North</b>                            | <b>LI</b> | Light Industrial District | Industrial use                                         |
| <b>South</b>                            | <b>LI</b> | Light Industrial District | Industrial uses<br>(across U.S.311 Bypass)             |
| <b>East</b>                             | <b>LI</b> | Light Industrial District | Various industrial uses and one single family dwelling |
| <b>West</b>                             | <b>LI</b> | Light Industrial District | Undeveloped                                            |

| School District Information         |
|-------------------------------------|
| Not applicable to this zoning case. |

| Relevant Land Use Policies and Related Zoning History                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relevant Community Growth Vision Statement Goals &amp; Objectives</b> | This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Land Use Map Designation</b>                                          | The site has a Light Industrial land use designation. This classification includes general manufacturing, wholesaling, warehousing, and research and development uses.                                                                                                                                                                                                                                                                                                                                                  |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b>                 | The following goal of the Land Use Plan is relevant to this request:<br><br>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.                                                                                                                                                                                 |
| <b>Relevant Area Plans</b>                                               | <u>U.S. 311 Bypass Corridor Strategic Plan</u> - This study was undertaken by the city's Transportation Department beginning in 1998. It includes recommendations on land use, transportation, and appearance issues for the interchange of the 311 Bypass and Business 85. Among the corridor appearance recommendations for this interchange are to "provide buffering to screen rear views of existing/developing industrial sites" and to "retain/enhance natural tree buffer along corridor as property develops." |
| <b>Related Zoning History</b>                                            | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

### **Background Information:**

The applicant is proposing to develop this site for a Food Product Machinery Manufacturing use. This use is classified within the City's Development Ordinance as "Industrial & Commercial Machinery Use". This activity is permitted in the Heavy Industrial (HI) District, but requires a special use permit approval in the Light Industrial (LI) zoned areas. Thus the applicant has submitted this special use permit application to allow this use upon this site.

A special use is an additional use to those permitted by right in a zoning district. Such a use requires analysis for its potential impact on the proposed site and its impact on surrounding properties. The purpose of the Special Use Permit process is to allow the Planning and Zoning Commission and City Council an opportunity to perform this analysis. Within the City of High Point there are situations where LI District zoned parcels are within or adjacent to residential neighborhoods. Thus, some industrial or manufacturing uses that require special use permits may not be appropriate or would be out of character within the area.

The applicant's proposed use of the property will consist of the engineering, manufacturing and assembly of specialty design commercial cooking equipment. They will also manufacture industrial processing equipment for rendering, food, chemical, and associated industries. All activities are to occur with the structures and staff is not aware of any byproduct of the manufacturing of this equipment (i.e. fumes, odor, noise, etc) that would have a negative impact upon adjacent property owners. In regards to this site, it is located within a long established industrial area and the allowance of the requested Food Product Machinery Manufacturing use would be in harmony with this area. The industrial lots lying east of the site, along Alleghany Street, were platted in 1979 and are almost fully developed with industrial uses. The industrial lots along both sides of Lorraine Avenue were platted in 1999 and this area is approximately 25% developed with industrial uses. There are a few (approximately 5) single family dwellings scattered throughout this area; however, the majority of the area is developed with industrial uses. The City's Land Use Plan designates this area as Light Industrial and the entire area is zoned LI District. Over the long term it is anticipated that the few remaining residential properties will be converted to non-residential uses.

### **Issues:**

#### **Major Issues**

- ❖ None

#### **Minor Issues**

- ❖ None

### **Findings:**

Section 9-3-14 of the Development Ordinance requires that certain findings be made before a Special Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they exist on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

| <b>That the use will not materially endanger the public health or safety if located where proposed; staff finds</b> |                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b>                                                                                                   | ❖ The site is within an established industrial subdivision and fronts along an improved public street. The public streets within this industrial park (Lorraine Avenue and Alleghany Street) have been developed to the city's industrial street standard with 68-foot wide right-of-ways and 40 foot wide |

|  |                                                                                                       |
|--|-------------------------------------------------------------------------------------------------------|
|  | paved street to handle the wider turning movements of semi-trucks and other larger delivery vehicles. |
|--|-------------------------------------------------------------------------------------------------------|

**That the use meets all required standards, conditions and specifications of the Development Ordinance, and any additional restrictions imposed pursuant to Section 9-3-14(d) *Greater Restrictions*; staff finds**

|                   |                                                                                                                                             |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | ❖ The site meets the minimum LI District standards and is of sufficient size and configuration to allow for reasonable use of the property. |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------|

**That the use will not substantially injure the value of adjoining or abutting property, or that it is a public necessity; staff finds**

|                   |                                                                                                                                                                                                                        |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | ❖ The site is within the middle of an existing industrial park and abuts the southern extension of the U.S. 311 Bypass, which will be an approximately 300 foot wide major thoroughfare designed to freeway standards. |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**That the location and character of the use shall be in harmony with the area in which it is located and in general conformity with the plan of development of the city and its environs; staff finds**

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | <ul style="list-style-type: none"><li>❖ The requested use generally conforms to the Light Industrial land use designation of this area and is in harmony with the surrounding area; which is primarily developed with industrial uses.</li><li>❖ There are no conflicts with the Community Growth Vision Statement goals and objectives.</li><li>❖ The applicant has offered to provide a minimum 50 foot wide undisturbed Type “A” planting yard next to an abutting single family dwelling. This will assist in addressing part of Objective 11 of the Land Use Plan regarding compatibility with adjacent residential use.</li><li>❖ The applicant has offered to provide a higher tree planting rate within the street planting yard along the site’s U.S. 311 Bypass frontage. The condition addresses the intent of the U.S. 311 Bypass Corridor Strategic Plan and Objective 11 of the Land Use Plan in regards to enhancing the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors.</li></ul> |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

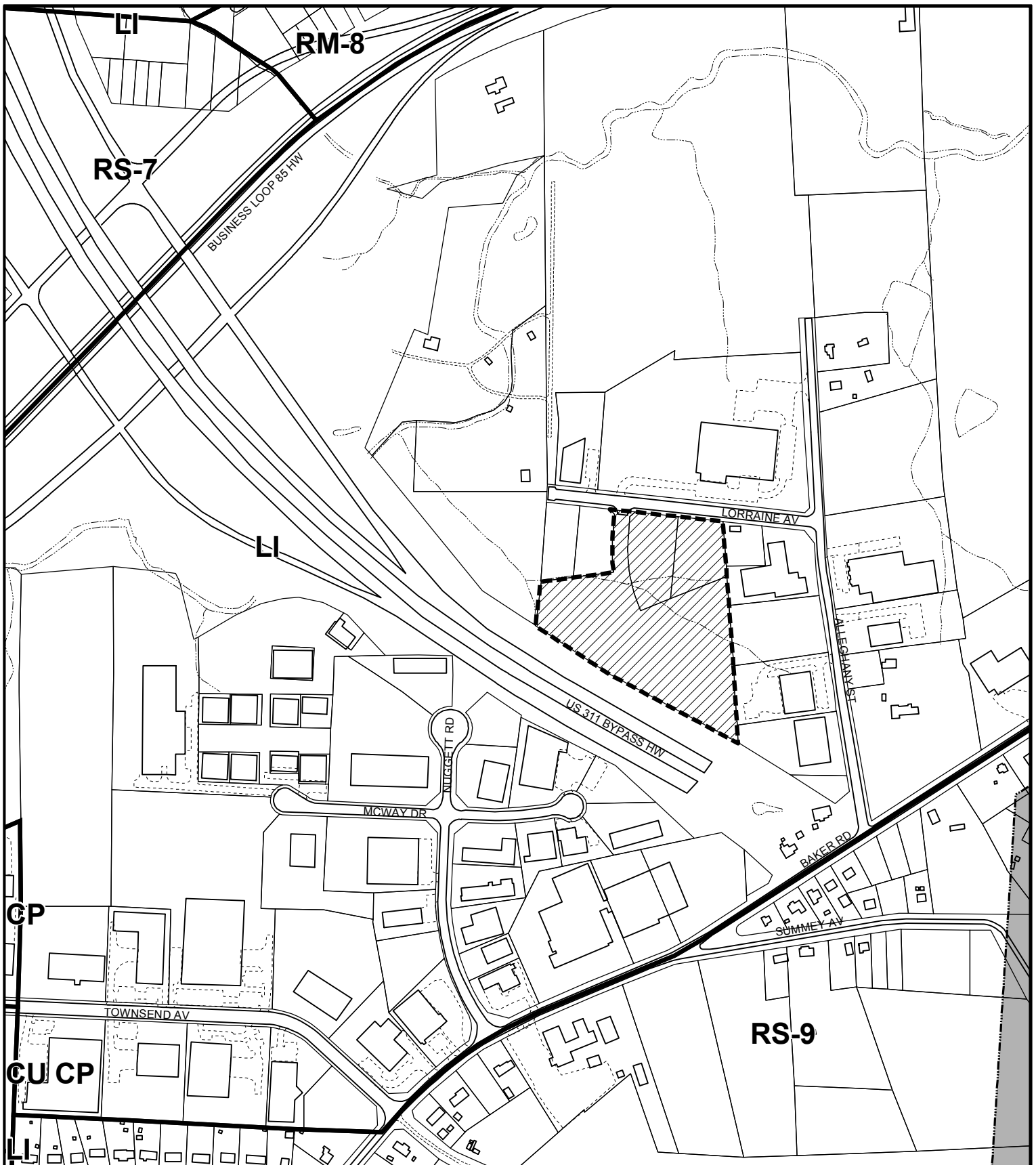
**Recommendation:**

**Staff recommends approval**

Based upon the conditions in the attached Special Use Permit application and the preliminary findings of fact, staff finds that the request is generally consistent with the surrounding zoning and development in this area, and in compliance with the goals and objectives of the Land Use Plan.

The Planning and Development Department recommends approval of the requested Special Use Permit to allow an Industrial & Commercial Machinery Use within the Light Industrial (LI) District and the accompanying Special Use Permit.





## SPECIAL USE PERMIT 08-04

**Request: To allow an Industrial & Commercial Machinery use in a Light Industrial (LI) District.**

**Existing Zoning Boundary**  
**Subject Property Boundary**



**Planning & Development  
 Department**

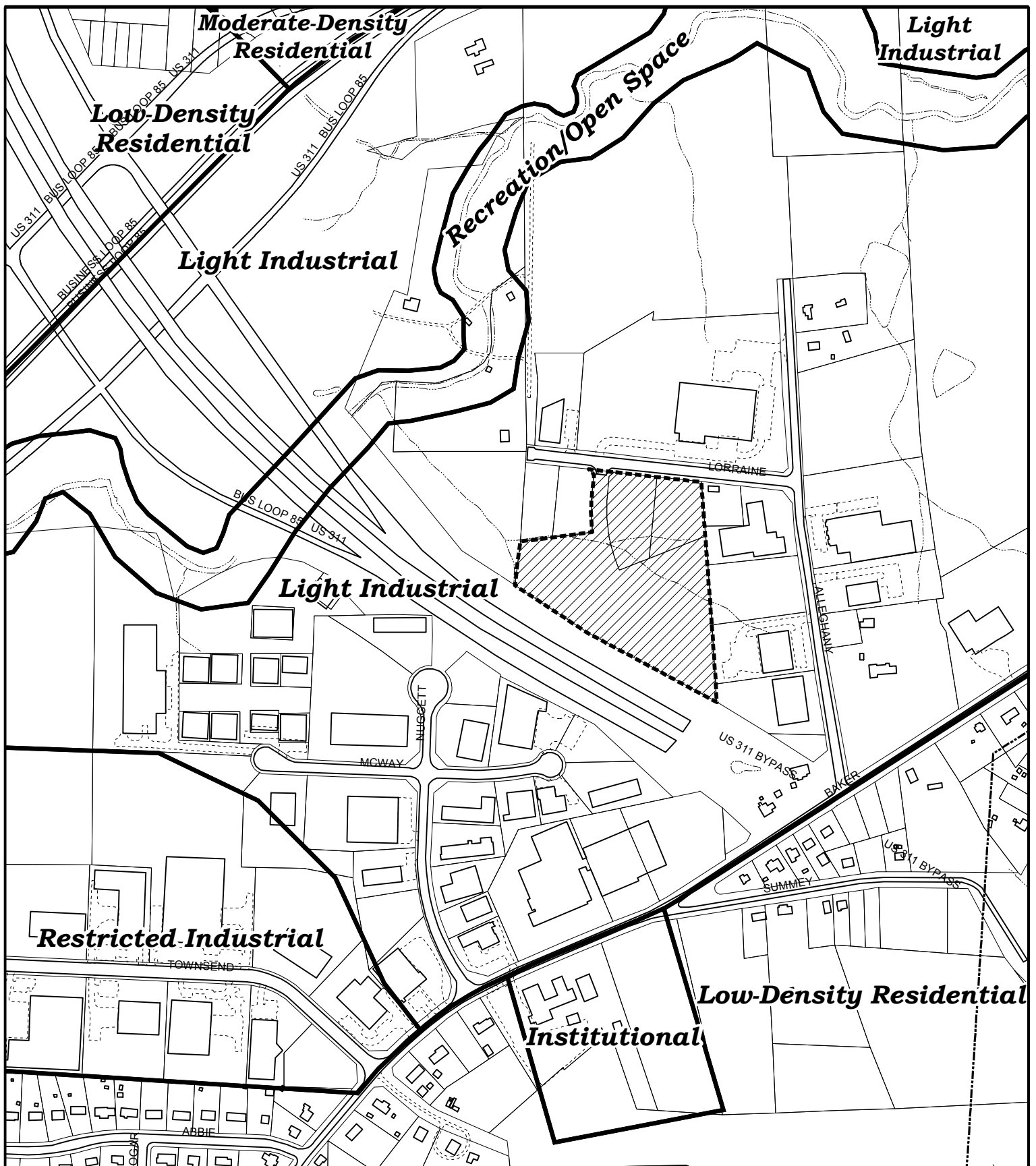
**City of High Point**

**Date: October 10, 2008**



**Scale: 1" = 500'**

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# **SPECIAL USE PERMIT 08-04**

## **Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=500'**

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# **SPECIAL USE PERMIT 08-04**

## **Topography**

**Subject Property Boundary** - - - - -

**Planning & Development  
Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=500'**

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# SPECIAL USE PERMIT 08-04





**SPECIAL USE PERMIT 08-04**  
**CITY OF HIGH POINT, NORTH CAROLINA**

**November 10, 2008**  
**(Submitted)**

THE CITY OF HIGH POINT CITY COUNCIL, PURSUANT TO SECTION 9-3-14, SPECIAL USE PERMITS, OF THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE, APPROVED A SPECIAL USE PERMIT AND SITE PLAN FOR THE FOLLOWING USE, SUBJECT TO THE FOLLOWING CONDITION(S):

**USE:** Industrial & Commercial Machinery use (SIC 3500)

**CONDITIONS:**

1. **Landscaping and Screening:** A minimum fifty-foot (50') wide Type A Planting Yard shall be required along any of the interior property lines of the rezoning site that abut residential uses and/or zoning. All existing trees and vegetation shall be preserved in such planting yard(s) and supplemented, where necessary, to meet the Type A Planting Yard rate. The property owner shall be permitted to remove unhealthy vegetation and vegetation that may pose a danger to occupants of the rezoning site. The property owner shall also be permitted to prune existing vegetation within the planting yard area in order to maintain the health of the existing vegetation. These planting yard(s) may be reduced to Ordinance requirements at the time abutting residential uses and/or zoning sites are rezoned or redeveloped to nonresidential uses and/or zoning.
2. **Lighting:** Lighting upon the site shall be directed away from or shield from abutting residential uses and/or zoning.
3. In the required street planting yard, along the site's U.S. 311 Bypass frontage, the tree planting rate shall be increased to require three (3) canopy trees and five (5) understory trees every 100 linear feet.

**DESCRIPTION OF PROPERTY:**

This Special Use Permit and approved site plan are perpetually binding upon the above-described property, unless subsequently amended as provided in the Development Ordinance or until a use otherwise permitted in the zoning district is established.

This Special Use Permit shall become void after eighteen (18) months from the date of City Council approval unless the Special Use authorized has begun and/or a footing inspection has been approved. If the Special Use authorized is discontinued for a period exceeding eighteen (18) months or replaced by a use otherwise permitted in the zoning district, then the Special Use shall be deemed abandoned and this Special Use Permit shall be null and void and of no effect. If for any reason any condition imposed this Special Use Permit is found to be illegal or invalid, then this Special Use Permit shall be null and void and of no effect.

The issuance of this Special Use Permit authorizes the filing of an application for a building permit, site plan, subdivision or other development approval as required by the Development Ordinance.

SPECIAL USE PERMIT 08-04 AND THE ACCOMPANYING SITE PLAN WERE  
APPROVED BY THE CITY COUNCIL OF HIGH POINT, NORTH CAROLINA ON THE  
\_\_\_\_ DAY OF \_\_\_\_\_2008.

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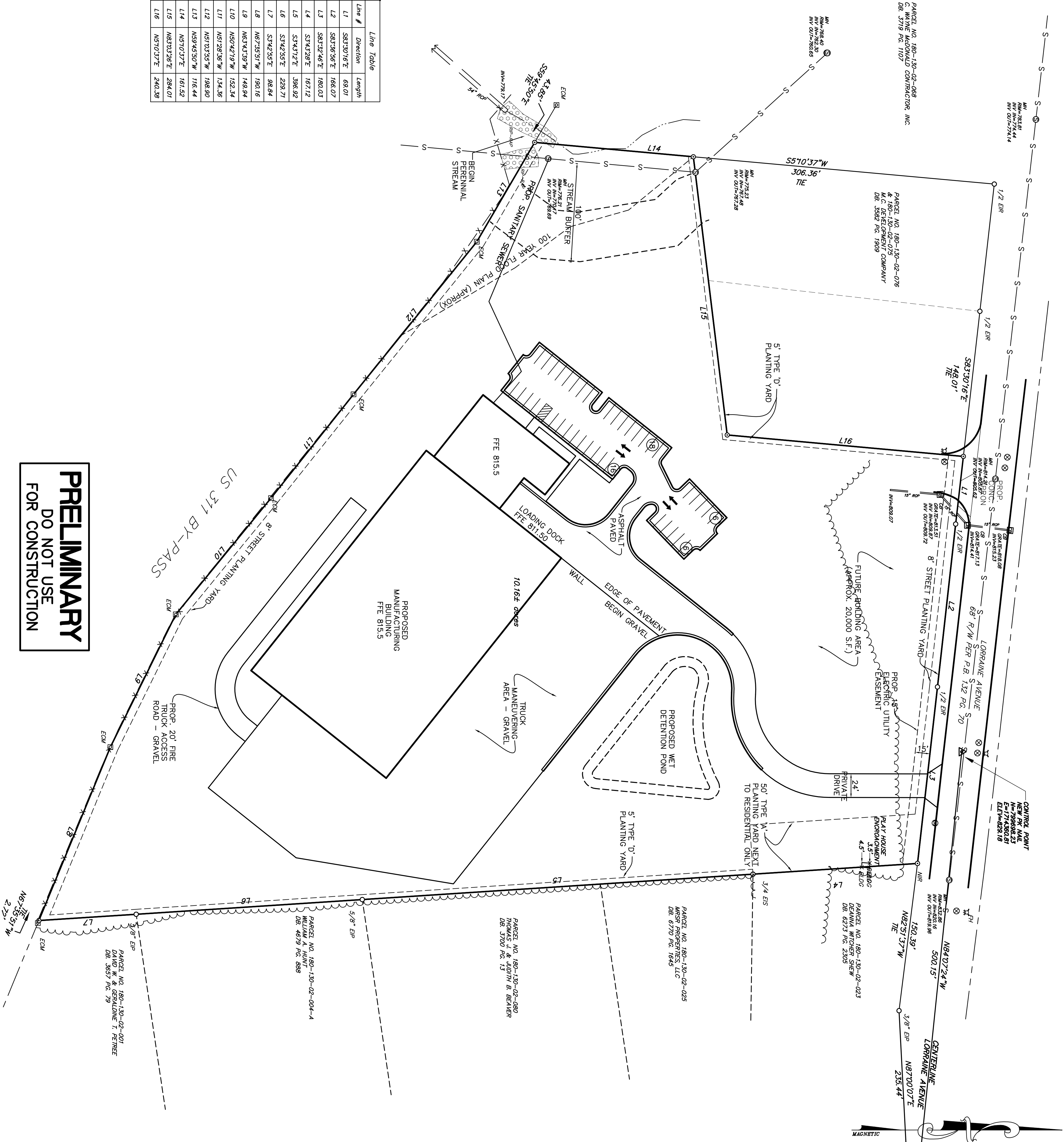
Lisa B. Vierling  
City Clerk

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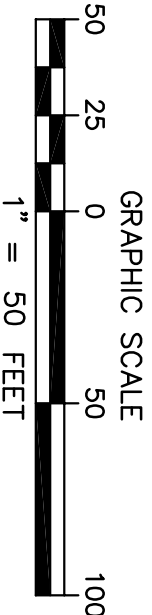
Date



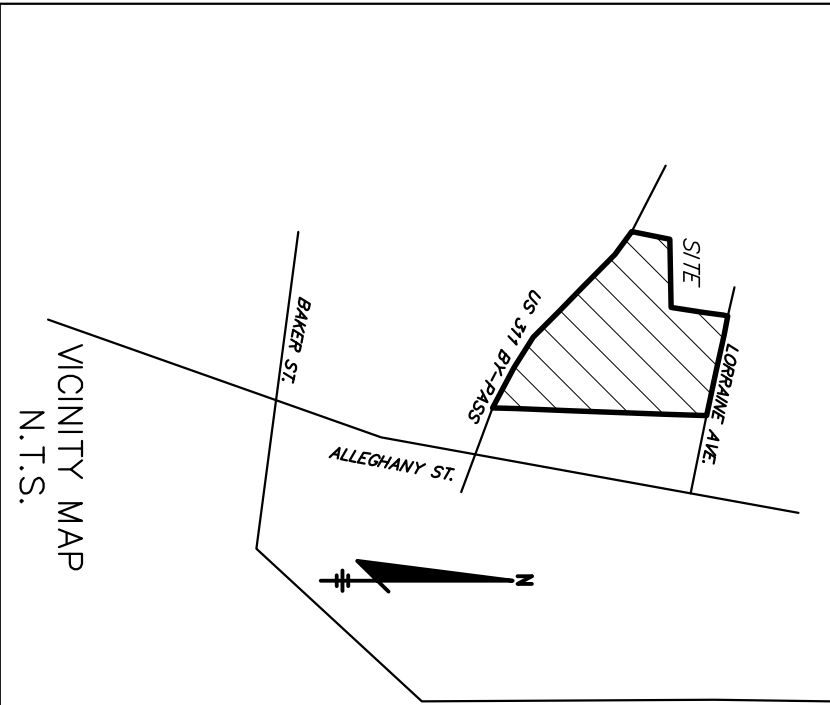
| Line Table |                    |
|------------|--------------------|
| Line #     | Direction Length   |
| L1         | S83°30'16"E 69.01  |
| L2         | S83°38'56"E 166.07 |
| L3         | S83°32'46"E 180.03 |
| L4         | S34°32'09"E 167.12 |
| L5         | S34°31'2"E 396.92  |
| L6         | S34°25'5"E 229.71  |
| L7         | S34°25'5"E 98.84   |
| L8         | N67°35'51"W 190.16 |
| L9         | N63°43'39"W 149.94 |
| L10        | N60°42'19"W 152.34 |
| L11        | N57°28'35"W 134.35 |
| L12        | N57°03'55"W 198.90 |
| L13        | N58°45'50"W 116.44 |
| L14        | N57°03'7"E 161.32  |
| L15        | N83°03'26"E 284.01 |
| L16        | N87°03'7"E 240.38  |



**PRELIMINARY**  
DO NOT USE  
FOR CONSTRUCTION



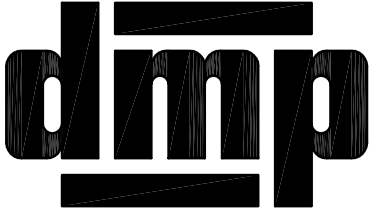
- NOTES:
1. THIS PROPERTY IS OWNED BY M.C. DEVELOPMENT COMPANY AS DESIGNATED IN DEED BOOK 3582 PG. 1908 AND IS ZONED LIGHT INDUSTRIAL.
  2. SURVEY DATA SHOWN TAKEN FROM MAP BY DAVIS-MARTIN-POWELL AND ASSOCIATES, INC.
  3. TOTAL SITE AREA IS 10.22± ACRES.
  4. TOPOGRAPHIC INFORMATION TAKEN FROM CITY OF HIGH POINT MAPING.
  5. PROPOSED BUILT UPON AREA IS 3.685 ACRES.
  6. MAXIMUM BUILDING HEIGHT IS 40 FEET.
  7. BUILDING WILL HAVE 40 EMPLOYEES ON THE LARGEST SHIFT. PARKING REQUIRED IS 2 SPACES FOR EVERY 3 EMPLOYEES FOR A TOTAL OF 27 SPACES REQUIRED.



DEVELOPER:  
ANCO-EAGLIN, INC.  
120 N. CHIMNEY ROCK ROAD  
GREENSBORO, NC 27409  
CONTACT: RICK EAGLIN  
(336) 855-7800

SKETCH PLAN  
**ANCO-EAGLIN, INC.**  
LORRAINE AVENUE  
HIGH POINT TOWNSHIP – GUILFORD COUNTY  
HIGH POINT, NORTH CAROLINA

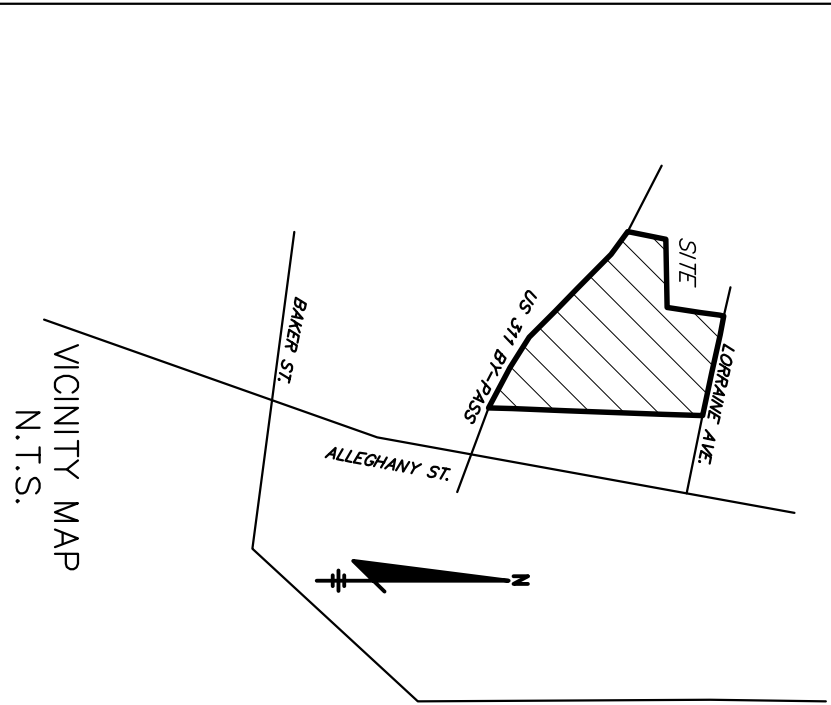
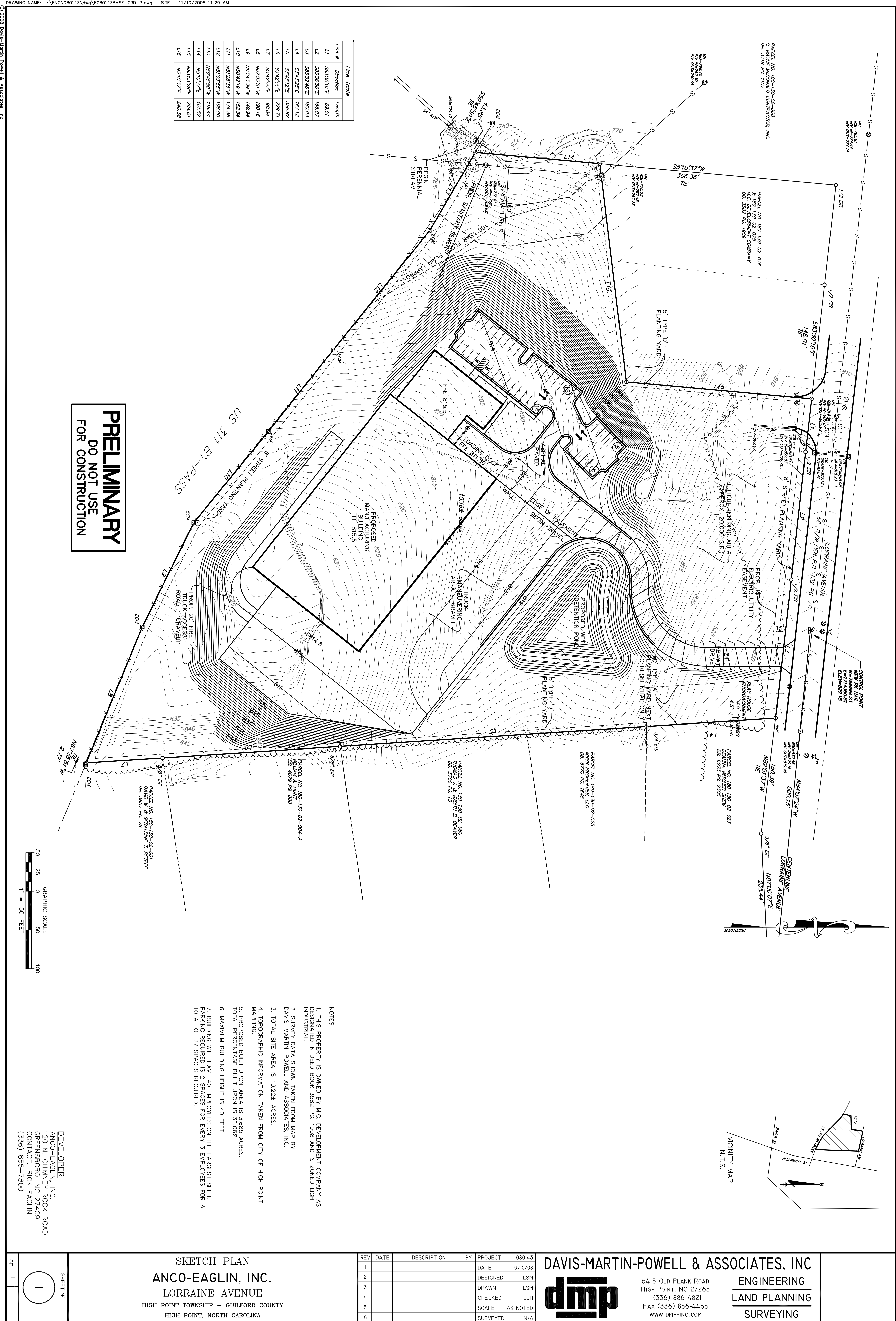
| REV | DATE | DESCRIPTION | BY | PROJECT        |
|-----|------|-------------|----|----------------|
| 1   |      |             |    | 080143         |
| 2   |      |             |    | DATE 9/10/08   |
| 3   |      |             |    | DESIGNED LSM   |
| 4   |      |             |    | DRAWN LSM      |
| 5   |      |             |    | CHECKED JUH    |
| 6   |      |             |    | SCALE AS NOTED |
|     |      |             |    | SURVEYED N/A   |

**DAVIS-MARTIN-POWELL & ASSOCIATES, INC**  


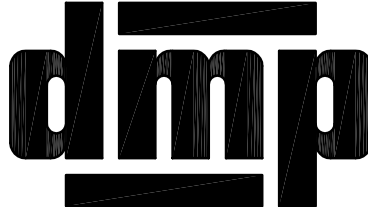
6415 OLD PLANK ROAD  
HIGH POINT, NC 27265  
(336) 886-4821  
FAX (336) 886-4458  
WWW.DMP-INC.COM

**ENGINEERING**  
**LAND PLANNING**  
**SURVEYING**





DAVIS-MARTIN-POWELL & ASSOCIATES, INC



6415 OLD PLANK ROAD  
HIGH POINT, NC 27265  
(336) 886-4821  
FAX (336) 886-4458  
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ENGINEERING

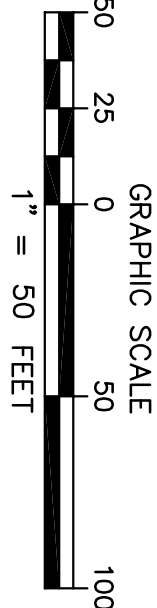
LAND PLANNING

SURVEYING

SKETCH PLAN  
ANCO-EAGLIN, INC.  
LORRAINE AVENUE  
HIGH POINT TOWNSHIP - GUILFORD COUNTY  
HIGH POINT, NORTH CAROLINA

| REV | DATE | DESCRIPTION | BY | PROJECT        |
|-----|------|-------------|----|----------------|
| 1   |      |             |    | 080143         |
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| 3   |      |             |    | DESIGNED LSM   |
| 4   |      |             |    | DRAWN LSM      |
| 5   |      |             |    | CHECKED JUH    |
| 6   |      |             |    | SCALE AS NOTED |
|     |      |             |    | SURVEYED N/A   |

DEVELOPER:  
ANCO-EAGLIN, INC.  
120 N. CHIMNEY ROCK ROAD  
GREENSBORO, NC 27409  
CONTACT: RICK EAGLIN  
(336) 855-7800



Publish four (4) consecutive weeks: **December 26, 2008 and January 2, 9, & 16, 2009**

**RESOLUTION OF INTENT TO CONSIDER A**  
**STREET ABANDONMENT**  
**(Case # SA08-23)**

WHEREAS, the City Council has been requested to close an unimproved portion of right-of-way known as Friends Avenue located west of Worth Street opposite Friends Avenue, and

WHEREAS, G.S. 160A-299 requires the Council to first adopt a resolution declaring its intent to close the street and calling a public hearing on the question;

NOW, THEREFORE BE IT RESOLVED, THAT THE COUNCIL declares its intent to consider the abandonment of the street above described and sets Tuesday, January 20, 2009, at 5:30 p.m. as the date for said public hearing before the Council of the City of High Point, in the Council Chambers of the Municipal Building, High Point, on the closing of said street.

Persons wishing to be heard either for or against the said street closing are asked to be present for the hearing. The meeting facilities of the City of High Point are accessible to people with disabilities. If you need a special accommodation, call 336/883-3298 or TDD# 336/883-8517.

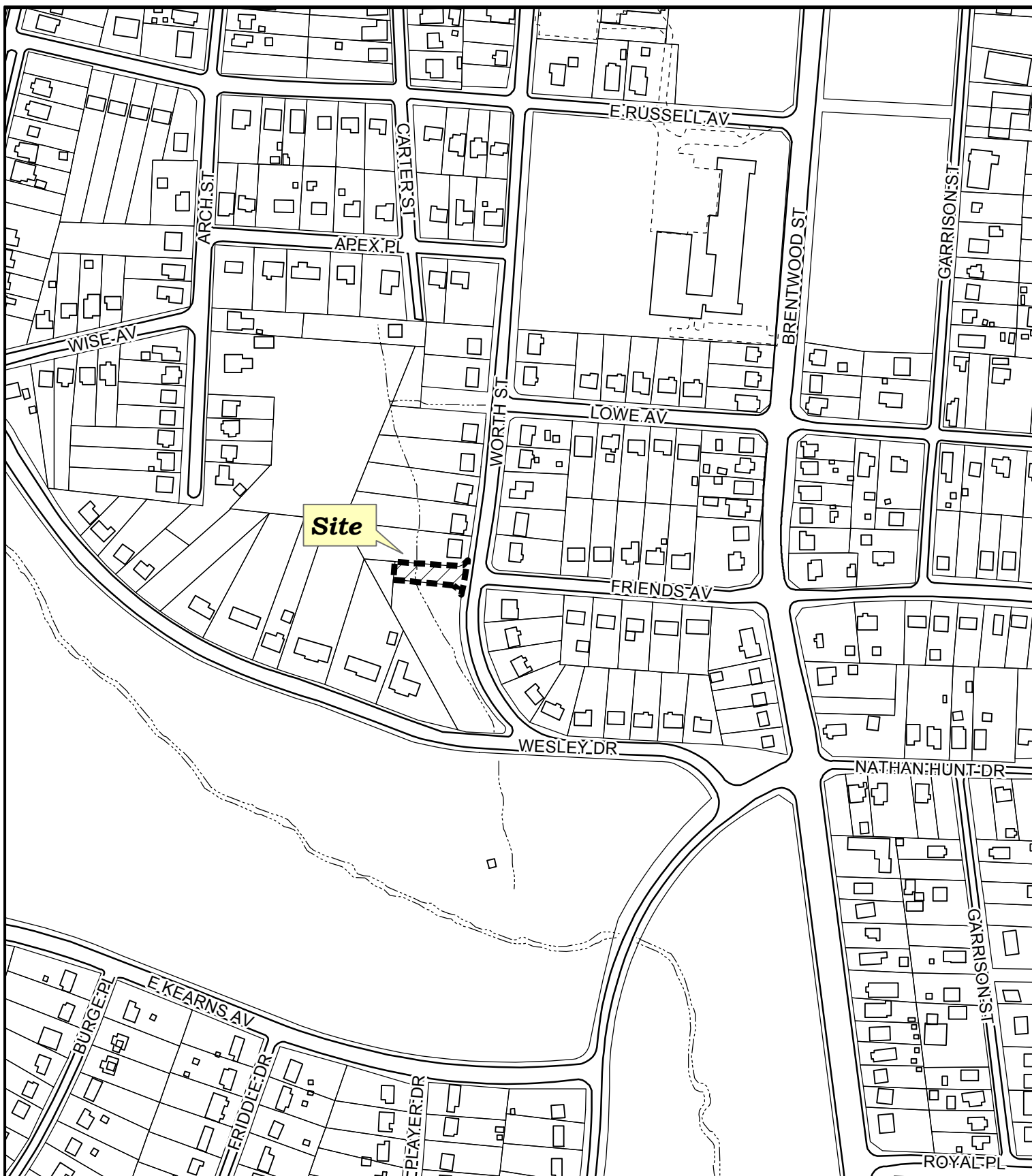
Further information pertaining to this request is available at the Planning and Development in the Municipal Office Building, 211 South Hamilton Street, Room 316, High Point, North Carolina, 336/883-3544 or FAX 336/883-3056.

By Order of the City Council  
This the 20th day of November 2008.

Lisa B. Vierling, City Clerk

Petition Submitted By:  
City of High Point – Technical Review Committee





## STREET ABANDONMENT REQUEST 08-23

Applicant: Technical Review Committee  
City of High Point  
Area: 0.17 acres



Location of requested street abandonment

Planning & Development  
Department

City of High Point

Date: November 11, 2008



Scale: 1"=300'

y:/ba-pz/2008/pz/sa08-23.mxd

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT,  
NORTH CAROLINA, THAT NEW SECTIONS 12-1-13 AND 12-1-14 BE ADDED  
TO ARTICLE 12, CHAPTER 1 OF THE CODE OF ORDINANCES TO READ AS  
FOLLOWS:**

The High Point Code of Ordinances is amended to add the following new section to read as follows:

**“Sec. 12-1-13. Aggressive Solicitation Prohibited.**

(A) The council finds that:

(1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.

(2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

(3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.

(4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(B) In this section:

(1) AGGRESSIVE MANNER means:

(a) intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(b) following the person being solicited, if that conduct is:

(i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or



- (ii) intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (c) continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;
- (d) intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- (e) using obscene or abusive language or gestures toward the person being solicited;
- (f) approaching the person being solicited in a manner that:
  - (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) AUTOMATED TELLER MACHINE means a device, linked to a bank's account records, which is able to carry out banking transactions.

(3) AUTOMATED TELLER FACILITY means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

(4) BANK includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

(5) BUS means a vehicle operated by a transit authority for public transportation.

(6) CHECK CASHING BUSINESS means a person in the business of cashing checks, drafts, or money orders for consideration.

(7) PUBLIC AREA means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

(8) SOLICIT means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(C) A person commits an offense if the person solicits:

- (1) in an aggressive manner in a public area;
- (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
- (3) within 25 feet of:
  - (a) an automated teller facility;
  - (b) the entrance or exit of a bank; or
  - (c) the entrance or exit of a check cashing business; or
- (4) at a marked crosswalk.
- (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;

(D) A culpable mental state is not required, and need not be proved, for an offense under Subsection (C)(2), (3), or (4).

(E) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.

(F) Violation of this section is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00)

**The High Point Code of Ordinances is amended to add the following new section to read as follows:**

**Sec. 12-1-14. Urinating or Defecating on any public place.**

- (a) It is unlawful for any person to urinate or defecate on any public place, sidewalk, street, alley or right of way, or in any public building, except in toilet facilities, or upon private property in a location visible from any public place. "Public place" means property owned by the City, the State, a county or federal government, including leaseholds and easements.
- (b) Violation of this section is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500)."

**AN ORDINANCE AMENDING TITLE 12 "OFFENSES", CHAPTER 1  
ENTITLED "SPECIFIC OFFENSES", SECTION 4, PUBLIC CONSUMPTION  
OF BEER, WINE, ALE OR ANY ALCOHOLIC BEVERAGE, OF THE CODE OF  
ORDINANCES FOR THE CITY OF HIGH POINT, NORTH CAROLINA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT,  
NORTH CAROLINA:**

**Sec. 12-1-4 of the Code of Ordinance is amended to read:**

"Sec. 12-1-4. Possession or consumption of malt beverages and unfortified wine on streets and city property.

- (a) It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of a malt beverage or unfortified wine, or to consume any malt beverage or unfortified wine, on any public street within the City or on property owned, occupied, or controlled by the City.
- (b) This Section shall not apply within a building on City owned or controlled property where appropriate ABC permits have been obtained as required by law for the possession or consumption of malt beverages or unfortified wine for the period of time permitted thereunder."

Sec. 2. This Ordinance is effective upon adoption.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **City of High Point**

### **Zoning Case 08-17**

A request by the City of High Point City Council to rezone an approximately 32 acre parcel from the Conditional Use Light Industrial (CU-LI) District to an Agricultural (AG) District. The site is lying at the northwest corner of Gallimore Dairy Road and Pegg Road.

Mr. Shannon presented the request and recommended approval of the case as outlined in the staff report.

Speaking in favor of the request was the property owner's representative, Lynne Bostic of 400 Avalon Road in Winston-Salem. Ms. Bostic stated that all members of the family would like the agriculture zoning back since the original request to rezone it to CU-LI District was not accepted by all members of the family.

No one spoke in opposition to the request.

The Planning & Zoning Commission recommended ***approval*** of Zoning Case 08-17 by a vote of 7-0.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-17  
October 28, 2007**

|                                                           |                                                                                                                                                                                                                                                                                                                |                                                       |                                           |
|-----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-------------------------------------------|
| <b>Applicant:</b><br>City of High Point<br>(City Council) |                                                                                                                                                                                                                                                                                                                | <b>Owner:</b><br>R & J Hudson Family Limited Partners |                                           |
| <b>Proposal:</b> To rezone a 32 ± acre parcel             |                                                                                                                                                                                                                                                                                                                | <b>From:</b> <b>CU LI</b>                             | Conditional Use Light Industrial District |
|                                                           |                                                                                                                                                                                                                                                                                                                | <b>To:</b> <b>AG</b>                                  | Agricultural District                     |
| <b>Site Information</b>                                   |                                                                                                                                                                                                                                                                                                                |                                                       |                                           |
| <b>Location</b>                                           | The site is lying at the northwestern corner of Pegg Road and Gallimore Dairy Road, and is also known as Guilford County Tax Parcel 582-1-1.                                                                                                                                                                   |                                                       |                                           |
| <b>Site Acreage</b>                                       | Approximately 32 acres.                                                                                                                                                                                                                                                                                        |                                                       |                                           |
| <b>Current Land Use</b>                                   | Undeveloped                                                                                                                                                                                                                                                                                                    |                                                       |                                           |
| <b>Physical Characteristics</b>                           | The site is clear of mature vegetation except for a stand of trees along the eastern property line. The site slopes from the north toward the south & southwest.                                                                                                                                               |                                                       |                                           |
| <b>Prox. to Water &amp; Sewer</b>                         | City water and sewer utilities are available.                                                                                                                                                                                                                                                                  |                                                       |                                           |
| <b>Stormwater/ Drainage</b>                               | The site is located in the High Point City Lake General Watershed Area. Engineered stormwater measures are required for nonresidential development with an impervious surface area that is greater than 24% or more of the site and the total amount of impervious surface area is limited to 70% of the site. |                                                       |                                           |
| <b>Overlay Districts</b>                                  | High Point City Lake General Watershed Area;<br>Airport Overlay District- Zone 1                                                                                                                                                                                                                               |                                                       |                                           |

| <b>Site Access &amp; Street Classification</b> |                                                                                                     |                             |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------------------|
| <b>Street Name</b>                             | <b>Classification</b>                                                                               | <b>Approximate Frontage</b> |
| Pegg Road                                      | Collector                                                                                           | 2,400 feet                  |
| Gallimore Dairy Road                           | Major Thoroughfare                                                                                  | 550 feet                    |
| <b>Traffic Impact Analysis (TIA)</b>           | A TIA is not required based upon the requested zoning district and allowable uses of that district. |                             |



| Surrounding Area Zoning and Current Use |                                                   |                                                                                                                                                                                                 |                                                                  |
|-----------------------------------------|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| <b>North</b>                            | <b>CU LI</b>                                      | Conditional Use Light Industrial District                                                                                                                                                       | General Warehousing and distribution                             |
| <b>South</b>                            | <b>AG</b><br><b>CU-CP</b>                         | Agricultural District ( <i>Guilford County</i> )<br>Conditional Use Corporate Park District                                                                                                     | Single-family dwelling<br>Industrial use                         |
| <b>East</b>                             | <b>RS-20</b><br><br><b>CD-LI</b><br><br><b>AG</b> | Residential Single Family-20 District ( <i>City of Greensboro</i> ).<br>Conditional District Light Industrial District ( <i>City of Greensboro</i> )<br>Agricultural ( <i>Guilford County</i> ) | Single-family dwellings<br><br>Industrial use<br><br>Undeveloped |
| <b>West</b>                             | <b>CU LI</b><br><b>AG</b>                         | Conditional Use Light Industrial District<br>Agricultural ( <i>Guilford County</i> )                                                                                                            | Light industrial uses and undeveloped parcel                     |

| School District Information          |
|--------------------------------------|
| <b>Guilford County School System</b> |
| Not applicable to this zoning case.  |

| Relevant Land Use Policies and Related Zoning History    |                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Land Use Map Designation</b>                          | The site has a Restricted Industrial land use designation. This classification accommodates office, warehouse, research and development, distribution and light manufacturing or assembly uses on larger sites in unified developments.                                                                                                                                                              |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b> | This request is neither in conflict with the Land Use Plan's goals and objectives nor does it promote those goals and objectives.                                                                                                                                                                                                                                                                    |
| <b>Relevant Area Plans</b>                               | None                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Related Zoning History</b>                            | Based upon the Restricted Industrial land use designation, all zoning requests in this general area have consisted of either a Conditional Use Corporate Park (CU-CP) District or a Conditional Use Light Industrial (CU-LI) District with conditions to meet CP District standards. This current zoning site was annexed and granted a CU-LI District zoning in September 2007 (Zoning Case 07-26). |

### **Background Information:**

In September 2007, this site was presented to City Council for annexation and rezoning from the Agricultural (AG) District, within Guilford County's zoning jurisdiction, to a Conditional Use Light Industrial (CU-LI) District. At that time a developer was working with the partnership, which consists of multiple owners, to purchase the property for development of an industrial/corporate office campus. That annexation and zoning petition was approved and the parcel was officially annexed and zoned. Approximately 3 months after Council action, the developer decided not to purchase the property.

In July 2008, a partnership representative approached staff and noted that not all persons with an ownership interest in the property had signed the approved conditional use permit. The Development Ordinance notes that should the applicant/property owner(s) fail to accept any conditions; the authorization of such Conditional Use Permit shall be null and void and of no effect and proceeding shall be instituted to rezone the property to its previous zoning classification. The representative made a request to City Council that the city rezone the property back to an AG District until such time it is ready to be developed. A petition, signed by all persons with an ownership interest in the property, was presented with the request to Council. The City Council initiated this rezoning request at their September 2, 2008 meeting on behalf of R & J Hudson Family Limited Partners.

As mentioned, the property was annexed in 2007. The property will remain within the City, but the proposed AG District will act as a holding zone until such time as the property is ready to be developed. The northern portion of the City's planning area, between Eastchester Drive and Sandy Ridge Road, is primarily designated for Restricted Industrial uses. Also, the site is located in Zone 1 of the Airport Overlay District, which only allows nonresidential uses. Thus, in the future when the site is ready to be developed, it will most likely be rezoned to a zoning district consistent with the Restricted Industrial classification like in 2007.

**Issues:**

**Major Issues**

❖ None

**Minor Issues**

❖ None

**Recommendation:**

**Staff Recommends Approval**

The Planning and Development Department recommends approval of the request by the City of High Point, on behalf of R & J Hudson Family Limited Partners, to rezone a 32 acre parcel at the northwest corner of Pegg Road and Gallimore Dairy Road from Conditional Use Light Industrial (CU-LI) to Agricultural (AG) District.

This recommendation is made based on the staff's conclusion that the request does not conflict with the surrounding zoning or uses in this area and that the requested Agricultural (AG) District zoning is consistent with the City's Land Use Plan and will act as a holding district until parcels are ready to be developed.

**Action by the Planning and Zoning Commission**

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the

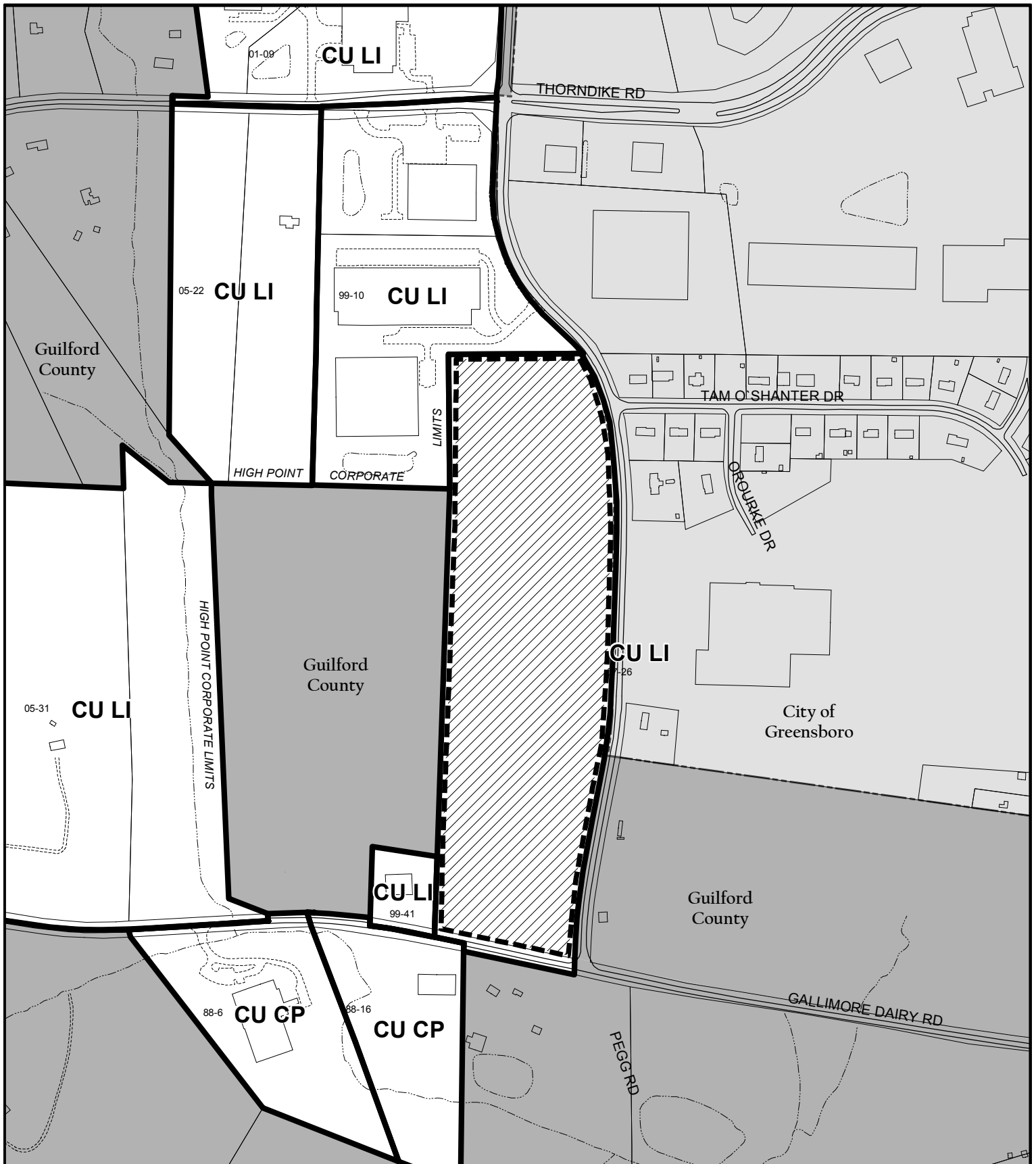
Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

**Action by the City Council**

Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request is reasonable and in the public interest because: 1) the majority of the undeveloped land area within the northern portion of the City's planning area has AG District zoning in Guilford County's jurisdiction; and 2) because the site is undeveloped, the requested AG District would be consistent with the City's Land Use Plan and act as a holding district until the site is ready to be developed.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.



## REZONING CASE 08-17

**From: Conditional Use Light Industrial  
To: Agricultural**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

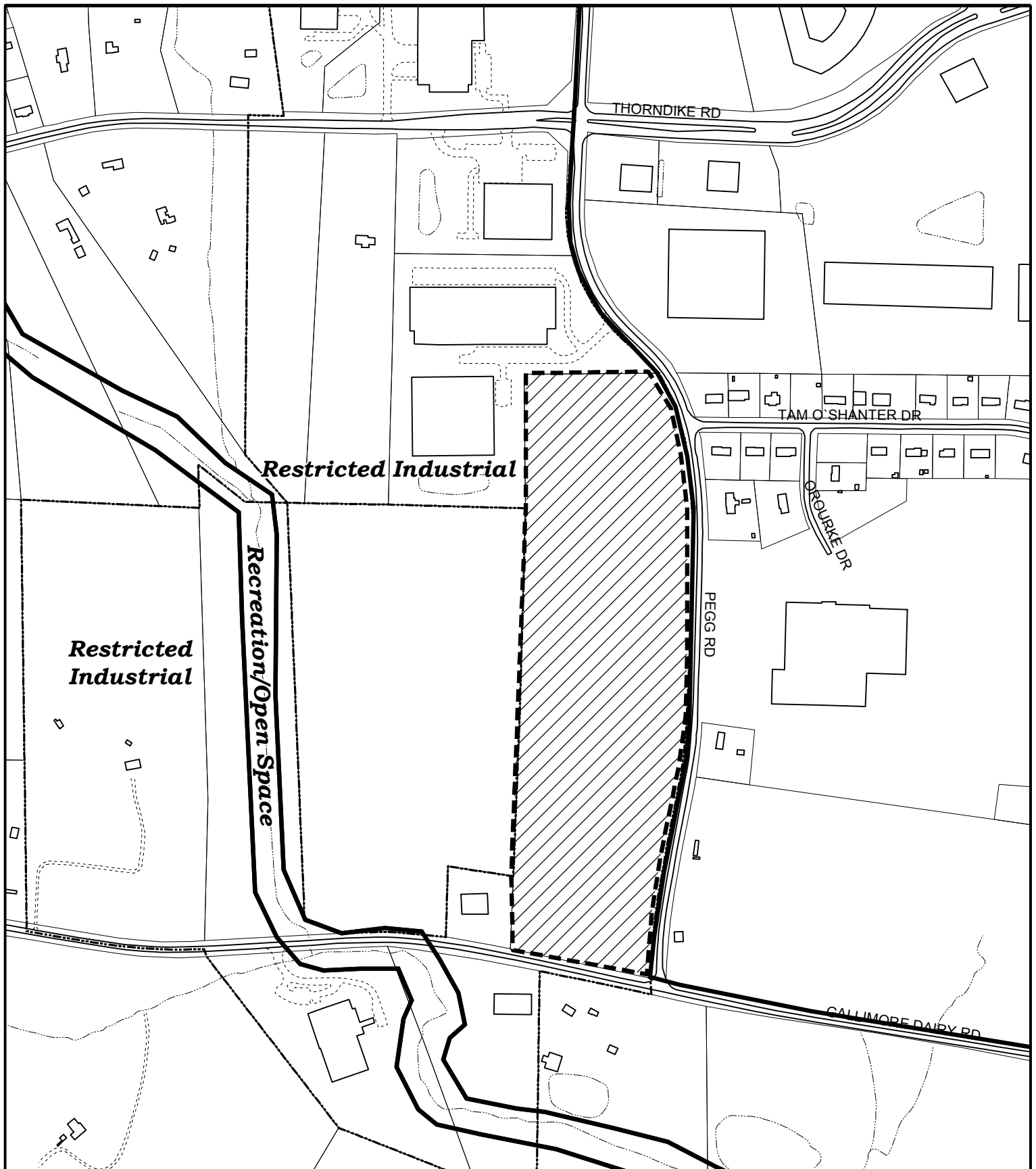
**Department of Planning  
and Development**

**City of High Point**

**Date: October 10, 2008**



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# **REZONING CASE 08-17**

**Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Department of Planning  
and Development**

**City of High Point**

**Date: October 21, 2008**



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# REZONING CASE 08-17

Topography

Subject Property Boundary - - - - -

Department of Planning  
and Development

City of High Point

Date: October 21, 2008

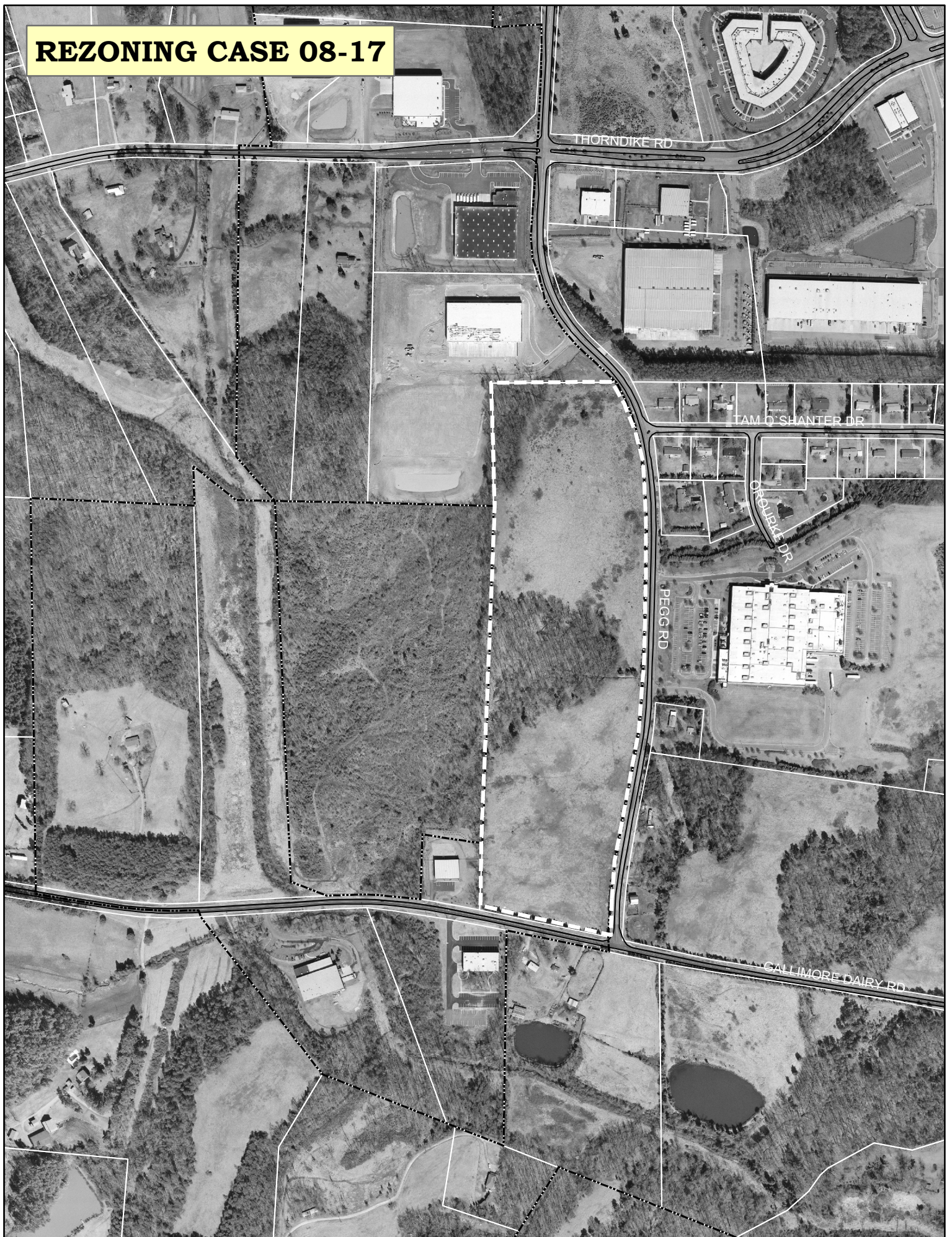


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**REZONING CASE 08-17**





## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Eastchester Park Partners, LLC**

### **Land Use Plan Amendment Case 08-04**

A request by Eastchester Park Partner, LLC to change the land use designation for approximately 4.7 acres from the Moderate Density Residential designation to an Office designation. The site is lying 250 feet east of Eastchester Drive, between Ambassador Court and Lassiter Drive. In addition, the request includes consideration of a recommendation by the Planning & Development Department for additional parcels lying along the south side of Lassiter Drive and west of Guyer Street to be designated Office.

&

### **Eastchester Park Partners, LLC**

### **Zoning Case 08-18**

#### **a. Conditional Use Public & Institutional (CU-PI) District.**

A request by Eastchester Park Partners, LLC to rezone an approximately 0.6 acre parcel from the Residential Single Family-9 (RS-9) District to a Conditional Use General Office Moderate Intensity (CU GO-M) District. The site is lying at the northwest corner of Guyer Street and Lassiter Drive (109 Lassiter Drive).

#### **b. Major Amendment to Conditional Use Permit 07-32**

A request by Eastchester Park Partners, LLC to amend the permit to add approximately 0.6 acres into the permit, to amend landscaping requirements and to add architectural design conditions.

Mr. Piper presented the Land Use Plan Amendment case and Mr. Shannon presented the rezoning application. Mr. Piper outlined staff's recommendation of approval for LUPA08-04, with revisions, as outlined in the staff report. Mr. Shannon outlined staff's recommendation that the zoning and major amendment be approved contingent upon approval of the land use plan amendment.

Speaking in favor of the request was the applicant's representative, R. W. Hamlett, Jr. of 5501 Guida Drive in Greensboro. Mr. Hamlett briefly stated that he hoped the conditions offered by the applicant had the support of the Commission.

No one spoke in opposition to the request.

The Planning & Zoning Commission recommended **approval** of Land Use Plan Amendment Case 08-04, Zoning Case 08-18 and Major Amendment to CUP07-32 by a vote of 7-0.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
LAND USE PLAN AMENDMENT CASE 08-04  
October 28, 2008**

|                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                    |                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| <p style="text-align: center;"><b>Applicant:</b><br/>Eastchester Park Partners, LLC</p>                                                                                                                         | <p style="text-align: center;"><b>Owners:</b><br/><b>Applicant requested area:</b><br/>Eastchester Park Partners, LLC, Eastchester Drive Association, LLC, Daisilyn Barrino, Donald &amp; Linda Sue Callahan<br/><b>Staff recommended additional area:</b><br/>Robert Poe, William Little, Larry &amp; Jane Asbill, Dahl Asbill, Hallelujah Baptist Church Full Gospel, and City of High Point</p> |                              |
| <p><b>Proposal:</b> Applicant proposes redesignation of approximately 4.89 acres for an expansion of a developing office park. Staff recommends adding 5.41 acres to this request for a total of 10.3 acres</p> | <b>From:</b>                                                                                                                                                                                                                                                                                                                                                                                       | Moderate Density Residential |
|                                                                                                                                                                                                                 | <b>To:</b>                                                                                                                                                                                                                                                                                                                                                                                         | Office                       |

| Site Information                    |                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                     | 250 feet east of Eastchester Dr. along the west side of Guyer St. between Lassiter Dr. and Ambassador Ct. and 200 feet south of Lassiter Dr.                                                                                                                                                                                                                         |
| <b>Acreage</b>                      | Approximately 4.89 acres (applicant request)<br>Approximately 10.3 acres (with recommended additional acreage)                                                                                                                                                                                                                                                       |
| <b>Current Land Use</b>             | <p><b>Applicant requested area:</b><br/>Single-family detached dwellings and property under development as an office park.</p> <p><b>Staff recommended additional area:</b><br/>Single-family detached and attached dwellings, fire station, church</p>                                                                                                              |
| <b>Existing Zoning District(s)</b>  | <p><b>Applicant requested area:</b><br/>Conditional Use General Office Moderate (CU GO-M) and Residential Single-family-9 (RS-9)</p> <p><b>Staff recommended additional area:</b><br/>Residential Single-family-9 (RS-9), Residential Single-family-12 (RS-12), Conditional Use Residential Multi-family-12 (CU RM-12), Conditional Use Limited Business (CU LB)</p> |
| <b>Physical Characteristics</b>     | Varied, generally draining to the east.                                                                                                                                                                                                                                                                                                                              |
| <b>Relevant Overlay District(s)</b> | City Lake Watershed Overlay District, Tier 4                                                                                                                                                                                                                                                                                                                         |

| <b>Street Access and Street Classification*</b> |                       |                             |
|-------------------------------------------------|-----------------------|-----------------------------|
| <b>Street Name</b>                              | <b>Classification</b> | <b>Approximate Frontage</b> |
| Guyer St.                                       | Local Street          | 1200 feet                   |
| Lassiter Dr.                                    | Local Street          | 450 feet                    |
| Ambassador Ct.                                  | Local Street          | 200 feet                    |

\* Based on the additional area recommended by staff

| <b>Surrounding Zoning and Current Use*</b> |                               |                                                                        |                                                    |
|--------------------------------------------|-------------------------------|------------------------------------------------------------------------|----------------------------------------------------|
| <b>North</b>                               | <b>RS-12</b>                  | Residential Single-family-12                                           | Church                                             |
| <b>South</b>                               | <b>RS-9</b><br><b>CU SC</b>   | Residential Single-family-9<br>Conditional Use Shopping Center         | Single-family dwellings and shopping center        |
| <b>East</b>                                | <b>RM-12</b><br><b>RS-12</b>  | Residential Multifamily-12<br>Residential Single-family-12             | Multi-family dwellings and single-family dwellings |
| <b>West</b>                                | <b>CU GO-M</b><br><b>GO-M</b> | Conditional Use General Office - Moderate<br>General Office - Moderate | Developing office park and medical office          |

\* Based on the additional area recommended by staff

| <b>Surrounding Land Use Designations*</b> |                                                        |
|-------------------------------------------|--------------------------------------------------------|
| <b>North</b>                              | Medium Density Residential                             |
| <b>South</b>                              | Low Density Residential                                |
| <b>East</b>                               | Low Density Residential and Medium Density Residential |
| <b>West</b>                               | Office and Local/Convenience Commercial                |

\* Based on the additional area recommended by staff

| <b>Purpose of Existing and Proposed Land Use Designations</b> |                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Existing Designation</b>                                   | <b>Moderate-Density Residential:</b> This classification includes a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities shall range from five to eight dwelling units per gross acre. |
| <b>Proposed Designation</b>                                   | <b>Office:</b> This classification includes professional, personal and business service uses.                                                                                                                                                                                       |

| <b>Land Use Plan Amendment History</b> |             |                                                                               |
|----------------------------------------|-------------|-------------------------------------------------------------------------------|
| <b>Case #</b>                          | <b>Date</b> | <b>Description</b>                                                            |
| NA                                     | NA          | There are no pertinent land use plan amendments in the vicinity of this case. |

### **Background**

The site is currently part of a larger site that is being developed as an office park subject to the Conditional Use Permit 07-32 approved in December 2007 and amended in March 2008. The applicant is requesting to expand the zoning and conditional use permit to property fronting on Guyer Street. The Eastchester Drive frontage of the site is designated Office. The applicant's request would expand the Office designation to cover the entire block, excluding the City's fire station and a small townhouse development. Staff believes the entire area designated Moderate



Density Residential should be considered for designation to Office given that all the properties have similar land use characteristics.

### **Relevant City Plans**

#### ***COMMUNITY GROWTH VISION STATEMENT***

This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.

#### ***LAND USE PLAN***

##### **Land Use Goals and Objectives**

- Goal 2: Encourage development that enhances and preserves established neighborhoods;
- Goal 5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area;
- Objective 8. Stimulate more efficient use of the City's land resources by encouraging infill, mixed-use, cluster development and higher residential densities at appropriate locations;
- Objective 9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;
- Objective 11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.

##### **Development Guidelines**

Office and Commercial Developments Bordering Residential Neighborhoods:

The evaluation of a Conditional Use Permit accompanying a rezoning request for a property(s) adjoining an established residential neighborhood which also fronts on a thoroughfare or collector street shall address the following:

- The mass, scale and height of the proposed use and accessory uses;
- The topography of the subject property(s) and adjacent residential uses;
- The effectiveness of maintaining neighborhood compatibility through the conversion of an existing residential structure to a non-residential use;
- The impact on the residential neighborhood of non-local traffic generated by the proposed use; and
- The sufficiency of the proposed buffering, setbacks and landscaping.

The intent of the Conditional Use Permit will be to minimize to the extent feasible the intrusive impact of the non-residential use on the adjacent neighborhood.

### *EASTCHESTER CORRIDOR PLAN*

The 1994 update to the *Eastchester Corridor Plan* encouraged high quality office development for properties with road frontage on Eastchester Drive. It also recommended appearance standards for all new uses other than single-family residential within the corridor. It discouraged the conversion of existing homes to office uses, except on smaller sites in close proximity to large residential subdivisions, in favor of moderate to high intensity office complexes.

### **Staff Analysis**

The applicant is requesting a Land Use Plan amendment for 4.89 acres to designate their proposed office site as Office. Staff recommends adding 5.41 acres to this request for a total of 10.3 acres. Specifically, staff recommends including the rest of the properties in the block – the fire station and the townhomes – as well as the five properties on the south side of Lassiter Dr., which consist of four single-family dwellings and a church, as shown on the attached map. This will result in a cohesive block of Office that is separated from the low and medium density residential areas by a collector street. Staff has included the five properties on the south side of Lassiter Dr. to avoid leaving a small “pocket” of moderate density residential of which fifty percent is in use by the church, and the remaining acreage is too small to be used for moderate density residential, but if combined may be able to support a small office use. All these properties have similar characteristics.

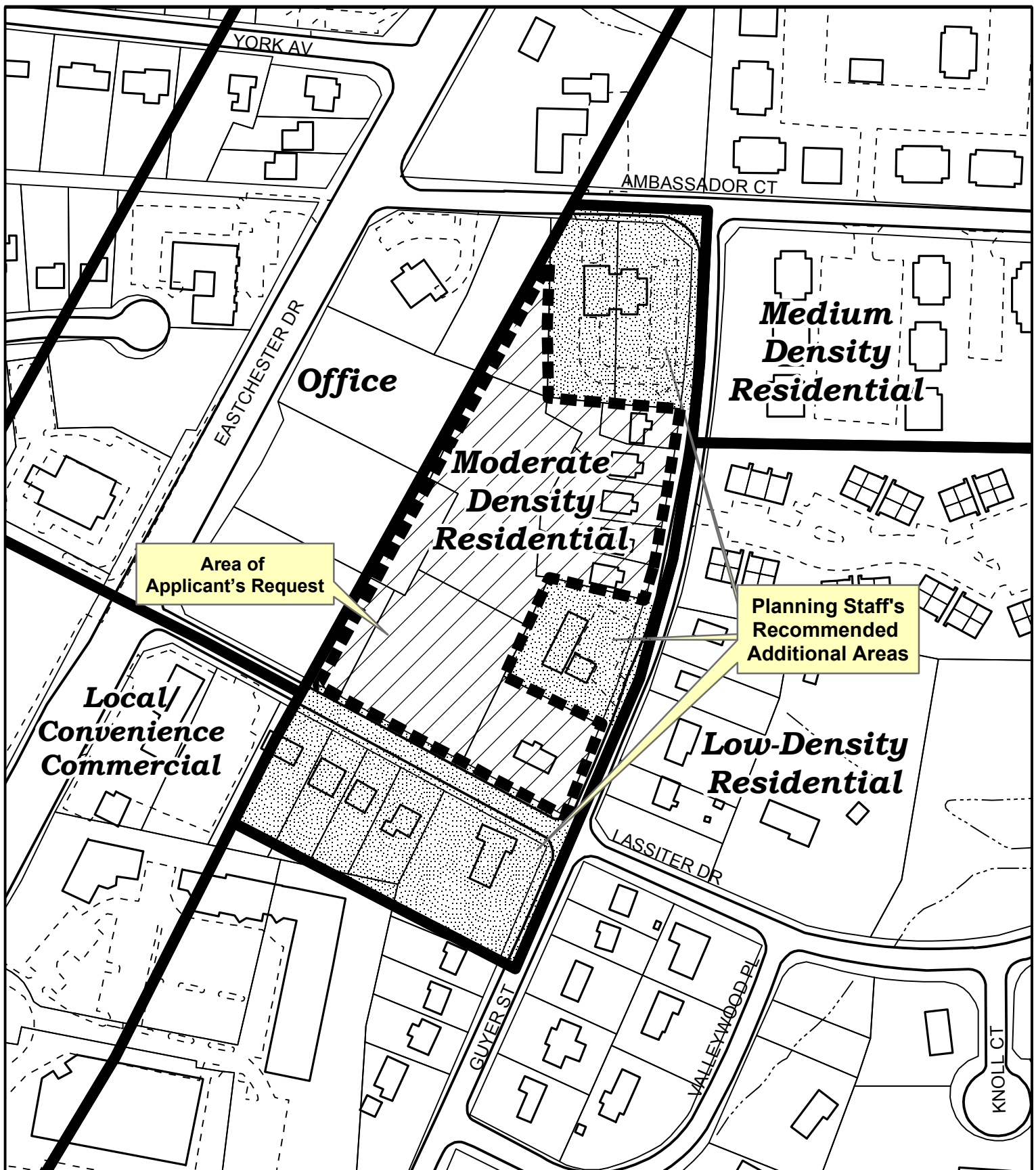
Almost half the block bounded by Eastchester Dr., Lassiter Dr., Guyer St. and Ambassador Ct. is already designated as Office on the City’s land use map. The issue is whether or not the expansion of the Office designation to the rest of the block is appropriate. Almost three-quarters of the block is already being developed as an office park, and with the addition of a property at the northwest corner of Guyer St. and Lassiter Dr., which is the subject of a related rezoning request, only two properties will remain on the block (the townhomes and the fire station).

This change in land use designation might be viewed as an intrusion into the existing residential neighborhood. Many of the relevant adopted City land use policies discuss the protection of existing neighborhoods when they abut non-residential uses, and the visual impact on the neighborhood is a concern. The treatment of the boundary between any office and residential uses in the redesignated area is important, and protection measures need to be established as part of the amended Conditional Use Permit to ensure that adjacent residences are not negatively impacted by the Office uses. Development guidelines for office and commercial developments that involve a Conditional Use Permit and border residential neighborhoods are listed in the land use plan policies.

Changing the land use designation of this area to Office meets the land use plan objective regarding infill development, which encourages an urban growth pattern that is a more efficient use of the city’s land resources. The Office designation also helps implement the recommendation in the *Eastchester Corridor Plan* for office development along Eastchester Dr.

### **Recommendation**

The Planning and Development Department recommends approval of this requested land use plan amendment from the Moderate Density Residential designation to the Office designation, including the additional area.



## LAND USE PLAN AMENDMENT 08-04

**Request: From: Moderate Denisty Residential**  
**To: Office**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=200'**

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**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-18  
October 28, 2008**

|                                                                                                                                                                             |                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant:</b><br>Eastchester Park Partners, LLC                                                                                                                         | <b>Owner:</b><br>Eastchester Park Partners, LLC and<br>Daisilyn Barrino                                                        |
| <b>Proposal:</b><br>1) Rezone a 0.6± acre parcel.<br>2) Add this parcel into CUP 07-32, amend landscaping conditions of the permit and add architectural design conditions. | <b>From: RS-9</b> Residential Single Family-9 District<br><b>To: CU GO-M</b> Conditional Use General Office Moderate Intensity |

| <b>Site Information</b>           |                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                   | Northwest corner of Guyer Street and Lassiter Drive (109 Lassiter Drive). The zoning site is also known as Guilford County Tax Parcel 287-2-16.                                                                                                                                                                                                                                           |
| <b>Site Acreage</b>               | Approximately 0.6 acres (25,600± sq. ft)                                                                                                                                                                                                                                                                                                                                                  |
| <b>Current Land Use</b>           | Single family detached dwelling.                                                                                                                                                                                                                                                                                                                                                          |
| <b>Physical Characteristics</b>   | The site has a gentle to moderately sloping terrain.                                                                                                                                                                                                                                                                                                                                      |
| <b>Prox. to Water &amp; Sewer</b> | City water and sewer utilities are currently available in this area.                                                                                                                                                                                                                                                                                                                      |
| <b>Stormwater/ Drainage</b>       | The site is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is greater than 24% or more of the site and for single family residential developments with a density of 2 units per acre or greater. |
| <b>Overlay Districts</b>          | City Lake General Watershed (GWA)                                                                                                                                                                                                                                                                                                                                                         |

| <b>Site Access &amp; Street Classification</b> |                                                                                                                                                                |                             |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| <b>Street Name</b>                             | <b>Classification</b>                                                                                                                                          | <b>Approximate Frontage</b> |
| Guyer Street                                   | Collector Street                                                                                                                                               | 150 ft.                     |
| Lassiter Drive                                 | Local Street                                                                                                                                                   | 180 ft.                     |
| <b>Traffic Impact Analysis (TIA)</b>           | A TIA is not required due to the size of this site, requested zoning district and allowable uses. A TIA was also not required for the initial zoning (Z07-32). |                             |

| <b>Surrounding Area Zoning and Current Use</b> |                 |                                                            |                                                                |
|------------------------------------------------|-----------------|------------------------------------------------------------|----------------------------------------------------------------|
| <b>North</b>                                   | <b>CU RM-12</b> | Conditional Use Residential Multifamily-12 District        | Townhome development                                           |
| <b>South</b>                                   | <b>RS-9</b>     | Residential Single Family-9 District                       | Church                                                         |
| <b>East</b>                                    | <b>RS-12</b>    | Residential Single Family-12 District                      | Single family dwellings                                        |
| <b>West</b>                                    | <b>CU GO-M</b>  | Conditional Use General Office Moderate Intensity District | Part of an office complex that is currently under construction |

| School District Information         |  |
|-------------------------------------|--|
| Not applicable to this zoning case. |  |

| Relevant Land Use Policies and Related Zoning History                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relevant Community Growth Vision Statement Goals &amp; Objectives</b> | This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Land Use Map Designation</b>                                          | <p>The zoning site has a Moderate-Density Residential designation. This designation is intended for a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities range from 5 to 8 units per acre.</p> <p>In conjunction with the zoning application, the applicant has also submitted a Land Use Plan Amendment application to change the designation of the zoning site and abutting parcel they own to an Office classification (See LUPA 08-04).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b>                 | <p>1) The following goals and objectives of the Land Use Plan are relevant to this request:</p> <p>Goal #2: Encourage development that enhances and preserves established neighborhoods.</p> <p>Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area;</p> <p>Obj. #8. Stimulate more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations;</p> <p>Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;</p> <p>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.</p> <p>2) <u>Development Guidelines (Office &amp; Commercial bordering residential neighborhoods):</u> Where zoning proposals for office or commercial zoning abuts an established residential neighborhood, the Land Use Plan notes the following should be considered and addressed within the application conditional use permit:</p> <ul style="list-style-type: none"> <li>• The mass, scale and height of the proposed use &amp; accessory uses.</li> <li>• The topography of the subject property(s) and adjacent residential uses.</li> </ul> |



|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                               | <ul style="list-style-type: none"><li>• The effectiveness of maintaining neighborhood compatibility through the conversion of an existing residential structure to a non-residential use.</li><li>• The impact on the residential neighborhood of non-local traffic generated by the proposed use.</li><li>• The sufficiency of the proposed buffering, setbacks and landscaping.</li><li>• The intent of the Conditional Use Permit will be to minimize to the extent feasible the intrusive impact of the non-residential use on the adjacent neighborhood.</li></ul>         |
| <b>Relevant Area Plans</b>    | <u>Eastchester Scenic Corridor</u> - The site is located within the area covered by the 1994 update to the Eastchester Corridor Plan, which encouraged high quality office development for properties with road frontage on Eastchester Drive. It also recommended appearance standards for all new uses other than single-family residential within the corridor. The plan discouraged the conversion of existing homes to office uses, except on smaller sites in close proximity to large residential subdivisions, in favor of moderate to high intensity office complexes. |
| <b>Related Zoning History</b> | <ol style="list-style-type: none"><li>1. In December 2007, the City Council rezoned the abutting 5.5 acres west of the zoning site, between Ambassador Court and Lassiter Drive, to the CU-GO-M District in order to develop an office complex (Zoning Case 07-32). In March 2008, this zoning request was expanded to add 1.26 acres along Guyer Street.</li><li>2. In 1988, the abutting townhome development to the north was approved for multifamily residential zoning.</li></ol>                                                                                         |

**Background Information:**

The applicant is proposing to rezone this 0.6 acre parcel from its current RS-9 District zoning to a CU GO-M District and add this parcel into Tract 1 (office tract) of CUP07-32, which is lying west of the zoning site. The permit for CUP07-32 divides the site into two tracts. Tract 1 consists of approximately 5.8 acres oriented toward Eastchester Drive and permits uses allowed in the GO-M district, except for residential uses. Tract 2 consists of 0.9 acres oriented toward Guyer Street where only residential uses are permitted.

Under this zoning proposal the access conditions of CUP07-32 will remain the same. Tract 1 is limited to only one point of access to Eastchester Drive that is restricted to a right-in only access, one access point to Lassiter Drive, one access point to Ambassador Court and no vehicular access from Tract 1 to Guyer Street. To ensure development of the rezoning site will be in harmony with the area, the applicant has offered to include the following conditions into CUP07-32 pertaining to this 0.6 acre zoning site:

- Maximum two story building height.
- Building facades facing Lassiter Drive and Guyer Street to include architectural features and articulations so as to not have a blank facade facing these roadways.

- Higher landscaping standards for the street planting yard facing Guyer Street. Instead of the required 8 foot wide street yard with 2 trees and 17 shrubs every 100 linear feet, the applicant has offered to provide a street yard with an average width of 20 feet and to increase the number of trees from 2 to 5 every 100 linear feet.
- Finally, if a majority of this parcel is used for parking, then a 5 foot high opaque fence is to be installed behind the street planting yard facing Guyer Street.

**Issues:**

**Major Issues**

- ❖ None

**Minor Issues**

- ❖ None

**Findings:**

Section 9-3-13 of the Development Ordinance requires that certain findings be made before a Zoning Map Amendment and Conditional Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

**That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds**

|                   |                                                                                                                  |
|-------------------|------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | ❖ Based upon existing access conditions within CUP07-32, the zoning request will not endanger the public safety. |
|-------------------|------------------------------------------------------------------------------------------------------------------|

**That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds**

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | <ul style="list-style-type: none"><li>❖ The character of this block has changed over the past 20 years from all single family zoning to a mixture of office, institutional and multifamily zoning. Based upon conditions offered by the applicant and allowable uses of the GO-M District, the requested GO-M District will be in harmony with the adjacent uses.</li><li>❖ The applicant is offering to make the entire zoning site subject to the higher standards of the Eastchester Scenic Corridor Overlay District. The higher standards of this overlay, including requirement for unified design of multi-building development, will further insure that the request will be in harmony with the surrounding area.</li></ul> |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds**

**Non-compliance**

- ❖ If the corresponding Land Use Plan Amendment (LUPA 08-04) for Office land use designation is approved, then the zoning request will be generally consistent with the City's Land Use Plan.

**Recommendation:**

**Staff Recommends Approval**

Subject to the approval of Land Use Plan Amendment 08-04, the Planning & Development Department offers a recommendation of approval of the request by Eastchester Park Partners, LLC to:

- Rezone an approximately 0.6 acre parcel, lying at the northwest corner of Guyer Street and Lassiter Drive, from the Residential Single Family-9 (RS-9) District to a Conditional Use General Office Moderate Intensity (CU GO-M) District;
- Revised Conditional Use Permit 07-32 (CUP 07-32) to add the 0.6 acre parcel into that permit; and
- Revise conditions of CUP07-32 pertaining to architectural & site design standards and landscaping.

This recommendation is made based on the staff's conclusion that subject to the approval of Land Use Plan Amendment 08-04, the zoning request is consistent with the City's Land Use Plan, and that based upon requirements of the Development Ordinance and conditions offered by the applicant within their conditional use permit, the rezoning of this property will generally be in harmony with the area.

**Action by the Planning and Zoning Commission**

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

**Action by the City Council**

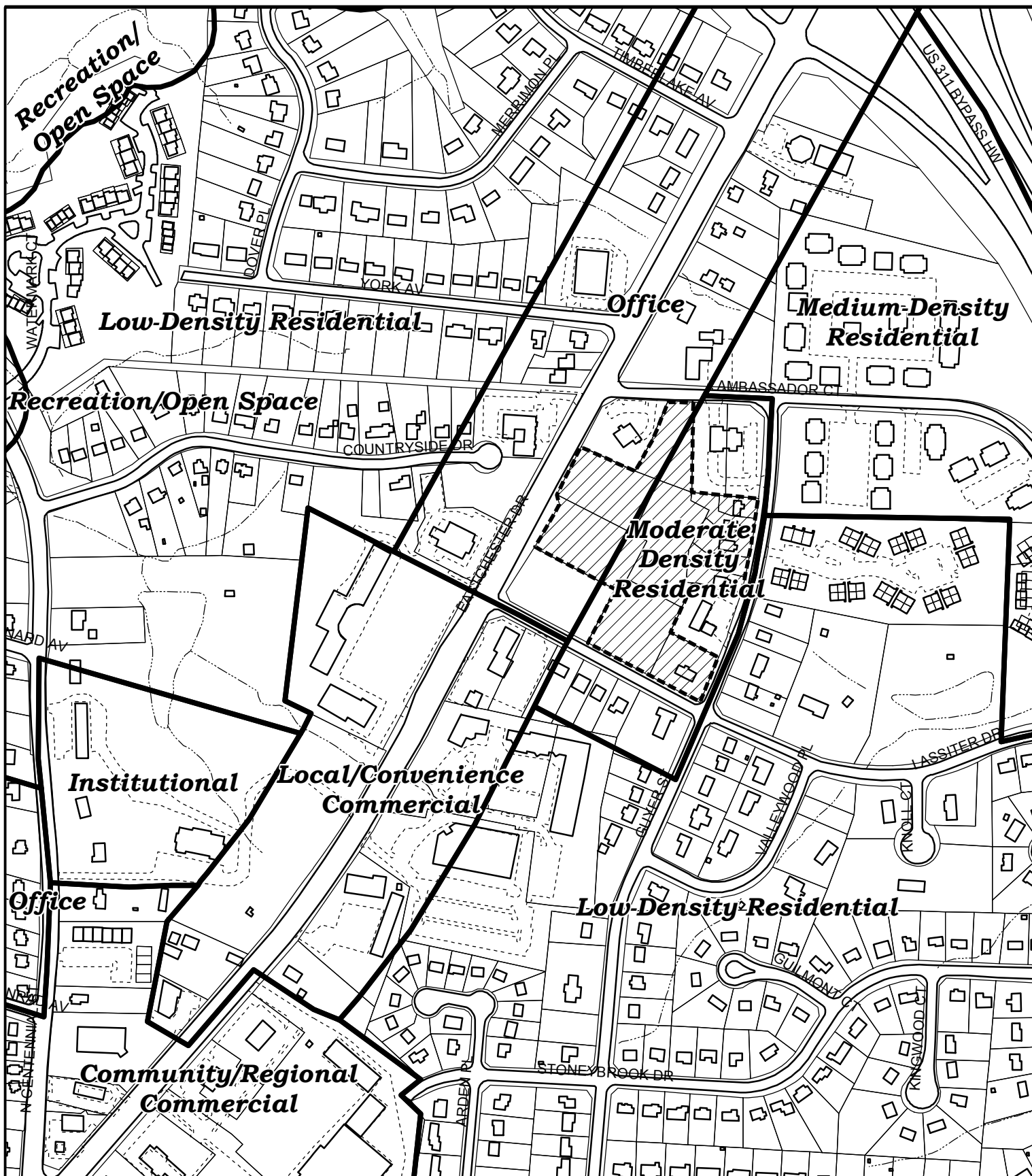
- A. Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.
- B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this

case, staff suggests that subject to the approval of Land Use Plan Amendment 08-04, the approval of the applicant's request, is reasonable and in the public interest because: 1) it meets the required findings for a conditional use zoning district as written in this report; 2) the character of this block has changed over the past 20 years from all single family zoning to a mixture of office, institutional and multifamily uses, based upon conditions offered by the applicant for limited building height and higher landscaping standards, the requested GO-M District will be in harmony with the surrounding area; 3) the Conditional Use Permit provides for controlled access to Tract 1 (office area to which the site will be added) and prohibits access to Tract 1 from Guyer Street; and 4) based upon approval of Land Use Plan Amendment 08-04, the request will be consistent with the city's land use plan for this area.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.

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# **REZONING CASE 08-18**

## **Land Use Plan**

**Existing Land Use Plan**

**Subject Property Boundary**



**Planning & Development  
Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=400'**

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z08-18\_ma07-32lu.mxd



## REZONING CASE 08-18

### Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 21, 2008



Scale: 1"=400'

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# REZONING CASE 08-18





**APPLICATION FOR A CONDITIONAL USE PERMIT**  
**CITY OF HIGH POINT, NORTH CAROLINA**  
**Conditional Use General Office-Moderate Intensity (CU GO-M) District**

December 3, 2007  
(Adopted)

March 17, 2008  
(Major Amendment)

September 15, 2008  
(Submitted Major Amendment)

TO THE CITY COUNCIL OF THE CITY OF HIGH POINT:

The undersigned hereby respectfully request that the High Point City Council, pursuant to Title 9, Chapter 3 of the City Code, grant a Conditional Use Permit for the following use(s), subject to the following conditions:

I. USES:

- A. Tract 1. - Any of those land uses allowed in the General Office-Moderate Intensity (GO-M) District shall be permitted, except those uses specifically prohibited by this Permit. All permitted uses shall be subject to the development and dimensional requirements of the Development Ordinance and the specific conditions listed in this Permit.
- B. Tract 2. - Only those land uses allowed in the General Office-Moderate Intensity (GO-M) District that are also allowed in the Residential Multifamily- 5 (RM-5) District shall be permitted. All permitted uses shall be subject to the development and dimensional requirements of the General Office-Moderate Intensity (GO-M) and the specific conditions listed in this Permit.

II. CONDITIONS:

- A. Prohibited Uses:
  - 1. Tract 1.
    - a. All Residential Uses.
    - b. Clubs and lodges
- B. Development & Dimensional Standards:
  - 1. Tract 1 of the zoning site shall be subject to the requirements of the Eastchester Scenic Corridor Overlay District (Section 9-4-4(c) of the Development Ordinance.

2. **Architectural & Site Design Standards: In addition to the architectural criteria of the Eastchester Scenic Corridor Overlay District, development upon the southeast corner of Tract 1 (180'x155' parcel at the intersection known as Guilford County Tax Parcel 287-2-16) shall be compatible with adjacent residential uses in regards to character, nature and appearance, and shall at a minimum include the following design criteria:**
  - a. **Maximum two-story building height.**
  - b. **Parapets shall be used to shield/hide roof top mechanical equipment from view of Lassiter Drive and Guyer Street.**
  - c. **Building façades facing Lassiter Drive and Guyer Street shall include architectural features and articulations so as to not have a blank façade facing these roadways.**
- C. **Lot Combination:** All parcels associated with Tract 1 of the rezoning site shall be combined into one lot prior to development and re-subdivision.
- D. **Landscaping:**
  1. In addition to the landscaping requirements of the Development Ordinance, a minimum six (6) foot high opaque fence shall be installed along the eastern boundary of Tract 1 of the zoning site, from the southwest corner of Guilford County Tax Parcel 287-2-2 (property of Fire Station #13), to the ~~Lassiter Drive right-of-way~~ **southwestern corner of Guilford County Tax Parcel 287-2-17.**
  2. **At the southeast corner of Tract 1 (180'x155' parcel at the intersection of Lassiter Drive & Guyer Street known as Guilford County Tax Parcel 287-2-16), the following higher landscaping standards shall apply:**
    - a) **The Street Yard landscaping area along Guyer Street shall have an average width of twenty (20) feet and minimum width of eight (8) feet and shall be planted to a Type C rate.**
    - b) **If a majority of this parcel is used as parking then a minimum five (5) foot high opaque fence shall be installed behind the Street Yard landscaping area that is oriented toward Guyer Street. This fencing shall be installed behind the Street Yard landscaping area.**
- E. **Transportation:**
  1. **Vehicular Access to Tract 1:**
    - a. Only a right-in access point shall be permitted to Eastchester Drive.
    - b. One (1) point of access shall be provided to Ambassador Court.
    - c. One (1) point of access shall be provided to Lassiter Drive.
    - d. In order to facilitate traffic circulation between properties, the parking area of the zoning site shall be designed to allow for at least one (1) connection



to Guilford County Tax Parcel 287-2-9, which is located at the northeast ~~southeast~~ corner of Eastchester Drive and Lassiter Drive.

- e. No vehicular access shall be permitted between Tract 1 and Tract 2.
- f. No access to Tract 1 shall be permitted from Guyer Street.

- 2. The City of High Point Director of Transportation shall approve the exact location and design of all access points and improvements.

**DESCRIPTION OF PROPERTY:** Approximately ~~6.54~~ **7.15** acres lying along the east side of Eastchester Drive, between Ambassador Court and Lassiter Drive. The site is also known as Guilford County Tax Parcel 287-2-3, 6, 7, 8, 14, 15, **16**, 18, 19, 20 & 21.

An application has been duly filed requesting that the property involved in this application be rezoned from the Conditional Use General Office-Moderate Intensity (CU GO-M) District, **Residential Single Family-9 (RS-9) District** and Residential Multifamily-5 (RM-5) District to an amended) Conditional Use General Office-Moderate Intensity (CU GO-M) District. It is understood and acknowledged that if the property is rezoned as requested and the Conditional Use Permit authorized, the property described in this request will be perpetually bound by the use(s) authorized and the conditions imposed, unless subsequently changed or amended as provided for a Title 9, Chapter 3, of the City Code.

It is further understood and acknowledged that plans for any development to be made pursuant to any such Conditional Use Permit so authorized shall be submitted to the Technical Review Committee and/or other such approval authorities for review in the same manner as other such plans now required to be approved by the City of High Point.



September 23, 2008

**To:** Lee Burnette, Director of Planning and Development  
**From:** Mark McDonald, P.E., Transportation Director *MM*  
**Subject:** **Rezoning Case #08-18**, Eastchester Park Partners, LLC. Property located at the northwest corner of Guyer Street and Lassiter Drive.

---

My staff and I have reviewed the rezoning request and have the following comments:

A traffic impact analysis was not required for this development. To require a traffic study the proposed development must be expected to produce at least one hundred and fifty (150) trips in the AM or PM peak hour. In order to mitigate the development's impact on the surrounding roadway network the following improvements will be required:

Access

Access to the rezoning site shall be made via a parking lot-type connection to tax parcel 18-00-0287-0-0002-00-008. With reference to Rezoning Case #07-32, no additional access will be allowed from the rezoning site to either Guyer Street, Lassiter Drive, Ambassador Court, or Eastchester Drive.

The City of High Point Transportation Director shall approve all construction and improvements.

If you have any questions or would like to further discuss this case, please advise.

# **Citizens Information Meeting Report**

## **Zoning Case 08-18**

### **Major Amendment CUP07-32**

Submitted by: Hugh Creed Associates, Inc.; on behalf  
of Eastchester Park Partners, LLC

Report  
Citizen Information Meeting  
Held October 1, 2008 at 5:00PM

The meeting was held at the High Point Fire Station #13 at 2414 Ambassador Court, High Point, NC adjacent to the site. There was 1 property owner and 4 firemen from the host fire station in attendance, as follows: Dennis Sink (2508 Guyer Street), Burt Blakley (fireman), Phillip Shields (fireman), Nathan Thomas (fireman), Mark Holmes (fireman).

The handwritten sign-in sheet is attached.

Also in attendance were RW Hamlett, Jr., owner and developer of site and Norris Z. Clayton, PE, of Hugh Creed Associates, Inc, PA, Engineers for the development.

A notification letter dated and mailed on September 26, 2008 was sent to 74 parties as supplied by the High Point Planning Department. The list of parties and addresses to which it was mailed is attached along with the notification letter and the required statement provided by the High Point Planning and Development Department.

At the meeting a map of the proposed site was placed on a large table in the fire station lounge area and everyone was seated around the table.

Mr. Hamlett opened the meeting by introducing himself and his Engineer and asked everyone attending to introduce themselves and to sign the attendance record. Mr. Hamlett then proceeded by giving an overview of the project including the following points:

1. This rezoning request is for the property at the northwest corner of Lassiter Drive and Guyer Street (109 Lassiter Drive) to be rezoned from residential zoning RS-9 to General office Moderate Intensity Zoning GO-M. The property would be combined with the office complex presently under construction. As shown on the sketch plan, it is presently intended to be used as a parking lot for office buildings within the complex. However, should parking requirements change that would reduce the amount of parking required, an office building may be proposed for this lot. If so it would be designed as a one story building with a pitched roof and an architectural character and style conducive to the resident neighborhood.
2. There would be no access off of Guyer Street into the property.
3. To help buffer the lot from the residential neighborhood we have proposed to landscape along Lassiter Drive and Guyer Street at twice the required planning rates.

Questions asked by attendees:

Are there any plans to add the remaining apartment site on Guyer Street (2603 Guyer Street) to the development?

Mr. Hamlett said that the owner of the apartments had approached him about selling the apartments but because of the excessive slope on the property it would be difficult to incorporate it into the present development and that he has no plans to incorporate this lot into the development at this time.

Are there any concerns for "cut through" traffic between Lassiter Drive and Ambassador Court going through the project?

Mr. Hamlett said that although it was not anticipated, it has been discussed and if it was determined to be a problem, a series of speed bumps would be installed within the project to deter such activity.

Mr. Hamlett said that he had been contacted by Larry Asbil (104 Lassiter Drive), Dr. Bill Harold (1300 Eastchester Drive) and Don Callahan (2605-2613 Guyer Street) who had received the notice of the meeting but could not attend. He discussed the rezoning with them on the phone and they had no objections. Mr. Hamlett thanked everyone for coming and the meeting was adjourned.

Submitted by:  
Hugh Creed Associates, Inc, PA

A handwritten signature in black ink, appearing to read "Norris Z. Clayton".

Norris Z. Clayton, PE, PLS



SIGN-IN  
NEIGHBORHOOD MEETING  
OCT. 1, 2008

|    | <u>NAME</u>         | <u>ADDRESS</u>          | <u>TELE</u> |
|----|---------------------|-------------------------|-------------|
| 1. | Burt Blakely        |                         | 888-3013    |
| 2. | Phillip Shields     | 7820 Clarendon Farms Rd | 841-7068    |
| 3. | Nathan Thomas       |                         | 749-0551    |
| 4. | MARK HOLMES         |                         | 253-5565    |
| 5. | WILLIAM HAMLETT, Jr |                         | 908-6354    |
| 6. | DENNIS SINK         | 2508 GUYER ST           |             |
| 7. |                     |                         |             |
| 8. |                     |                         |             |

EASTCHESTER PARK PARTNERS, LLC  
5501 GUIDA DRIVE  
GREENSBORO, NC 27410  
TELE: (336) 908 -6354

September 26, 2008

Dear Neighbor:

The purpose of this letter is to notify you of a citizen information meeting being held concerning a request for rezoning the lot at 109 Lassiter Drive. The meeting will be held at The High Point Fire Station at 2414 Ambassador Court on Wednesday, October 1, 2008 at 5:00pm.

We have applied to rezone the lot from RS-9 to GO-M (General Office Moderate Intensity). We intend to combine this property with the present property on Eastchester, Lassiter and Ambassador Drives, already zoned GO-M, and being developed as commercial/office site. A preliminary site plan has been prepared for study and illustrative purposes, and will be presented at this meeting.

At the citizen's information meeting you will be able to meet with me, learn more about our plans and our approach to development, and of course ask any questions you may have about it. Our goal is to create an inviting, well planned, and successful business community meeting the City of High Point requirements on this property.

Enclosed is a required statement provided by the High Point Planning & Development Department outlining the purpose of the citizen's information meeting and the zoning process.

I look forward to seeing you at the meeting.

Sincerely,

*R.W. Hamlett, Jr.*

R.W. Hamlett, Jr.

ADM LLC  
1403 EASTCHESTER DR STE 101  
HIGH POINT NC 27265

ASBILL DAHL  
1210 DOGWOOD LN  
ARCHDALE NC 272630000

ASBILL LARRY & JANE  
4812 HUFF RD  
ARCHDALE NC 272637827

BARRCANNON CORP LIMITED LIABILITY CO  
1403 EASTCHESTER DR STE 102  
HIGH POINT NC 27265

BARRINO DAISILYN  
109 LASSITER DR  
HIGH POINT NC 272652443

BEASLEY VIRGINIA HEIRS  
1605 LAZY LN  
HIGH POINT NC 272650000

BEDIAKO DANIEL K & ESTHER C  
ACKURANG  
2640-1C GUYER ST  
HIGH POINT NC 272650000

BELL-PRIOLEAU TERETHA  
5700 CONTINENTAL WAY #1  
RALEIGH NC 276105400

BOONE ANTOINE & KATHY  
2640-1B GUYER ST  
HIGH POINT NC 272650000

BURTON DAVID B & MICKI R  
2502 GUYER ST  
HIGH POINT NC 272650000

BYERS FATINA DYVONNE  
2909 CENTRAL AVE  
HIGH POINT NC 272606007

CALLAHAN DONALD W & LINDA SUE  
1621 STALEY RD  
HIGH POINT NC 272652421

CARMICHAEL BILLY & PAMELA  
1605 VALLEYWOOD PL  
HIGH POINT NC 272650000

CENTRAL CAROLINA PROPERTIES  
801 E CENTER ST  
LEXINGTON NC 272924401

CHANEY ESTHER PHILLIPS  
1529 EASTCHESTER DR  
HIGH POINT NC 272652309

CHAPMAN BARBARA L & CONTESSA  
LADAWN CULLINS  
2616-1A GUYER ST  
HIGH POINT NC 272650000

CHRISTY PEGGY B  
1622 YORK AVE  
HIGH POINT NC 272652353

CLINARD LAURA W  
1629 ABBOTTS CREEK CHURCH RD  
HIGH POINT NC 272657511

CLINARD OIL CO  
PO BOX 1007  
THOMASVILLE NC 27360

COLLINS DENNIS EAGER  
2616-1B GUYER ST  
HIGH POINT NC 272650000

COLLINS EMMANUEL G JR  
315 SKATE DR  
TALLAHASSEE FL 323120000

CRAFT BONNIE AUSTIN  
2640-2A GUYER ST  
HIGH POINT NC 272650000

DAVIS AMANDA M  
1135 COUNTRYSIDE DR  
HIGH POINT NC 272650000

DIXON ANNIE RUTH  
2510 GUYER ST  
HIGH POINT NC 272650000

DOZIER STEVIE LYNN  
2616-2C GUYER ST  
HIGH POINT NC 272650000

EASTCHESTER COMMONS INC ATTN DON  
VUNCANNON HOMEOWNERS ASSOCIATION  
1403 EASTCHESTER DR SUITE 102  
HIGH POINT NC 272650000

EASTCHESTER DEVELOPMENT LLC  
PO BOX 5545  
HIGH POINT NC 272620000

EASTCHESTER DEVELOPMENT LLC  
1414 LONG ST  
HIGH POINT NC 272620000

EASTCHESTER DRIVE ASSOC LLC ATTN:  
DR HAROLD  
2325 SUNSET AVE  
ROCKY MOUNT NC 278040000

EASTCHESTER PARK PARTNERS LLC  
5501 GUIDA DR  
GREENSBORO NC 27410

FARLEY KENNETH E & LASHAWN D FARLEY  
2646-1C GUYER ST  
HIGH POINT NC 272650000

FIELDS R HAMPTON & KAY C  
2701 OBERLIN RD  
RALEIGH NC 276080000

GOINS RICKY L & PRECIOUS H  
1433 ABBOTTS CREEK CI  
KERNERSVILLE NC 272843759

GRIPPER CHARITA C  
2612-2C GUYER ST  
HIGH POINT NC 27265

GRIPPER-CRAWFORD MARGARET A  
3808 EASTERN AVE NE  
WASHINGTON DC 200180000

HALLELUJAH BAPTIST CHURCH FULL  
GOSPEL  
2511 GUYER ST  
HIGH POINT NC 272650000

HARRISON MAURICE R  
2646 GUYER ST UNIT 1-B  
HIGH POINT NC 272650000

HERNDON COURTNEY M  
4610 GARDEN CLUB ST  
HIGH POINT NC 272650000

JENSON SCOTT M GST TRUST  
1900 BRASSFIELD RD  
GREENSBORO NC 274102154

LASANE ANGELA DENISE  
2616-1D GUYER ST  
HIGH POINT NC 272650000

LEWALLEN JIMMY R & PATSY H  
1616 YORK AVE  
HIGH POINT NC 272652353

LEWIS JOHN A & LUCILLE S  
2507 GUYER ST  
HIGH POINT NC 272652435

LITTLE WILLIAM THOMAS  
1408 CLOVERDALE ST APT A  
HIGH POINT NC 272604661

MABE BRADLEY TODD TRUST  
4111 GREENVALLEY DR  
HIGH POINT NC 272620000

MABE R WAYNE  
1224 EASTCHESTER DR  
HIGH POINT NC 272653116

MCMELLON EVERETT A & VERA B  
1222 TANGLEWOOD AVE  
HIGH POINT NC 272652239

MISHOE TERRY L & CAROLYN P  
1198 JOE MOORE RD  
THOMASVILLE NC 273600000

MULL ELAINE C  
2612-1D GUYER ST  
HIGH POINT NC 272650000

NORTHWOOD UNITED METH CHURCH  
2409 AMBASSADOR CT  
HIGH POINT NC 272652439

NOVASTAR MORTGAGE INC  
8140 WARD PARKWAY  
KANSAS CITY MO 64114

OAK HOLLOW ACQUISITION LLC  
65 HARRISTOWN RD SUITE 301  
GLEN ROCK NJ 7452

OERTER JAMES J  
1525 EASTCHESTER DR  
HIGH POINT NC 272650000

PAINTER KEVIN R  
2612-1B GUYER ST  
HIGH POINT NC 272650000

PEELER THOMAS ANDREW  
2616-2A GUYER ST  
HIGH POINT NC 272650000

PETERSON MAMIE E & DWIGHT  
2612 GUYER ST UNIT 8  
HIGH POINT NC 27265

PIERCE HOMES OF CAROLINA INC  
222-6 SWING RD  
GREENSBORO NC 274082024

POE ROBERT  
3062 WINDCHASE CT  
HIGH POINT NC 272650000

REYNA VICTOR HUGO REYNA  
2640-1D GUYER ST  
HIGH POINT NC 272650000

S & S REALTY LLC  
31 RIVER OAKS CIRCLE EAST  
BUFFALO GROVE IL 60089

SANCHEZ ANGEL LUIS  
2605 GUYER ST  
HIGH POINT NC 272650000

SHACKLETT MARY M  
203 LASSITER DR  
HIGH POINT NC 272652445

SHENBERGER FRANCIS E  
2600 GUYER ST  
HIGH POINT NC 27265

SINK DENNIS EDWARD  
2508 GUYER ST  
HIGH POINT NC 272652436

SMITH BARBARA Y  
1003 SHAMROCK RD  
HIGH POINT NC 272650000

SOUTHWOOD REALTY CO  
PO BOX 280  
GASTONIA NC 280530280

SPELLER AUDREY L & LAKISHA D  
2640-2C GUYER ST  
HIGH POINT NC 27265

SUA DANGBE R & LOU S  
1611 VALLEYWOOD DR  
HIGH POINT NC 272650000

SURRETT MARJORIE I  
6802 CECIL FARM ROAD  
HIGH POINT NC 272639409

TANNER ALBERT & LINDA  
2606 GUYER ST  
HIGH POINT NC 272652438

THIGPEN ANGELA EVETTE  
2616-2D GUYER ST  
HIGH POINT NC 272650000

THOMAS-PARKER REGINA  
2640-2B GUYER ST  
HIGH POINT NC 272650000

THOMPSON DAVID A & DEBRA J  
2602 GUYER ST  
HIGH POINT NC 272650000

WHITE RODERICK A & COURTNEY T  
14 SARRINGTON CT  
STAFFORD VA 22554

ZHAO YI MEI  
1609 VALLEYWOOD PL  
HIGH POINT NC 272650000



## PLANNING AND ZONING COMMISSION RECOMMENDATION

On October 28, 2008, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Joe Humble and Mr. Jim White.

### **Eastchester Park Partners, LLC**

### **Land Use Plan Amendment Case 08-04**

A request by Eastchester Park Partner, LLC to change the land use designation for approximately 4.7 acres from the Moderate Density Residential designation to an Office designation. The site is lying 250 feet east of Eastchester Drive, between Ambassador Court and Lassiter Drive. In addition, the request includes consideration of a recommendation by the Planning & Development Department for additional parcels lying along the south side of Lassiter Drive and west of Guyer Street to be designated Office.

&

### **Eastchester Park Partners, LLC**

### **Zoning Case 08-18**

#### **a. Conditional Use Public & Institutional (CU-PI) District.**

A request by Eastchester Park Partners, LLC to rezone an approximately 0.6 acre parcel from the Residential Single Family-9 (RS-9) District to a Conditional Use General Office Moderate Intensity (CU GO-M) District. The site is lying at the northwest corner of Guyer Street and Lassiter Drive (109 Lassiter Drive).

#### **b. Major Amendment to Conditional Use Permit 07-32**

A request by Eastchester Park Partners, LLC to amend the permit to add approximately 0.6 acres into the permit, to amend landscaping requirements and to add architectural design conditions.

Mr. Piper presented the Land Use Plan Amendment case and Mr. Shannon presented the rezoning application. Mr. Piper outlined staff's recommendation of approval for LUPA08-04, with revisions, as outlined in the staff report. Mr. Shannon outlined staff's recommendation that the zoning and major amendment be approved contingent upon approval of the land use plan amendment.

Speaking in favor of the request was the applicant's representative, R. W. Hamlett, Jr. of 5501 Guida Drive in Greensboro. Mr. Hamlett briefly stated that he hoped the conditions offered by the applicant had the support of the Commission.

No one spoke in opposition to the request.

The Planning & Zoning Commission recommended **approval** of Land Use Plan Amendment Case 08-04, Zoning Case 08-18 and Major Amendment to CUP07-32 by a vote of 7-0.

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
LAND USE PLAN AMENDMENT CASE 08-04  
October 28, 2008**

|                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                    |                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| <p style="text-align: center;"><b>Applicant:</b><br/>Eastchester Park Partners, LLC</p>                                                                                                                         | <p style="text-align: center;"><b>Owners:</b><br/><b>Applicant requested area:</b><br/>Eastchester Park Partners, LLC, Eastchester Drive Association, LLC, Daisilyn Barrino, Donald &amp; Linda Sue Callahan<br/><b>Staff recommended additional area:</b><br/>Robert Poe, William Little, Larry &amp; Jane Asbill, Dahl Asbill, Hallelujah Baptist Church Full Gospel, and City of High Point</p> |                              |
| <p><b>Proposal:</b> Applicant proposes redesignation of approximately 4.89 acres for an expansion of a developing office park. Staff recommends adding 5.41 acres to this request for a total of 10.3 acres</p> | <b>From:</b>                                                                                                                                                                                                                                                                                                                                                                                       | Moderate Density Residential |
|                                                                                                                                                                                                                 | <b>To:</b>                                                                                                                                                                                                                                                                                                                                                                                         | Office                       |

| Site Information                    |                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                     | 250 feet east of Eastchester Dr. along the west side of Guyer St. between Lassiter Dr. and Ambassador Ct. and 200 feet south of Lassiter Dr.                                                                                                                                                                                                                         |
| <b>Acreage</b>                      | Approximately 4.89 acres (applicant request)<br>Approximately 10.3 acres (with recommended additional acreage)                                                                                                                                                                                                                                                       |
| <b>Current Land Use</b>             | <p><b>Applicant requested area:</b><br/>Single-family detached dwellings and property under development as an office park.</p> <p><b>Staff recommended additional area:</b><br/>Single-family detached and attached dwellings, fire station, church</p>                                                                                                              |
| <b>Existing Zoning District(s)</b>  | <p><b>Applicant requested area:</b><br/>Conditional Use General Office Moderate (CU GO-M) and Residential Single-family-9 (RS-9)</p> <p><b>Staff recommended additional area:</b><br/>Residential Single-family-9 (RS-9), Residential Single-family-12 (RS-12), Conditional Use Residential Multi-family-12 (CU RM-12), Conditional Use Limited Business (CU LB)</p> |
| <b>Physical Characteristics</b>     | Varied, generally draining to the east.                                                                                                                                                                                                                                                                                                                              |
| <b>Relevant Overlay District(s)</b> | City Lake Watershed Overlay District, Tier 4                                                                                                                                                                                                                                                                                                                         |

| <b>Street Access and Street Classification*</b> |                       |                             |
|-------------------------------------------------|-----------------------|-----------------------------|
| <b>Street Name</b>                              | <b>Classification</b> | <b>Approximate Frontage</b> |
| Guyer St.                                       | Local Street          | 1200 feet                   |
| Lassiter Dr.                                    | Local Street          | 450 feet                    |
| Ambassador Ct.                                  | Local Street          | 200 feet                    |

\* Based on the additional area recommended by staff

| <b>Surrounding Zoning and Current Use*</b> |                               |                                                                        |                                                    |
|--------------------------------------------|-------------------------------|------------------------------------------------------------------------|----------------------------------------------------|
| <b>North</b>                               | <b>RS-12</b>                  | Residential Single-family-12                                           | Church                                             |
| <b>South</b>                               | <b>RS-9</b><br><b>CU SC</b>   | Residential Single-family-9<br>Conditional Use Shopping Center         | Single-family dwellings and shopping center        |
| <b>East</b>                                | <b>RM-12</b><br><b>RS-12</b>  | Residential Multifamily-12<br>Residential Single-family-12             | Multi-family dwellings and single-family dwellings |
| <b>West</b>                                | <b>CU GO-M</b><br><b>GO-M</b> | Conditional Use General Office - Moderate<br>General Office - Moderate | Developing office park and medical office          |

\* Based on the additional area recommended by staff

| <b>Surrounding Land Use Designations*</b> |                                                        |
|-------------------------------------------|--------------------------------------------------------|
| <b>North</b>                              | Medium Density Residential                             |
| <b>South</b>                              | Low Density Residential                                |
| <b>East</b>                               | Low Density Residential and Medium Density Residential |
| <b>West</b>                               | Office and Local/Convenience Commercial                |

\* Based on the additional area recommended by staff

| <b>Purpose of Existing and Proposed Land Use Designations</b> |                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Existing Designation</b>                                   | <b>Moderate-Density Residential:</b> This classification includes a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities shall range from five to eight dwelling units per gross acre. |
| <b>Proposed Designation</b>                                   | <b>Office:</b> This classification includes professional, personal and business service uses.                                                                                                                                                                                       |

| <b>Land Use Plan Amendment History</b> |             |                                                                               |
|----------------------------------------|-------------|-------------------------------------------------------------------------------|
| <b>Case #</b>                          | <b>Date</b> | <b>Description</b>                                                            |
| NA                                     | NA          | There are no pertinent land use plan amendments in the vicinity of this case. |

### **Background**

The site is currently part of a larger site that is being developed as an office park subject to the Conditional Use Permit 07-32 approved in December 2007 and amended in March 2008. The applicant is requesting to expand the zoning and conditional use permit to property fronting on Guyer Street. The Eastchester Drive frontage of the site is designated Office. The applicant's request would expand the Office designation to cover the entire block, excluding the City's fire station and a small townhouse development. Staff believes the entire area designated Moderate

Density Residential should be considered for designation to Office given that all the properties have similar land use characteristics.

### **Relevant City Plans**

#### ***COMMUNITY GROWTH VISION STATEMENT***

This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.

#### ***LAND USE PLAN***

##### **Land Use Goals and Objectives**

- Goal 2: Encourage development that enhances and preserves established neighborhoods;
- Goal 5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area;
- Objective 8. Stimulate more efficient use of the City's land resources by encouraging infill, mixed-use, cluster development and higher residential densities at appropriate locations;
- Objective 9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;
- Objective 11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.

##### **Development Guidelines**

Office and Commercial Developments Bordering Residential Neighborhoods:

The evaluation of a Conditional Use Permit accompanying a rezoning request for a property(s) adjoining an established residential neighborhood which also fronts on a thoroughfare or collector street shall address the following:

- The mass, scale and height of the proposed use and accessory uses;
- The topography of the subject property(s) and adjacent residential uses;
- The effectiveness of maintaining neighborhood compatibility through the conversion of an existing residential structure to a non-residential use;
- The impact on the residential neighborhood of non-local traffic generated by the proposed use; and
- The sufficiency of the proposed buffering, setbacks and landscaping.

The intent of the Conditional Use Permit will be to minimize to the extent feasible the intrusive impact of the non-residential use on the adjacent neighborhood.

### *EASTCHESTER CORRIDOR PLAN*

The 1994 update to the *Eastchester Corridor Plan* encouraged high quality office development for properties with road frontage on Eastchester Drive. It also recommended appearance standards for all new uses other than single-family residential within the corridor. It discouraged the conversion of existing homes to office uses, except on smaller sites in close proximity to large residential subdivisions, in favor of moderate to high intensity office complexes.

### **Staff Analysis**

The applicant is requesting a Land Use Plan amendment for 4.89 acres to designate their proposed office site as Office. Staff recommends adding 5.41 acres to this request for a total of 10.3 acres. Specifically, staff recommends including the rest of the properties in the block – the fire station and the townhomes – as well as the five properties on the south side of Lassiter Dr., which consist of four single-family dwellings and a church, as shown on the attached map. This will result in a cohesive block of Office that is separated from the low and medium density residential areas by a collector street. Staff has included the five properties on the south side of Lassiter Dr. to avoid leaving a small “pocket” of moderate density residential of which fifty percent is in use by the church, and the remaining acreage is too small to be used for moderate density residential, but if combined may be able to support a small office use. All these properties have similar characteristics.

Almost half the block bounded by Eastchester Dr., Lassiter Dr., Guyer St. and Ambassador Ct. is already designated as Office on the City’s land use map. The issue is whether or not the expansion of the Office designation to the rest of the block is appropriate. Almost three-quarters of the block is already being developed as an office park, and with the addition of a property at the northwest corner of Guyer St. and Lassiter Dr., which is the subject of a related rezoning request, only two properties will remain on the block (the townhomes and the fire station).

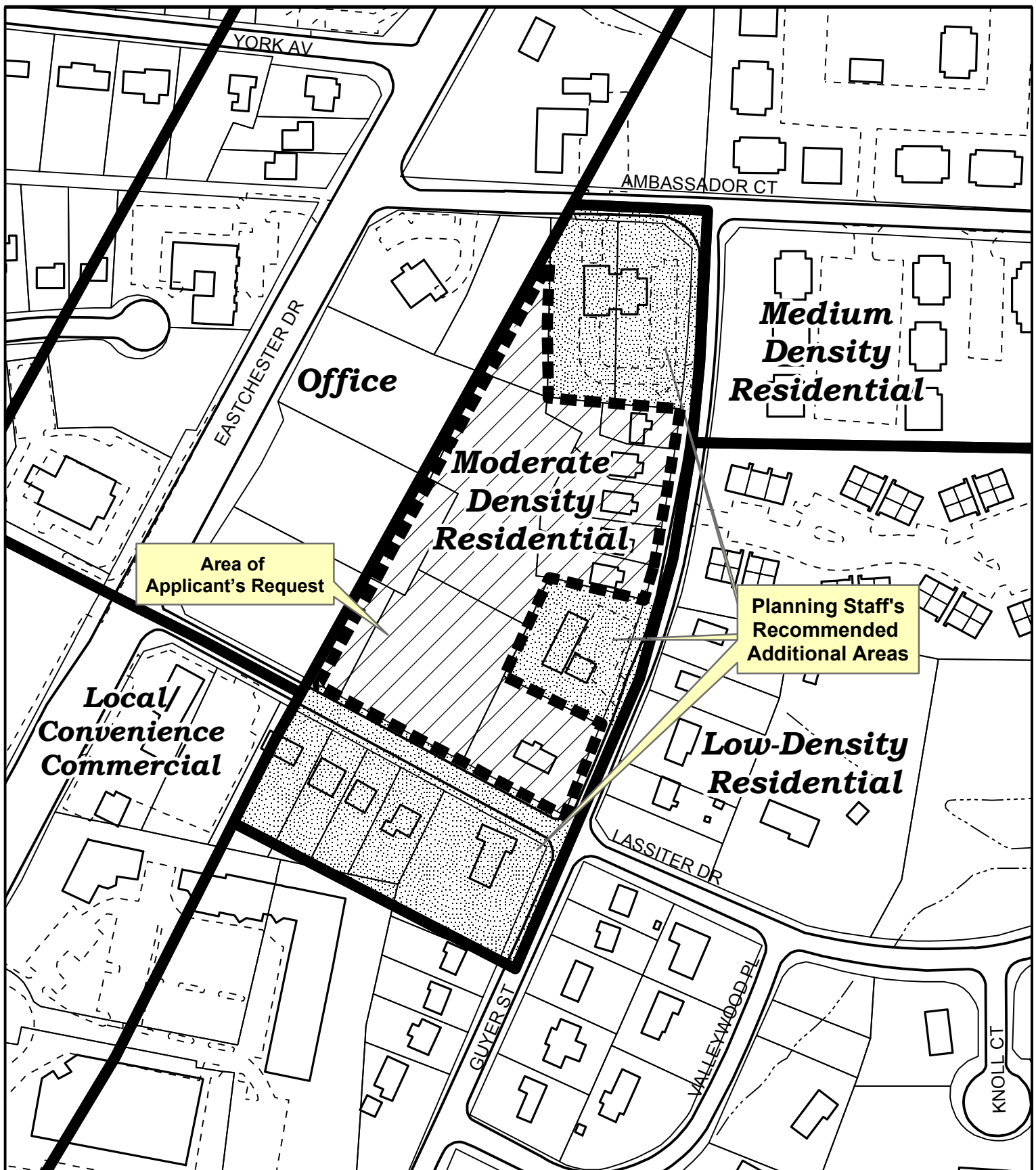
This change in land use designation might be viewed as an intrusion into the existing residential neighborhood. Many of the relevant adopted City land use policies discuss the protection of existing neighborhoods when they abut non-residential uses, and the visual impact on the neighborhood is a concern. The treatment of the boundary between any office and residential uses in the redesignated area is important, and protection measures need to be established as part of the amended Conditional Use Permit to ensure that adjacent residences are not negatively impacted by the Office uses. Development guidelines for office and commercial developments that involve a Conditional Use Permit and border residential neighborhoods are listed in the land use plan policies.

Changing the land use designation of this area to Office meets the land use plan objective regarding infill development, which encourages an urban growth pattern that is a more efficient use of the city’s land resources. The Office designation also helps implement the recommendation in the *Eastchester Corridor Plan* for office development along Eastchester Dr.

### **Recommendation**

The Planning and Development Department recommends approval of this requested land use plan amendment from the Moderate Density Residential designation to the Office designation, including the additional area.





## LAND USE PLAN AMENDMENT 08-04

**Request: From: Moderate Denisty Residential**  
**To: Office**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=200'**

y:/ba-pz/2008/pz/lupa08-04.mxd

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
ZONING CASE 08-18  
October 28, 2008**

|                                                                                                                                                                             |                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant:</b><br>Eastchester Park Partners, LLC                                                                                                                         | <b>Owner:</b><br>Eastchester Park Partners, LLC and<br>Daisilyn Barrino                                                        |
| <b>Proposal:</b><br>1) Rezone a 0.6± acre parcel.<br>2) Add this parcel into CUP 07-32, amend landscaping conditions of the permit and add architectural design conditions. | <b>From: RS-9</b> Residential Single Family-9 District<br><b>To: CU GO-M</b> Conditional Use General Office Moderate Intensity |

| <b>Site Information</b>           |                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Location</b>                   | Northwest corner of Guyer Street and Lassiter Drive (109 Lassiter Drive). The zoning site is also known as Guilford County Tax Parcel 287-2-16.                                                                                                                                                                                                                                           |
| <b>Site Acreage</b>               | Approximately 0.6 acres (25,600± sq. ft)                                                                                                                                                                                                                                                                                                                                                  |
| <b>Current Land Use</b>           | Single family detached dwelling.                                                                                                                                                                                                                                                                                                                                                          |
| <b>Physical Characteristics</b>   | The site has a gentle to moderately sloping terrain.                                                                                                                                                                                                                                                                                                                                      |
| <b>Prox. to Water &amp; Sewer</b> | City water and sewer utilities are currently available in this area.                                                                                                                                                                                                                                                                                                                      |
| <b>Stormwater/ Drainage</b>       | The site is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is greater than 24% or more of the site and for single family residential developments with a density of 2 units per acre or greater. |
| <b>Overlay Districts</b>          | City Lake General Watershed (GWA)                                                                                                                                                                                                                                                                                                                                                         |

| <b>Site Access &amp; Street Classification</b> |                                                                                                                                                                |                             |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| <b>Street Name</b>                             | <b>Classification</b>                                                                                                                                          | <b>Approximate Frontage</b> |
| Guyer Street                                   | Collector Street                                                                                                                                               | 150 ft.                     |
| Lassiter Drive                                 | Local Street                                                                                                                                                   | 180 ft.                     |
| <b>Traffic Impact Analysis (TIA)</b>           | A TIA is not required due to the size of this site, requested zoning district and allowable uses. A TIA was also not required for the initial zoning (Z07-32). |                             |

| <b>Surrounding Area Zoning and Current Use</b> |                 |                                                            |                                                                |
|------------------------------------------------|-----------------|------------------------------------------------------------|----------------------------------------------------------------|
| <b>North</b>                                   | <b>CU RM-12</b> | Conditional Use Residential Multifamily-12 District        | Townhome development                                           |
| <b>South</b>                                   | <b>RS-9</b>     | Residential Single Family-9 District                       | Church                                                         |
| <b>East</b>                                    | <b>RS-12</b>    | Residential Single Family-12 District                      | Single family dwellings                                        |
| <b>West</b>                                    | <b>CU GO-M</b>  | Conditional Use General Office Moderate Intensity District | Part of an office complex that is currently under construction |

| School District Information         |  |
|-------------------------------------|--|
| Not applicable to this zoning case. |  |

| Relevant Land Use Policies and Related Zoning History                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Relevant Community Growth Vision Statement Goals &amp; Objectives</b> | This request is neither in conflict with the Community Growth Vision Statement goals and objectives nor does it promote those goals and objectives.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Land Use Map Designation</b>                                          | <p>The zoning site has a Moderate-Density Residential designation. This designation is intended for a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities range from 5 to 8 units per acre.</p> <p>In conjunction with the zoning application, the applicant has also submitted a Land Use Plan Amendment application to change the designation of the zoning site and abutting parcel they own to an Office classification (See LUPA 08-04).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Relevant Land Use Plan Goals, Obj. &amp; Policies</b>                 | <p>1) The following goals and objectives of the Land Use Plan are relevant to this request:</p> <p>Goal #2: Encourage development that enhances and preserves established neighborhoods.</p> <p>Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area;</p> <p>Obj. #8. Stimulate more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations;</p> <p>Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;</p> <p>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.</p> <p>2) <u>Development Guidelines (Office &amp; Commercial bordering residential neighborhoods)</u>: Where zoning proposals for office or commercial zoning abuts an established residential neighborhood, the Land Use Plan notes the following should be considered and addressed within the application conditional use permit:</p> <ul style="list-style-type: none"> <li>• The mass, scale and height of the proposed use &amp; accessory uses.</li> <li>• The topography of the subject property(s) and adjacent residential uses.</li> </ul> |

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                               | <ul style="list-style-type: none"><li>• The effectiveness of maintaining neighborhood compatibility through the conversion of an existing residential structure to a non-residential use.</li><li>• The impact on the residential neighborhood of non-local traffic generated by the proposed use.</li><li>• The sufficiency of the proposed buffering, setbacks and landscaping.</li><li>• The intent of the Conditional Use Permit will be to minimize to the extent feasible the intrusive impact of the non-residential use on the adjacent neighborhood.</li></ul>         |
| <b>Relevant Area Plans</b>    | <u>Eastchester Scenic Corridor</u> - The site is located within the area covered by the 1994 update to the Eastchester Corridor Plan, which encouraged high quality office development for properties with road frontage on Eastchester Drive. It also recommended appearance standards for all new uses other than single-family residential within the corridor. The plan discouraged the conversion of existing homes to office uses, except on smaller sites in close proximity to large residential subdivisions, in favor of moderate to high intensity office complexes. |
| <b>Related Zoning History</b> | <ol style="list-style-type: none"><li>1. In December 2007, the City Council rezoned the abutting 5.5 acres west of the zoning site, between Ambassador Court and Lassiter Drive, to the CU-GO-M District in order to develop an office complex (Zoning Case 07-32). In March 2008, this zoning request was expanded to add 1.26 acres along Guyer Street.</li><li>2. In 1988, the abutting townhome development to the north was approved for multifamily residential zoning.</li></ol>                                                                                         |

**Background Information:**

The applicant is proposing to rezone this 0.6 acre parcel from its current RS-9 District zoning to a CU GO-M District and add this parcel into Tract 1 (office tract) of CUP07-32, which is lying west of the zoning site. The permit for CUP07-32 divides the site into two tracts. Tract 1 consists of approximately 5.8 acres oriented toward Eastchester Drive and permits uses allowed in the GO-M district, except for residential uses. Tract 2 consists of 0.9 acres oriented toward Guyer Street where only residential uses are permitted.

Under this zoning proposal the access conditions of CUP07-32 will remain the same. Tract 1 is limited to only one point of access to Eastchester Drive that is restricted to a right-in only access, one access point to Lassiter Drive, one access point to Ambassador Count and no vehicular access from Tract 1 to Guyer Street. To ensure development of the rezoning site will be in harmony with the area, the applicant has offered to include the following conditions into CUP07-32 pertaining to this 0.6 acre zoning site:

- Maximum two story building height.
- Building facades facing Lassiter Drive and Guyer Street to include architectural features and articulations so as to not have a blank facade facing these roadways.

- Higher landscaping standards for the street planting yard facing Guyer Street. Instead of the required 8 foot wide street yard with 2 trees and 17 shrubs every 100 linear feet, the applicant has offered to provide a street yard with an average width of 20 feet and to increase the number of trees from 2 to 5 every 100 linear feet.
- Finally, if a majority of this parcel is used for parking, then a 5 foot high opaque fence is to be installed behind the street planting yard facing Guyer Street.

**Issues:**

**Major Issues**

- ❖ None

**Minor Issues**

- ❖ None

**Findings:**

Section 9-3-13 of the Development Ordinance requires that certain findings be made before a Zoning Map Amendment and Conditional Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

**That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds**

|                   |                                                                                                                  |
|-------------------|------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | ❖ Based upon existing access conditions within CUP07-32, the zoning request will not endanger the public safety. |
|-------------------|------------------------------------------------------------------------------------------------------------------|

**That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds**

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Compliance</b> | <ul style="list-style-type: none"><li>❖ The character of this block has changed over the past 20 years from all single family zoning to a mixture of office, institutional and multifamily zoning. Based upon conditions offered by the applicant and allowable uses of the GO-M District, the requested GO-M District will be in harmony with the adjacent uses.</li><li>❖ The applicant is offering to make the entire zoning site subject to the higher standards of the Eastchester Scenic Corridor Overlay District. The higher standards of this overlay, including requirement for unified design of multi-building development, will further insure that the request will be in harmony with the surrounding area.</li></ul> |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds**

**Non-compliance**

- ❖ If the corresponding Land Use Plan Amendment (LUPA 08-04) for Office land use designation is approved, then the zoning request will be generally consistent with the City's Land Use Plan.

**Recommendation:**

**Staff Recommends Approval**

Subject to the approval of Land Use Plan Amendment 08-04, the Planning & Development Department offers a recommendation of approval of the request by Eastchester Park Partners, LLC to:

- Rezone an approximately 0.6 acre parcel, lying at the northwest corner of Guyer Street and Lassiter Drive, from the Residential Single Family-9 (RS-9) District to a Conditional Use General Office Moderate Intensity (CU GO-M) District;
- Revised Conditional Use Permit 07-32 (CUP 07-32) to add the 0.6 acre parcel into that permit; and
- Revise conditions of CUP07-32 pertaining to architectural & site design standards and landscaping.

This recommendation is made based on the staff's conclusion that subject to the approval of Land Use Plan Amendment 08-04, the zoning request is consistent with the City's Land Use Plan, and that based upon requirements of the Development Ordinance and conditions offered by the applicant within their conditional use permit, the rezoning of this property will generally be in harmony with the area.

**Action by the Planning and Zoning Commission**

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

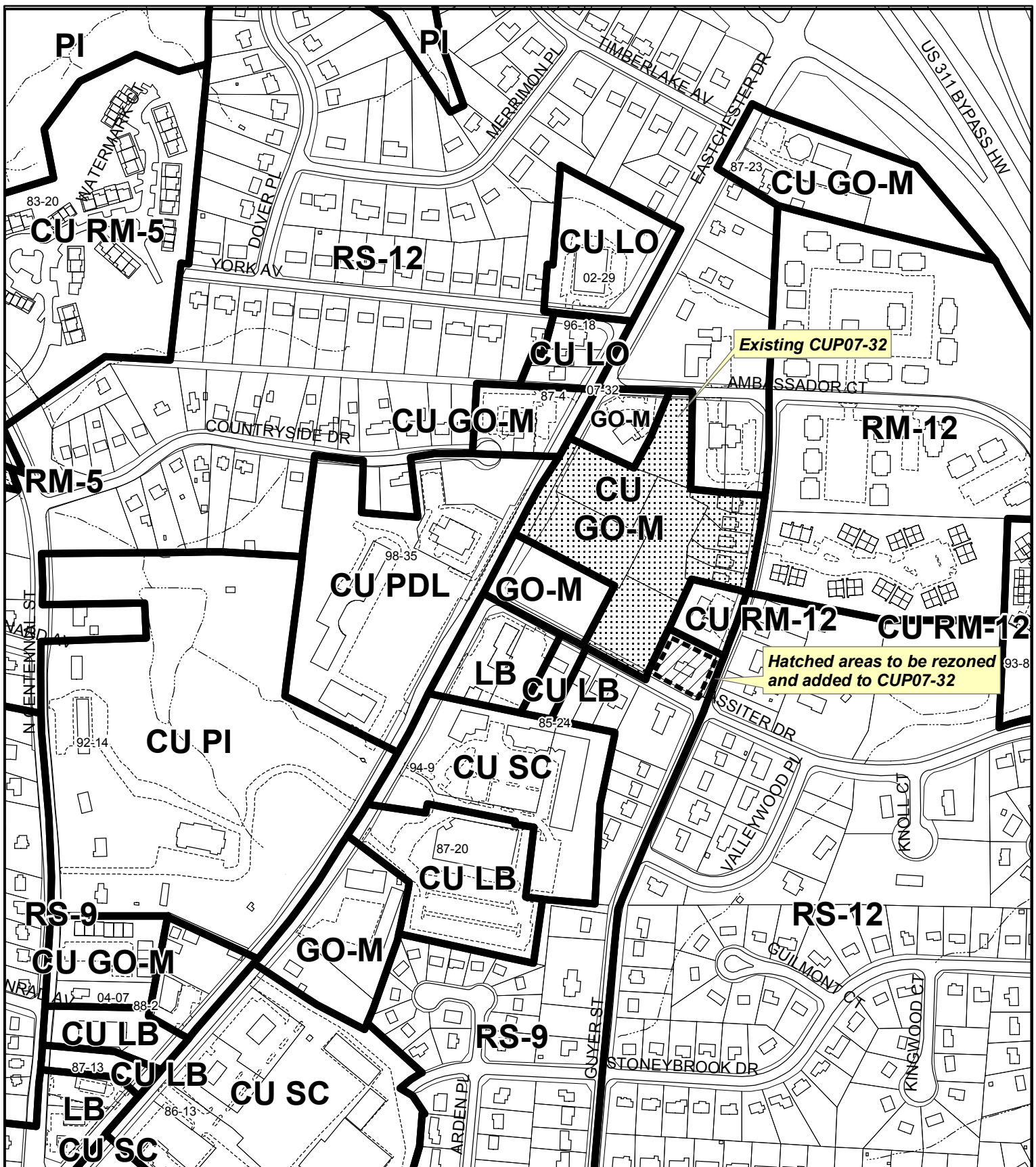
**Action by the City Council**

- A. Upon rendering its decision in this case, City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.
- B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this



case, staff suggests that subject to the approval of Land Use Plan Amendment 08-04, the approval of the applicant's request, is reasonable and in the public interest because: 1) it meets the required findings for a conditional use zoning district as written in this report; 2) the character of this block has changed over the past 20 years from all single family zoning to a mixture of office, institutional and multifamily uses, based upon conditions offered by the applicant for limited building height and higher landscaping standards, the requested GO-M District will be in harmony with the surrounding area; 3) the Conditional Use Permit provides for controlled access to Tract 1 (office area to which the site will be added) and prohibits access to Tract 1 from Guyer Street; and 4) based upon approval of Land Use Plan Amendment 08-04, the request will be consistent with the city's land use plan for this area.

The City Council may adopt this statement, it may add to or change this statement, or, if the Council rejects the applicant's request it will need to formulate its own reasonableness / public interest statement.



## REZONING CASE 08-18

**From: Residential Multifamily-5**  
**To: Conditional Use General Office-Moderate**

**Existing Zoning Boundary** —————  
**Subject Property Boundary** - - - - -

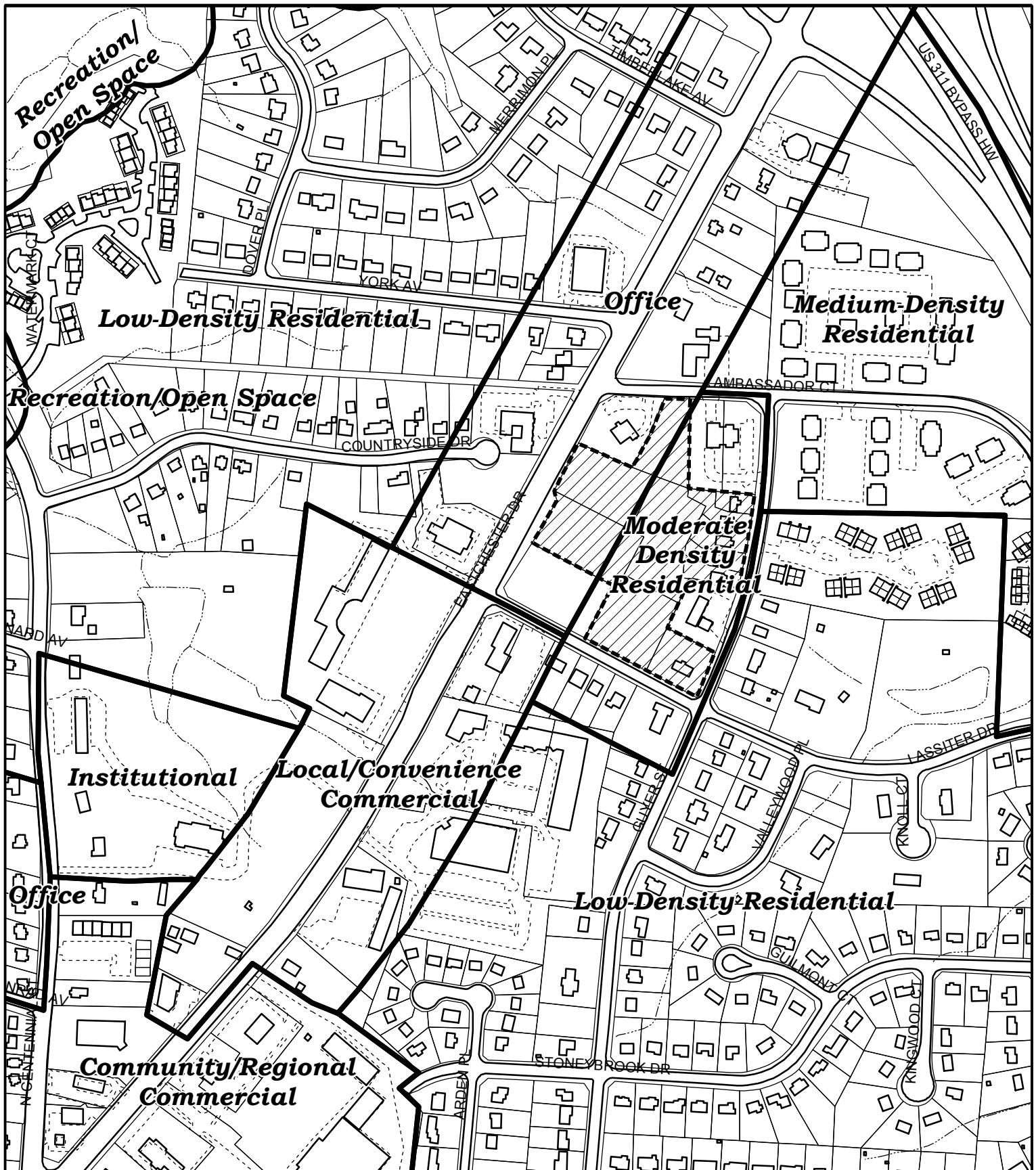
**Planning & Development  
 Department**

**City of High Point**

**Date: October 10, 2008**



**Scale: 1"=400'**  
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# **REZONING CASE 08-18**

## **Land Use Plan**

**Existing Land Use Plan**  
**Subject Property Boundary**



**Planning & Development  
 Department**

**City of High Point**

**Date: October 21, 2008**



**Scale: 1"=400'**

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## REZONING CASE 08-18

### Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: October 21, 2008



Scale: 1"=400'

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# REZONING CASE 08-18





**APPLICATION FOR A CONDITIONAL USE PERMIT**  
**CITY OF HIGH POINT, NORTH CAROLINA**  
**Conditional Use General Office-Moderate Intensity (CU GO-M) District**

December 3, 2007  
(Adopted)

March 17, 2008  
(Major Amendment)

September 15, 2008  
(Submitted Major Amendment)

TO THE CITY COUNCIL OF THE CITY OF HIGH POINT:

The undersigned hereby respectfully request that the High Point City Council, pursuant to Title 9, Chapter 3 of the City Code, grant a Conditional Use Permit for the following use(s), subject to the following conditions:

I. USES:

- A. Tract 1. - Any of those land uses allowed in the General Office-Moderate Intensity (GO-M) District shall be permitted, except those uses specifically prohibited by this Permit. All permitted uses shall be subject to the development and dimensional requirements of the Development Ordinance and the specific conditions listed in this Permit.
- B. Tract 2. - Only those land uses allowed in the General Office-Moderate Intensity (GO-M) District that are also allowed in the Residential Multifamily- 5 (RM-5) District shall be permitted. All permitted uses shall be subject to the development and dimensional requirements of the General Office-Moderate Intensity (GO-M) and the specific conditions listed in this Permit.

II. CONDITIONS:

- A. Prohibited Uses:
  - 1. Tract 1.
    - a. All Residential Uses.
    - b. Clubs and lodges
- B. Development & Dimensional Standards:
  - 1. Tract 1 of the zoning site shall be subject to the requirements of the Eastchester Scenic Corridor Overlay District (Section 9-4-4(c) of the Development Ordinance.



2. **Architectural & Site Design Standards: In addition to the architectural criteria of the Eastchester Scenic Corridor Overlay District, development upon the southeast corner of Tract 1 (180'x155' parcel at the intersection known as Guilford County Tax Parcel 287-2-16) shall be compatible with adjacent residential uses in regards to character, nature and appearance, and shall at a minimum include the following design criteria:**
  - a. **Maximum two-story building height.**
  - b. **Parapets shall be used to shield/hide roof top mechanical equipment from view of Lassiter Drive and Guyer Street.**
  - c. **Building façades facing Lassiter Drive and Guyer Street shall include architectural features and articulations so as to not have a blank façade facing these roadways.**
- C. **Lot Combination:** All parcels associated with Tract 1 of the rezoning site shall be combined into one lot prior to development and re-subdivision.
- D. **Landscaping:**
  1. In addition to the landscaping requirements of the Development Ordinance, a minimum six (6) foot high opaque fence shall be installed along the eastern boundary of Tract 1 of the zoning site, from the southwest corner of Guilford County Tax Parcel 287-2-2 (property of Fire Station #13), to the ~~Lassiter Drive right-of-way~~ **southwestern corner of Guilford County Tax Parcel 287-2-17.**
  2. **At the southeast corner of Tract 1 (180'x155' parcel at the intersection of Lassiter Drive & Guyer Street known as Guilford County Tax Parcel 287-2-16), the following higher landscaping standards shall apply:**
    - a) **The Street Yard landscaping area along Guyer Street shall have an average width of twenty (20) feet and minimum width of eight (8) feet and shall be planted to a Type C rate.**
    - b) **If a majority of this parcel is used as parking then a minimum five (5) foot high opaque fence shall be installed behind the Street Yard landscaping area that is oriented toward Guyer Street. This fencing shall be installed behind the Street Yard landscaping area.**
- E. **Transportation:**
  1. **Vehicular Access to Tract 1:**
    - a. Only a right-in access point shall be permitted to Eastchester Drive.
    - b. One (1) point of access shall be provided to Ambassador Court.
    - c. One (1) point of access shall be provided to Lassiter Drive.
    - d. In order to facilitate traffic circulation between properties, the parking area of the zoning site shall be designed to allow for at least one (1) connection

to Guilford County Tax Parcel 287-2-9, which is located at the northeast ~~southeast~~ corner of Eastchester Drive and Lassiter Drive.

- e. No vehicular access shall be permitted between Tract 1 and Tract 2.
- f. No access to Tract 1 shall be permitted from Guyer Street.

- 2. The City of High Point Director of Transportation shall approve the exact location and design of all access points and improvements.

**DESCRIPTION OF PROPERTY:** Approximately ~~6.54~~ **7.15** acres lying along the east side of Eastchester Drive, between Ambassador Court and Lassiter Drive. The site is also known as Guilford County Tax Parcel 287-2-3, 6, 7, 8, 14, 15, **16**, 18, 19, 20 & 21.

An application has been duly filed requesting that the property involved in this application be rezoned from the Conditional Use General Office-Moderate Intensity (CU GO-M) District, **Residential Single Family-9 (RS-9) District** and Residential Multifamily-5 (RM-5) District to an amended) Conditional Use General Office-Moderate Intensity (CU GO-M) District. It is understood and acknowledged that if the property is rezoned as requested and the Conditional Use Permit authorized, the property described in this request will be perpetually bound by the use(s) authorized and the conditions imposed, unless subsequently changed or amended as provided for a Title 9, Chapter 3, of the City Code.

It is further understood and acknowledged that plans for any development to be made pursuant to any such Conditional Use Permit so authorized shall be submitted to the Technical Review Committee and/or other such approval authorities for review in the same manner as other such plans now required to be approved by the City of High Point.



September 23, 2008

**To:** Lee Burnette, Director of Planning and Development  
**From:** Mark McDonald, P.E., Transportation Director *MM*  
**Subject:** **Rezoning Case #08-18**, Eastchester Park Partners, LLC. Property located at the northwest corner of Guyer Street and Lassiter Drive.

---

My staff and I have reviewed the rezoning request and have the following comments:

A traffic impact analysis was not required for this development. To require a traffic study the proposed development must be expected to produce at least one hundred and fifty (150) trips in the AM or PM peak hour. In order to mitigate the development's impact on the surrounding roadway network the following improvements will be required:

Access

Access to the rezoning site shall be made via a parking lot-type connection to tax parcel 18-00-0287-0-0002-00-008. With reference to Rezoning Case #07-32, no additional access will be allowed from the rezoning site to either Guyer Street, Lassiter Drive, Ambassador Court, or Eastchester Drive.

The City of High Point Transportation Director shall approve all construction and improvements.

If you have any questions or would like to further discuss this case, please advise.

# **Citizens Information Meeting Report**

## **Zoning Case 08-18**

### **Major Amendment CUP07-32**

Submitted by: Hugh Creed Associates, Inc.; on behalf  
of Eastchester Park Partners, LLC

Report  
Citizen Information Meeting  
Held October 1, 2008 at 5:00PM

The meeting was held at the High Point Fire Station #13 at 2414 Ambassador Court, High Point, NC adjacent to the site. There was 1 property owner and 4 firemen from the host fire station in attendance, as follows: Dennis Sink (2508 Guyer Street), Burt Blakley (fireman), Phillip Shields (fireman), Nathan Thomas (fireman), Mark Holmes (fireman).

The handwritten sign-in sheet is attached.

Also in attendance were RW Hamlett, Jr., owner and developer of site and Norris Z. Clayton, PE, of Hugh Creed Associates, Inc, PA, Engineers for the development.

A notification letter dated and mailed on September 26, 2008 was sent to 74 parties as supplied by the High Point Planning Department. The list of parties and addresses to which it was mailed is attached along with the notification letter and the required statement provided by the High Point Planning and Development Department.

At the meeting a map of the proposed site was placed on a large table in the fire station lounge area and everyone was seated around the table.

Mr. Hamlett opened the meeting by introducing himself and his Engineer and asked everyone attending to introduce themselves and to sign the attendance record. Mr. Hamlett then proceeded by giving an overview of the project including the following points:

1. This rezoning request is for the property at the northwest corner of Lassiter Drive and Guyer Street (109 Lassiter Drive) to be rezoned from residential zoning RS-9 to General office Moderate Intensity Zoning GO-M. The property would be combined with the office complex presently under construction. As shown on the sketch plan, it is presently intended to be used as a parking lot for office buildings within the complex. However, should parking requirements change that would reduce the amount of parking required, an office building may be proposed for this lot. If so it would be designed as a one story building with a pitched roof and an architectural character and style conducive to the resident neighborhood.
2. There would be no access off of Guyer Street into the property.
3. To help buffer the lot from the residential neighborhood we have proposed to landscape along Lassiter Drive and Guyer Street at twice the required planning rates.



Questions asked by attendees:

Are there any plans to add the remaining apartment site on Guyer Street (2603 Guyer Street) to the development?

Mr. Hamlett said that the owner of the apartments had approached him about selling the apartments but because of the excessive slope on the property it would be difficult to incorporate it into the present development and that he has no plans to incorporate this lot into the development at this time.

Are there any concerns for "cut through" traffic between Lassiter Drive and Ambassador Court going through the project?

Mr. Hamlett said that although it was not anticipated, it has been discussed and if it was determined to be a problem, a series of speed bumps would be installed within the project to deter such activity.

Mr. Hamlett said that he had been contacted by Larry Asbil (104 Lassiter Drive), Dr. Bill Harold (1300 Eastchester Drive) and Don Callahan (2605-2613 Guyer Street) who had received the notice of the meeting but could not attend. He discussed the rezoning with them on the phone and they had no objections. Mr. Hamlett thanked everyone for coming and the meeting was adjourned.

Submitted by:  
Hugh Creed Associates, Inc, PA

A handwritten signature in black ink, appearing to read "Norris Z. Clayton".

Norris Z. Clayton, PE, PLS

SIGN-IN  
NEIGHBORHOOD MEETING  
OCT. 1, 2008

|    | <u>NAME</u>         | <u>ADDRESS</u>          | <u>TELE</u> |
|----|---------------------|-------------------------|-------------|
| 1. | Burt Blakely        |                         | 888-3013    |
| 2. | Phillip Shields     | 7820 Clarendon Farms Rd | 841-7068    |
| 3. | Nathan Thomas       |                         | 749-0551    |
| 4. | MARK HOLMES         |                         | 253-5565    |
| 5. | WILLIAM HAMLETT, Jr |                         | 908-6354    |
| 6. | DENNIS SINK         | 2508 GUYER ST           |             |
| 7. |                     |                         |             |
| 8. |                     |                         |             |

EASTCHESTER PARK PARTNERS, LLC  
5501 GUIDA DRIVE  
GREENSBORO, NC 27410  
TELE: (336) 908 -6354

September 26, 2008

Dear Neighbor:

The purpose of this letter is to notify you of a citizen information meeting being held concerning a request for rezoning the lot at 109 Lassiter Drive. The meeting will be held at The High Point Fire Station at 2414 Ambassador Court on Wednesday, October 1, 2008 at 5:00pm.

We have applied to rezone the lot from RS-9 to GO-M (General Office Moderate Intensity). We intend to combine this property with the present property on Eastchester, Lassiter and Ambassador Drives, already zoned GO-M, and being developed as commercial/office site. A preliminary site plan has been prepared for study and illustrative purposes, and will be presented at this meeting.

At the citizen's information meeting you will be able to meet with me, learn more about our plans and our approach to development, and of course ask any questions you may have about it. Our goal is to create an inviting, well planned, and successful business community meeting the City of High Point requirements on this property.

Enclosed is a required statement provided by the High Point Planning & Development Department outlining the purpose of the citizen's information meeting and the zoning process.

I look forward to seeing you at the meeting.

Sincerely,

*R.W. Hamlett, Jr.*

R.W. Hamlett, Jr.

ADM LLC  
1403 EASTCHESTER DR STE 101  
HIGH POINT NC 27265

ASBILL DAHL  
1210 DOGWOOD LN  
ARCHDALE NC 272630000

ASBILL LARRY & JANE  
4812 HUFF RD  
ARCHDALE NC 272637827

BARRCANNON CORP LIMITED LIABILITY CO  
1403 EASTCHESTER DR STE 102  
HIGH POINT NC 27265

BARRINO DAISILYN  
109 LASSITER DR  
HIGH POINT NC 272652443

BEASLEY VIRGINIA HEIRS  
1605 LAZY LN  
HIGH POINT NC 272650000

BEDIAKO DANIEL K & ESTHER C  
ACKURANG  
2640-1C GUYER ST  
HIGH POINT NC 272650000

BELL-PRIOLEAU TERETHA  
5700 CONTINENTAL WAY #1  
RALEIGH NC 276105400

BOONE ANTOINE & KATHY  
2640-1B GUYER ST  
HIGH POINT NC 272650000

BURTON DAVID B & MICKI R  
2502 GUYER ST  
HIGH POINT NC 272650000

BYERS FATINA DYVONNE  
2909 CENTRAL AVE  
HIGH POINT NC 272606007

CALLAHAN DONALD W & LINDA SUE  
1621 STALEY RD  
HIGH POINT NC 272652421

CARMICHAEL BILLY & PAMELA  
1605 VALLEYWOOD PL  
HIGH POINT NC 272650000

CENTRAL CAROLINA PROPERTIES  
801 E CENTER ST  
LEXINGTON NC 272924401

CHANEY ESTHER PHILLIPS  
1529 EASTCHESTER DR  
HIGH POINT NC 272652309

CHAPMAN BARBARA L & CONTESSA  
LADAWN CULLINS  
2616-1A GUYER ST  
HIGH POINT NC 272650000

CHRISTY PEGGY B  
1622 YORK AVE  
HIGH POINT NC 272652353

CLINARD LAURA W  
1629 ABBOTTS CREEK CHURCH RD  
HIGH POINT NC 272657511

CLINARD OIL CO  
PO BOX 1007  
THOMASVILLE NC 27360

COLLINS DENNIS EAGER  
2616-1B GUYER ST  
HIGH POINT NC 272650000

COLLINS EMMANUEL G JR  
315 SKATE DR  
TALLAHASSEE FL 323120000

CRAFT BONNIE AUSTIN  
2640-2A GUYER ST  
HIGH POINT NC 272650000

DAVIS AMANDA M  
1135 COUNTRYSIDE DR  
HIGH POINT NC 272650000

DIXON ANNIE RUTH  
2510 GUYER ST  
HIGH POINT NC 272650000

DOZIER STEVIE LYNN  
2616-2C GUYER ST  
HIGH POINT NC 272650000

EASTCHESTER COMMONS INC ATTN DON  
VUNCANNON HOMEOWNERS ASSOCIATION  
1403 EASTCHESTER DR SUITE 102  
HIGH POINT NC 272650000

EASTCHESTER DEVELOPMENT LLC  
PO BOX 5545  
HIGH POINT NC 272620000

EASTCHESTER DEVELOPMENT LLC  
1414 LONG ST  
HIGH POINT NC 272620000

EASTCHESTER DRIVE ASSOC LLC ATTN:  
DR HAROLD  
2325 SUNSET AVE  
ROCKY MOUNT NC 278040000

EASTCHESTER PARK PARTNERS LLC  
5501 GUIDA DR  
GREENSBORO NC 27410

FARLEY KENNETH E & LASHAWN D FARLEY  
2646-1C GUYER ST  
HIGH POINT NC 272650000

FIELDS R HAMPTON & KAY C  
2701 OBERLIN RD  
RALEIGH NC 276080000

GOINS RICKY L & PRECIOUS H  
1433 ABBOTTS CREEK CI  
KERNERSVILLE NC 272843759

GRIPPER CHARITA C  
2612-2C GUYER ST  
HIGH POINT NC 27265

GRIPPER-CRAWFORD MARGARET A  
3808 EASTERN AVE NE  
WASHINGTON DC 200180000

HALLELUJAH BAPTIST CHURCH FULL  
GOSPEL  
2511 GUYER ST  
HIGH POINT NC 272650000

HARRISON MAURICE R  
2646 GUYER ST UNIT 1-B  
HIGH POINT NC 272650000

HERNDON COURTNEY M  
4610 GARDEN CLUB ST  
HIGH POINT NC 272650000

JENSON SCOTT M GST TRUST  
1900 BRASSFIELD RD  
GREENSBORO NC 274102154

LASANE ANGELA DENISE  
2616-1D GUYER ST  
HIGH POINT NC 272650000

LEWALLEN JIMMY R & PATSY H  
1616 YORK AVE  
HIGH POINT NC 272652353

LEWIS JOHN A & LUCILLE S  
2507 GUYER ST  
HIGH POINT NC 272652435

LITTLE WILLIAM THOMAS  
1408 CLOVERDALE ST APT A  
HIGH POINT NC 272604661

MABE BRADLEY TODD TRUST  
4111 GREENVALLEY DR  
HIGH POINT NC 272620000

MABE R WAYNE  
1224 EASTCHESTER DR  
HIGH POINT NC 272653116

MCMELLON EVERETT A & VERA B  
1222 TANGLEWOOD AVE  
HIGH POINT NC 272652239

MISHOE TERRY L & CAROLYN P  
1198 JOE MOORE RD  
THOMASVILLE NC 273600000

MULL ELAINE C  
2612-1D GUYER ST  
HIGH POINT NC 272650000

NORTHWOOD UNITED METH CHURCH  
2409 AMBASSADOR CT  
HIGH POINT NC 272652439

NOVASTAR MORTGAGE INC  
8140 WARD PARKWAY  
KANSAS CITY MO 64114

OAK HOLLOW ACQUISITION LLC  
65 HARRISTOWN RD SUITE 301  
GLEN ROCK NJ 7452

OERTER JAMES J  
1525 EASTCHESTER DR  
HIGH POINT NC 272650000

PAINTER KEVIN R  
2612-1B GUYER ST  
HIGH POINT NC 272650000

PEELER THOMAS ANDREW  
2616-2A GUYER ST  
HIGH POINT NC 272650000

PETERSON MAMIE E & DWIGHT  
2612 GUYER ST UNIT 8  
HIGH POINT NC 27265

PIERCE HOMES OF CAROLINA INC  
222-6 SWING RD  
GREENSBORO NC 274082024

POE ROBERT  
3062 WINDCHASE CT  
HIGH POINT NC 272650000

REYNA VICTOR HUGO REYNA  
2640-1D GUYER ST  
HIGH POINT NC 272650000

S & S REALTY LLC  
31 RIVER OAKS CIRCLE EAST  
BUFFALO GROVE IL 60089

SANCHEZ ANGEL LUIS  
2605 GUYER ST  
HIGH POINT NC 272650000



SHACKLETT MARY M  
203 LASSITER DR  
HIGH POINT NC 272652445

SHENBERGER FRANCIS E  
2600 GUYER ST  
HIGH POINT NC 27265

SINK DENNIS EDWARD  
2508 GUYER ST  
HIGH POINT NC 272652436

SMITH BARBARA Y  
1003 SHAMROCK RD  
HIGH POINT NC 272650000

SOUTHWOOD REALTY CO  
PO BOX 280  
GASTONIA NC 280530280

SPELLER AUDREY L & LAKISHA D  
2640-2C GUYER ST  
HIGH POINT NC 27265

SUA DANGBE R & LOU S  
1611 VALLEYWOOD DR  
HIGH POINT NC 272650000

SURRETT MARJORIE I  
6802 CECIL FARM ROAD  
HIGH POINT NC 272639409

TANNER ALBERT & LINDA  
2606 GUYER ST  
HIGH POINT NC 272652438

THIGPEN ANGELA EVETTE  
2616-2D GUYER ST  
HIGH POINT NC 272650000

THOMAS-PARKER REGINA  
2640-2B GUYER ST  
HIGH POINT NC 272650000

THOMPSON DAVID A & DEBRA J  
2602 GUYER ST  
HIGH POINT NC 272650000

WHITE RODERICK A & COURTNEY T  
14 SARRINGTON CT  
STAFFORD VA 22554

ZHAO YI MEI  
1609 VALLEYWOOD PL  
HIGH POINT NC 272650000



MEMORANDUM

DATE: **November 12, 2008**

TO: Randy McCaslin, Assistant City Manager

FROM: Michael E. McNair, Director

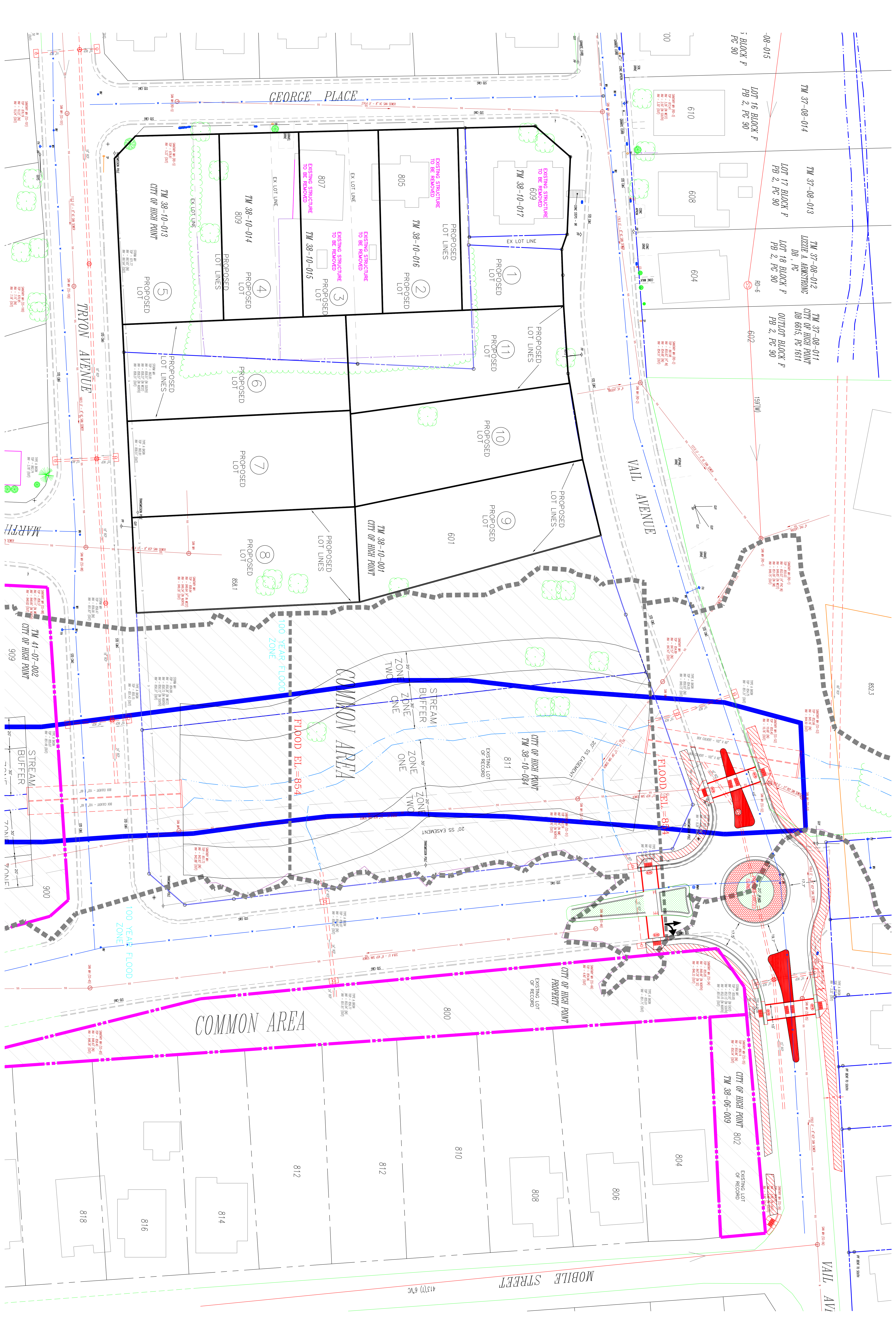
SUBJECT: Construction Contract

RE: Southside Redevelopment

City staff and partner agencies have been working diligently and collaboratively to enhance the quality of life in the Southside community. The Police department established Southside as crime reduction target area and as a result has substantially reduced crime levels in the neighborhood. Parks and Recreation has installed a splash pad and play ground equipment in the Southside park; it has been enthusiastically received by families in the area. Public Services is preparing to implement flood mitigation activities in the "branch" that will reduce the incidence of flooding. Community Development & Housing and the United Way partnered to install the first Born Learning Trail in Guilford County at the Southside Recreation Center. Additionally, CD&H has acquired and demolished numerous substandard properties to remove blighting influences in Southside. Most recently, CD&H partnered with Engineering Services and Transportation to construct a roundabout at the intersection of Vail and Cassell to address concerns expressed by the community about speeding traffic in the neighborhood. Given the cumulative effects of and these activities, we are now ready to begin housing construction in the Southside community.

A contract has been prepared with Unity Builders, Inc. to construct eleven homes on city owned property in Southside. The contract provides HOME funding totaling \$132,000 to assist the construction of eleven affordable housing units on parcels bordered by Vail Ave, Cassell Ave., Tryon Ave. and George's Place. The addition of Unity Builders will allow us to further national objectives of the HOME program by increasing the number of active affordable housing producers in our community. We ask that Council favorably consider the approval of this contract and authorize the City Attorney to convey the aforementioned parcels, located in the Southside community to the developer, Unity Developers Inc. After the conveyance, Unity Developers Inc. will construct a minimum of 11 units to be made available to low to moderate-income homebuyers pursuant to HUD and departmental guidelines. Please see an enclosed copy of the contract along with a map showing the parcels to be conveyed.







**AGREEMENT BETWEEN THE CITY OF HIGH POINT**

**AND**

***Unity Builders***

---

This contract entered into this 16th day of August by and between the City of High Point, Community Development and Housing Department, herein called the "City" and S.H.A.R.E. of NC, Inc. herein called "DEVELOPER" located at xxxx, North Carolina, x herein called the "Developer"

**WITNESSETH:**

WHEREAS, the City has been designated a Participating Jurisdiction with the United States Department of Housing and Urban Development herein referred to as HUD and receives grants under the HOME Investment Partnerships Program authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act; and

WHEREAS, pursuant to said Grant the City is undertaking certain activities, which are in keeping with the broad objectives of the Act; and

WHEREAS, pursuant to said Grant the City desires to engage the Developer to render certain services; and

WHEREAS, the Developer agrees to abide by each paragraph of this contract and addenda as well as all procedures, rules and regulations governing the City, as grantee, and any future rules and regulations implemented by the Department of Housing and Urban Development (HUD) which affects the City.

NOW, THEREFORE, for valuable consideration and mutual promises exchanged between the parties, it is agreed as follows:

**SECTION 1. STATEMENT OF WORK**

The City will engage the Developer as a non-profit builder to construct eleven (11) new affordable Energy Star Compliant homes and make them available to low to moderate income persons as defined by HUD, and at a price not to exceed the FHA mortgage limits in existence during the life of this contract. DEVELOPER agrees to abide by the City's homebuyer program and provide City with purchase contracts, Good Faith estimates, adequate income documentation, and all necessary documents concerning each homeowner to enable the City to determine that buyers meet City and HUD qualification guidelines. DEVELOPER agrees to provide the City with copies of final appraisals of properties prior to closing.

**(A) PROJECT DESCRIPTION**

The Southside neighborhood has been targeted by The City of High Point for redevelopment. Activities have included land acquisition and assembly, demolition of existing structures, clearance, and relocation of residents, which occurred as a result of land acquisition in a specific four-block area. Federal CDBG and HOME funds were used specifically in the Southside target community to address affordable housing and community facility needs in accordance with the city approved Southside Revitalization Plan. Implementation of the Southside Revitalization Plan is underway and will continue to improve the quality of life in the community through enhancements to Southside Park, acquisition and demolition of blighted structures and the crime reduction. This project has leveraged other public, private, and non-profit sources to assist in addressing affordable housing and public facility/service needs in Southside.

**(B) TIME FRAME FOR COMPLETING THE PROJECT**

The services of the Developer and the Project shall commence immediately after the execution of this contract and shall be completed by January 1, 2008 or earlier should funds for this contract become exhausted and repayment to the City complete.

**SECTION 2. CHANGES IN CONTRACT**

Any changes in this contract, including but not limited to the scope of services performed by the Developer, timeframe, or budget amount or line items must be incorporated by written amendment to this contract.

The City may require the Developer to make changes in the contract in the event of grant reduction, City-determined lack of performance by the Developer, changes in regulation, or changes in the City's priorities as determined by City Council.

**SECTION 3. RECORDS AND REPORTS**

**(A) RECORDS**

The Developer shall maintain a general ledger in which to record all accounting transactions according to the accounts prescribed by project budget categories. Supporting documentation should include items such as payroll, time, and work schedule, etc., necessary to ensure a proper accounting for all project funds and to produce required reports. Full justification of contracted project budget expenditures, by line item, must be fully documented and on file with the City before funds are released to the Developer.

Under this contract, records shall be retained for at least three years after final payment and all other pending matters are closed.

**(B) REPORTS**

1. Prepare and maintain current activity and task descriptions related to the Scope of Services, a schedule for undertaking and completing each activity and task described, and a budget and expenditure statement for each activity and task identified.
2. Maintain current records for each participant that identifies: (a) household size, sex of head of household, and household income; (b) the home address, race or ethnic group, and gender of each participant; and (c) the activities the individual is served by. The City may modify such participant record requirements when necessary and/or appropriate.
3. Any other reports or project documentation required by the City, State, HUD other federal entity.

**(C) DELAYS IN REPORTING**

Delays in reporting to meet the City's needs may result in a delay in payment to the Developer of part or all of the Developer requests for funds. A resulting delay of disbursement by the City to the Developer does not reduce time requirements on the Developer to submit any reports to the City.

**SECTION 4. PAYMENT**

1. Requests for reimbursement should be accompanied by a letter of request for reimbursement.
2. Requests for advance funds can be submitted when necessary to meet agency needs. Advance Requests are to be documented within 30 working days and submitted to the City.

**SECTION 5. PROGRAM INCOME**

N/A

**SECTION 6. STATUTORY AND ADMINISTRATIVE REQUIREMENTS**

The Developer will perform within the same Federal regulations, and administrative laws required of the City, which include but are not limited to the following and other regulations described in HUD regulations 24 CFR Part 570 | [\(CHECK for HOME version\)](#) Subpart K:



- Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued at 24 CFR Part 1;
- Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;
- Section 3 of the Housing and Urban Development Act of 1968, as amended;
- Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;
- The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;
- The labor standard requirements as set forth in 24 CFR Part 570, Subpart K on HUD regulations issued to implement such requirement;
- The regulations, policies, guidelines and requirements of OMB Circular Nos. A-122 and A-110 as they relate to the acceptance and use of Federal funds under this federally-assisted program;
- OMB Circular A-87, and 24 CFR Part 85 requirements as they relate to new administrative requirements; and

The prohibition against employing, awarding contracts, to or engaging the services of any Developer or subcontractor debarred, suspended, or ineligible for participation in federally assisted projects funds under 24 CFR Part 24.

## **SECTION 7. AUDITS AND INSPECTIONS**

At any time during normal business hours and as often as the City, HUD and/or the Comptroller General of the United States may deem necessary, there shall be made available to the City, HUD and/or representatives of the Comptroller General for examination all of its records with respect to all matters covered by this contract and the City, HUD and/or representatives of the Comptroller General shall be permitted to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data, relating to all matters covered by this contract.

The above paragraph refers to both fiscal and programmatic information. Unfavorable, uncooperative, or delayed reaction will be adequate reason for the City to withhold or delay, any or all advances or reimbursements, until any questions or differences are resolved to meet Federal, State and local laws, regulations, administrative requirements (or needs) at the option of the City. Delays or advances or reimbursements do not reduce the time requirements of the Developer's required reports.

## **SECTION 8. SUSPENSION AND TERMINATION**

In accordance with 24 CFR 85.43, suspension or termination may occur if the Developer materially fails to comply with any term of the contract or other federal, state or local statutes and regulations governing the City with respect to compliance, whether herein stated or not. The contract may also be terminated for convenience as provided in 24 CFR 85.44 where the Developer and the City shall agree upon the termination conditions. In addition, the City shall have the right to terminate or amend this contract if the grant from HUD enabling the contract is terminated, redeemed, suspended or withheld. The City shall provide the Developer with written notice of such termination, reduction, suspension, or withholding, at least ten days prior to such action.

## **SECTION 9. REVERSION OF ASSETS**

Upon the expiration or termination of the contract, the Developer shall transfer to the City any CDBG funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG funds. In addition, any real or personal property under the Developer's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 must either, at the City's option, (1) be used to meet one of the national objectives for at least five years after expiration of the contract or for a longer period of time, as determined appropriate by the City, or (2) be disposed of in a manner that results in the City being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditure of non-CDBG funds, or (3) transfer control of the assets to the City.

## **SECTION 10. CONFLICT OF INTEREST**

The Developer and the City covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any degree with the performance of services under this contract. It is further covenanted that in the performance of this contract, no persons having any such interest shall be employed or involved in a decision making position or allowed to participate in the process so as to gain inside information with regard to such activities. Further no one involved may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

## **SECTION 11. CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the

awarding of any Federal contract, the continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification (Standard Form-LLL) be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required Standard Form-LLL shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **SECTION 12. CONDITIONS FOR RELIGIOUS AFFILIATIONS**

In addition to, and not in substitution for, other provisions of this contract regarding the provision of public services with CDBG funds, the Developer agrees that in connection with this project:

- a) it will not discriminate against any employee, applicant, or participant on the basis of religion and will not limit employment or give preference in employment or participation to persons on the basis of religion;
- b) it will not discriminate against persons applying for such services or participating on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
- c) it will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services in connection with this project;
- d) it will not facilitate any religious activities or actions in connection with this project.

IN WITNESS WHEREOF, the Developer and City have executed this contract as of the date first above written:

**COMMUNITY DEVELOPMENT & HOUSING DEPARTMENT**

BY: \_\_\_\_\_  
Michael E. McNair, Director

**CITY OF HIGH POINT MUNICIPAL GOVERNMENT**

APPROVED AS TO FORM:

*This instrument has been preaudited as required by the local Government Budget and Fiscal Control Act.*

| -BY: \_\_\_\_\_ BY: \_\_\_\_\_  
Fred Baggett, City Attorney Jeffrey A. Moore, Finance Director

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**Developer:**

| BY: \_\_\_\_\_  
~~William Waller~~ Terry Young, Executive Director  
~~S.H.A.R.E. of NC, Inc.~~ Unity Builders

## **ATTACHMENT “A”**

### **DRAFT SCOPE OF SERVICES BETWEEN CITY OF HIGH POINT, NORTH CAROLINA AND Unity Builders**

#### **NATIONAL OBJECTIVES**

The DEVELOPER certifies that the activities carried out with funds provided under this Agreement will meet one of the HOME Investment Partnership Program's national objectives codified at 24 CFR Part 92.1:

- **To expand the supply of decent, safe, sanitary and affordable housing; and**
- **To strengthen public private partnerships.**

#### **ELIGIBILITY OF ACTIVITY**

The activities described in this agreement are eligible for funding subject to the HOME Program guidelines codified at 24 CFR Part 92.205.

#### **TARGET POPULATION**

The activities to be carried out are intended to assist low to moderate-income first-time homebuyers interested in buying a home in the Southside Neighborhood of the City of High Point.

#### **A. PRIMARY OBJECTIVE**

The Primary Objective is to assist DEVELOPER in construction and conducting activities to provide homeownership opportunities for low to moderate-income first-time homebuyers. DEVELOPER shall construct at least eleven (11) ENERGY STAR qualified affordable houses on lots approved by the CITY located in the Southside Neighborhood. Housing prices shall not exceed the Federal Housing Administration (FHA) mortgage limit for the respective year. DEVELOPER agrees to sell developed properties to low to moderate-income homebuyers as defined by HUD. DEVELOPER agrees to provide the City with purchase contracts, Good Faith Estimates, and adequate income documentation to enable the City to determine that buyers meet City and HUD qualification guidelines. DEVELOPER also agrees to provide the City with copies of final appraisals of properties prior to the closing. DEVELOPER understands that it may not sell properties for more than the appraised values. DEVELOPER further understands that buyers must be obligated for any difference between the appraised value and a lesser selling price.



DEVELOPER shall find interested low to moderate income buyers who are interested in owning their own homes; assist them in qualifying for financing with which to purchase the property with a fully constructed home.

Prior to the commitment or commencement of any activity, DEVELOPER will inform the City of its intentions and plans to encumber the HOME funds to be provided.

City will assume financial responsibility if laterals are not in place or nonfunctional.

**BUDGET AND USE OF FUNDS: \$132,000**

DEVELOPER may request for reimbursement to the City for project expenses associated with this project up to \$132,000 for project development. Project development means reasonable and necessary costs for the construction of affordable housing. These include architectural, engineering or related professional services required to prepare plans, drawings, and specifications, realtor commissions, water & sewer tap, building permit, site preparation, construction interest, driveway curb cut, driveways, and landscaping. DEVELOPER HOME allocation in the amount of \$132,000 can only be used to reimburse DEVELOPER for the payment of such reasonable and normal housing development costs including but not limited the following:

***Hard Costs:***

- Building materials and labor
- Site preparation and improvements
- Water and sewer taps

***Soft Costs:***

- Construction loan fees and interest
- Professional fees
- Gap financing.
- Advertising

These funds will be restricted to the aforementioned costs incurred in the development of affordable housing in the Southside Neighborhood of the City of High Point. Other hard or soft costs will considered for approval at the cities discretion.

DEVELOPER may request for reimbursement to the City costs to process and settle the financing for the projects, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees; and, staff and overhead costs directly related to carrying out the project, such as work specifications preparation, loan processing inspections, and other services related to assisting potential owners and homebuyers.

Supporting documentation must accompany all requests for reimbursement, i.e. copies of paid invoices, contracts, scope of services, etc. Needed materials will be supplied by the Developer.

~~DEVELOPER shall construct at least eleven (11) houses in the Southside Neighborhood and may utilize up to \$12,000 per house for eligible expenses.~~

#### **ACQUISITION AND CONVEYANCE OF LOTS**

1. Developer will ensure a transfer of equity to the buyer in an amount no less than \$8,000.
2. DEVELOPER will abide by the Covenants and Restrictions pursuant to the conveyance document.

#### **WORKING BUDGET AND TIMETABLE**

DEVELOPER will provide a specific working budget and realistic timetable as relates to: acquisition, construction/rehabilitation, soft costs, development fees and other allowable costs/activities prior to any fund usage. Said budget shall identify all sources and uses of funds, and allocate HOME and non-HOME funds to activities or line items.

The City and Developer will review project status six months after execution of the contract. As a result of the review, the City may consider appropriate steps to enhance the success and viability of the contract.

#### **TARGET POPULATION**

The activities to be carried out are intended to assist low to moderate-income homebuyers interested in buying a home in the Southside Neighborhood of the City of High Point.

ATTACHMENT "B"

**QUALIFICATION AS AFFORDABLE HOUSING: HOMEOWNERSHIP**  
**(Excerpt from 24 CFR 92.254)**

- (a) Acquisition with or without rehabilitation. Housing that is for acquisition by a family must meet the affordability requirements of this paragraph (a).
- (1) The housing must be single-family housing (1- to 4-family residence, condominium unit, cooperative unit, combination manufactured home and lot, or manufactured home lot).
- (2) The housing must be modest housing as follows:
- (i) In the case of acquisition of newly constructed housing or standard housing, the housing has a purchase price for the type of single family housing that does not exceed 95 percent of the median purchase price for the area, as described in paragraph (a)(2)(iii) of this section.
  - (ii) In the case of acquisition with rehabilitation, the housing has an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section.
- (3) The housing must be acquired by a homebuyer whose family qualifies as a low-income family and the housing must be the principal residence of the family throughout the period described in paragraph (a)(4) of this section.
- (4) Periods of affordability. The HOME-assisted housing must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion.

The per unit amount of HOME funds and the affordability period that they trigger are described more fully in paragraphs (a)(5)(i) (resale) and (ii) (recapture) of this section.

| Minimum period of Homeownership assistance<br>HOME amount per-unit affordability in years |                                |
|-------------------------------------------------------------------------------------------|--------------------------------|
| <u>Assistance Amount</u>                                                                  | <u>Period of Affordability</u> |
| Under \$15,000                                                                            | 5 years                        |
| \$15,000 to \$40,000                                                                      | 10 years                       |
| Over \$40,000                                                                             | 15 years                       |

- (5) Resale and recapture. To ensure affordability, the participating jurisdiction must impose either resale or recapture requirements, at its option. The participating jurisdiction must establish the resale or recapture requirements that comply with the standards of this section and set forth the requirements in its consolidated plan. HUD must determine that they are appropriate.
- (i) Resale. Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability, and that the housing is made available for

subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as its principal residence. The resale requirement must also ensure that the price at resale provides the original HOME- assisted owner a fair return on investment (including the homeowner's investment and any capital improvement) and ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. The period of affordability is based on the total amount of HOME funds invested in the housing.

(A) Except as provided in paragraph (a)(5)(i)(B) of this section, deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements. The affordability restrictions may terminate upon occurrence of any of the following termination events: foreclosure, transfer in lieu of foreclosure or assignment of a FHA insured mortgage to HUD. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event obtains an ownership interest in the housing.

(B) Certain housing may be presumed to meet the resale restrictions (i.e., the housing will be available and affordable to a reasonable range of low-income homebuyers; a low-income homebuyer will occupy the housing as the family's principal residence; and the original owner will be afforded a fair return on investment) during the period of affordability without the imposition of enforcement mechanisms by the participating jurisdiction. The presumption must be based upon a market analysis of the neighborhood in which the housing is located. The market analysis must include an evaluation of the location and characteristics of the housing and residents in the neighborhood (e.g., sale prices, age and amenities of the housing stock, incomes of residents, percentage of owner-occupants) in relation to housing and incomes in the housing market area. An analysis of the current and projected incomes of neighborhood residents for an average period of affordability for homebuyers in the neighborhood must support the conclusion that a reasonable range of low-income families will continue to qualify for mortgage financing. For example, an analysis shows that the housing is modestly priced within the housing market area and that families with incomes of 65% to 80% of area median can afford monthly payments under average FHA terms without other government assistance and housing will remain affordable at least during the next five to seven years compared to other housing in the market area; the size and amenities of the housing are modest and substantial rehabilitation will not significantly increase the market value; the neighborhood has housing that is not currently

owned by the occupants, but the participating jurisdiction is encouraging homeownership in the neighborhood by providing homeownership assistance and by making improvements to the streets, sidewalks, and other public facilities and services. If a participating jurisdiction in preparing a neighborhood revitalization strategy under § 91.215(e)(2) of its consolidated plan or Empowerment Zone or Enterprise Community application under 24 CFR Part 597 has incorporated the type of market data described above, that submission may serve as the required analysis under this section. If the participating jurisdiction continues to provide homeownership assistance for housing in the neighborhood, it must periodically update the market analysis to verify the original presumption of continued affordability.

- (ii) Recapture. Recapture provisions must ensure that the participating jurisdiction recoups all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. The participating jurisdiction may structure its recapture provisions based on its program design and market conditions.

The period of affordability is based upon the total amount of HOME funds subject to recapture described in paragraph (a)(5)(ii)(A)(5) of this section.

(A) The following options for recapture requirements are acceptable to HUD. The participating jurisdiction may adopt, modify or develop its own recapture requirements for HUD approval.

- (1) Recapture entire amount. The participating jurisdiction may recapture the entire amount of the HOME investment from the homeowner.
- (2) Reduction during affordability period. The participating jurisdiction may reduce the HOME investment amount to be recaptured on a prorata basis for the time the homeowner has owned and occupied the housing measured against the required affordability period.
- (3) Developer net proceeds. If the net proceeds are not sufficient to recapture the full HOME investment (or a reduced amount as provided for in paragraph (a)(5)(ii)(A)(2) of this section) plus enable the homeowner to recover the amount of the homeowner's downpayment and any capital improvement investment made by the owner since purchase, the participating jurisdiction may Developer the net proceeds. The net proceeds are the sales price minus loan repayment (other than HOME funds) and closing costs. The net proceeds may be divided proportionally as set forth in the following mathematical formulas:
- (4) Owner investment returned first. The participating jurisdiction may permit the homebuyer to recover the homebuyer's entire investment (downpayment and capital improvements made by the owner since purchase) before recapturing the HOME investment.

- (5) Amount subject to recapture. The HOME investment that is subject to recapture is based on the amount of HOME assistance that enabled the homebuyer to buy the dwelling unit. This includes any HOME assistance that reduced the purchase price from fair market value to an affordable price, but excludes the amount between the cost of producing the unit and the market value of the property (i.e., the development subsidy). The recaptured funds must be used to carry out HOME-eligible activities in accordance with the requirements of this part. If the HOME assistance is only used for the development subsidy and therefore not subject to recapture, the resale option must be used.
- (6) Special considerations for single-family properties with more than one unit. If the HOME funds are only used to assist a low-income homebuyer to acquire one unit in single-family housing containing more than one unit and the assisted unit will be the principal residence of the homebuyer, the affordability requirements of this section apply only to the assisted unit. If HOME funds are also used to assist the low-income homebuyer to acquire one or more of the rental units in the single-family housing, the affordability requirements of § 92.252 apply to assisted rental units, except that the participating jurisdiction may impose resale or recapture restrictions on all assisted units (owner-occupied and rental units) in the single family housing. If resale restrictions are used, the affordability requirements on all assisted units continue for the period of affordability. If recapture restrictions are used, the affordability requirements on the assisted rental units may be terminated, at the discretion of the participating jurisdiction, upon recapture of the HOME investment. (If HOME funds are used to assist only the rental units in such a property then the requirements of § 92.252 would apply and the owner-occupied unit would not be subject to the income targeting or affordability provisions of § 92.254.)
- (7) Lease-purchase. HOME funds may be used to assist homebuyers through lease-purchase programs. The housing must be purchased by a homebuyer within 36 months of signing the lease-purchase agreement. The homebuyer must qualify as a low-income family at the time the lease purchase agreement is signed and at the time the housing is transferred if more than six months have elapsed since the participating jurisdiction determined that the family was income eligible. If HOME funds are used to acquire housing that will be resold to a homebuyer through a lease-purchase program, the HOME affordability requirements for rental housing in § 92.252 shall apply if the housing is not transferred to a homebuyer within forty-two months after project completion.
- (b) Rehabilitation not involving acquisition. Housing that is currently owned by a family qualifies as affordable housing only if:



- (1) The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area, described in paragraph (a)(2)(iii) of this section; and
- (2) The housing is the principal residence of an owner whose family qualifies as a low-income family at the time HOME funds are committed to the housing.
  - (c) Ownership interest. The ownership in the housing assisted under this section must meet the definition of "homeownership" in § 92.2.
  - (d) New construction without acquisition. Newly constructed housing that is built on property currently owned by a family which will occupy the housing upon completion, qualifies as affordable housing if it meets the requirements under paragraph (a) of this section.



November 11, 2008

MEMORANDUM

TO: Strib Boynton  
City Manager

FROM: Louanne C. Hedrick  
Budget & Evaluation Officer

SUBJECT: Agenda Item for City Council

The City has received notice of \$60,000 grant from the High Point Public Library Foundation, Inc. which has been designated for the purchase and installation of new shelving units and relocation of other shelving units for the expansion of the Library.

Attached is a budget amendment to recognize the grant revenues received and to appropriate funds for the Library Expansion project.

Kem Ellis and I will be available to answer any questions.

Cc: Pat Pate  
Randy McCaslin  
Kem Ellis

"A CAPITAL PROJECT ORDINANCE AMENDMENT  
OF THE CITY OF HIGH POINT, NORTH CAROLINA  
FOR CONTRIBUTIONS FOR THE  
NEAL F. AUSTIN LIBRARY EXPANSION

Be it ordained by the City Council of the City of High Point, North Carolina,  
as follows:

Section 1. The City has received a grant from the High Point Public Library Foundation for the Neal F. Austin Library Expansion.

Section 2. The additional revenues that will be available to the City of High Point include:

- (A) That the General Capital Project Ordinance Fund of the City of High Point, is hereby amended as follows:

|                                      |           |
|--------------------------------------|-----------|
| Grants and Donations (411450/451102) | \$ 60,000 |
|--------------------------------------|-----------|

- (B) That the following General Capital Project Ordinance expenditures for the Neal F. Austin Library Expansion project be increased as follows:

|                                               |           |
|-----------------------------------------------|-----------|
| General Capital Project Expenditures (526104) | \$ 60,000 |
|-----------------------------------------------|-----------|

Section 3. That all ordinances, or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. That this ordinance shall be effective from and after its passage."

Adopted this \_\_\_\_\_ day of November, 2008

# Give: support

High Point Public Library Foundation, Inc.  
P. O. Box 2530  
High Point, NC 27261-2530  
www.highpointpubliclibrary.com

High Point Public Library

November 3, 2008

Honorable Rebecca Smothers  
Mayor of the City of High Point  
P.O. Box 230  
High Point, North Carolina 27261

Dear Mayor Smothers:

On behalf of the High Point Public Library Foundation, Inc., I wish to convey the Foundation's desire to grant to the City of High Point for the benefit of the Neal F. Austin High Point Public Library up to Sixty Thousand Dollars (\$60,000.00) for the purchase and installation of one hundred ten (110) new shelving units and the relocation of other existing shelving units incident to the expansion of the Library. The Foundation is in a position to commit such sums although I note that a portion of these monies are currently invested in a certificate of deposit and thus will not be available until the certificate matures on February 15, 2009. We ask that the City accept this grant for the purposes set forth herein. Of course, if any member of City Council needs additional information with respect to this grant, Kem Ellis as Director of the High Point Public Library or myself as the current Chairman of the Board of the High Point Public Library Foundation, Inc. will be more than happy to discuss this matter.

Thanking you for all of your work on behalf of the City and especially your support of the Library, I remain

Sincerely,

HIGH POINT PUBLIC LIBRARY FOUNDATION, INC.



Charles A. Alt, Chairman

CAA/mc

c: Mr. Kem Ellis

Publish four (4) consecutive weeks: **December 26, 2008 and January 2, 9, & 16, 2009**

**RESOLUTION OF INTENT TO CONSIDER A**  
**STREET ABANDONMENT**  
**(Case # SA08-24)**

WHEREAS, the City Council has been requested to close an unimproved portion of right-of-way known as Cliffside Avenue located south of Tryon Avenue between Cassell Street and Martin Street, and

WHEREAS, G.S. 160A-299 requires the Council to first adopt a resolution declaring its intent to close the street and calling a public hearing on the question;

NOW, THEREFORE BE IT RESOLVED, THAT THE COUNCIL declares its intent to consider the abandonment of the street above described and sets Tuesday, January 20, 2009, at 5:30 p.m. as the date for said public hearing before the Council of the City of High Point, in the Council Chambers of the Municipal Building, High Point, on the closing of said street.

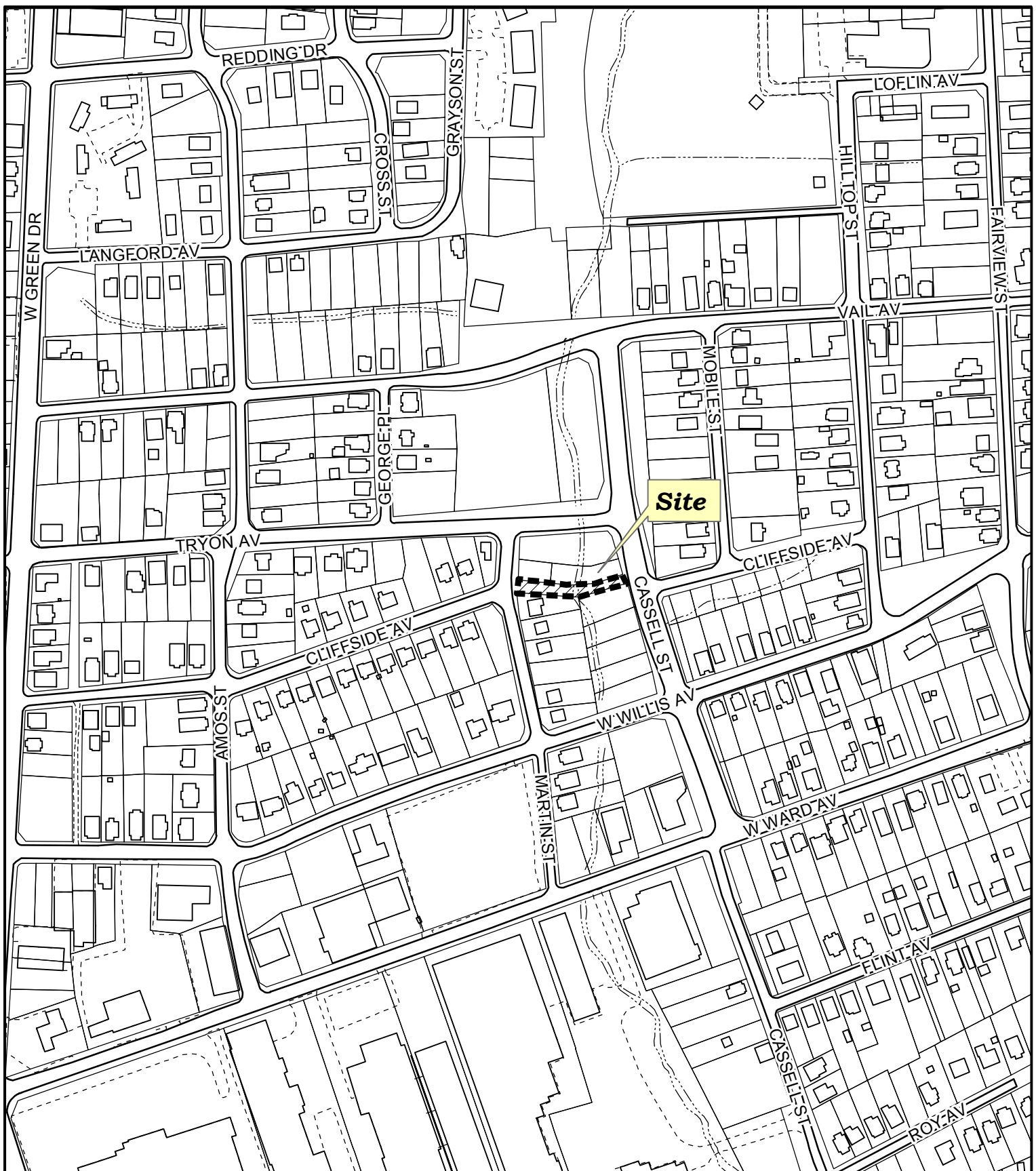
Persons wishing to be heard either for or against the said street closing are asked to be present for the hearing. The meeting facilities of the City of High Point are accessible to people with disabilities. If you need a special accommodation, call 336/883-3298 or TDD# 336/883-8517.

Further information pertaining to this request is available at the Planning and Development in the Municipal Office Building, 211 South Hamilton Street, Room 316, High Point, North Carolina, 336/883-3544 or FAX 336/883-3056.

By Order of the City Council  
This the 20th day of November 2008.

Lisa B. Vierling, City Clerk

Petition Submitted By:  
City of High Point – Technical Review Committee



## STREET ABANDONMENT REQUEST 08-24

Applicant: Technical Review Committee  
City of High Point

Area: 0.152 acres



Location of requested street abandonment

Planning & Development  
Department

City of High Point

Date: November 11, 2008



Scale: 1"=300'

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Publish four (4) consecutive weeks: **December 26, 2008 and January 2, 9, & 16, 2009**

**RESOLUTION OF INTENT TO CONSIDER A**  
**STREET ABANDONMENT**  
**(Case # SA08-25)**

WHEREAS, the City Council has been requested to close an unimproved right-of-way located east of Sales Street between Triangle Lake Road and Roberts Lane, and

WHEREAS, G.S. 160A-299 requires the Council to first adopt a resolution declaring its intent to close the street and calling a public hearing on the question;

NOW, THEREFORE BE IT RESOLVED, THAT THE COUNCIL declares its intent to consider the abandonment of the street above described and sets Tuesday, January 20, 2009, at 5:30 p.m. as the date for said public hearing before the Council of the City of High Point, in the Council Chambers of the Municipal Building, High Point, on the closing of said street.

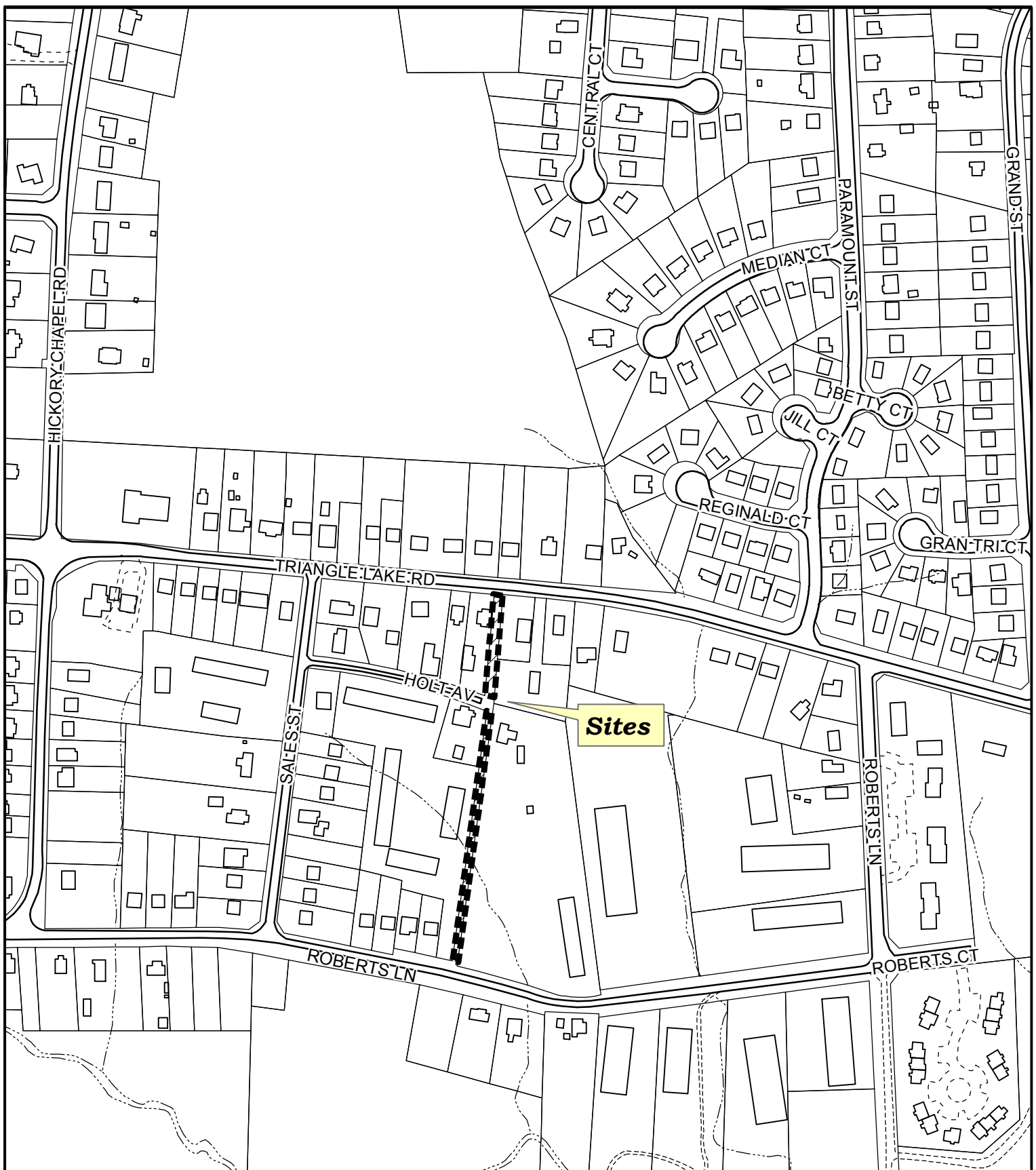
Persons wishing to be heard either for or against the said street closing are asked to be present for the hearing. The meeting facilities of the City of High Point are accessible to people with disabilities. If you need a special accommodation, call 336/883-3298 or TDD# 336/883-8517.

Further information pertaining to this request is available at the Planning and Development in the Municipal Office Building, 211 South Hamilton Street, Room 316, High Point, North Carolina, 336/883-3544 or FAX 336/883-3056.

By Order of the City Council  
This the 20th day of November 2008.

Lisa B. Vierling, City Clerk

Petition Submitted By:  
City of High Point – Technical Review Committee



## STREET ABANDONMENT REQUEST 08-25

Applicant: Technical Review Committee  
City of High Point  
Area: 0.29 acres



Location of requested street abandonment

Planning & Development  
Department

City of High Point

Date: November 11, 2008



Scale: 1"=300'

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