

City of High Point

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



Meeting Minutes

Monday, September 20, 2010

4:45:00 PM

Council Chambers

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

ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

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

Planning & Development Committee; Tuesday, September 7th @ 2:30 p.m.
Combined Meeting; Thursday, 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 Mayor Pro Tem Whitley 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 Bencini, seconded by Council Member Blakeney that all Committee recommendations stand as final action regarding these matters. The motion carried unanimously. [9-0 vote]

Note: As a result of this action, there is no need for the Thursday morning meeting.

PRESENTATION OF ITEMS**FINANCE COMMITTEE - Council Member Whitley, Chair
Committee Members: Bencini, Douglas and Alexander**

(all were present)

Sole Source Authorization - Purchase of Porcelain 100kv Insulators**100269**

City Council is requested to 1) approve an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Electric Operations Department and 2) approve the acquisition of five (5) porcelain 100kv insulators in the amount of \$54,120.00 from Southern States LLC.

Chairman Whitley reported 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 an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Electric Operations Department and approved the acquisition of five (5) porcelain 100 kv insulators from Southern States LLC.

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

Contract Renewal - Pike Electric Company

100270

Approval of the annual extension renewal contract with Pike Electric Company for electric system maintenance and construction in an amount not to exceed \$840,000.00.

Chairman Whitley reported 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.

For further discussion, Council Member Sims stated she was not pleased with the minority participation in the two contracts (Pike Electric and Asplundh Tree Service) and felt they should be required to do better on their numbers.

Approved annual extension renewal contract with Pike Electric Company for electric system maintenance and construction in an amount not to exceed \$840,000.00.

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

Contract Renewal - Asplundh Tree Service

100271

Approval of annual extension renewal contract with Asplundh Tree Service for tree trimming services in an amount not to exceed \$583,066.00.

Chairman Whitley reported 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.

For further discussion, Council Member Sims stated she was not pleased with the minority participation in the two contracts (Pike Electric and Asplundh Tree Service) and felt they should be required to do better on their numbers.

Approved annual extension renewal contract with Asplundh Tree Service for tree trimming services in an amount not to exceed \$583,066.00.

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

Joint Purchasing Agreement - ElectriCities of NC

100272

Approval of a three (3) year joint purchasing agreement with ElectriCities of North Carolina for wood pole purchases, tree trimming, substation maintenance and pole inspections.

Committee meeting held at 3:30 p.m. prior to this meeting.

The Committee recommended this matter be placed in committee for two more weeks to allow Council additional time to review the agreement that was inadvertently left out of the packet.

A motion was made by Mayor Pro Tem Whitley, seconded by Council Member Alexander, that this matter be referred to the Finance Committee. The motion carried unanimously.

Contract - Bid No. 07 - Pothole Patch Truck

100273

Approval of contract awarding Bid No. 07 for the purchase of a Pothole Patch Truck. Purchasing and Fleet Services recommends that contract be awarded to Whites International Trucks in the amount of \$145,621.00 which is the lowest responsible and responsive bidder meeting specifications.

Chairman Whitley reported 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 with Whites International Trucks in the amount of \$145,621.00 which is the lowest responsible and responsive bidder meeting specifications.

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

Contract Extension - Gilbert Engineering Company - Sludge Removal - Westside WWTP

100274

Council is requested to approve a change order to the Gilbert Engineering Company contract for the removal and disposal of an additional 1,710 tons of sludge from the lagoon at the Westside Wastewater Treatment Plant in the amount of \$150,150.00.

Chairman Whitley reported that 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 change order to the Gilbert Engineering Company contract for the removal and disposal of an additional 1,710 tons of sludge from the lagoon at the Westside Wastewater Treatment Plant in the amount of \$150,150.00.

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

Appointments- Economic Development Policy Review Committee

100289

As liaison to the Economic Development Corporation, Mayor Pro Tem Whitley is requesting Council's approval of the creation of 9-member Economic Development Corporation (EDC) Policy Review Committee to evaluate the existing EDC incentives policy and make recommendations to the City Council. The following individuals have been submitted for consideration of appointment to this committee: Phil Fowler (Geneva Corporation); Jim Hundley (Wyatt Early Harris Wheeler); Ken Smith (Smith Leonard); Annie Tyson Jett (B & C Associates); Coy Williard (Williard Stewart); Deena Qubein (McNeill Lehman); Roger Sims (New York Life Insurance Company); Robin Team (Carolina Investment Properties); Tom Terrell (Smith Moore Leatherwood).

Motion by Mayor Pro Tem Whitley, seconded by Council Member Alexander to suspend the rules to place this matter on tonight's Agenda for consideration. Motion carried unanimously.

Mayor Pro Tem Whitley reported he brought this up during a Finance Committee meeting held at 3:30 p.m. prior to this meeting.

Council Member Sims asked for clarification and an explanation as to the specific charge to the committee. Mayor Pro Tem Whitley explained the committee would be charged with reevaluating the current EDC policy regarding incentives including recommendations for a change in providing incentive dollars, but in-kind service, infrastructure as well as any other alternatives they may come up with that would give Council the option to attract small, medium and large corporations. He pointed out that this matter would come back to the City Council as a recommendation from the committee.

Chairman Don Cameron of the High Point Economic Development Corporation and the city manager will also be in attendance at these meetings as well as Council liaison(s).

Confirmed the appointment of the preceding individuals to the Economic Development Corporation Policy Review Committee.

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

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.

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

Public Hearing - Expenditures for Economic Development Purposes - The Phillips Business Incubator/The Phillips Collection

100260

Thursday, September 9, 2010 at 9:00 a.m. is the date and time established to receive public comments concerning Economic Development Incentives in an amount not to exceed \$100,000; and pursuant to an incentive agreement containing benchmarks and a schedule for payment associated with the proposed location of both the Phillips Business Incubator and The Phillips Collection located at 916 Finch Avenue in High Point.

Chairman Whitley recognized Mark Phillips with The Phillips Collection. Mr. Phillips read a letter into the record asking that this matter be removed from the Agenda. He explained the company has reevaluated the project and divided it into two distinct parts (Phase I- purchase of the building for expansion) and (Phase 2- design center). He noted that they would proceed with the purchase of the building for Phase 1 and would do so without the requested incentives, but would temporarily put on hold Phase 2 (the design center).

As the Ward representative for the area, Council Member Pugh stated he was very pleased to see something going in there.

Matter removed from the Agenda at the request of The Phillips Collection.

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

(all were present)

Ordinance - Vacate/Close Structure - 612 South Road

100275

Adoption of an ordinance ordering the inspector to effectuate the vacating and closing of a structure located at 612 South Road belonging to James D and Phyllis H. Morgan.

Chairman Faircloth asked if there was anyone present who would like to offer comment regarding this housing case. There being no comments, he reported there was a tenant in this property who would have to move once the property is closed and that arrangements are in the process of the city assisting the tenant with the move.

Council Member Alexander asked about the status of putting something in place to recoup the public's dollars extended in cases such as these. City Attorney Fred Baggett explained that he and Lee Burnette, Director of Planning and Development, have discussed the possibility of putting this in the ordinance and the minimum housing code and he wasn't sure why it has not yet been done. Council Member Alexander asked staff to draft something for consideration by Council at the 1st meeting in October.

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

Adopted ordinance ordering the inspector to effectuate the vacating and closing of a structure located at 612 South Road.

Ordinance No. 6766/10-114**Introduced 9/20/2010****Adopted 9/20/2010****Ordinance Book Volume XVI, Page 251**

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

Ordinance - Vacate/Close Structure - 400 Montlieu Avenue**100276**

Adoption of an ordinance ordering the inspector to effectuate the vacating and closing of a structure located at 400 Montlieu Avenue belonging to Southeastern Residential Properties, LLC (Jeffrey H. Schwarz).

Chairman Faircloth asked if there was anyone present who would like to address Council regarding this housing case. There being none, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance ordering the inspector to effectuate the vacating and closing of a structure located at 400 Montlieu Avenue.

Ordinance No. 6767/10-115**Introduced 9/20/2010****Adopted 9/20/2010****Ordinance Book Volume XVI, Page 252**

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

Ordinance - Demolition of Structure - 1612 West Avenue**100277**

Adoption of an ordinance ordering the inspector to effectuate the demolition of a structure located at 1612 West Avenue belonging to Samantha P. Craver, Heirs.

Chairman Faircloth asked if there was anyone present who would like to address Council regarding this housing case. There being none, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance ordering the inspector to effectuate the demolition of a structure located at 1612 West Avenue.

Ordinance No. 6768/10-116**Introduced 9/20/2010****Adopted 9/20/2010****Ordinance Book Volume XVI, Page 253**

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

Winston Salem/Forsyth County Emergency Operations Plan

100286

Council is requested to adopt a resolution approving and adopting the Winston-Salem Forsyth County Emergency Operations Plan and the Emergency Management Mutual Aid Agreement.

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

Council Member Alexander asked if these organizations were on the 800Mgz radio system for interconnectivity and communication. Staff replied in the affirmative.

Adopted resolution approving and adopting the Winston-Salem/Forsyth County Emergency Operations Plan and the Emergency Management Mutual Aid Agreement.

Resolution No. 1634/10-62 Introduced 9/20/2010

Adopted 9/20/2010

Resolution Book Volume XVI, Page 276

Resolution No. 1635/10-63 Introduced 9/20/2010

Adopted 9/20/2010

Resolution Book Volume XVI, Page 277

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

Resolution - Guilford County Multi-Jurisdictional Hazard Mitigation Plan**100287**

Council is requested to adopt a resolution approving the Guilford County Multi-Jurisdictional Hazard Mitigation Plan as approved by the North Carolina Division of Emergency Management and the Federal Emergency Management Agency.

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

Adopted resolution approving the Guilford County Multi-Jurisdictional Hazard Mitigation Plan as approved by the North Carolina Division of Emergency Management and the Federal Emergency Management Agency.

Resolution No. 1636/10-64 Introduced 9/20/2010

Adopted 9/20/2010

Resolution Book Volume XVI, Page 278

A motion was made by Member Faircloth, seconded by Member Blakeney, 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 - Street Abandonment 10-12 - City of High Point

100278 Approval of a resolution of intent that establishes a public hearing date of Monday, October 18, 2010 at 5:30 p.m. to consider a request to abandon the improved right-of-way of Fifth Court lying east of Fifth Street between E. Farriss Avenue and North Avenue (private).

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

Adopted resoltuion of intent establishing a public hearing date of Monday, October 18, 2010 at 5:30 p.m. to consider a request to abandon the improved right-of-way of Fifth Courty lying east of Fifth Street between E. Farriss Avenue and North Avenue (private).

Resolution No. 1637/10/65 **Introduced 9/20/2010**
Adopted 9/20/2010
Resolution Book Volume XVI, Page 279

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

Resolution of Intent - Street Abandonment 10-13 - City of High Point

100279 Approval of a resolution of intent that establishes a public hearing date of Monday, October 18, 2010 at 5:30 p.m. to consider a request to abandon an improved portion of Quaker Lane and an improved portion Pine Street lying east of Lindsay Street between Westwood Avenue and W. Ray Avenue.

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

Adopted resoltuion of intent establishing a public hearing date of Monday, October 18, 2010 at 5:30 p.m. to consider a request to abandon an improved portion of Quaker Lane and an improved portion of Pine Street lying east of Lindsay Street between Westwood Avenue and W. Ray Avenue.

Resolution No. 1638/10-66 **Introduced 9/20/2010**

Adopted 9/20/2010
Resolution Book Volume XVI, Page 280

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

Washington Street National Register District Nomination

100280

Consideration of support for the Washington Street National Register District nomination, as recommended by the High Point Historic Preservation Commission.

Bob Robbins of Planning & Development gave an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings. He noted this came about through a grant from the Federal Historic Preservation Fund through the State Office of Historic Preservation with a match from the city in the amount of \$4,000.

Following the conclusion of the presentation of the staff report, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval.

Approved support for the Washington Street National Register nomination as recommended by the High Point historic Preservation Commission.

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

Pending Items

Appeal of Technical Review Committee (TRC) Decision

100174

Consideration of an appeal of the Technical Review Committee's decision to require dedication of right-of-way for a proposed subdivision located at the southeast corner of Greensboro Road and Enterprise Drive.

The petitioner has reached a satisfactory compromise with NCDOT regarding the dedication of right of way for this project and requests that Council removed this item from the Agenda.

MISCELLANEOUS

Boards and Commissions Appointment - Citizens Advisory Council

100285

Consideration of the appointment of Samantha Klemme to the Citizens Advisory Council as submitted by Council Member Alexander as his At-Large appointment. Appointment will be effective immediately and will expire on May 31, 2012.

Council Member Alexander asked Council to confirm his At-Large appointment of Samantha Klemme to the Citizens Advisory Council.

Approved the appointment of Samantha Klemme to the Citizens Advisory Council.

Appointment effective immediately and will expire May 31, 2012.

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

ABC Board Compensation

100288

Council is requested to approve the continuation of the existing compensation structure for the Chairman of the ABC Board at \$200.00 per meeting and \$100.00 per meeting for members (effective October 1, 2010). The new law sets board member compensation at \$150 per meeting unless the appointing authority approves a different amount and notifies the ABC Commission of the action. These changes are necessary for compliance with the recent changes to N.C.G.S. 18B-700(g).

Council Member Sims reported this matter was discussed during a Finance Committee meeting held at 3:30 p.m. prior to this meeting. She explained the issue at hand is the salary amount set by the State ABC Commission for the local ABC Board members as well as the Chairperson.

Council set the compensation for members of the High Point ABC Board at \$100 per meeting and \$200 per meeting for the current Chairperson, effective October 1, 2010 with the understanding that Council review the compensation for any future chairpersons.

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

CLOSED SESSION- ECONOMIC DEVELOPMENT PROJECT

Pursuant to N.C. General Statute 143-318.11(a)(4) Council unanimously entered into Closed Session at 5:15 p.m. for the purpose of discussion on an economic development project upon motion made by Council Member Bencini and second by Council Member Alexander.

Upon reconvening into open session at 5:30 p.m. Mayor Smothers announced there would be no action taken as a result of the closed session.

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 - Council Member Bencini, Chair

Ordinance - Rezoning Case 10-11 - Gerald Grubb - Eastchester Drive

100281

a. Conditional Use Limited Business (CU-LB) District
A request by Gerald Grubb to rezone a 2 acre parcel from the General Office-Moderate Intensity (GO-M) District to a Conditional Use Limited Business (CU-LB) District. The site is lying along the east side of Eastchester Drive, approximately 870 feet south of Lassiter Drive (1200 Eastchester Drive).

b. Conditional Use Permit 10-11
A request by Gerald Grubb for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses and vehicular access.

5:30 p.m. as duly advertised.

Herb Shannon with Planning & Development gave an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings.

Transcript: Public Hearing 9/20/2010_____

Herb Shannon: This is Zoning Case 10-11. The applicant's requesting to rezone a 2 acre parcel from its current General Office Moderate Intensity or GO-M zoning to a Conditional Use Limited Business District. Just to note to everyone where we are at. This is Eastchester Drive. You have the intersection of Centennial here and the intersection of Lassiter here. The cross-hatched area is the site in question. It's directly across from the John Wesley College facility, 870 feet south of the intersection of Eastchester and Lassiter Drive. The applicant desires to open an arts and craft or fabric shop on the site which is designated by our Development Ordinance as a retail use. The current GO-M zoning is specifically for office uses. Current uses on the site is an existing office building and a Marshall arts facility; therefore, the applicant is requesting rezoning to the Conditional Use Limited Business District to allow some limited commercial uses upon this site. To the north and to the south of the site, you have the Center Stage shopping center to the south and Conditional Use Limited Business and Conditional Use Shopping Center to the north. There is existing commercial uses and commercial zoning along this segment of Eastchester Drive and the city's Land Use Plan designates this specific segment for local convenience, commercial uses.

To insure that the requested Conditional Use Limited Business District is compatible with the surrounding area, the applicant has offered conditions to limit the intensity of commercial uses. They've offered to prohibit more intense uses such as convenience stores with gas pumps and drive through restaurants and service stations. Staff has not identified any major or minor issues of concern with the request. In your packet on page 48, 49 there is a finding pertaining to this request. Two specific items to touch upon.....the Eastchester Corridor Plan has a policy limiting the number of access points and the applicant has offered a condition of restricting the site to just one point of access and also to provide a shared access drive to the site to the south that's currently vacant for the time that site develops. Secondly, as I previously noted, the Eastchester Corridor Plan does support limited commercial uses in this specific segment.

Staff is recommending approval of the request to rezone this 2-acre parcel to a Conditional Use Limited Business District. As conditioned, the request would be compatible with adjacent commercial zoning and compatible with adjacent uses along this segment of Eastchester Drive. The staff's statement of consistency is noted on page 50 of your packet. This request was reviewed by the Planning & Zoning Commission at the August 24th meeting. They recommend approval by a vote of 8-0.

Chairman Bencini: Herb, I saw the list of 16 prohibited uses that the applicant has offered. What uses will be allowed? I didn't see that list.

Herb Shannon: There are several retail uses allowed. Those were the most intensive retail uses. There's a long list of additional uses that could be allowed upon the site, but those are just the most intensive that the applicant has offered to restrict.

Chairman Bencini: How long of a list would the allowed uses be?

Herb Shannon: I would guess there would be 40-50 retail uses listed in our ordinance that could go there along with office uses that could go there also.

Chairman Bencini: Okay.

Mayor Smothers: It seems to be basically limiting anything that would have a drive thru restaurant and that type of thing.

Herb Shannon: They're probably those high traffic generating retail uses.

Mayor Smothers: This is the building where Apple Tree was?

Herb Shannon: Yes.

Chairman Bencini: Would vehicle sales be allowed?

Herb Shannon: I would have to check to make sure about that. That would not be a permitted use. Some examples of some of the uses: book stores, camera stores, caterers, fabric piece good stores, florists, gift card centers, hardware stores, that's just some examples of some of the retail uses that would be permitted along with all the office uses that are currently permitted.

Chairman Bencini: Any other questions for Herb? [none at this time] Anyone care to speak in favor of this request?

Gerald Grubb: My name is Gerald Grubb. I live at 3938 Brandywine Street and I'd like to address a couple of things that have come up in the past. We started preparing for this over a year ago. We visited shops in Ohio, Virginia, North and South Carolina getting some input from them and we decided in February to pursue this. We started looking at suitable sites. The input that we had from the owners in those other states was to stay away from things like bars, taverns, sweepstakes places, that sort of thing. The people that will be visiting our shops are predominantly women-probably 99%. The average age of the person that will be coming to see us is 58 years of age. So obviously, we are going to have people that are in their 40s, 50s, 60s and 70s so we were concerned about what's going to be around us. We did take a look at the mall. Someone had suggested well the mall's half empty, what about the mall. I talked with a sales rep that covers five states and in her five states, there's only one shop like ours that's in a mall. We found out from talking to the mall that it would not suit what we needed because the shop that we have would be open basically 5 days a week from roughly 10:00 to 5:30-6:00. We will not be open on Sundays. The mall asks that you be open 7 days a week, 9:00 to 9:00, so we just ruled that out very quickly. We found this space. It was a good location. It gave us a good enough size that we could grow some. The parking was adequate. The security looked very well and the terms of the lease were very favorable. We're asking you to consider rezone this so that we can open up this shop. About three weeks ago, one of the major shops in this area closed due to the owner's poor health. It had been open for years. I got a call from the store bookkeeper wanting to know....they were sending out an e-mail and she said I'd like to send out something on your behalf. I said great, so I gave her a little spill and basically it just said in the e-mail that we were opening a shop in

High Point. It did not give a location. We said we hope to be open in mid-October and within two hours of that going out, I had 17 e-mails from basically your constituents. By the end of the next day, I had 31 and in the last two weeks, I've had about 45 people who have inquired. They're asking where are you going to be? When are you going to be open and are you going to offer classes for us to learn? The answer to that is yes we will. So we found that this is the best space that we could find given the criteria that we were looking for and I'd be glad to answer any questions.

Council Member Pugh: You're just basically doing quilting classes then?

Gerald Grubb: We are going to be doing some quilting classes. That's one of the basic things we're going to be doing. Also we'll be offering needles, thread. If someone comes in and says I want to go home and make this quilt, I need this item.

Chairman Bencini: Thank you, Mr. Grubb. Anyone else present care to speak in favor of this request? [none] Anyone present care to speak in opposition? [none] Seeing no one, I'm going to close the public hearing and make a motion to approve both the rezoning and the conditional use permit based upon the findings of fact and staff's report that this request is consistent with our Land Use Plan and is reasonable based upon the three items identified in the staff's report.

Council Member Sims: Second.

Mayor Smothers: Are there any further questions of Council? [none] If not, all in favor, please say Aye.

All: Aye.

Mayor Smothers: Any opposed? [none] Mr. Grubb, good luck. Now you can tell them where you're going to be.

_____end of transcript_____

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

Adopted ordinance providing for the rezoning of this property from the General Office-Moderate Intensity (GO-M) District to a Conditional Use Limited Business (CU-LB) District and approved Conditional Use Permit 10-11 based upon consistency with the City's Land Use Plan and the findings as outlined in the staff report. Additionally, the City Council considers this action to be reasonable and in the public interest because: 1) the requested CU-LB District is consistent with the City's Land Use Plan, 2) The requested CU-LB District, as conditioned pertaining to vehicular access and shared access, is consistent with the policies of the Eastchester Corridor Plan, and 3) the site abuts existing commercial zoning and uses, and as conditioned the requested CU-LB District will be in harmony with the current development pattern in this area.

Ordinance No. 6769/10-117

Introduced 9/20/2010

Adopted 9/20/2010

Ordinance Book Volume XVI, Page 254

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

Ordinance - Rezoning Case 10-12 - Malik Hanif - Allen Jay Road

100282

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

A request by Malik Hanif to rezone a 6.9 acre parcel from the Residential Multifamily-8 (RM-8) District to a Conditional Use Public & Institutional (CU-PI) District. The site is lying along the east side of Allen Jay Road, approximately 240 feet north of E. Fairfield Road (2801 Allen Jay Road).

b. Conditional Use Permit 10-12

A request by Malik Hanif for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, development & dimensional standards and vehicular access.

The public hearing for this matter was held on Monday, September 20, 2010 at 5:30 p.m. as duly advertised.

Herb Shannon of Planning and Development gave an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings.

_____ Transcript: Public Hearing 9/20/2010 _____

Chairman Bencini: The next item is Rezoning Case 10-12 to Conditional Use Public & Institutional and a Conditional Use Permit.

Herb Shannon: Yes, this is Zoning Case 10-12. The applicant's requesting to rezone a 6.9 acre parcel from its current residential multi-family 8 (RM-8) District to a Conditional Use Public & Institutional District. The site is lying along the east side of Allen Jay Road approximately 250 feet north of Fairfield Road. Just to note to everyone where we're at-this is Fairfield Road. This is Allen Jay Road. The cross-hatched area is the site in question. Surrounding zoning and use to the north, you have single-family uses and zoning and multi-family development to the north of this site. Single-family uses and zoning to the east. There is an existing convenience store at the intersection of Fairfield and Allen Jay and you have single-family in this area. To the west is zoned Public Institutional and you have the former Allen Jay Middle School.

The applicant desires to develop a place of worship upon this 6.9-acre parcel. The development ordinance prohibits places of worship in all of our residential zoning districts. However, on parcels greater than 3 acres, they are required to have access to a collector or higher roadway and Allen Jay Road is classified as a local street. Development options for this site under the current RM-8 zoning-up to 55 multi-family dwellings could be built. The applicant could split the site and have a 3-acre parcel for a place of worship and that 3.9-acre parcel could have multi-family uses. They also have the development option of purchasing a parcel along Ingram Road and take access from Ingram since that is designated as a collector roadway. Or they have the option of requesting a rezoning to the PI district which does not have the parcel size access

restrictions for places of worship. Thus, the applicant is seeking this rezoning to a Conditional Use PI District. Staff has suggested this option to the applicant because the site was uniquely situated. When you look at the abutting uses in this area along this segment of Allen Jay Road, there are no existing residential uses. You have the convenience store and then you have the school. There are no residential uses until you are north of the zoning site. This request would not be introducing PI zoning in this area as the school is already zoned Public Institutional. To insure that the development would be in harmony with the surrounding area, the applicant has offered several conditions. Except for religious uses on a parcel greater than 3 acres, the only uses that are allowed are those uses that are allowed both in the RM-8 District and the PI District and that basically limits the site to Neighborhood Institutional uses such as schools, churches, swim clubs, tennis clubs, lodges, day care centers, fire and police stations. The applicant has also offered the condition that the site be restricted to the PI development criteria or dimensional standards. That would require a greater setback from the abutting residential areas. Under the current RM-8 zoning, a structure is required only to be setback 20 feet from any abutting residential use. Under the requested PI District, a minimum 35-foot setback is required. They've also offered a condition to limit the size of any religious use to a maximum of 30,000 square feet in gross floor area and they've also had a final condition to restrict the site to two points of access on Allen Jay Road. Staff has not identified any major or minor issues with this site. As you are aware for any zoning for a conditional use permit, there are specific findings and those are outlined on page 68 of your packet.

A key item to note, first, Allen Jay Road has a right-of-way with a 60 feet and can accommodate any future improvements if needed. Second, the zoning site is located on the outer edge of the residential neighborhood as there are no residential uses on this southern segment of Allen Jay Road and to insure harmony with the area, they have offered a condition on the type of uses besides any type of church or religious use and offered access conditions. Staff is recommending approval of the request to rezone this 6.9-acre site to a Conditional Use PI District as conditioned. The requested use or PI District is compatible with surrounding uses in the area and in conformance with the Land Use Plan. The staff recommended statement of consistency is noted on page 69 of your packet and at the August 24th Planning & Zoning Commission meeting, the Commission recommended approval by a vote of 8-0. Are there any questions?

Council Member Alexander: Herb, I've got a question. This is more neighborhood than case specific, the Allen Jay Middle School that's across the street now, I know that that school they built the new school and then last year that school was used as Guilford County rebuilt the other elementary school in the area. Does the school system have a concrete plans that we're aware of for use of that facility?

Herb Shannon: I'm not aware of any specific plans that they may have at this time.

Council Member Sims: Yes.

Lee Burnette: The school is looking at it as a possible middle school as a school magnet site, but they haven't firmed those plans up yet. That was the last I heard about it.

Council Member Alexander: What would a middle school magnet site look like?

Lee Burnette: I think like this. The only things that I heard from them-the school system-was it would be a typical middle school.

Council Member Alexander: So 400-600 students?

Lee Burnette: I don't know. That's one of the items they have in their bond package.

Council Member Sims: If I could help clarify that. There is going to be an announcement probably in the next month and a half regarding what they would like to see happen with that Allen Jay site and Lee is correct in that it will be a magnet school, but something a little different than what Guilford County has done in the past. It's a model they're planning to use. It should have fewer students than what you just mentioned, but they're going to make that announcement shortly.

Council Member Alexander: But it would have traditional school services like drop-off in the morning, bus service, pick-up in the afternoon, bus service and that kind of thing?

Council Member Sims: Yes.

Mayor Smothers: If the school were to do some major improvements on the site, particularly in terms of access off the roadway, would they be required to put in a turn lane or anything like that?

Herb Shannon: I think I'll let transportation address that.

Mark McDonald: There is definitely the potential for them to be required to make some sort of turn lane improvements either along Allen Jay Road or possibly even Fairfield Road, but without knowing what their specific plans are for re-use of that site, we have no real way of knowing.

Mayor Smothers: I know when I've been over there in the past to go to the Old Rock Gym, you access off of Allen Jay.

Mark McDonald: The only things is not knowing what their new circulation plan will be for the site.

Council Member Alexander: The only way to get into the school is off of Allen Jay Road. There is an access to the lower playground area off of Fairfield Road, but there is no access to the school that way and then there is a kind of back door off of Fairfield Road that kind of accesses I assume what used to be the old cafeteria where they had dumpsters and access for food service and that type of thing. All of the parental activities and bus activities and that kind of thing enter off of Allen Jay and there's really very little stacking room either way with their primary access point, so you do get bottled up in there pretty much.

Mayor Smothers: I noticed that one of the transportation requirements would be that the site have its access point across from the school access point.

Mark McDonald: Yes, we'd be looking at two access points. One in that area where Herb is pointing now and the second point of access no closer to Pegram Street than 150

feet so about in that area right there.

Mayor Smothers: I believe the information said there would be no more than 300 trips a day?

Mark McDonald: Approximately 300 trips per day-that's what is anticipated.

Chairman Bencini: Is that on average? Or is that....

Mark McDonald: That's based on running trip generation for a church site of this size. Approximately 300 a day on the day of their most intense use. Churches-their peak hours, their uses-the traffic generated by them varies greatly from all other types of uses.

Council Member Alexander: Was that specific to church or was that specific to church with other ancillary activities?

Chairman Bencini: Or was that specific to just PI Districts?

Mark McDonald: Churches based on the square footage that has been submitted for development.

Council Member Alexander: So if there's a day care there or afterschool education program or something like that, it would add to?

Mark McDonald: It could be higher, it could be lower. It's not going to be significant either way though.

Mayor Smothers: Allen Jay Baptist Church is on Springfield about a block and half or so from the school and they have a side street as well. I didn't really study....I know they have access off of the side street because I looked down the road. I don't know how much other ancillary activity.

Chairman Bencini: Mark, you or somebody mentioned in the staff report that on a day of worship, that the traffic would be as much as 5 times an amount.

Mark McDonald: I think that was comparing the site to its current zoning and what it could be developed as now with multi-family.

Chairman Bencini: That's 5 times more than the multi-family use?

Mark McDonald: Than the peak hour multi-family use.

Mayor Smothers: When this site was up for rezoning some time ago, did they have to do a TIA?

Mark McDonald: No, they did not.

Mayor Smothers: Well how many units was it? Does anybody remember? Was it around 55?

Mark McDonald: Fifty-five multi-family units would generate somewhere in the neighborhood of 350-400 trips a day. So in peak hour use, for multi-family it's just like or very similar what it would be for residential. Your normal peak hours would be 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. and it's going to be focused on the outbound and inbound movements.

Council Member Pugh: Mark, if you put 250 vehicles at the site at one particular time and then you did have the school over there, would it create a problem?

Mark McDonald: It could create some short-term peak hour problems if the peak hours of the school and the peak hours of this facility overlap at the same time. Traffic on Allen Jay Road is running 900-1000 cars a day. That is not a very high volume of traffic. The addition of an additional 200-300 trips a day, if it were that high, is not significant from a traffic standpoint.

Mayor Smothers: Well, 300 trips a day could mean just a 150 cars that went somewhere, left and came back.

Mark McDonald: Yes.

Council Member Alexander: Now Allen Jay is an 18 foot ribbon paved, ditch on both sides road and that would be designed forwhat would you say the maximum capacity of that road would be designed for?

Mark McDonald: Allen Jay Road.....probably somewhere in the 8-10,000 range.

Council Member Alexander: Okay and you said that it is currently around 1,000?

Mark McDonald: Yes, about 1,000 a day.

Council Member Alexander: So it's operating at about?

Mark McDonald: Ten percent.

Council Member Alexander: Okay about 10-15% of its design capacity.

Council Member Faircloth: Mr. McDonald, if the two entrances and exits for the church were placed where you suggested, does that put an additional burden in the future on the school to have to do a significant additional amount of engineering and location of exits and so forth?

Mark McDonald: It would if they chose to change them. Again, without us knowing what their plans are for that site, it's hard for us to guess. What we were looking at doing is allowing two points of access, looking at the access points that are currently serving the school site now, fulfilling the requirements of the driveway ordinance and also looking to avoid turning conflicts between the northern most driveway for the site and Pegram Avenue where it intersects with Allen Jay Road. So we were looking at a lot of different factors there as to where the placement and spacing will be.

Council Member Faircloth: Will there beas a part of this with the driveways located

and so forth....will there be improvements to what would be the right side of that road with respect to curb and gutter or would it still be ribbon pavement?

Mark McDonald: As it stands right now, it would simply be as it is right now. We have not seen plans for the site. That's still pending for TRC review and hasn't come in yet. We would not anticipate there being any improvements to the street at this time.

Mayor Smothers: Following up on Mr. Faircloth's question, do you think TRC would say you need to put curb and guttering along the edge of your property?

Mark McDonald: I do not think that would be a requirement through TRC.

Mayor Smothers: Okay.

Mayor Pro Tem Whitley: Mark, you're aware of the scenario at Cedarwood and what happens on Sunday's when the churches let out over there and it's been a continuous problem, traffic congestion and there have been multiple requests for lights there. Do you envision that we can have the same type of scenario at Fairfield?

Mark McDonald: I do not and the reason is that we have not had any requests for similar types of requests along Fairfield Road in the past and I don't see this as being such an intense generator that it would result in that.

Mayor Pro Tem Whitley: No, the Cedarwood scenario is folks are having trouble getting onto the main road whereas this one would be similar to it in the same way. Coming off of Allen Jay, they would possibly have trouble getting onto Fairfield. Do you see that type of potential problem?

Mark McDonald: No, not based on the traffic volumes that we see out there.

Council Member Pugh: If you have 250 cars trying to get out of the site and you have a number of cars trying to get out of the school site and they all came down Fairfield Road, you don't see a problem?

Mark McDonald: I wouldn't say that there would not be some short-term congestion there. That's something that you see anywhere with any type of use. That doesn't necessarily mandate that there needs to be signalization, turn lanes or any other traffic control based on the numbers that we have evaluated for this particular site.

Mayor Smothers: I would imagine that a lot of the residential traffic goes back over toward Springfield.

Mark McDonald: We would anticipate that the proposed site would travel south on Allen Jay and use Fairfield whereas the residential traffic may be more inclined to use Springfield Road. The volume on Allen Jay, by the way, that 900-1,000 a day was very evenly split north to south.

Council Member Alexander: Mark, if you had access to Ingram Road, would you want two access points along Allen Jay or would you want to limit it to one on Allen Jay and one on Ingram Road?

Mayor Smothers: Well they don't have it do they?

Mark McDonald: That was not a question that was asked. We did not explore that possibility because it was not requested and there's a more intense residential use along Ingram Road there so we felt like it was better to focus the traffic out towards the school site which would be a similar type use site and then out to Fairfield from there.

Council Member Faircloth: Would you foresee, in the future, if the school developed a magnet school there and as they generally have done with other schools as they develop, they had sidewalks along there and what have you....would you anticipate curb/gutter and sidewalks would be appropriate for the school side?

Mark McDonald: I think curb and gutter and sidewalks are always appropriate where there's an urban environment and you've got some potential for greater walkability and pedestrian activity and I believe that sidewalks would be required for both sites.

Mayor Smothers: They sure didn't put them in up at Oakview.

Mark McDonald: That doesn't mean that they are required for....the curb and gutter would be required for Allen Jay Road at this particular site.

Mayor Smothers: When you all were given the information, was there any indication of what the high traffic times would be?

Mark McDonald: There was and I believe Friday afternoon's was what was indicated to us as being one of the higher times like between noon and 2:00 or somewhere around that time. As I recall the time was just prior just when you would anticipate school letting out-maybe an hour prior to school dismissal. I'm sure that the applicant can clarify those times.

Mayor Smothers: Right, I assume if families are involved, their children would be in school too.

Chairman Bencini: Any other questions for Mr. McDonald? [none at this time] Any other questions from staff at this time? [none at this time] Any one present care to speak in favor of this request? Please come forward and give us your name and address.

Uzma Zaman: Uzma Zaman, 1105 E. Springfield Road. Is it okay with you guys if I can speak for those people in favor because they have language barriers?

Chairman Bencini: Sure.

Uzma Zaman: I'm strongly in favor of this request. The reason is because for the last two, three, four years, we've seen tremendous growth in Muslim community population. We do have two facilities: one on the north side of High Point and one on the west side, but they are too small to accommodate all our new youth so the reason we chose this lot is because I have seen that lot....I lived over there for like the last fifteen years and I'm looking at that lot vacant and it's like densely wooded and if you pass by there, you will see like a lot of illegal activities going on in those wooded areas. So our main concern

was we'd like to utilize that lot to make our neighborhood much safer for our kids and secondly, this lot was big enough so we can have a facility built over there and a secure facility for our youth to worship over there. So we put this request in front of City of High Point because we need a bigger facility and that is the biggest lot over there on the south side that we can use.

Mayor Smothers: So you're combining two existing groups of people?

Uzma Zaman: No, we are not combining. The north end of the people will use the north site. The west end of the people will use the west site. We are seeing so many new immigrants and newcomers coming and settling on the south side now. As the new families are coming, they are growing, they are having kids and we are seeing like more people, more youth. For our new generation and new kids who are moving to the south side, we need another facility because the two facilities we already have are not big enough and more people are coming and I know maybe like in a few more years, all of the new immigrants will be coming and people are coming from everywhere-New York, California. Like every time you go to that neighborhood, you see a new face, a new family, so our community-the Muslim community-is growing too much in that area. So that was the first reason we chose that lot because that was big enough to accommodate our needs. We can build a facility over there and use it as a worship center because our youth need a place to go and worship. They need to learn about the religion so I think that is best to utilize that lot.

Council Member Pugh: Do you intend to leave the facility on Market Center?

Uzma Zaman: Yes, those facilities will stay there. The north side will stay on the north side. People are already using that. The people that live in that area are using the north side facility. The people on the west side are using the west side facility. When we build this facility because our people are going over there and the facilities are not big enough to accommodate the new people so we are building this facility because the families are growing. The newcomers, the immigrants and people from all over the United States, they are coming so we respect the U.S. Constitution and I know like it allows us to build a church or a facility in a residential area so we are just requesting to build a worship place. Plus that lot will be cleaned. It's so densely wooded. If you guys pass by there, you will see a lot of illegal activity over there. The teenagers they go over there. They do a lot of different things, so we just want to clean up that lot and make it much safer. It will be much safer when there will be a facility for the neighborhood also.

Council Member Blakeney: Is this the only lot that you looked at on the southside?

Uzma Zaman: Yes, that was big enough to accommodate our needs.

Council Member Alexander: The activities that will take place there, will you have a daycare or afterschool care or will it be just focused on your traditional worship times and that kind of thing? I guess my question isit's kind of ultimately headed to how much flow on a day-to-day basis might be there and what might those times of flow occur?

Uzma Zaman: I understand that a lot of people have a concern about the traffic problem. Our traffic will not overlap with the school traffic because the school ends.....my kids

went to that school too. Within like a three-mile radius, we have like five, six churches and I understand that they have their sessions on Wednesdays and Saturdays and Sundays and we never experience any traffic problem because I don't think the traffic is that heavy. We are utilizing our facility after hours. We will not overlap the school timing. Our facility will start when the kids will be out of the school because our kids go to the public schools too and they will be out of the school like 2:30, 3:30, 4:30 and we will start using that facility from mostly 5:00 to 9:00 p.m. during the weekdays and on the weekends, we will be using it like Saturday mornings or Sunday mornings for Sunday schools. We're not planning to make a daycare center over there because our moms stay home. They take care of the kids at home so most of our moms are at home. We don't need a daycare center, but we are planning to like make that facility a computer center for our youth because everything is on the computers now so they can read Koran???? On the computer. They can worship even on the computer, so we will build a computer center also, but our main concern is to build a worship center and utilize that 2.9 acres first. We requested the rezoning because we want to clean the whole lot because if we utilize that 2.9 acres and leave those wooded areas, it will be not secure for our kids because anybody can go into those wooded areas and do anything. So we just want to clean the lot completely and start building the facility on the 2.9 acres and then in the long run, yes, we will increase the facility by computer center and all other things.

Council Member Faircloth: Question. There will be a lot of children back and forth there is what you're saying. Will they be walking to home in many cases, or

Uzma Zaman: No sir. They will be picked up and dropped off by their parents. Nobody will be allowed over there walking because the kids cannot walk over there. They have to be picked up and dropped by their parents. At our other two facilities, they live like within a half-mile radius, but they are still picked and dropped by their parents.

Council Member Alexander: You said that you would be clearing that area and that kind of thing, will you have any type of fence or any like a stockade around the perimeter of the facility?

Uzma Zaman: Yes, once we clean all that wooded area, we will fence the facility. The facility will be gated and fenced because we want security for the kids, too.

Council Member Alexander: Can you tell us maybe what you envision as a fence?

Uzma Zaman: Whichever the city requirement is, we will use that.

Mayor Smothers: When I rode by there today it looked like....and I guess you could tell on the map there....it looks like it's been used for off road vehicles or something.

Uzma Zaman: Yes, dirt bikes especially in the snow days. The teenagers come and they ride the dirt bikes and they ride those monster trucks. They ride everything over there. We put No Trespassing signs up all the time and they just take them down.

Council Member Pugh: You mentioned the Constitution and I would just like to say that the Constitution of this great land does offer everyone the equal opportunity to worship and that issue of faith has no bearing on these proceedings. Everything that we're looking at is from basically a public safety.....and that's the concern-the traffic and things

of that nature.

Council Member Faircloth: The persons in charge of the development of your structure and grounds there, have they considered curb and gutter along that side and a sidewalk? Was that ever part of the consideration?

Uzma Zaman: I'm not sure about that because I'm just the spokesperson for them, but like I can find out for you. I'm sure because if it's a city requirement, they have to complete all the city requirements before they start something on it.

Council Member Faircloth: The reason I asked is we have many examples in the city with schools and in some cases, churches nearby where pedestrians do use the area and ribbon paving and ditches are not very amenable to transportation particularly when you have a school on one side of the street and a church on the other side of the street. It would seem to me and there may be disagreement, but it would seem to me that while we're addressing this area, that we begin to upgrade the travel possibilities there and go ahead with curb and gutter on that side if you were willing to do that and then later on the school could do their side when they make their improvements. I think both would have a much nicer situation.

Uzma Zaman: Well if it is a requirement, we can do that.

Unidentified: We are thinking about putting a sidewalk in. We would like for it to be as safe as possible.

Council Member Faircloth: Say are you saying that you're willing to do curb and gutter and a sidewalk?

Unidentified: Curb, I'm not sure, but sidewalk for sure and fencing.

Chairman Bencini: Sir, excuse me, could you come forward and give us your name and address please?

Tanveer Iqbal: My name is Tanveer Iqbal. I live at 1323 E. Fairfield Road and if I blubber, it's going to be the mic not me and if you don't understand just ask me again.

Council Member Alexander: One of the things that we need to make sure that we heard and didn't misunderstand, were you offering a sidewalk as a condition which means that when we adopt it, we'll add that as a condition to your development or were you saying that you would consider a sidewalk and possibly put it in the future, but not promise?

Tanveer Iqbal: Exactly.

[laughter]

Council Member Alexander: Okay, there's an either or an or.

Tanveer Iqbal: Okay we will put the sidewalk in, but like I said I can't do that in the [inaudible] because as you know, church or mosque, they are all non-profit organizations and we have to build this mosque with donations, so as the donations come, we start

putting money to work and we are going to make this place nice and safe as possible. And as far as your traffic count is concerned, we talked in the last meeting about our hours and our hours are off-peak hours. Our prayer time is before sunset and then it's noon time and afternoon and evening time. The only Friday, you will see a traffic flow. You will not see a traffic flow any other given day. You might see eight, ten or maybe twenty cars-the max-because people are at work and most of the people pray at home. Only Friday, just like Sunday is a big day for others, Friday is a big day for us. People get off on their break time and go to the mosque and that time is between 12:30 to 1:30 and that's the only busy time you will see. There is no other traffic issue or no other traffic problem whatsoever.

Council Member Alexander: Okay, so that I understand, you are not willing to offer it as a condition at this time, but you said if the development went as you hoped, you would consider it.

Tanveer Iqbal: Yes.

Council Member Alexander: Okay.

Uzman Zaman: It will be the budget permitted, let's put it like that.

Mayor Smothers: I think staff has said that until there's a site plan for them to process through TRC, there's no way to really say how it's going to be laid out.

Mark McDonald: It is difficult to say for sure, but we believe the sidewalk will be a TRC requirement in this case. Improvements to the roadway are not part of the requirement at this point. We have no provision for that.

Council Member Alexander: So it would be a sidewalk on the other side of the ditch?

Mark McDonald: Or it may be to their advantage to make improvements to the street. It's hard to say at this point. We haven't seen the site plan and it hasn't gone to TRC to make that determination. Simply if it was an ordinance requirement, a sidewalk would be required.

Council Member Pugh: But this is a very challenged piece of property. I know you must realize that it is a very challenged piece of property with springs and it's been graded out and it can be really costly to try to bring it up to the standards DENR and the water quality and all that may come into play.

Uzma Zaman: Yes, we understand that and we will follow all the city requirements before we put something on it.

Taveer Iqbal: That's why we want to go on and get to work so we can.

Uzma Zaman: Any more questions?

Chairman Bencini: Not at this time.

Uzma Zaman: Okay, thank you.

Chairman Bencini: Anyone else present care to speak in favor of this request? [none at this time] Anyone present care to speak in opposition? Please come up.

We need to have your name and address as well.

Catherine Gillespie: I'm Catherine Gillespie, 2720 Ingram Road, and our property joins the property in question. We're one of the houses along there. I think people are forgetting about the residents that live back there and I'm concerned with the noise and congestion with us living right on top of the site. But nobody seems to be concerned about the residents. I've been there 24 years and bought a site because it was a residential site and now it's going to be industrial so to speak. We hear....when school is in....we already hear noise from the school and that's much farther away than this is going to be. So that's my main concern. Are they going to put up sound barriers between the property? Because a chain link fence is not going to do it.

Chairman Bencini: The only condition I heard, Herb, and correct me if I'm wrong, was that the buffer has been increased from 20 to 35 feet, is that correct?

Herb Shannon: The Public Institutional District requires a greater building setback, yes.

Mayor Smothers: Is there not some landscaping that has been offered?

Herb Shannon: There is landscaping next to the residential uses, So there we'll have a landscape buffer and the building has to be set back a minimum of 35 feet from the property line.

Chairman Bencini: And what would the planting yard be for this particular landscaping requirement?

Herb Shannon: That would be a Type B planting yard which has an average width of I believe 25 feet; 8 trees and 17 shrubs every 100 linear feet.

Chairman Bencini: Could you repeat that?

Herb Shannon: The Type B planting yard requires 8 trees and 17 shrubs every 100 linear feet.

Council Member Alexander: And there would not be access to Ingram road, correct?

Herb Shannon: There is no access to Ingram Road under this current proposal.

Catherine Gillespie: What I'm saying is our property is on Ingram Road, but it backs up to that property. So whether there's access or not, we can hear the traffic on Allen Jay Road and when school's in, it's a lot of traffic. If y

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

Resolution - Heart of the Triad Plan

100283

Consideration of a resolution accepting and endorsing the Heart of the Triad Plan.

The public hearing for this matter was held on Monday, September 20, 2010 at 5:30 p.m. as duly advertised.

Chairman Bencini reported that prior to the meeting, Council Member Alexander had expressed an interest in delaying a vote on this matter until Council could be briefed.

Lee Burnette, Director of Planning & Development, pointed out there were some residents present at the meeting who would like to speak on the subject matter.

Chairman Bencini opened the public hearing and asked if there were any comments at this time.

Pat Schreiber, 1717 Sandy Ridge Road, was present to share some comments with Council. She stated she is both a citizen and a property owner in the Heart of the Triad and actually chaired the Stakeholder's Committee and the committee basically formed an ideal planning model that can be replicated for other areas. She expressed appreciation to the staff and others for the assistance they received throughout the process which was instrumental in allowing them to make informed decisions. Ms. Schreiber pointed out the committee basically desired to protect the property rights; protect the natural resources; be wise stewards of the limited tax dollars; encouraged transparency in government; recommended widening of existing roads rather than creating new highways; strongly supported revitalization of the downtowns and abandoned properties instead of acquiring other land and leaving ugly eyesores; and was vehemently opposed to the use of eminent domain. In closing, she encouraged Council to approve the resolution for the plan and to integrate it into the planning documents as it proceeds forward.

Jimmy Morgan, who resides at 8625 Bull Road in Colfax, also addressed Council. He mentioned that he was a member of the Stakeholder's Committee. He also thanked staff and expressed appreciation to Council Member Faircloth and to former Council Member Stahlmann for giving them a personal invitation to sit at the table amongst the other members of the planning committee which felt good for them to be included like they mattered. Mr. Morgan explained he knew he had to get involved early on in the process when the paid consultant made a comment when the preferred concept plan was presented to the public in a meeting and was told that farms were not an option in the Heart of the Triad. He pointed out he is a fifth generation owner of his family farm which is also a North Carolina Century Farm and this incensed him so much that he had no other choice but to fight for the cause. He noted that in these economical times, agriculture is the most important thing that North Carolina has going for it.

Mr. Morgan reiterated that it was their desire not only to protect the farm land, but also to be wise stewards of tax dollars; protect property rights; and work together in a collaborative effort. He informed Council the scariest thing to him after attending some of the meetings was the mention of another layer of governing authority to be established and agreed upon by the municipalities. He explained that although there was some uncertainty initially about governing authority, he is now more comfortable with it because everybody knows more about what's going to happen.

Council Member Faircloth mentioned the time he has spent over the last five years addressing this particular challenge and suggested this would be a good model for study at UNC-G in the Public Administration program on how things should be accomplished using citizen's input.

Chairman Bencini asked if Council was ready to move forward or would prefer to delay action until the document could be reviewed further. Council Member Alexander stated he preferred to continue the matter because he just got the document ten days ago and would like additional time to review it. Council Member Pugh agreed and stated he didn't feel comfortable voting on something he just received and wanted to make sure everybody had time to read it.

Continued the public hearing to Monday, October 4, 2010 at 4:45 p.m.

Ordinance - Text Amendment 10-06

100284

A request by the City of High Point Planning & Development Department to repeal the Conditional Use District zoning process and to establish a Conditional Zoning process in its place.

The public hearing for this matter was held on Monday, September 20, 2010 at 5:30 p.m.

Bob Robbins of Planning & Development gave an overview of the staff report which is hereby attached in Legistar as a permanent part of these proceedings. He explained the ordinance basically does three things:

1. It removes the present conditional use district zoning process and all references to that within the Development Ordinance;
2. It establishes a new conditional zoning process. One that is purely legislative and is done without the quasi-judicial hearing process that the city has used in the past for the conditional use district zoning; and
3. It sets forth a provision for some sort of future treatment in an application of existing conditional use zoning districts and the ordinance addresses what to do with the existing conditional use permits.

He noted the provisions in this text amendment have been reviewed many times in committee and the final version contained in the packet is what Council and the committee directed staff to do. The document has been sent out to the development community and to TREBIC, who had expressed concerns and recommended the addition of a few words to one of the paragraphs on general limitations to conditions ("on site" and "at site"). He noted that the Planning & Zoning Commission agreed with TREBIC's recommendation for the inclusion of these words, but since that time,

staff has had an opportunity to look at this a little more closely and has also asked the city attorney to look at it. It was concluded by staff and the city attorney that these words may be unnecessary and are somewhat unclear in terms of what the definition of "at site" might be. Mr. Robbins explained there was already a very clear provision in the ordinance that simply says unless both Council and the applicant agree upon the conditions, they can't exist anyway and felt this would cover any issues that might surface. Staff is not recommending the inclusion of these words in the proposed ordinance.

Council Member Alexander asked if there were any other areas that might be impacted with the recommended additional language. Staff replied it could impact stormwater, utility upgrades, parks and recreational facilities, transportation, etc.....

Council Member Faircloth asked staff to provide an illustration of a situation that might be considered under these particular provisions that would not fit "at site". Staff pointed out one situation might be traffic related and pointed out there have been some traffic signal contributions that have occurred in the past where developers have agreed to help the city. Council Member Faircloth asked if Council would have to determine if there was a relationship between the site being considered and whatever would be called "off site". Staff responded that the city attorney could better address this and mentioned it was felt that there is some ambiguity with the term "at site". Council Member Faircloth felt there seems to be an expression of fear of tying the governmental entities hands if this is considered and felt it was disingenuous for staff to think that Council could not connect a project and something that could possibly affect a project with a term like "at site." City Attorney Fred Baggett explained the "at site" or "on site" means geography and pointed out this ties Council's hands unnecessarily because Council can now require things legally that are not "on site" or "at site" like a traffic signal contribution two lots away, like the beginning of a taper that might not be on site, etc.... and strongly felt the inclusion of this language would put these out of bound.

Council Member Faircloth likened this to impact fees and urged Council not to move into the area that has been proven to be improper. The city attorney explained that it is legal. Chairman Bencini pointed out a lot of the conditions Council has put in conditional use zoning could be interpreted as impact fees and passage is determined by the nine members sitting on the Council. Mayor Smothers agreed that Council should have that latitude.

At this time, Chairman Bencini opened the public hearing and asked if there was anyone present who would like to comment.

Judy Stalder, representing TREBIC, 115 W. Westgate Drive in Greensboro, addressed Council. She explained TREBIC's intentions with the "on site" and "at site" was never to restrict the conditions, but wanted to give developers some comfort coming in that their development was not going to be asked to fund some other development down the road. She felt this could be cleared up by adding the following language:

"At site" or "on site" or should not exceed the improvements that are proportional to

the new demand that is directly attributed to the development and/or zoning or that exceeds the current infrastructure capacity.

Chairman Bencini noted this sounded like an impact fee and pointed out the Councils that he has served on have never had an interest in that. He felt TREBIC was asking Council to somehow legislate against impact fees within this process change and this was not the appropriate place to do that. Ms. Stalder it was not to legislate, but to set the expectations and make the guidelines clear.

Mayor Smothers felt it might be helpful for Council to see the written language that Ms. Stalder read into the record and Ms. Stalder agreed to email it to staff and to the city attorney.

Chairman Bencini asked if there was anyone else present who would like to comment. There being none, the public hearing was declared closed.

Following the conclusion of the public hearing, Chairman Bencini moved that this matter be placed on Thursday's Agenda with a favorable recommendation for approval of the text amendment as recommended by staff which excludes the additional language as recommended by TREBIC--based upon the appropriateness and findings of fact as outlined in the staff report. Lee Burnette clarified that this would be effective with cases going to the Planning & Zoning Commission in January. Council Member Sims made a second to the motion.

At this time, Council Member Faircloth made a substitute motion that Council approve this as recommended by the Planning & Zoning Commission to include the term "on site" or "at site". The Mayor called for a second to the substitute motion. There being no second, the substitute motion died due to the lack of a second.

Mayor Smothers then called for a vote on the main motion to approve the text amendment as recommended by staff to exclude the additional language as recommended by TREBIC. The motion carried unanimously.

Ordinance No. 6771/10-119 Introduced 9/20/2010
Adopted 9/20/2010
Ordinance Book Volume XVI, Page 256

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

For Information Only:

Public Comment:

Barbara Leland, a former school teacher with the Guilford County School System, addressed Council regarding concerns about the lack of school safety.

Special Recognition: C.R.I.T.S Bike Race

Mayor Smothers recognized organizers and supporters of the High Point Criterion

bike race recently held in High Point. She noted that there were 365 riders and over 2000 spectators for the event. There were over 33 local sponsors who raised \$22,500 for local charities.

Dr. Chip Duckett, a urologist with a passion for cycling, presented ceremonial checks to the charities chosen to receive the benefits from the event:

Open Door Ministries
His Laboring Few Ministries
Community Clinic

Dr. Duckett hoped this would be an on-going event held every Memorial Day and hoped the City of High Point would continue to participate and be part of it.

[applause]

Dilapidated Building at the corner of Grimes/Green

Council Member Alexander asked about the building located at the corner of Grimes and W. Green that has a relatively significant collapse. Randy McCaslin, Assistant City Manager, reported there were some problems with the heirs. Council Member Alexander asked if there was anything that the city could do to secure it. Council Member Faircloth asked if there was any provision or authority to get the property secured. City Attorney Fred Baggett replied that the city does have emergency authority. City Manager Strib Boynton felt it would be beneficial for staff to check into it and see if there was anything that the city could do on an emergency basis.

Manager's Briefing- Tuesday, September 21st @ 4:00 p.m.

Council Member Sims reminded Council that Council would be discussing the fee structure for solid waste services in the downtown area and urged Council to review the minutes/information that was distributed to Council as a result of the last Public Services Committee meeting held on Tuesday, September 7th.

City Manager Boynton reported that the Guilford County Manager would also be present to discuss the county's office reorganization in High Point.

ADJOURNMENT