

City of High Point

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



Meeting Minutes

Monday, October 19, 2009

4:45:00 PM

Council Chambers

*Rebecca R. Smothers, Mayor
William S. Bencini, Mayor Pro Tem
Latimer B. Alexander, IV, Mary Lou Blakeney,
Foster Douglas, John Faircloth, Michael D. Pugh,
Bernita Sims, M. Christopher Whitley*

ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE

Present: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Sims, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Pugh and Council Member Whitley

APPROVAL OF THE MINUTES FROM PREVIOUS MEETING

The minutes of the following meetings were unanimously approved as submitted upon motion by Council Member Alexander and second by Mayor Pro Tem Bencini.

Finance Committee; Tuesday, September 8th @ 4:00 p.m.

Combined Meeting; Tuesday, September 8th @ 4:45/5:30 p.m.

Public Safety Committee; Wednesday, September 9th @ 9:00 a.m.

FINAL ACTION TAKEN AT THIS MEETING

At the conclusion of the Committee of the Whole Session, and after all matters were heard by Council, **motion was made by Council Member Alexander and seconded by Council Member Sims to suspend the rules in order to take final action on these matters at tonight's meeting. The motion carried unanimously. [9-0 vote]**

Motion was then made by Council Member Alexander, seconded by Council Member Whitley that all Committee recommendations stand as final action regarding these matters. The motion carried unanimously. [9-0 vote]

*Note: According to the committee recommendations, all matters for tonight's meeting will be final. Matter **090254 Ordinance- Rezoning Case 09-08- High Point University- E. Farris Avenue** will be the only matter placed on Thursday's Agenda for further discussion and possible action.*

PRESENTATION OF ITEMS

FINANCE COMMITTEE- Council Member Whitley, Chair
Committee Members: Bencini, Douglas and Alexander

(all were present)

Contract - Bid No. 09 - Westside Wastewater Treatment Plant Improvements - Phase II

090260

Approval of contract awarding Bid No. 09 for the Westside Wastewater Treatment Plant Improvements - Phase II. Purchasing and Public Services recommends that contract be awarded to Gilbert Engineering in the amount of \$8,980,080.93 which is the lowest responsible and responsive bidder meeting specifications.

This matter was discussed in a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

Mayor Smothers commented that it has taken five years to get to this point in improving a wastewater treatment plant project where it is today and thanked staff for their perseverance. Staff reported that there would be one more phase to the project.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation.

Approved contract awarding bid for the Westside Wastewater Treatment Plant Improvements- Phase II to Gilbert Engineering in the amount of \$8,980,080.03 which is the lowest responsible and responsive bidder meeting specifications.

A motion was made by Council Member Whitley, seconded by Council Member Alexander, that this matter be approved. The motion carried unanimously.

Contract - Bid No. 12 - Existing Water & Sewer Maintenance Contract

090261

Approval of contract awarding Bid No. 12 for existing water and sewer line maintenance. Purchasing and Engineering Services recommends that contract be awarded to Breece Enterprises in the amount of \$445,985.00 which is the lowest responsible and responsive bidder meeting specifications.

This matter was discussed during a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved contract awarding bid for existing water and sewer line maintenance to Breece Enterprises in the amount of \$445,985.00 which is the lowest responsible and responsive bidder meeting specifications.

A motion was made by Council Member Whitley, seconded by Council Member Alexander, that this matter be approved. The motion carried unanimously.

Ordinance - Transfer of Control of LEXCOM to Windstream Corporation

090242

Council is requested to adopt an ordinance providing for the change in control of a cable television franchise, LEXCOM to Windstream Corporation.

City Attorney Fred Baggett acknowledged the presence of Richard Reese, Chair and CEO of LEXCOM as well as Jane Eave, who is the VP of Windstream.

This is the 2nd reading on this matter. First reading was held on Monday, October 5th at 4:45 p.m.

Chairman Whitley opened up the floor for comments. No comments were offered.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance providing for the change in control of a cable television franchise, LEXCOM to Windstream Corporation.

**Ordinance No. 6645/09-45
Adopted 10/19/09**

Introduced 10/05/09

Ordinance Book Volume XVI, Page 130

A motion was made by Council Member Whitley, seconded by Council Member Alexander, that this matter be adopted. The motion carried unanimously.

Municipal Agreement - NCDOT - High Point Greenway System**090247**

Council is requested to authorize staff to execute a Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for the environmental studies and preliminary engineering work necessary to extend the City's greenway system from Deep River Road at University Park to Penny Road near the Piedmont Environmental Center.

This matter was discussed during a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for the environmental studies and preliminary engineering work necessary to extend the city's greenway system from Deep River Road at University Park to Penny Road near the Piedmont Environmental Center and authorized staff to execute same.

A motion was made by Council Member Whitley, seconded by Council Member Alexander, that this matter be approved. The motion carried unanimously.

Municipal Agreement - NCDOT - Lexington Avenue Sidewalks**090248**

Council is requested to authorize staff to execute a Municipal Agreement with the North Carolina Department of Transportation (NCDOT) for the construction of sidewalks on Lexington Avenue from Montlieu Avenue to the Greenway.

This matter was discussed during a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

Council Member Alexander asked to be recused due to a possible conflict of interest since he owns property at 2501 E. Lexington in the area where the improvements will be made. Council Member Whitley moved to excuse Council Member Alexander from voting on this matter with Council Member Faircloth making a second. The motion carried unanimously.

The committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

A motion was made by Council Member Whitley, seconded by Council Member Sims, that this matter be approved. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Sims, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Pugh and Council Member Whitley
Recused: Council Member Alexander

NC Deferred Compensation Plan (457)

090249 Council is requested to authorize the City Manager to execute a NC Public Employee Deferred Compensation 457 Plan - Employer-Third Party Administrator Agreement.

This matter was discussed briefly during a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved Employer-Third Party Administrator Agreement with Proderential for a NC Public Employee Deferred Compensation 456 Plan and authorized the city manager to execute same.

Pending Items

Revised Economic Incentive Policy

090050 Council is requested to adopt a revised economic incentive policy redirecting incentive dollars to the Core City and south High Point.

Note: This matter has been pending since March 5, 2009.

PUBLIC SAFETY COMMITTEE- Council Member Faircloth, Chair Committee Members: Douglas, Pugh, and Alexander

(all were present)

Ordinance - Vacate/Close Dwelling - 813-B Mobile Street - Bethea

090259 Council is requested to adopt an ordinance ordering the housing inspector to effectuate the vacating and closing of a dwelling located at 813-B Mobile Street belonging to Johnnie and Kisha Bethea.

Mark Wayman of the Inspection Services Division, provided an update on this case. This case was brought to Council due to the lack of water in the dwelling. A 48-hour emergency order to repair was issued and the occupants were ordered to vacate the premises by October 9th. Mr. further explained that this dwelling is currently in foreclosure and there are no plans to do any repairs, but the mortgage company has agreed to offer some assistance in the amount of \$1,000 to help the occupant at 813-B Mobile Street. He noted that she is currently out of the dwelling and staying in a hotel and does have a house to move into on Wednesday. Staff asked for Council's approval of the ordinance to repair/vacate since this would allow Community Development to continue with their assistance for her. Staff has placed a hold on the utilities for this address until the adequate repairs are made so the repairs will have to be completed before anyone else will be allowed to move back into it.

Cathy Gray, Community Resource Specialist with Community Development, explained that when the 48-hour notice to vacate was issued, the occupant was referred to Community Development and Community Development made arrangements and put her up in a hotel with the understanding that they did have correspondence from the realtor company that they would compensate her \$1,000 to help with the cost of moving her into another house. She informed Council that Crestwood Suites made special provisions to allow her to continue staying there although the room was needed for Furniture Market. Mayor Smothers asked staff to let Crestwood Suites know how much the city appreciates their accommodations during the Market.

There being no further discussion on the matter, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation.

Adopted Ordinance to vacate/close the structure located at 813-B Mobile Street.

Ordinance No. 6646/09-46 Introduced 10/19/09
Adopted 10/19/09
Ordinance Book Volume XVI, Page 131

A motion was made by Member Faircloth, seconded by Council Member Alexander, that this matter be adopted. The motion carried unanimously.

PUBLIC SERVICES COMMITTEE- Council Member Sims, Chair
Committee Members: Blakeney, Faircloth, Whitley and Alexander

(all were present)

There were no matters appearing on tonight's Agenda for consideration by the Public Services Committee.

PLANNING & DEVELOPMENT COMMITTEE- Council Member Bencini, Chair
Committee Members: Blakeney, Pugh, Sims and Faircloth

(all were present)

Resolution of Intent - Annexation 09-03 - Riverdale Drive

090250

Approval of a Resolution of Intent that establishes a public hearing date of Monday, November 2, 2009 at 5:30 p.m. to consider a contiguous annexation of approximately 3 acres. The site consists of the northeastern 3 acres of a larger 16.5 acre parcel located at 5853 Riverdale Drive, which is lying along the east side of Riverdale Drive and approximately ½ mile south of E. Kivett Drive. The site is also known as a portion of Guilford County Tax parcel 15-94-7016-0-0882-00-005.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted Resolution of Intent establishing a public hearing date of Monday, November

2, 2009 at 5:30 p.m. to receive public comment regarding a voluntary contiguous annexation request for property located on Riverdale Drive owned by Anthony and Denise Cash.

Resolution No. 1561/09-89

Introduced 10/19/09

Adopted 10/19/09

Resolution Book Volume XVI, Page 203

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously.

MISCELLANEOUS

Reappointment - ABC Board - James Tanner

090262

Council is requested to confirm the reappointment of James Tanner to the City of High Point Board of Alcoholic Control (ABC Board). Appointment will be effective 11/15/09 and expire 11/15/2012.

Council Member Sims pointed out that Mr. Tanner brings an invaluable Human Resources perspective to the ABC Board and recommended his reappointment.

Approved the reappointment of James Tanner to the City of High Point ABC Board. Appointment effective 11/15/2009 and will expire 11/15/2012.

A motion was made by Council Member Sims, seconded by Council Member Alexander, that this matter be approved. The motion carried unanimously.

Resolution - Street Abandonment 09-19 - High Point University - Fifth Court

090255

A request by High Point University to abandon approximately 58 feet of the eastern terminus of Fifth Court fronting property at 1011 Fifth Court.

Larry Diggs- Transportation Concerns

Larry Diggs, who resides at 1127 Biltmore Avenue, asked to address Council about the following issues of concern:

Status on reviving Oak Hollow Mall

Extending bus routes and hours

Dial-A-Lift hours of operation and problems with the new service

Suggestion- Appointment of a Citizen's Advisory Committee for the disabled and handicapped

Better transportation service on the north end of town

In response to Mr. Diggs concerns about better transportation service on the north end of town, Scott Rhine with PART expalined that there has been some discussion with PART about the possibility of adding service to the north end of town, but nothing has yet been put forth formally. He noted it would come back before the Transportation Advisory Committee (TAC) and the Metropolitan Planning

Organization (MPO). Mayor Smothers felt it would be extremely helpful to have comments from citizens who are perspective users of the service.

Danny David- Transportation Concerns

Danny David, who resides at 3101 Stratford Court, explained that he was a member on the Advisory Board for about 10 years until it disbanded for unknown reasons. He expressed concerns with the Dial-A-Lift service since MV Transportation took over the contract in July. He felt they need to be much more reliable and the service has not been good since they took over. He also asked if there was any way to get service out on High Point Road and if any consideration has been given to shared ride services because many people who use public transportation are on fixed incomes and cannot afford the excessive cab fares. The Mayor asked the transportation staff to get some information from MV Transportation on their scheduling, how many times and where they have missed their appointed pickups, and the difference in the time frame and suggested once this information is received that staff also work with Council to create a committee that could deal with the whole disability transportation issue.

CLOSED SESSION- ECONOMIC DEVELOPMENT

At 5:05 p.m., upon motion duly made by Council Member Alexander and second by Council Member Sims, Council entered into Closed Session pursuant to N.C.G.S. 143-318.11(a)(4) for the purpose of a briefing from staff regarding specific economic development projects.

Upon reconvening into open session at 5:20 p.m., Mayor Smothers announced that there was no action taken as a result of the closed session.

PUBLIC COMMENT PERIOD

Larry Diggs- Transportation Issues/Concerns

Larry Diggs, who resides at 1127 Biltmore Avenue addressed Council regarding the following issues of concern:

Revitalization of the Oak Hollow Mall

Extension of bus routes/hours

Dial-A-Lift hours of operation and complaints about new service

Recommendation of appointment of a Citizens Advisory Committee for the disabled and handicapped

Better transportation service on the north end of town

Regarding Mr. Diggs concerns for better transportation service on the north end of town, Scott Rhine with PART explained that there has been some discussion with PART about the possibility of adding service to the north end of town, but nothing has been put forth formally. He explained it would definitely come back before the Transportation Advisory Committee (TAC) and the Metropolitan Planning Organization (MPO) for further discussion.

Danny David- Transportation Issues/Concerns

Danny David, who resides at 3101 Stratford Court, shared that he had served on the Advisory Board for about 10 years until it was disbanded for unknown reasons. He also informed Council that MV Transportation was not doing well at all and needed to be more reliable since they took over the Dial-A-Lift services in July. He also asked if there would be anyway to get service out on High Point Road and if any consideration has been given to provide share ride services in High Point. He pointed out that many of the people using public transportation are on fixed incomes and cannot afford the excessive cab fares. The Mayor asked the city staff to get information from MV Transportation on their scheduling, how many times and where they have missed their appointed pickups and the difference in that timeframe as well and suggested once this information is received that staff look at the option of creating with Council a committee that could deal with the whole disability transportation issue.

PUBLIC HEARINGS ON ITEMS

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

Planning & Development Committee**University Area Plan - City of High Point****090251**

A request by the City of High Point for consideration of the University Area Plan.

The public hearing for this matter was held on Monday, October 19, 2009 at 5:30 p.m. as advertised.

Heidi Galanti of Planning and Development gave an overview of the staff report which will be attached to Legistar as a permanent part of these proceedings. She pointed out that as a result of feedback from the Planning & Development Committee and the Planning & Zoning Commission, they expressed concern over the loss of some of the specifics contained in the 1002 policy and felt more of it needed to be included in the University Area Plan and that much of the concern was about the location of the new university development and mitigation impacts on adjacent properties. General revisions to the text were recommended as follows:

They wanted to strengthen the discouragement of splitting sub areas. They suggested that a site plan be required at the time of rezoning if a sub area is split. And they wanted to require new development to be adjacent to campus and to require conditions with each zoning request that mitigate the impacts on adjacent properties. The plan was revised and presented to the Planning & Zoning Commission at their public hearing on September 29th and after the public hearing was held and discussion amongst the members, they recommended amending some of the text.

They recommended referring to changing when sub areas are split from must be contiguous to should be contiguous. They felt that this provided more flexibility, but however they did carry forward that the site plan must be submitted if a rezoning is

submitted in a split sub area. They also looked at the strongly discouraged language pertaining to partial rezoning of sub areas and modified that to say that rezoning of the entire sub area is strongly encouraged versus partial zoning of sub areas is strongly discouraged.

The Planning & Zoning Commission recommended approval of the plan as amended by a vote of 5-0 and the revised public hearing draft was posted on the website for public review.

Following the presentation of the staff report, Chairman Bencini asked Ms. Galanti to point out the proposed changes as suggested by the Planning & Zoning Commission. Ms. Galanti pointed one of the changes was contained in Policy 3.6 (page 18 of the plan) that says new campus development should be contiguous to the existing campus and the other proposed change was to the paragraph on temporary edges (page 25 of the plan). The changes for the temporary edges include rewording the second sentence to due to impact on adjacent properties when sub areas are split, the rezoning of entire sub areas are strongly encouraged and further down in the paragraph it notes that where sub areas are split, development should be contiguous and must include a site plan.

Council Member Alexander asked if other areas were discussed outside the study area and staff replied that no other areas were discussed. Ms. Galanti explained that from the outset, staff set the boundary being 500' from the major thoroughfares.

At this time, Chairman Bencini opened the public hearing and asked if anyone was present to speak in favor of the proposed University Area Plan.

Don Scarborough, Vice President of Community Relations at High Point University, spoke in favor of the plan and felt it was a good guide for both the university and the city over time. He pointed out the community meetings were well attended and commended staff for the care with which they conducted the meetings as well as the content of the information they made available. On behalf of the university, he expressed concerns about one of the statements contained in the document regarding the discouragement of the demolition of homes. He explained that some of the unoccupied homes become a significant liability over a period of time not only for the university, but for the community and it also jeopardizes the safety and security of the neighborhood and the university. The university also disagrees with the references throughout the document that suggests these structures be reused by the university for students, faculty housing and other administrative offices. Mr. Scarborough informed Council that refurbished homes do not necessarily make appropriate living and working spaces for students or faculty the university no longer provides housing for faculty. He noted the university would like to, as it suggests in the document, go through those facilities one by one as they come available to the university. Regarding the comments about prevention of light spillage and glare in the neighborhoods, there have been instances in the past and the university has worked to try to mitigate these situations and will continue to do so. He pointed out there were suggestions in the document that the university begin with Sub area 1 (N. College Drive at the corner of Lexington near Sechrest Funeral Home), but because of the

topography and shape of this property makes it extremely difficult for them to do something there at this particular time.

He also noted there were a number of references to maintaining the existing trees on campus and informed Council that the university is working hard to make the college campus a certified arboretum and they try to keep every single tree possible.

Chairman Bencini asked if there was anyone else present who would like to speak in favor of the plan. There being none, he asked if there was anyone present who would like to speak in opposition.

Mitchell Whitaker, who resides at 1005 Fifth Court, spoke in opposition. He spoke on behalf of himself and two other property owners on Fifth Court (Calvin Carter who resides at 1009 Fifth Court and Hector and Debbie Y'anez who live at 1007 Fifth Court). [Mr. Carter and Mr. & Mrs. Y'anez were present]. He informed Council that although the university has expressed an interest in acquiring their property, a fair or suitable offer has not been made. Mr. Whitaker expressed the following concerns regarding the University Area Plan, rezoning and street abandonment associated with their property on Fifth Court.

Felt the university should be required to own whole blocks of neighborhoods before seeking rezoning

Expressed opposition to the university rezoning request due to construction of dormitories too close to single-family homes.

Development is unacceptable due to the constant noise throughout the day, the students and issues related to student parking

Expressed opposition to the 60-foot height of the structure due to its towering over their single level homes

Expressed opposition to the street abandonment due to the increased traffic flow to the remainder property

In the case that Council allows the rezoning, Mr. Whitaker requested that all construction access from Fifth Court be restricted (parking of workers, equipment or the stockpiling of supplies, equipment, tractor trailers, etc...) because during construction of the university's most recent addition, the residents have had to deal with abnormal living conditions, enormous amounts of dust inside and outside their homes, enormous amounts of trash from the construction site, vehicles parking along Fifth Court, tractor trailers unloading equipment and supplies while restricting access to their homes.

In closing, Mr. Whitaker encouraged Council Members to visit his neighborhood so they could observe these conditions they were having to live in.

Chairman Bencini asked Council if they desired to move forward with adoption of the proposed University Area Plan or if they felt it needed to be discussed further.

Council Member Sims stated she wasn't prepared to move forward and felt there needed to be more discussion around the plan itself. Council Member Alexander shared that he definitely has a problem with this plan and pointed out the university

recently has stepped outside of the area plan and felt the ultimate approval would reflect a large addition of land that happens to be outside the study area. Mayor Smothers asked staff if there was a time table for action on the plan. Lee Burnette, Director of Planning & Development, noted the university has another relative case tonight (Land Use Plan amendment) with a recommendation coming from the University Area Plan. Mr. Burnette informed Council that they could adopt the relative Land Use Plan amendment without having adopted the University Area Plan.

It was recommended this matter be continued for further discussion in the Planning & Development Committee.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be continued. The motion carried unanimously.

Land Use Plan Amendment 09-01 - City of High Point

090252

A request by the City of High Point to amend the Land Use Plan from Low-Density Residential and Office to Institutional and Recreation/Open Space to implement the recommendations of the University Area Plan.

The public hearing regarding this matter was duly held as advertised on Monday, October 19, 2009 at 5:30 p.m.

Heidi Galanti with Planning & Development gave an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings. She noted that if these amendments are approved, it would still need to be rezoned prior to university development at which time as the plan recommends, conditions would need to be submitted to mitigate impact on adjacent properties.

Council Member Sims questioned the effect this would have on individuals who choose to resell their homes--not necessarily to the university. Staff explained that although the Land Use Plan would identify the property as Institutional, the zoning would remain Residential and there would be no change in the zoning of the property, so there wouldn't be an impact. Council Member Alexander asked what effect this would have on Sechrest Funeral Home and their desire to make any improvements, additions or enhancements to their property. Ms. Galanti explained the land use plan amendment would not prevent them from making any expansions or improvements to their property and would not change the zoning, but if they decide to sell their property to the university, then the Land Use Plan would support institutional development in that area.

Council Member Sims asked if this action on the Land Use Plan amendment would not affect the decision for adoption of the University Area Plan. Staff explained that this Land Use Plan amendment was a direct recommendation from the University Area Plan and the purpose is to encourage cohesive growth. Mr. Burnette added that this is a continuance of the same idea when Council adopted an amendment to the Land Use Plan in 2001 to accommodate future growth.

Chairman Bencini opened the public hearing and asked if there were any comments on the proposed Land Use Plan amendment.

Don Scarborough representing High Point University, spoke in support of the Land Use Plan Amendment and pointed out that until the university meets the requirements of the city, it would not change the individual property rights in any way as they were attempting to get entire blocks at a time before coming forward to Council as opposed to the 50% rule in the past. Council Members questioned Mr. Scarborough regarding property owned by the university in the various blocks. Several questions were raised regarding the definition of a true block and felt some clarification was needed.

Mayor Smothers asked Mr. Scarborough if the university has monitored the conditions of Fifth Court and the deterioration that has occurred with the development that Mr. Whitaker spoke of. Mr. Scarborough agreed with Mr. Whitaker and admitted there has been a lot of construction traffic due to construction at the university center. The Mayor felt Mr. Whitaker's concerns were certainly warranted and needed to be examined by the university.

Chairman Bencini asked if there was anyone else present who would like to speak in support of or in opposition to the proposed Land Use Plan Amendment. There being none, the public hearing was declared closed.

Following the conclusion of the public hearing and prior to voting on the matter, Council Member Sims asked if there was another way to take out the reference to the University Area Plan and reiterated her concerns that it was moved forward as part of the process of the proposed University Area Plan and based on the assumption that Council would adopt the proposed University Area Plan. Chairman Bencini reiterated that Council could move forward without adopting any of the parts of the University Area Plan and felt it wasn't an issue. It was noted that if there are any significant changes in the University Area Plan that would conflict with the Land Use Plan, then the Land Use Plan could be amended for consistency. Mayor Smothers mentioned a point made earlier by Council Member Alexander regarding intent by the university to purchase property that's outside the study area and felt this warranted further discussion. Chairman Bencini agreed that it definitely should be discussed in committee.

There being no further comments, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Adopted resolution authorizing the change in the Land Use Plan from Low-Density Residential and Office to Institutional and Recreation/Open Space.

Resolution No. 1562/09-90

Introduced 10/19/09

Adopted 10/19/09

Resolution Book Volume XVI, Page 204

A motion was made by Mayor Pro Tem Bencini, seconded by Member Faircloth, that this matter be approved. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Bencini, Council Member Alexander, Council Member Blakeney, Council Member Douglas, Council Member Faircloth, Council Member Pugh and Council Member Whitley
Nay: Council Member Sims

Ordinance - Rezoning Case 09-07 - Dian Brigman - S. Centennial Street

090253

Central Business (CB) District

A request by Dian Brigman to rezone an approximately 0.4 acre parcel from the Light Industrial (LI) District to the Central Business (CB) District. The site is lying at the southwest corner of E. Green Drive and S. Centennial Street (300 S. Centennial Street).

The public hearing regarding this matter was held as duly advertised on Monday, October 19, 2009 at 5:30 p.m.

Herb Shannon of Planning and Development presented the staff report. [the staff report is hereby attached in Legistar as a permanent part of the record]

Council Member Faircloth asked staff about the prohibition of other uses in this building such as a legal office. Mr. Shannon explained that a legal office would be permitted as any other use allowed in the CB District.

At this time, Chairman Bencini opened the public hearing and asked if anyone was present who would like to speak in support of or in opposition to this request.

Dian Brigman, representing McDonald Development, spoke in support of the rezoning request and asked if there were any questions.

Council Member Faircloth inquired about parking and Ms. Brigman pointed out that there is a parking lot associated with the building and noted this is identified on the map as the second straight line underneath the dotted line and noted as part of the exchange between the county and Mr. McDonald, the county needed additional parking so they plan to move the Department of Social Services, the Register of Deeds and the Tax Department to the former Amos Hoisery Mill. She shared that Mr. McDonald plans to revitalize the building (using all materials currently there) as opposed to building a new building and it would be a showcase for the area.

Chairman Bencini asked if anyone else would like to speak regarding this matter. There being no further comments, the public hearing was declared closed.

Following the conclusion of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance amending the Official Zoning Map for the City of High Point providing for the rezoning of this property from the Light Industrial (LI) District to the Central Business (CB) District based on consistency with the City's Land Use Plan and the findings of fact as outlined in the staff report. Additionally Council considers this action to be reasonable and in the public interest based on the following: 1) the

requested CB District is consistent with the Land Use Plan, 2) the requested CB District more accurately reflects the manner in which this area has redeveloped over the past three decades from an industrial to a downtown urban area, 3) the rezoning site is adjacent to CB District zoning at the southeast corner of S. Centennial Street and E. Green Drive; and 4) the requested CB District more accurately reflects the manner in which this site was developed and will eliminate non-conforming issues in regards to parking and building setback.

Ordinance No. 6647/09-47

Introduced 10/19/09

Adopted 10/19/09

Ordinance Book Volume XVI, Page 132

A motion was made by Mayor Pro Tem Bencini, seconded by Member Blakeney, that this matter be adopted. The motion carried unanimously.

Ordinance - Rezoning Case 09-08 - High Point University - E. Farris Avenue

090254

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

A request by High Point University to rezone two parcels totally approximately 0.79 acres from the Residential Single Family-7 (RS-7) District to a Conditional Use Public & Institutional (CU-PI) District. One parcel is lying along the south side of E. Farris Avenue, approximately 180 feet west of W. College Drive (906 E. Farris Ave.). The second parcel is lying along the north side of the terminus of Fifth Court (1011 Fifth Ct.).

b. Major Amendment to Conditional Use Permit 00-26

A request by High Point University to amend the permit to add approximately 0.79 acres into the permit and to amend development standards.

The public hearing regarding this matter was held as duly advertised on Monday, October 19, 2009 at 5:30 p.m.

Transcript of Public Hearing

Herb Shannon: This is a request from the High Point University to rezone two parcels totaling 0.7 acres from the current Residential Single Family-7 or RS-7 District to a Conditional Use Planned Institutional District. Just to note where we're at. This is W. College, E. Farris, and these are the two parcels in question. As you are aware, the central portion of the university's campus is zoned PI. However that portion of campus lying north of Montlieu Avenue and west of W. College Drive is zoned Conditional Use Public Institutional and governed by Conditional Use Permit 00-26. The applicant's requesting to add these two parcels into Conditional Use Permit 00-26. That permit and the current conditions have conditions for protection of the adjacent neighborhood which prohibits access from Fifth Street, Fifth Court and E. Farris Avenue. In addition that permit has higher design standards for any development within 100' of Fifth Street and Fifth Court and those consist of maximum building height of 60', loading areas and mechanical equipment not to face the street, and higher landscaping standards when there's parking or development within 100' of the right-of-way. What the applicant is proposing is to add these two parcels in the permit and develop this area and they've designated this area. Bob if you could put

up the next slide please. They've designated this area as Tract A and it has specific conditions on top of those other permits for the development of Tract A.

Now when this request initially went to the Planning & Zoning Commission in September, the applicant had presented a proposal for dormitories to be developed in that area and that was reviewed and a recommendation of approval was permitted by the Planning & Zoning Commission. However, after that meeting, the applicant had noted they desired to do some changes to the conditions of their site. You have before you on the dais an amended conditional use permit submitted by the applicant and a concept plan or a sketch plan. Since there was a request submitted after the Planning & Zoning Commission public hearing, staff had noted to the applicant that the Development Ordinance requires them to submit the changes to Council for a public hearing. So I think it would be appropriate at this time to have the applicant address the Council at this time and go into detail about the specific changes they are proposing and afterward, staff can offer specific findings.

Chairman Bencini: Okay, before we go forward, a couple of things. First, that really means that we can't voted on this tonight, correct?

Herb Shannon: Correct.

Chairman Bencini: Okay, number two, how does the application of the city's policy towards our 50% rule apply to these properties?

Herb Shannon: Well I would think at this time it would be appropriate for the applicant to submit their specific changes so we can specifically address that.

Chairman Bencini: Well, I mean if it doesn't.....if we've got a problem with that application, though, do we need to talk about it?

Lee Burnette: The 50% policy applies to that area that was designated in 2001. They have acquired all that with the exception of some property that's along W. College.

Chairman Bencini: Well we've had this discussion before Lee and I think Council felt like the 50% policy related to the whole university or the area around the university where they were contemplating growth.

Lee Burnette: You can if the Council so desires to make that policy, but the written policy wasn't quite stated that way.

Chairman Bencini: Well there were about nine folks who didn't understand it that way then.

Mayor Smothers: At any rate, you're not going to act tonight so there's time to discuss that in committee.

Chairman Bencini: I do think that needs to be brought up though. I think we need to consider that. As we can tell, you know, some of the folks that are here tonight. We're

going to go ahead and hear what the university plans are.

Don Scarborough: Don Scarborough. High Point University. We are here tonight to make a change in that as you know parking is essential for a campus and when you ask the question about how much property the university owns on the block, let me just point out to you the properties that we do own.

Chairman Bencini: Well the first thing I need to know is what is the block? How do we define the block? That's one of the problems I'm having Don.

Don Scarborough: I'd have to rely on Planning & Zoning to define the block. If you consider that the block.....

Chairman Bencini: If that's the block, you've got well over 50%.

Don Scarborough: Exactly. If you consider that the block, you know we own this house, this house, this house, this house and that house and those two houses which leaves these three houses, these three houses, and these two houses that we do not own.

Chairman Bencini: Okay, we'll worry about the block thing later.

Don Scarborough: Initially we had made a request to build a residence hall there. As the university's enrollment this year is up 20% and already for next year our applications for next year are up 35% for next year. With the purchase of the property at the Wesleyan site, it took the pressure off because this was squeezing a residence hall into a space and squeezing a residence hall into a neighborhood which really wasn't our desire but when we did our calculations in late summer, we found that we were going to be 100 beds off. So what we would like to do now is take this property and I have the engineer, Greg Mercer, to explain the details of that into a parking lot that has about 150 some 160 some spaces that would not only serve the university, but as you know one of the issues we have....I don't know if this would eliminate it, but I think it would certainly make a big impact is during basketball season people park along E. Farris and we could on basketball nights clear the lot of student parking so that the other parking could come into that slot there and make it more accessible for those games. I'll let Mr. Mercer explain the details.

Chairman Bencini: Before he does, though, Don, does the university anticipate this being a parking lot long-term?

Don Scarborough: We don't know. As we develop more property purchases in that area over time it may not be. You know for the foreseeable future, I would think that it would. Initially when we started the process on this lot, we had a parking lot planned for there and even have a parking lot permitted for there and it was at the point we saw that our numbers were going so strongly that we made the decision that we should probably consider putting a residence hall there. Mr. Mercer did all the designs for that residence hall and it was really squeezing that residence hall onto that spot was one of the reasons we bought those two pieces of property which now

would serve wonderfully as buffers for the parking lot and he has the plans to show you what those buffers would be like as well. This has all come up in the last few days.

Greg Mercer: My name is Greg Mercer. I live at 1506 Trafalgar Court in High Point. The plan that I've asked Bob to show is the parking lot that was permitted in April of '09. Where the two pieces of property shown here and there were no owned by the university, the black line is the property line and at that time the city deemed that there be a 15' planting yard and privacy fence along that residential property. When this was stopped, that piece of property and that piece of property was purchased and if you could put up the other plan. Since we are not now building the dorm, we want to go back and put the parking lot in that was permitted, but we want to change it. The old property line is right there. We're keeping the property on our original property. What we are proposing to do is come in here and put a 25' B yard buffer right there to screen this house and this house which we do not own because these will possibly be maintained as residences for now, but they're university property. So in essence, we took a lot of the parking out right in here because of grading issues. We've got about, I think there's eight less parking spaces with this plan than there was. We used to have parallel parking right there. We have now got 90 degree parking. So we actually have less impervious area. We're still on our property with the paving and curb and gutter and we're moving the buffer where we think will better screen those. If you wanted the buffer and fence that we used to have right there, we can put that on our property, but we would still like these two pieces of property rezoned since it is adjacent to the PI institutional and we do own 50% of the block no matter which way we determine it, whether it's the block including the university center or just the block bounded by Fifth, Fifth Court and Farris-we still own 50% of that.

So what we're asking is more of a revision to the original permit. We have-and maybe Dan can talk to this-we have met with the erosion control people and resubmitted the watershed plans, but tonight it's a zoning question. And we're just trying to keep you guys informed of.....

Chairman Bencini: Let me ask you another question. I don't know if we talked about this or if it's ever been talked about with staff, but what are you going to do to mitigate the night time headlights from spilling across E. Farris to the neighbors.

Greg Mercer: A 5' opaque fence. On Farris there is none.

Mayor Smothers: They did that over on Guyer.

Greg Mercer: The adjacent residential property there is.

Chairman Bencini: What are you talking about adjacent? You're talking about across Farris. I'm talking about coming in off W. College Greg and taking a right at night time....across the other side of Farris, there are a couple of homes over there on that corner and how much....I guess the question is, first, is how much spill over light will there be at night time into those homes as college kids do have a tendency to

come and go late at night. If there is, then how do you plan to mitigate that?

Greg Mercer: We don't have plans to mitigate that. There's a street right here where we're probably going to have much more travel that points in the same direction, but in discussions with Planning & Zoning, Farris was never an issue so it really has not been discussed Mr. Bencini.

Council Member Alexander: Mr. Mercer, the little hooked parking lot with fourteen spaces there, that exists now?

Greg Mercer: Yes.

Mayor Smothers: This shows a future decorative brick fence. Is that the kind like you have now? Will there be any plantings between the brick fence and said parking lot on the E. Farris side?

Greg Mercer: There will, but in actuality the grade of this street is 35' below this point right here, so if we put plantings down there, I'll be honest with you, headlights from that parking lot are going to go right across the top of it.

Strib Boynton: The reality is....

Chairman Bencini: The reality is there are two neighbors across the street on the other side of Farris. Those same two neighbors-at least one of them's already having to deal with the sign thing that they're not real comfortable with and I'm just anticipating some of the potential problems that may arise out of this being a parking lot. That's all.

Lee Burnette: Let me clarify.....they have not submitted a landscape plan yet. They'll have to submit a landscape plan for the street yard along Farris there.

Chairman Bencini: Has staff anticipated the impact of headlights at night in that parking lot?

Lee Burnette: No we have not seen anything-this is the first time we're hearing it.

Doug Loveland: The previous plan that we saw, they actually brought landscaping along Farris up the bank a little bit, so instead of being low right along the right-of-way, he brought it up the hill a couple of blocks. That was a concern that we tried to mitigate with landscaping, but that was the previous plan.

Chairman Bencini: So you haven't really looked at this one yet.

Mayor Smothers: Well I don't know how the rest of Council Members feels, but your offer to push back the fence if you are given this....I think you put your fence between your property and the neighborhood, not between the parking lot and the neighborhood. I mean if you're going to be using those houses as you said you were, they should be separated by the fence.

Greg Mercer: So you think the fence should be here?

Mayor Smothers: No I think it should be up there.

Chairman Bencini: Along the property line.

Strib Boynton: Where the landscaping is.

Mayor Smothers: Where you said that would be fenced and there would be a planting area that would buffer that way.

Greg Mercer: We'll go back and review-going back to the original site plan that we have permits for-if you could put that up one more time. We will go back and look at the landscaping requirements that we had right there and we would love to keep them happy and comply and will work with the city on landscaping and gleaning those headlights from the parking lot across Farris.

Council Member Alexander: If you go back to the prior map, just so I'm understanding this, Mayor you're talking about putting a fence along that heavy dark dotted line, a 5' high opaque fence. What good does the planting yard do on this side of the fence for the neighbors that are on the other side of the fence?

Council Member Sims: Nothing.

Lee Burnette: It's a requirement that has to be met.

Chairman Bencini: It's a Development Ordinance requirement.

Council Member Alexander: Well I know it's a requirement and I appreciate the need for the requirement, but is there anything that we could do to help the neighbors that are on the other side of the fence because that, I think, is who we are hoping to help. If you just plant a bunch of shrubbery and small trees on the university's side of the fence, that doesn't help the existing neighborhood.

Lee Burnette: That's why they've offered to install a 5' fence.

Mayor Smothers: I think when it comes back to us with some analysis as to what the buffering and all that will be, it might be more....

Greg Mercer: This area is uphill from the parking lot for one thing. There is a ridge that goes right up through there. We can go back, if you will put the other plan back up again, it was originally planned that this was the fence and landscaping area was on the backside which was on the residential side. We can do that again, but it would need to be-because of the location of the houses-going back to the other plan one more time we're proposing. In talking to the staff, they felt like it would be better here than there and that's why we showed it this way. If you would like to put the fence here....

Council Member Alexander: I think it should be along the.....I think as Lee said, it does.....that provides the best buffer for the existing neighborhood that's there.

Greg Mercer: We agree that's why we showed it that way.

Council Member Alexander: I guess what I'm having a difficult time in phrasing my words is...I don't see any need to plant buffer on the university side. I'd rather see those dollars the university's going to spend putting that buffering in there to do something else to help the neighbors on the other side of the fence. [end of Tape 1, Start of Tape 2, Side A].... Our spirit or the Council that adopted that ordinance years ago....the spirit was to provide as much buffering as possible to adjacent neighbors and that planting yard does nothing to help the adjacent neighbors.

Council Member Pugh: Well the planting yard is required.

Council Member Alexander: I know it's required, but why require it if it's not going to effectively do anything. Why not ask the university if they have an idea how to take those dollars and use it to help the neighbors that are there?

Mayor Smothers: Well it might be a matter of shifting some of the fence back toward the house and planting behind the fence.

Greg Mercer: We could jog the fence around the house as long as we've got access to service the house with maybe 5 or 6' clear where we would not have the depth of planting yard right there or right there and it may be....and I'd have to talk to the university. It may be we could put the fence....and go back to the original plan of a 15' planting yard and a fence. You know, bring it, jog the fence, bring it, jog the fence and bring it and plant as much as possible on the other side of the fence.

Mayor Smothers: Why don't we let you all work with that kind of idea in mind and see what you can come up with.

Chairman Bencini: Yes, we're not going to solve that tonight and that's not why we're here, but that issue and also the issue of light spillage across E. Farris, I'd like for staff and the university to get together on before we get to the point where we're ready to vote on this.

Mayor Smothers: I think there's a certain amount of trees or whatever across E. Farris as well and I don't know what the elevation is.

Chairman Bencini: I don't either. That's why I want staff to go out and take a look at it.

Council Member Alexander: How's the stormwater going to be treated on this?

Dan Pritchett: My name is Dan Pritchett with Jamestown Engineering group. I live at 809 Arbordale. The Master Watershed Plan....we developed a plan back in the

earlier part of this year and have been amending it periodically as projects come forward from the university. Ironically, the watershed plan, there was one approved by the city showing the original layout of the larger parking lot back in April of 2009. Mr. Alexander there are some water quality ponds that the university has protecting existing impervious surface that existed prior to the rules going into effect and there's an allotment of impervious surface that has allowed the university over time to use that was developed in this master plan. This parking lot is being pulled from that lot.

Council Member Alexander: But you're protecting the water that falls uphill so the water that falls in this parking lot is headed right straight to the creek which is just on the other side of W. Farris which is a very critical watershed because it flows directly into Oak Hollow Lake.

Mayor Smothers: But they will have to do a management plan when they submit the site plan and all that other stuff.

Dan Pritchett: There's a huge amount of area that existed in this entire basin that you say that goes to Oak Hollow that existed prior to the university ever developing and expanding their limits as they have now. The ponds that are there protect that very large area that was grandfathered. The way the Watershed Ordinance is written, if you protect those areas that previously weren't protected, basically you're doing the same thing as.....and right now they've protected a whole lot more than they have built, so essentially it is doing what the intent of the Watershed Ordinance was obviously or the city staff wouldn't approve.

Council Member Alexander: Right, but the rainwater that falls on this parking lot will flow downhill directly into the creek without being stopped by any bio retention cell or anything else and the credit for this impervious site is already satisfied with something that's uphill or higher in the basin than this.

Dan Pritchett: Yes sir. Your first statement is correct. This would leave and enter the creek without going directly through a device. I would say that there is this much area and much more that was previously unprotected in years past that are going through a basin at this point that more than mitigates this amount of impervious surface. The overall effect is positive.

Mayor Smothers: Aren't there drainage pipes or plans that do offer some filtration of oil and grease and all that kind of stuff, as you collect it? We use it at the mall.

Dan Pritchett: Yes Ma'am.

Mayor Smothers: And I don't know what your stormwater thing is going to be like underneath this parking lot. You're going to have to capture some water.

Dan Pritchett: As far as the stormwater plan for this site, again, what has been previously approved mitigates the effect of this parking lot.

Council Member Alexander: Is there room on the property to put a bio retention cell

down in this lowest area that could collect the water off this parking lot?

Dan Pritchett: The way either one of the plans and in fact the previous one that was approved, no. There's not an adequate area to protect that's left.

Council Member Alexander: If the parking lot were smaller, there would be.

Dan Pritchett: Certainly, but I would, again, point out in the watershed plan, the master watershed plan for the university as a whole improves the creek and the Oak Hollow Watershed. And it does a great job up hill. It does a very good job up hill and it actually protects much more property than previously was not protected and that was the purpose of the university's investment in those ponds to make them function that way-both for water quality and water quantity control-was to mitigate those areas and future development areas such as this. That was part of that plans approval. In the future as the university has mentioned, there are other areas that we can build ponds that otherwise protect existing impervious surface that isn't protected now to create a positive allotment of impervious available to the university that creates a better quality water overall.

Greg Mercer: As I understand it, from tonight's meeting, if this parking lot cannot be built based on tonight's no vote, I want to make sure that we understand from you, Lee, that the previously permitted parking lot, we can go ahead and construct now because it is permitted.

Lee Burnette: yes.

Greg Mercer: Thank you.

Chairman Bencini: Are you saying that you're withdrawing the request tonight, is that what you're going to do?

Mayor Smothers: No, he's just saying that they have the permission to build a parking lot.

Greg Mercer: We have some decisions to make.

Council Member Pugh: The one that you can go ahead and build is actually larger than this?

Chairman Bencini: I guess my question would be, why would you do that?

Don Scarborough: If we can't build this one, we need parking.

Mayor Smothers: I think that....Greg you're making the presumption that it's going to be turned down. That's the only.....that's the conclusion that you've drawn. We can't act tonight. This would have to be referred to the first meeting in November.

Chairman Bencini: It's about process. You can't bring conditions in at this level and

have us decide on it. That's not the way the process works. Am I right, Mr. Baggett?

Fred Baggett: That's right. It's not a denial or an acclamation. It's just under the rules, it has to be held at least 48 hours and they're not going to meet again until November 2nd.

Don Scarborough: It's also difficult to try to follow the staff's guidance on preparing the new lot when all of a sudden the rules seem to be changing about where the buffers are to be, where the stormwater is to be and where this is to be and that is to be, so if that's the issue, then yes we'll withdraw and go back to the one that's already permitted which I think impacts the area more than this one does.

Mayor Smothers: Mr. Scarborough, the only person that I've heard redrawing your plan is Mr. Alexander. I'm not saying that the rest of them agree with everything in it, but I would assume that those who support continuing this until November 2nd would indicate that they are at least open to considering what has been proposed in terms of this amended conditional use permit.

Council Member Sims: I think part of it, Mr. Scarborough, I think particularly with the Mayor's suggestion having to do with not dealing with issues on the back end, so if it's your intent to use those two properties for whatever reason-whether it's student housing or whatever you intend to use it for-it's just better to go ahead and separate it from the rest of the community by the opaque fence and then we don't get that issue on the back end with all the other stuff that happens, but it was not with an intent to change your plan. Certainly you can submit it the same way that you have.

Council Member Alexander: This parking lot, is this something that you are ready to build tomorrow?

Don Scarborough: Yes.

Council Member Alexander: I mean because you are running out of temperature that you can put asphalt down. I mean that's your issue, you're running out of time in the year to get this done.

Mayor Smothers: Well this Council can meet Thursday morning and deal with it if that's sufficient.

Council Member Alexander: I think that's the university's issue that they're saying we can go ahead and go to the other plan which has more impervious surface and we can do that tomorrow.

Mayor Smothers: Well they can start grading tomorrow. They have the ability to do that. Period. There's not a whole lot of difference between these two things when you get down to it, other than some reshuffling.

Greg Mercer: The main difference is the location of the property and I know you can't give us permission to build that lot right there, but if we could grade from that

lot and go ahead and build that lot completely on the property that's already zoned PI, it's just a matter of location of the upper. We've got time to handle that. We could do it to suit the city, do the landscaping, etc.... We don't have a problem with the buffer wherever you want it. We just need the parking lot.

Mayor Smothers: Mr. Baggett, can Council do this on Thursday? Is that sufficient time to vote it up or down?

Chairman Bencini: And the questions that have been put forth to staff, will they have time to deal with those questions before Thursday?

Council Member Sims: So does it prevent them from going ahead and doing what they're doing now and still presenting or giving to Council an amendment that just has to do with the planting yard and fencing or does the whole thing have to be redone? I mean the only question at this point is the buffer and the fencing.

Lee Burnette: They'd have to put the buffer and fencing on the property that's already zoned. In other words, their original plan was they accommodated their buffer and parking lot on property zoned PI. In order for them to go to this plan they have to rezone those two blocks that are currently residential to PI.

Chairman Bencini: Anyone else care to speak?

Mitchell Whitaker: In reference to Mr. Scarborough is talking about, they have already began grading. Evidently that parking lot has already been started. That's been about four or five days ago.

Mayor Smothers: And as they said, they can do that.

Mitchell Whitaker: yes, it's already been approved, but like you said they are trying to change it at this time. Those two properties.....one of those properties are three doors down from me and I would like Council to take into consideration.....ya'll were talking about buying blocks. I think a block is a block. Don't pick certain houses and say that's a block. I don't think that should be. That's just my opinion. When you say a block is a whole area. It's not one house here and one house there. You're bouncing. A block should be a block. If you live in a block you live in a certain block. If Council would take that into consideration.

Council Member Alexander: I'd like to ask staff if you could help us with the elevations-a topo on this and the property that's on the other side of Farris so we can kind of get a line of light that might come across through there and what if any buffering could be put in there that would mitigate that light filtration.

Council Member Sims: One other question, access to this area that you're currently... where the parking lot is going to be...is that all the access as far as the construction off of W. College? Or are you entering from another location as well?

Don Scarborough: It's all off College.

Chairman Bencini: So I guess we go ahead and continue the public hearing until Thursday morning at 9:00 a.m.

Mayor Smothers: How many Council Members can be present on Thursday morning please?

Council Member Faircloth: I can't be.

Council Member Blakeney: I'm not sure.

Mayor Smothers: All right then, the motion is to continue the public hearing and place it on the agenda for action on Thursday.

Chairman Bencini: On the Agenda....our intention is, but who knows.

Mayor Smothers: Well we're going to act one way or the other. It's either going to be yes we're going to do it or no we're going to send it somewhere else. I need a motion.

Chairman Bencini: I already did that.

Council Member Sims: Second.

Mayor Smothers: Does the clerk need the motion to be stated?

City Clerk: The motion is to carry the public hearing until Thursday at 9:00 a.m.

Chairman Bencini: That's it. That's my motion.

Mayor Smothers: All in favor of the motion, say Aye.

Smothers, Alexander, Blakeney, Bencini, Douglas, Faircloth, Pugh, Sims, and Whitley: Aye.

Mayor Smothers: Those opposed? [none] Motion carries. [9-0 vote]

[end of transcript]

Public Hearing was continued to Thursday, October 22, 2009 at 9:00 a.m.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be continued. The motion carried unanimously.

Resolution - Street Abandonment 09-19 - High Point University - Fifth Court

090255

A request by High Point University to abandon approximately 58 feet of the eastern terminus of Fifth Court fronting property at 1011 Fifth Court.

The public hearing regarding this matter was duly held on October 19, 2009 at 5:30 p.m. as advertised.

Herb Shannon of Planning & Development gave an overview of the staff report which is hereby attached to Legistar as a permanent part of the record.

Following the presentation of the staff report, Chairman Bencini opened the public hearing and asked if anyone was present who would like to comment in support of or in opposition to this street abandonment request.

Mitchell Whitaker, 1005 Fifth Court, also speaking on behalf of two other homeowners (Carter's at 1009 Fifth Court and Y'anez at 1007 Fifth Court, addressed Council and reiterated their opposition to the street abandonment. he expressed concerns about public safety and how emergency vehicles would come in and out because there was only one way in and one way out. He also voiced concerns regarding light spillage in their homes from cars turning around and felt the situation was unbearable and getting out of hand.

Chairman Bencini suggested possibly that the university could temporarily put in a turn-around to see if this helps the situation. He asked Mr. Carter who resides at 1009 Fifth Court if they frequently use his driveway to turn around. Mr. Carter replied that the cars were using his driveway or the driveway at 1011 currently to turn around. Chairman Bencini asked if anything could be done to mitigate the impact of people going down the street and using these driveways to turn around. The Mayor suggested closing the entire portion and putting up private drive signs.

Council Member Sims asked Mr. Scarborough if this was going to be part of their planting yard and asked if the university's plans were crucial or instrumental to the actual parking lot they were planning to construct. Greg Mercer shared with Council a plan devised by Dan Pritchett and noted they could possibly widen the driveway to the house at 1011 since they plan on keeping it residential for the time being and because of the amount of property it wouldn't be possible for them to do a cul-de-sac.

Chairman Bencini stated he was going to hold the university to its word and if the problems persist, he encouraged the neighbors to let Council know. He asked if there were any additional comments regarding the proposed street abandonment request. There being no further comments, the public hearing was declared closed.

Following the conclusion of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted resolution providing for the abandonment of 58 feet of the eastern terminus of Fifth Court fronting property at 1011 Fifth Court retaining a 20-foot sanitary sewer easement centered on the existing sanitary sewer line, a 20-foot waterline easement centered on the existing waterline service to the existing fire hydrant, and a 30-foot

electric utility easement centered on the existing overhead guy wire and guy wire support pole 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.

Resolution No. 1563/09-91

Introduced 10/19/09

Adopted 10/19/09

Resolution Book Volume XVI, Page 205

A motion was made by Mayor Pro Tem Bencini, seconded by Member Faircloth, that this matter be adopted. The motion carried unanimously.

Special Use Permit 09-02 - Piedmont Authority for Regional Transportation re Parking

090256

A request by the Piedmont Authority for Regional Transportation (PART) to allow "Parking" (Automotive as a principal use on the zone lot) within the Residential Single Family-15 (RS-15) District. The site is lying at the northeast corner of N. Main Street and Old Plank Road.

The public hearing for this matter was held on Monday, October 19, 2009 at 5:30 p.m. as duly advertised.

Transcript of Public Hearing

Chairman Bencini: The Mayor has suggested to me and I think it's a good idea to be respectful of Scott's travel time to go ahead and handle the special use permit case first. I'm also going to excuse myself from part of this. I've asked Councilman Faircloth to take over on this particular case.

Faircloth: This will be 09-02 and that's page 155 in your information Council.

Herb Shannon: Yes, this is a request from the Piedmont Authority for Regional Transportation known as PART for a special use permit to allow parking of automobiles as a principal use in a Residential Single Family-15 (RS-15) Zoning District. The specific site we're looking at is the northeast corner of the intersection of N. Main Street and Old Plank Road consisting of approximately 4.9 acres. The request is to allow a Park-n-Ride facility within the N.C. Department of Transportation's right-of-way. Although the site is within a right-of-way, the City of High Point zoning coverage extends to the road right-of-way and governs its use. Parking lot is a principal use within an RS-15 district but requires a special use permit approval to ensure that there are no negative impact from abutting property owners.

From the north you have a vacant site that's zoned for office use. To the west on the opposite side of Main Street you have a convenience store with gas pumps. To the south is the undeveloped Highway Business/Commercial use. To the east is additional right-of-way that is also undeveloped. This site's located at the intersection of two major thoroughfares and is approximately 500 feet west of the

interchange entrance into the interstate freeway which is the 311 Bypass and the Future I-74. The proposal is for a 200-210 space Park-n-Ride facility. Access would be from the south. Bob if you could put up the next slide. I believe they have the site plan. This is the sketch plan that was submitted with the proposal. There will be one access point. Initially access was reviewed from N. Main Street, but it was too close to that traffic light and there were some conflicting movements with another driveway in that area. As you are aware, the Development Ordinance requires certain findings for approval of a special use permit and those are outlined on page 158 and 159 of your packet. Based upon the conditions in the attached special use permit application and the primary findings of fact, staff finds that the request is generally consistent with surrounding zoning and development in the area and in compliance with the goals and objectives of the Land Use Plan. We are recommending approval of this request. The Planning & Zoning Commission reviewed the request at their September public hearing and recommended approval by a vote of 6-0. Are there any questions?

Mayor Smothers: I do. I'm surprised that the property owners not here. They've already raised this question with me. In that the access is going to be off Old Plank Road, access to that particular roadway was denied when that development over there on the other side was.....now I don't know that they owned all the property because there was still right-of-way by NCDOT at that intersection. I understood the reasons why you were letting them do that because of the impact on the second driveway and the traffic signal, but I'm just saying we told somebody else they couldn't do that.

Scott Rhine [standing at podium]

Mayor Smothers: Do you want to answer that?

Scott Rhine: I'll try to Mayor.

Mayor Smothers: I don't think it's your question to answer-with all respect, I think it's staff's.

[waiting on staff to come back into the room]

Council Member Faircloth: While we're waiting on that, are there any other questions?

Council Member Alexander: Was there going to be any weather shelter or any sanitation or water on the site?

Scott Rhine: There's a passenger shelter. There's not water on site. The only structure that we do have is the passenger shelter which is essentially a canopy type passenger shelter.

Council Member Alexander: I just wondered if you were going to have any type of restroom facility or something like that as people come out there and are traveling. Most terminals do have something like that, but sometimes park-n-ride lots have them, sometimes they don't.

Scott Rhine: This one does not.

Mayor Smothers: Fortunately there's a convenience store across the street.

Council Member Alexander: Well we may want to consider a crosswalk or something there for that if they're not going to have facilities.

Mayor Smothers: I don't think we have any park-n-ride lots that have such accommodations. I don't mean High Point, we, but PART and other partners.

Scott Rhine: That's correct. With the other facilities that we've constructed throughout the region, we do not have public restrooms.

Council Member Faircloth: Have you had any concerns or requests about that with any of the others?

Scott Rhine: No sir, we have not and primarily put it into context of its use. Park-n-Ride facilities, in most cases, the bus shows up, people are in their cars going to work related purposes, they get out of the car and onto the bus. Same thing when they're coming home, like many folks who get off the bus and get into their car and they're very busy moving on and things of that nature. Of the nine or ten years I've been at PART, we have not....to my knowledge, I have not received any requests for restroom facilities at a park-n-ride lot.

Council Member Faircloth: Does PART envision this being a long-term facility or is this something that will be there for a while until something else occurs?

Scott Rhine: We envision that it will be a long-term facility for a couple of different reasons. One, we have had some discussions with regards to providing connector service directly from High Point up Main Street and then carrying on to Winston Salem. We also see this as some opportunities for the AMTRAK connector service that we provide from Winston Salem to the High Point Train Station and serve that as a potential stop because it's along the way. The bus is traveling that way along the 311 corridor. And then also we see this as an opportunity that could benefit the Market Authority with some of their overflow parking as well for the Furniture Market.

Council Member Faircloth: Now there is a park-n-ride in Archdale at 85. Is that the closest one in proximity to this one that you had?

Scott Rhine: It would be. Yes.

Council Member Faircloth: Mr. Whitley did you want to comment?

Council Member Whitley: I do have some comments particularly in light of the new information I'm now hearing. Scott, a couple of things. I know the goal and objective of PART is to create the connector for a corridor route between the 311 Bypass, or

311 between High Point and Winston. The first question I would have is given how far out this is from the city limits, what benefit is this going to be to the citizens of High Point? Quite frankly we don't have a bus route in that area nor do I know of any plans, goals or money to have a bus route to that area.

Scott Rhine: Well the 311 corridor as you're very familiar, of course, extends all the way into Winston Salem. That part of High Point up there around Old Plank and the development that's occurring up on that northside of town, there's a good capture audience. When you do placement of the park-n-ride lots that we've done over the years, you really try to target those areas of population as well as corridor travel. The 311 corridor we have a great deal of opportunity of folks that are either taking the 311 corridor to Winston Salem or connecting that in towards the Greensboro area. So it's really a good split and that placement there gives us the opportunity in the future of being able to provide a service where we can get a captured audience. Get some of those folks out of their single occupant vehicles that are traveling up and either heading towards Winston Salem or towards Greensboro.

Council Member Whitley: Okay in light of the City having no intentions to connecting our current bus service to this facility at this time, how were you planning on using it sometime in the future to get to the AMTRAK folks? That would be a substantial investment on behalf of the City of High Point for expanding the bus service to make sure those folks would get there in time to catch the train.

Scott Rhine: Well the AMTRAK connector that I was referencing was the one we have in place now that is coming from Winston Salem and of course getting off that exit and going directly into downtown. So this could very well serve for that purpose as an additional stop to pick people up that wanted to get to the High Point Train Station.

Council Member Whitley: Not to transfer them, to make them come the rest of the way in.

Scott Rhine: That's correct.

Mayor Smothers: Well parking is such a problem around that station anyway.

Council Member Whitley: And my last question isn't to you, but to staff....although this is a state right-of-way I know there's been some interest on behalf of property owners and developers in the area at some point the state would relieve and turnover or sale this right-of-way, aren't we giving up a tremendous block of property for future development? I mean we're always looking for the best and highest use and we're fixing to...what I hear now is a long-term plan, we're giving up a major intersection to what could be a major tax base.

Mark McDonald: I suppose we would be. We could be giving up some developable land right there if that was the intended purpose for the future. That's really not a question that's come up before to us. I believe there was another question regarding access.

Mayor Smothers: Yes, in response to Mr. Whitley's concern about the lost opportunity, NCDOT won't sell any property to anybody. They keep everything they've got their hands on.

Council Member Whitley: I know there's been a real push for this particular section of property for several years among several people and there's been some-I'm not going to say promises-but words that there was interest at some time in the future from what I've heard.

Mayor Smothers: Well one good thing is if it were developable you'd already have a parking lot with adjacent property.

Council Member Whitley: I think there's some goal for holding out for the extra.

Mayor Smothers: The question I had.....are you satisfied with that?

Council Member Whitley: I am.

Mayor Smothers: The property that's directly south of this across Old Plank Road, when it was petitioned for development they were denied access from Old Plank. Now my recollection is they didn't own all that property that abutted the road, they'd have to cross NCDOT property.

Mark McDonald: I believe that is correct.

Mayor Smothers: And that access was denied. So if you own it, it's not much of a problem. If you don't own it, you don't let anybody do it.

Mark McDonald: I think that in light of that particular property with the department's willingness to work with PART to develop this park-n-ride lot, it opens up opportunities for access on the other side. They were holding that piece of right-of-way thinking they may need that for some sort of future interchange construction or something like that and did not want to commit themselves to that access. I think with this, it opens that up to the other side and we, the city, would not have a problem with some sort of reasonable access to that south parcel.

Mayor Smothers: I guess that's why Mr. Carr's not here then.

Strib Boynton: Mark, maybe you can help with this. It's just a question. You're familiar with the drainage problem on the southwest part of that intersection where we have a daycare center and so forth. Where's the run-off from this site going to go?

Mark McDonald: I believe that their site plan had a retention pond on there to manage that.

Strib Boynton: Well after it leaves the retention pond, where does it go? What direction?

Lee Burnette: To the east.

Council Member Faircloth: Any other questions? Is there anyone else that would like to speak in favor of this request? [none] anyone wish to speak against this request? [non] Seeing none, I'm going to make a motion that based upon the conditions in the special use permit and the findings of fact from staff that the parking and the residential single-family (RS-15) area be approved.

Council Member Blakeney: Second.

Mayor Smothers: Questions? Comments?

Council Member Whitley: Madam Mayor, one comment. I will not support this. I think it's admiral that we're looking to create park-n-ride lots in the northern section of High Point, but I do disagree with this particular section of property partially in part because of what I would consider the unfair taking of property by the State of North Carolina. They've had this right-of-way, it's obvious if you would look at the topo itself, you can see where they eliminated the original access to N. Main Street that they had shrunk down what their original goal was. Staff and Council were pretty well aware that there was not a real push on our part for the Old Plank Road to be extended into the western thoroughfare. Quite frankly, in my opinion, the state should have already liquidated this property as well as they should do all across the whole State of North Carolina in possibly relieving their tremendous budget problems.

Mayor Smothers: It would be a good way to raise some money.

Council Member Whitley: It would.

Mayor Smothers: Any further comment? [none] All in favor, please say Aye.

Smothers, Blakeney, Douglas, Pugh, Alexander, Sims and Faircloth: Aye.

Mayor Smothers: Any opposed? No? [Whitley] Mr. Whitley as no and Mr. Bencini as not voting. [7-1 vote] [Bencini recused]

[end of transcript]

Approved Special Use Permit 09-02 as requested by PART based upon the conditions outlined in the Special Use Permit application, findings of fact as identified in the staff report, general consistency with the surrounding zoning and development in the area, and compliance with the goals and objectives of the Land Use Plan.

A motion was made by Member Faircloth, seconded by Member Blakeney, that this matter be approved. The motion carried by the following vote:

Votes: Aye: Mayor Smothers, Council Member Alexander, Council Member Sims, Council Member Blakeney, Council Member Douglas, Council Member Faircloth and Council Member Pugh
Nay: Council Member Whitley
Recused: Council Member Bencini

Ordinance - Text Amendment 09-11 - Wood Coating Research, Inc.

090257

A request by Wood Coating Research, Inc. to amend Table 4-7-1 "Permitted Use Schedule" and Sections 9-5-2 "Development Standards for Individual Uses" of the Development Ordinance to allow Research, Development or Testing Services use in the General Business (GB), Highway Business (HB), Central Business and Main Street (MS) Districts.

The public hearing for this matter was held on Monday, October 19, 2009 at 5:30 p.m. as duly advertised.

Doug Loveland of Planning & Development presented the staff report. [a copy of the staff report is hereby attached in Legistar as a permanent part of these proceedings].

Chairman Bencini opened the public hearing and asked if anyone was present who would like to speak in favor of this proposed text amendment.

Mr. Ronald Obie, 502 N. Rotary Drive, representing the applicant, spoke in favor and asked if there were any questions.

Mayor Smothers asked Mr. Obie if he had to sit through the public hearings for the other cases at the Planning & Zoning Commission level and he acknowledged he did. The Mayor apologized profusely and asked staff again to please redo the agendas so people wouldn't have to sit through hours of conversation and somebody else's case.

Chairman Bencini asked if there was anyone else present who would like to speak regarding this matter. There being no further comments, the public hearing was declared closed.

Following the conclusion of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance making these changes to the Development Ordinance based on consistency with the City's Land Use Plan (in this case the Core City Plan) based upon the staff's findings as outlined in the staff report. Additionally the City Council considers this action to be reasonable and in the public interest based on the following: 1) it allows City Council to review each individual request as a Special Use so as to determine if the use as proposed is appropriate for the requested location; and 2) those Research, Development or Testing Services uses that are determined to have limited or no impacts on surrounding properties are therefore in keeping with and similar to other uses allowed in those districts.

Ordinance No. 6648/09-48

Introduced 10/19/09

Adopted 10/19/09

Ordinance Book Volume XVI, Page 48

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Alexander, that this matter be adopted. The motion carried unanimously.

Major Amendment to Conditional Use Permit 05-21 - Westover Partners, Inc.

090258

A request by Westover Partners, LLC to amend Conditional Use Permit 05-21 pertaining permitted uses, sketch plan, development/dimensional & density standards, open space & recreation area, landscaping and fencing conditions of the permit. The site is lying along the north side of Westover Drive, directly west of the Guilford/Davidson County line.

The public hearing regarding this matter was held on Monday, October 19, 2009 at 5:30 p.m. as duly advertised.

Herb Shannon of Planning & Development gave an overview of the staff report which will be attached to Legistar as a permanent part of these proceedings.

_____ Transcript of Public Hearing _____

Herb Shannon: I'll be very brief. This is a request to amend Conditional Use Permit 05-21. The applicant is proposing to amend this permit to have single-family detached dwellings as a permitted use. The adopted sketch plan noted that there would be a townhome tract and a multi-family tract. The applicant is proposing to amend the permit to allow single family dwellings as a permitted use in one of those tracts. If you could put that plan up. This was the initial site. Go to the next slide please. Tract A was proposed for townhomes. Tract B was proposed to be for multi-family. Next slide please. What the applicant is proposing is this eastern part of the site that was proposed for townhomes, that it be split in two and this northeastern portion be amended to allowed to be developed either as a single family tract or as a townhome tract. It can't be a mixture. It's either all single family or all townhomes. Basically what this permit is doing is amending the permitted uses, amending the sketch plan to note that Tract A is either single family or townhome, Tract B stays multi-family, Tract C stays as townhomes. Are there any questions?

Mayor Smothers: When will they decide?

Herb Shannon: That will be a question you can ask the applicant. I do not know.

Judy Stalder: I'm Judy Stalder, 1814 Eastchester Drive. I'm here for Westover partners. The builder that came in built 24 condos and 8 townhomes. They sold 12 condos, 1 townhome and then defaulted and now they're out. Now we have 12 condos and 7 townhomes that are held by bank-owned property. Because the developer only has townhome and condo pads to offer, nobody wants to build and compete with bank-owned property and the bank wouldn't allow it anyway. So we've been at a standstill for eighteen months and we're just ready to reactivate this property. There are owners of 13 properties sitting out there. There's nothing they can do. They can't

resell because they're going up against the bank as well. They're sitting there without the amenities that they should have just because the property's not moving and the developer wants to do something just to make this start moving on. So he came up with a plan of extending the mixed use concept of this development to include single family. Stay with the same zoning district RM-8 and add single family to the townhomes and condominiums. The density would change slightly. It would be slightly less, but nothing else changes. The architectural controls stay the same. The amount of open space stays the same. There's less common area, but there are single family yards. The traffic engineering firm that did our TIA has reviewed that and has said there would only be a marginal change in the amount of trips per day. So what we're asking is to allow this property in this development to reactivate and start building again by expanding the mixed use concept to allow single family homes. We do have a builder that's ready to go.

Chairman Bencini: Any questions of Ms. Stalder? [none] Thank you. Anybody present care to speak in favor of this request? [none] Anybody care to speak in opposition? [none] Seeing no one, I'm going to close the public hearing and make a motion to approve this major amendment based on staff's findings of fact.

Council Member Sims: Second.

Mayor Smothers: Comments?

Council Member Faircloth: This is an excellent example of a distress that developers and builders are having now and anything that we can find to do to help them we have to do.

Mayor Smothers: And we do congratulate you on being able to find some solutions. Folks have certainly been held hostage.

Council Member Whitley: Mayor if I could remark. I would say I'm proudly excited that I voted against this originally; however, it did turn out to be a nice looking development as it was laid out. Right now it is a horrible blight on that area just sitting there with what's been built. So I'm glad to see them come in to complete the job.

Chairman Bencini: And I voted in opposition to it only because I felt like transportation wasn't sufficient. We didn't have Hartley Drive finished and had it not been done until Hartley Drive it might not be the economic distress they're facing at this time.

Mayor Smothers: All in favor say Aye.

Smothers, Alexander, Bencini, Blakeney, Douglas, Faircloth, Pugh, Sims and Whitley: Aye.

Mayor Smothers: Any opposed? [none] Motion carries. [9-0 vote]

[end of transcript]

Approved Major Amendment to Conditional Use Permit 05-21 as requested by Westover Partners, LLC based on the findings of fact as outlined in the staff report.

A motion was made by Mayor Pro Tem Bencini, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously.

For Information Only:

Proposed Policy on Appointments/Reappointments

Chairman John Faircloth explained that the Public Safety Committee is still considering how to restructure and handle future appointments/reappointments to the boards and commissions. He noted that the Committee has already met and has an idea about the boards with nine members, but will need to continue to work out a process for board's with only four or five members. He recommended the Public Safety Committee be allowed to put together a proposed recommendation for the Committee of the Whole to consider so it could perhaps be acted on in the second meeting in November. Mayor Smothers encouraged feedback from other council members and expressed concerns regarding at-large appointments being slighted and noted it would also be conceivable that some council members may not get an opportunity to make any nominations/recommendations if they have three or four year terms.

Public Safety Committee Meeting Reminder

Chairman Faircloth announced that the Public Safety Committee would meet on Wednesday, November 4th at 9:00 a.m. to consider several transportation items.

Randleman Tour

Chairwoman Sims of the Public Services Committee announced plans for a tour of Randleman. All Council Members are highly encouraged to attend. Transportation will be provided for the tour which is scheduled for Wednesday, November 4th at 1:30 p.m.

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 7:50 p.m. upon motion duly made and seconded.

Respectfully Submitted,

Rebecca R. Smothers, Mayor

Attest:

Lisa B. Vierling, MMC
City Clerk