

City of High Point

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



Meeting Minutes

Monday, September 15, 2008

4:45:00 PM

Council Chambers

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

ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE

Upon call of the roll, Mayor Rebecca R. Smothers; Mayor Pro Tem Christopher Whitley, and Council Members Latimer B. Alexander, IV, William S. "Bill" Bencini, Jr., John Faircloth; Michael D. Pugh; Bernita Sims; Lisa Stahlmann, and Ronald B. Wilkins were present.

Council Member Wilkins offered the invocation; the Pledge of Allegiance followed.

Present: Council Member Whitley, Mayor Smothers, Council Member Wilkins, Council Member Alexander, Council Member Bencini, Council Member Faircloth, Council Member Pugh, Council Member Sims and Council Member Stahlmann

APPROVAL OF THE MINUTES FROM PREVIOUS MEETINGS

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

Finance Committee; Tuesday, September 2nd @ 3:30 p.m.

Combined Meeting; Tuesday, September 2nd @ 4:45/5:30 p.m.

FINAL ACTION TAKEN AT TONIGHT'S 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, 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 Faircloth, seconded by Council Member Alexander 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, Faircloth and Pugh**

(all were present)

Contract - Bid No. 01 - Northwest Sewer Improvements**080241**

Approval of contract awarding contract for Bid No. 01 for the Northwest Sewer Improvements. Purchasing and Public Services recommends that contract be awarded to Ramey, Inc. in the amount of \$2,593,629.00 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.

Chairman Whitley asked if there was anyone present that would like to speak regarding this matter.

Mr. Mac Bradley, who resides at 561 S. Bunker Hill Road in Colfax addressed Council. Mr. Bradley expressed appreciation to Council for their efforts in the project, but shared his concerns about the implementation of the project and problems with trespassers. He explained that he has had problems in the past with four-wheelers riding up and down his property and has received no support from Guilford County for protection.

Mr. Bradley informed Council that the right-of-way offer also included a greenway and he did not want a greenway behind his house. Chairman Whitley explained that he had heard some comments made regarding the proposed contract and pointed out that the clearing and removal of three trees was being done by an individual--not the city. He also explained that the Greenway is in the Parks & Recreation Master Plan for the future although there is currently no funding for the project. Mr. Bradley asked for an explanation on how the city could offer him just compensation for the right-of-way when the Greenway project was also included. He felt it was important that Council take away the Greenway from the right-of-way offer.

Mayor Smothers explained the issue becomes one that the city has to maintain the outfall line--not only the line itself, but the right-of-way and that it's been projected since it has to be maintained that it might be a wise use of acquisition to use it for open space that's recreational in nature. She sympathized with Mr. Bradley and noted that Council has discussed the whole business of the privacy issue related to the greenway and the access to people's property. She asked Joanne Carlyle, the Assistant City Attorney, if she could give Mr. Bradley an opinion about the question he raised in regard to the value of his property (right-of-way) when it's coupled.

Council Member Pugh wanted to make sure regulations were in place to protect Mr. Bradley from trespassers. Pat Pate, Assistant City Manager, explained that the city typically has more problems in areas where there are no homeowners close by to the easements, and felt since Mr. Bradley should be able to notify the proper authorities for assistance. There was some question as to whether this property was in the city and whose jurisdiction (Guilford County Sheriff Department's vs. the City of High Point). Mayor Smothers felt an agreement could be reached with whomever so proper response could be made.

Approved Bid No. 01 awarding the contract for the Northwest Sewer Improvements to Ramey, Inc. in the amount of \$2,593,629.00 which is the lowest responsible and responsive bidder meeting specifications.

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

Contract - Bid No. 14 - Oakview Road Improvements

080253

Consideration of contract awarding Bid No. 14 for the Oakview Road Improvements. Purchasing and Engineering Services recommends that contract be awarded to Triangle Grading & Paving in the amount of \$4,696,623.66 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.

Cynthia Davis, who resides at 413 Evergreen Avenue, asked to address Council regarding this matter. She asked Council to consider a future bond for road improvements to Evergreen Avenue.

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

Approved contract award to Triangle Grading & Paving for the Oakview Road Improvements in the amount of \$4,696,623.66 which is the lowest and responsive bidder meeting specifications.

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

Contract - Bid No. 17 - Roll Off Container Truck for Landfill

080254

Consideration of award of contract for Bid No 17 for purchase of a Roll Off Container Truck for the Landfill. Purchasing and Fleet Services recommends that contract be awarded to Piedmont Ford Truck in the amount of \$108,861.00 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 award for a Roll Off Container Truck for the landfill in the amount of \$108,861.00 to Piedmont Ford Truck which is the lowest responsible and responsive bidder meeting specifications.

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

Contract - Bid No. 19 - Tandem Dump Trucks - Snow for the Streets Division

080255

Consideration of contract awarding Bid No. 19 for the purchase of two Tandem Dump Trucks-Snow for the Streets Division. Purchasing and Fleet Services recommends that contract be awarded to Piedmont Ford truck in the amount of \$264,980.00 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 award for the purchase of two Tandem Dum Trucks-Snow to Piedmont Ford Truck in the amount of \$264,980.00 which is the lowest responsible and responsive bidder meeting specifications.

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

Contract - Bid No. 22 - Poles & Luminaires for Electric Department**080256**

Consideration of contract awarding Bid No. 22 for the purchase of Poles and Luminaries for the Electric Department. Purchasing and Engineering Services recommends that contract be awarded to Shealy Electric wholesalers in the amount of \$112,290.00 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 award for the purchase of poles and luminaries to Shealy Electric Wholesalers in the amount of \$112,290.00 which is the lowest responsible and responsive bidder meeting specifications.

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

Contract - Bid No. 23 - Electric Meters for the Electric Department**080257**

Consideration of contract awarding Bid No. 23 for the purchase of Electric Meters for the Electric Department. Purchasing and the Electric Department recommends that contract be awarded to Shealy Electric Wholesalers in the amount of \$237,312.00 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 award for the purchase of electric meters to Shealy Electric Wholesalers in the amount of \$237,312.00 which is the lowest responsible and responsive bidder meeting specifications.

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

**PUBLIC SAFETY COMMITTEE - Council Member Alexander, Chair
Committee Members: Faircloth, Stahlmann, Pugh and Wilkins**

(all were present)

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

**PUBLIC SERVICES COMMITTEE - Council Member Sims, Chair
Committee Members: Alexander and Pugh**

(all were present)

Revisions to the City's Solid Waste Ordinance

080248

Consideration and approval for revisions to the City of High Point's Solid Waste Collection and Disposal Ordinance.

Chairman Sims explained discussion was still on-going on the merits regarding the components of the ordinance and moved that this matter be referred to the Committee of the Whole as a manager's briefing in an effort to clear up the language by the whole Council and to try to determine a time to do some public information sessions to give the public an opportunity to look at the ordinance, review and give Council some feedback.

Council Member Pugh made a second to the motion.

For further discussion, Council Member Pugh felt it was time to rectify and take action on this matter and felt the Council was arguing over the minor issues while the major issues were being ignored. He hoped some headway could be made so Council could look strongly at the recycling issue. Mayor Pro Tem Whitley explained that he had no problem proceeding, but expressed concerns with how the trash pick up would be handled with no bags allowed beside the curb. Mayor Smothers suggested that staff compile a chart identifying the specific changes and felt this might help keep discussion focused. Mayor Smothers asked if there was any knowledge if the manager had scheduled a briefing for the first week in October. All Council members were agreeable to set October 7th as the tentative date for the manager's briefing to discuss this matter further.

Mayor Pro Tem Whitley asked Chairwoman Sims to see if anyone was present to address Council regarding this issue because he had received several calls and

had asked them to come before Council.

Chairwoman Sims asked if there was anyone present who came specifically to speak about this ordinance. There being none, Mayor Smothers called for a vote on the motion to defer.

The motion carried unanimously. [9-0 vote]

TRANSPORTATION COMMITTEE - Council Member Faircloth, Chair

Committee Members: Alexander, Sims, Whitley and Wilkins

(all were present)

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

PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair

Committee Members: Faircloth, Sims, Stahlmann, and Whitley

(all were present)

Minor Amendment to Conditional Use Permit 07-25 - KPKA, LLC

080258

A request by SPKA, LLC for a minor amendment to Condition II.A.1 of Conditional Use Permit 05-10 pertaining to the number of dwelling units that may be constructed prior to the contract for the realignment of Deep River Road being let by the City Council. The site is lying at the northeast corner of Deep River Road and Willard Road.

Before presenting the staff report, Mr. Shannon referred Council to the updated memo from the Transportation Department placed in front of them as a matter of clarification of road improvements regarding the access to Willard Road.

Herb Shannon of Planning & Development gave an overview of the staff report as follows:

Mayor Smothers asked if staff was close on having all the property donated for the design and Randy McCaslin, Assistant City Manager replied in the affirmative. Council Member Faircloth asked how they arrived at the 58 units. Mr. Shannon explained that this number came from the applicant during the public hearing process. The Mayor added that it was also due to a projected build-out period that where they had to estimate the number of units that would be built in that time period which coincided pretty well with the schedule the Council had hoped to have the major road improvement done.

Jim Morgan, 1810 Westchester, counsel representing the applicant, explained that when they agreed to that limitation, they envisioned the bond referendum had passed and thought that this project was going to move forward, but was held up due to an elderly couple and the city did not want to condemn the land at that time.

He explained they met with the staff and staff didn't have any problems, but suggested the additional language be added to the permit. He noted the applicant has no problem with the language and asked for Council's approval of the amendment to the permit with the additional language. He pointed out that the applicant has already dedicated the right-of-way that was agreed upon when the project was originally approved by City Council.

Chairman Bencini asked Mr. Morgan if there was any promises or if the city implied in any way that the new intersection would be completed by a certain date. Mr. Morgan replied that there wasn't but they thought the road project would move along much quicker and pointed out the old language said they couldn't build the additional units until the contract was let for the intersection. Mr. Morgan explained it was a matter of them misunderstanding the timeline about when they could start and when the road project was going to start. He explained they would not have agreed if they would have known that it was going to be over a three-year period before the contract was let.

Mayor Smothers asked if there weren't some public safety questions about the intersection. Keith Pugh, Director of Engineering Services, explained the only issue he was aware of was when the city would be able to acquire the Williams' property and when it would be dedicated to the city. He noted the design of the project was approximately 95-99% complete and staff was only waiting on the dedication of the right-of-way to build the road. There should not be any more issues to hold the project up. The Mayor pointed out that based on the analysis by the staff, there's not a sufficient volume of traffic at this point that would be generated that would cause any problems with approving the minor amendment. Mr. Morgan agreed and pointed out that Transportation and Planning have approved the amendment subject to Council's approval.

Chairman Bencini asked for an explanation about the rationale behind the additional 32 units. Mr. Morgan replied that the additional units were estimated based on what they thought they would need over the next several years--not knowing what the road status was at that time. Lee Burnette, Director of Planning & Development, explained that part of their dilemma is the fact that they have some single-family lots already platted that aren't selling right now due to the market conditions and while they're not able to sell these 58 single family units, it still counts toward their numbers.

Mr. Morgan explained there were two bottom lines. Number one, they didn't want to have to come back before Council again and tried their best to be realistic about what their needs would be. The other was that as soon as the contract for the intersection project is let, then they would be able to build all of the units anyway. Chairman Bencini noted it was Council's intent to allow them to build all the units, but it was based on timing given the road safety conditions in that area.

Council Member Whitley added that when the city did the original bonds, Finance

phased every single project with the help of Keith Pugh as to when things would come in. He asked Mr. Pugh as to when this project was scheduled to come on-line as far as the construction. Mr. Pugh replied that he thought it was the Spring of 2009 when the project was scheduled to begin. Council Member Whitley stated he would be more comfortable if the staff had the ability to eliminate the 14 single family units. Council Member Alexander pointed out that builders were having a tough time due to the market. Council Member Stahlmann asked about the build-out for the proposed condominiums.

At this time, John Kavanaugh, the applicant, addressed Council. He explained it wasn't easy to get financing on anything these days and pointed out that it was the condominiums and the townhouses that are selling. He noted they're working real hard on the single family to try to revise their product so they'll begin selling and they're simply trying to be responsive to the market in spite of the difficult times. He estimated the build-out to be three to four years and noted it would probably be about two years for the additional 32 units. Council Member Faircloth pointed out that the concern for the load on the road had a lot to do with the other end of the road where a lot of construction was going on at the time, but since that has not occurred, the vehicular trips are not near what they would have been had everything gone as anticipated. He felt the road could bear these additional lots at this time.

Council Member Sims pointed out the numbers in the 2007 traffic study were a year old and asked if more updated numbers could be obtained. It was noted that there haven't been any recent traffic counts, but it could be done if needed. Council Member Sims asked staff when the project would happen. Randy McCaslin, Assistant City Manager, explained that staff is presently working with property owners and feels certain that they'll have an agreement with six or seven of the property owners soon. In the meantime, the transportation staff is working with the consultant and engineers to have the right-of-way documents drawn up and it appears everyone is agreeable at this point.

Chairman Bencini stated he didn't have anything else and entertained a motion.

For further discussion, Mayor Pro Tem Whitley made an additional comment. He made one clarification for Mr. Kavanaugh. He noted that Deep River Road was not a priority as far as construction and the bonds and it had always been the intention that it would be the last construction part of the bonds, but given the fact that the contract would be let in the Spring of 2009, he would be willing to support the motion at this time.

There being no further discussion, Mayor Smothers called for a vote on the motion. The motion carried by an 8-1 vote with Council Member Bencini dissenting.

what they're having to look at when they're doing the condos with units as well as the townhouse units and condos

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

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

PUBLIC HEARINGS ON ITEMS - 5:30 p.m.

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

Planning & Development Committee - Council Member Bencini, Chair

Special Use Permit 08-03 - Janice Johns

080259

A request by Janice Johns, for a Special Use Permit to allow a Day Care Home, Child (12 or less) in the Residential Single Family District-7 (RS-7) District. This site located at the northwest corner of Brentwood Street and Martha Place, and addressed as 2120 Brentwood Street.

The public hearing regarding this matter was held on Monday, September 15, 2008 at 5:30 p.m.

Herb Shannon of Planning & Development gave an overview of the staff report as follows:

CITY OF HIGH POINT

PLANNING AND DEVELOPMENT DEPARTMENT

STAFF REPORT

SPECIAL USE PERMIT 08-03

August 26, 2008

Applicant: Janice Johns Owner: Janice Johns and Dwight Johns

Proposal: A Special Use Permit request to allow a Child Day Care Home (12 or less) in the Residential Single Family District-7 (RS-7) District.

Site Information

Location This site located at the northwest corner of Brentwood Street and Martha Place, and also known as Guilford County Tax Parcel 117-01-15. (2120 Brentwood Street)

Site Acreage Approximately 0.28 acres (12,276 square feet)

Current land use Single family dwelling with an accessory child day care (5 or less) as a home occupation use.

Physical Characteristics The site is relatively flat.

Prox. to Water & Sewer City water and sewer utilities are currently available in this area and serving this site.

Stormwater/ Drainage The site is subject to the Randleman Lake General Watershed Area requirements of the water supply watershed regulations.

Development with an impervious surface area that is 12% or more of the site requires engineered stormwater measures. Maximum impervious area is 50% and may be increased up to 70%.

Overlay Districts Randleman General Watershed Area (GWA)

Site Access & Street Classification

Street Name *Classification* *Approximate Frontage*

Brentwood Street *Major Thoroughfare* 98 ft.

Martha Place *Local Street* 118 ft.

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

Surrounding Area Zoning and Current Use

North *RS-7* *Residential Single-Family-7 District* *Single family dwelling*

South *RS-7* *Residential Single-Family-7 District* *Single family dwelling*

East *CP* *Corporate Park District* *Factory outlet retail use*

West *RS-7* *Residential Single-Family-7 District* *Single family dwelling*

School District Information

Not applicable to this zoning case.

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation The site has an Office land use designation. This classification is intended to accommodate professional, personal and business service uses.

Relevant Land Use Plan Goals, Obj. & Policies This request is neither in conflict with the Land Use Plan's goals and objectives nor does it promote those goals and objectives.

Relevant Area Plans None

Related Zoning History A similar request was approved for this site in 2001 (SUP01-01). Since the use was not established within 18-month of Council approval, the permit expired.

Background Information:

The applicant has submitted a request for a Special Use Permit to allow a Child Day Care Home, (12 or less, Home Occupation) in the Residential Single Family District-7 (RS-7) District. A Child Day Care Home (12 or less, Home Occupation) is defined as a home that provides registered day care as a home occupation for twelve (12) or fewer children, not including children who reside at the home. As a home occupation the use is conducted entirely upon the premise and carried on by the occupant thereof. Day care activities are incidental and secondary to the use

of the dwelling for residential purposes and should not change the character of the residence.

The parcel has an existing 1,681 square foot single family dwelling upon approximately 12,276 square feet of land area. It's located upon a corner lot on the outer edge of a small subdivision, along Brentwood Street, south of a developed industrial segment of Brentwood Street. Although the principal use of this site is a single family dwelling, the site is also presently being used for Child Day Care Home, for 5 or less children (home occupation), with parking being provided along the Martha Place portion of the site. The applicant desires to expand this home occupation use to allow a maximum of 12 children.

The Development Ordinance allows this use as a home occupation in all residential districts subject to receiving a Special Use Permit by the City Council and subject to meeting the following development standards:

Security Fencing: Outdoor activity areas for children shall be enclosed by a security fence at least four (4) feet in height and located outside the street setback. In residential districts, said fencing shall be opaque when adjacent to residentially zoned property, and of an acceptable screening material approved by the Enforcement Officer.

Attendee Drop-off/Pick-Up Provisions: An off-street drop-off/pick-up area shall be provided.

Location: In residential districts, day care homes shall have frontage on a collector or thoroughfare street.

Parking: In addition to the required parking for the residence, one (1) parking space shall be provided for each employee not residing on the premises.

Compliance with Other Regulations: All day care homes shall comply with all applicable federal, state, and local regulations.

This request is in compliance with the above noted development standards.

Issues:

Major Issues

v None

Minor Issues

v None

Findings:

A special use is an additional use to those permitted by right in a zoning district. Such a use requires analysis for its potential impact on the proposed site and its impact on surrounding properties. The purpose of the Special Use Permit process is to allow the Planning and Zoning Commission and City Council an opportunity to perform this analysis.

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

That the use will not materially endanger the public health or safety if located where proposed; staff finds

Compliance v The use will not materially endanger the public health or safety if located where proposed. On site parking and a child drop off area is provided. The site is meeting all required standards, conditions and specifications of the Development Ordinance. v The site is located on the outer edge of the subdivision and fronts on Brentwood Street, which is classified as a /Major Thoroughfare. Its location on the outer edge of this residential area eliminates the concern of additional traffic traveling through the residential subdivision.

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

Compliance v The use meets all required standards, conditions and specifications of the Development Ordinance, and any additional restrictions imposed pursuant to Section 9-3-14(d) Greater Restrictions. v The applicant has an existing outdoor play area surrounded by a six (6) foot high stockade fence. This fence exceeds the minimum height requirement for the requested use and completely screens the outdoor play area.

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

Compliance v There is an existing Child Day Care Home, for 5 or less children, currently operating upon the site as a home occupation use and the structure still has the appearance of a single family dwelling. The requested expansion from 5 to 12 children is not expected to have a significant affect upon the appearance of the structure or upon the abutting properties. v Based upon the following factors, the proposed use is not expected to substantially injure the value of adjacent property owners: Ø This site's location upon a corner lot at the outer edge of this residential subdivision, along a 4-lane major thoroughfare street. Ø Due to the site location, customers are not required to travel through the residential subdivision to reach this facility. Ø The play area security fence is in place and it exceeds the minimum height requirement and completely screens the outdoor play area. Ø The site is located in an area of Brentwood Street that is gradually transitioning from residential to non-residential uses. An industrial/retail use is located across from the site along the east side of Brentwood Street and industrial uses have developed within the past 5 years upon a parcel approximately 100 feet north of the site.

That the location and character of the use shall be in harmony with the area in

which it is located and in general conformity with the plan of development of the city and its environs; staff finds

Compliance v The location and character of the use is in harmony with the area in which it is located and in general conformity with the adopted Land Use Plan. The site is located in an area of Brentwood Street that is gradually transitioning from residential to non-residential uses and although not required for this use the site is classified on the City Land Use Map as Office.

Recommendation:

Staff recommends approval

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

The Planning and Development Department recommends approval of the requested Special Use Permit to allow a Day Care Home, Child (12 or less, Home Occupation) within the Residential Single Family District-7 (RS-7) District and the accompanying Special Use Permit.

[end of staff report]

Transcript: Public Hearing: September 15, 2008

Herb Shannon: The first item is Special Use Permit 08-03. The applicant has submitted this request to allow a child daycare of 12 or less as a home occupation in a Residential Single Family-12 District. This use is defined as a provider of a daycare as a home occupation with twelve or fewer children. As a home occupation, the primary use of the property is a residential dwelling unit. This site is located at the northwest corner of Brentwood Street and Martha Place. This is Brentwood and the highlighted area is the site in question. The site is on a corner lot. Brentwood is a major thoroughfare. By the site being on a corner lot, you have a situation where the traffic is not required to travel through the middle of this subdivision for customers to access this facility. The applicant currently has a child daycare use as a home occupation for five or fewer children presently operating on the site. She desires to expand this facility to allow up to twelve children, but with the understanding this is a home occupation and principal use is a residence. Our Land Use plan designates this area as office. This is an area that's been gradually in transition over the past twenty years. To the north, there's several industrial uses. There is a single family house directly to the north of this site and then you have various industrial uses to the north. To the west and south is a small subdivision with single family dwellings. Across the street is an industrial use. Now the Development Ordinance does allow this use, subject to obtaining a Special Use Permit approval and there are specific development standards that they are required to meet in regards to fencing, parking, drop off

area, location (being off a collector/higher roadway) and the applicant is meeting all of those criteria. Staff had no major or minor issues of concerns with this request and the findings are outline on page 35 and 36 of your packet.

Key items to touch upon. The site is fronting on Brentwood Street which is a four lane, major thoroughfare roadway and is on the outer edge of this subdivision. The applicant is meeting all the ordinance required standards to apply for this use. In regards to fencing, that was a concern previously when the applicant came through in 2001. The applicant received a similar approval, but since the facility did not operate within 18 months, that expired. Fencing was a concern at that time. The applicant is meeting or exceeding the fencing requirement where only a four-foot high opaque fence is required. They have an existing six-foot high opaque high fence that shields the applicable play areas from all the abutting residential property owners. The Planning and Development Department is recommending approval of this request. Staff finds general consistency in surrounding zoning and development in this area and in compliance with the goals and objectives of the City of High Point Land Use Plan. The Planning & Zoning Commission reviewed this request at the August meeting and recommended approval by a vote of 8-0. Are there any questions?

Bencini: Thank you, Herb. Anyone present care to speak in favor of this request?

Frankie Jones, Jr.: To the Chairman, Mayor and City Council. First, I'd to introduce myself. My name is Frankie Jones, Jr. and this is my first day practicing law. My very first client is Ms. Janice Johns. Before you, each of you has a copy of the staff report and you've already heard a summary of that staff report so I won't bore you by repeating the details, but I'll just highlight a few points and provide a brief overview of Ms. Johns facility.

According to the 2000 Census, better than 7.5% of High Point's population consists of children ages five years or younger. Obviously showing a need for childcare facilities like Above and Beyond Christian Center. Ms. Johns opened Above and Beyond more than twelve years ago and has served dozens of children since. The facility is very large at approximately 1,700 square feet and just so you've got a picture of how the facility is organized, there's three large rooms when you first walk in, a nursery to your right, a large common area and then a pre-school type classroom over to your left. Of course, there's a large backyard which the fence has already been addressed, but you have no visibility of the backyard from the street. So the vision of the children playing is completely blocked in.

Now, I'd to just turn your attention to a few points in that staff report. The current land use is Single Family dwelling with an accessory child daycare for five or less kids. Basically, we're just here today to increase that maximum by seven and to do so we do need this permit. It is to be noted that the house is still used primarily as a dwelling house and that in order to grant this special use permit, Ms. Johns must

meet the development standards and she must meet certain findings. Pretty much what you're seeing is a neighborhood in transition and one thing we would like to note is if there's already another headstart facility located within a block and a half of Ms. Johns' facility at 2039 Brentwood Street, so it won't be out of place here. Also you want to noted that there will be not structural changes. There will be no increase in traffic flow as already noted by the fact that it's a four-lane highway. You do not have to go into the subdivision to get to the facility. At this time I'll answer any questions that you may have.

Mayor Smothers: You're heavily regulated by the State in terms of daycare regulations. I presume that this increase in number doesn't anyway affect the square footage requirement for these youngsters?

Frankie Jones: No Ma'am, it does not. Just to note Ms. Johns' facility has regularly received four and five star ratings from the state so it ranks right up there among the best.

Mayor Smothers: We certainly want to encourage her to keep more children.

Chairman Bencini: Does the increase, Mr. Jones, trigger when you go from five to twelve or whatever the increase is, does it trigger a different standard?

Mayor Smothers: You have to increase your staff don't you?

Frankie Jones: The staff will be determined by the State. You have to go through this process first to get a permit, but there will be further State participation after this. So, there may be additional requirements. However, Ms. Johns has two daughters that have worked with her and both are childcare certified and have followed in their mother's footsteps.

Chairman Bencini: Can the property as configured, can it support the increase if there is one as far as staff as far as State requirements go?

Frankie Jones: Yes, definitely. With the three rooms, there's a nursery which each room is approximately 300 square feet, so 900 square feet is pretty much concentrated in the nursery part of the facility.

Mayor Smothers: Well she can't operate without a license from the State. They take care of all that.

Frankie Jones: Yes Ma'am.

Council Member Alexander: Mr. Jones, I see three parking spaces here and you mentioned Ms. Johns and her two daughters may be working in there. Do they have a....is there a place for staff to park and is this parking area for staff and clients or just for clients?

Janice Johns: Actually, I don't know exactly how to answer that question. I think when I went through the Transportation Department, we had enough parking spaces for staff-there was two there for staff and then there was....I think that was cleared through Transportation.

Council Member Alexander: So if you have two staff parking spaces, and you have three places there, then you have one for the parents to pick up and that kind of thing?

Herb Shannon: When we first met with the applicant, we looked at the worst case scenario and back to the number of attendants-the more attendants you have, the more staff you're required. The layout of the spaces is based upon if she goes to the maximum, so in the worst case scenario, she is meeting the parking requirements as noted on that plan. That plan is based upon the worst case scenario and the maximum number of attendants and the maximum number of staff.

Mayor Smothers: I think the system works.....the parents drop the children off and leave. They don't stay, so there's not the need to have a tremendous amount of parking.

Council Member Alexander: Yes, but you know it takes a long time to get a little baby out of the car. Get the little baby in and get Mama back out.

Council Member Sims: Are you all backing into the street from those parking spaces? Once you drop those children off, how are they leaving that parking? Are they backing into the street?

Frankie Jones: Well, there's actually two ways to drop a child. You can pull into the parking space or there's actually room in the curb where there's curbside parking that's used by all the residents. So if you were to use the curbside parking, you could....you would have to pull in and back out. But if you pulled in, then yes you would back into the street.

Council Member Sims: Is there a lot of traffic on Martha Place?

Frankie Jones: No.

Council Member Pugh: No, I'm very familiar with that.

Frankie Jones: You'd be backing into the side street, not Brentwood.

Council Member Sims: No, I meant Martha Place. I just know you're turning off of Brentwood with people dropping children off and perhaps going to their dwellings, so I didn't know how congested it would get on that corner with them

backing out into the street.

Chairman Bencini: Any other questions of Mr. Jones?

[tape changed to Side B]

Chairman Bencini: Thank you Mr. Jones. Anyone else care to speak in favor of this request? [none] Anyone care to speak in opposition? [none] Seeing no one, I'm going to close the public hearing and make a motion to approve this Special Use Permit based upon the findings of fact.

Council Member Wilkins: Second.

Mayor Smothers: I have a motion and a second. Any further questions or discussion? [none] All in favor, please say Aye.

All: Aye.

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

[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.

Approved Special Use Permit 08-03 as requested by Janice Johnson to allow a Day Care Home, Child (12 or less) in the Residential Single Family District-7 (RS-7) District.

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

Ordinance - Annexation 08-05 - Martin, Dameron and Johnson

080260

Consideration of a voluntary contiguous annexation for approximately 2.8 acres. The site consists of portions of a triangular shaped block bounded by W. Wendover Avenue to the south, Piedmont Parkway to the east and Hickory Grove Road to the north. The site is also known as Guilford County Tax Parcels 14-94-7033-0-0957-00-04, 12 & 13.

The joint public hearing regarding this matter and related matter 080261 Ordinance- Rezoning Case 08-15- Spectrum Acquisition High Point, LLC and accompanying Conditional Use Permit 08-15 was held on Monday, September 15, 2008 at 5:30 p.m.

Herb Shannon of Planning & Development gave an overview of the staff report of the annexation request as follows:

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT*

*STAFF REPORT
ANNEXATION CASE 08-05
September 15, 2008*

Applicant: Spectrum Acquisition High Point, LLC Owner: Wesley & Cynthia Johnson; Bueal & Thelma Dameron; and John & Denise Martin

Request: Voluntary contiguous annexation to obtain City services including water and sewer. Effective Date: Upon Adoption

Site Information

Location The site consists of portions of a triangular shaped block bounded by W. Wendover Avenue to the south, Piedmont Parkway to the east and Hickory Grove Road to the north. The site is also known as Guilford County Tax Parcels 14-94-7033-0-0957-00-04, 12 & 13.

Site Acreage Approximately 2.8 acres to be annexed (Approximately 1.57 acres of land area and approximately 1.23 acres from road right-of-ways abutting the property to be annexed)

Current Land Use Undeveloped parcel, single family dwelling and a vacant single family dwelling.

Proposed Development The applicant is requesting annexation and rezoning to the Conditional Use General Office-High Intensity (CU GO-H) District in order to develop a 132 unit (150 beds) congregate care facility or nursing & convalescent home use upon the site.

Proposed Unit Type, Number and Average Value The proposed 132 unit (150 beds) congregate care facility or nursing & convalescent home use will consist of a single commercial building with an estimated value of \$15,000,000.

Proposed Build-out Schedule The facility is proposed to be completed in two years (2010).

Proximity to Water & Sewer City water and sewer utilities are currently available in this area. An 8-inch sewer line and 16-inch water line runs along the W. Wendover Avenue frontage. A 12-inch water line runs along the Piedmont Parkway frontage.

Stormwater/ Drainage The site is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is greater than 24% of the site.

Current Fire District The area associated with this annexation request is currently served by the City of High Point Fire Department.

Overlay Districts None

Site Access & Street Classification

<i>Street Name</i>	<i>Classification</i>	<i>Approximate Frontage</i>
<i>W. Wendover Avenue</i>	<i>Major Thoroughfare</i>	<i>574 ft.</i>

*Piedmont Parkway Major Thoroughfare 482 ft.
Hickory Grove Road Local Street 535 ft.*

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

Surrounding Area Zoning and Current Use

*North CU-PI Public & Institutional District Church
South CU-PDL CU-PDR Conditional Use Planned Unit Development-Limited
District Conditional Use Planned Unit Development-Limited District Drugstore
Multifamily development (apartment complex)
East RS-40 Residential Single Family-40 District (Guilford Co) Church
West CU-PI Public & Institutional District Church*

Summary

The site is within the City of High Point's planning area; it abuts the city's corporate boundary and the annexation of this land area will promote an urban growth pattern that occurs in an orderly fashion as supported by Goal #5 of the land use plan. Annexation petitions within close proximity to existing utility lines and service routes do not trigger the need for individual department responses. Since the site abuts the City of High Point's corporate limits, individual City department responses were not requested for this annexation request. The tentative construction schedule submitted by the applicant indicated that the facility will consist of one building and is anticipated to be construed within two years (2010). The annexation request consist of part of the area to be developed, the middle portion of this triangular block is currently within the City's corporate limits. Attached is a cost analysis based upon construction and sales assumptions provided by the applicant. The cost estimate and overall development cost consists of portions of the block currently within the City and parcels to be annexed; which in total makes up this block. Based upon the applicant's proposal of an overall development cost of 15,000,000, an estimated \$981,182 in total revenue is anticipated over the next 5 years.

[end of staff report]

_____ Transcript: Public Hearing: September 15, 2008 _____

Herb Shannon: Yes, Mr. Bencini. In regards to this request, staff will provide you the annexation and zoning report at the same time. The applicant's requesting annexation and rezoning pertaining to a triangular shaped lot off of Wendover Avenue. This is Wendover to the south. Piedmont Parkway to the east and Hickory Grove to the west. The first part of the request is for an annexation. As you can see, the center portion of this block is already within the city limits. There are some areas on the ends where the applicant is requesting to annex into the city in order to obtain city services.

As part of the rezoning proposal, the applicant's requesting that this entire block which is approximately four acres be rezoned to the Conditional Use- GO-H District. So the request is to rezone from the RS-40 which is in Guilford County and the current Conditional Use GO-H District to an amended GO-H District. To the north, you have a church on the opposite side of Piedmont Parkway and a church on the opposite side of Hickory Grove. To the south, you have an apartment complex and a commercial project, but this portion of the commercial project is an open space/undeveloped area.

The applicant is requesting this rezoning in order to develop a 132 unit or 150 bed congregate care facility or nursing home upon the site. The Land Use Plan designates this area for Office and as far as Area Plan, this is part of the Wendover/Guilford College Road Corridor Plan. The applicant has requested a GO-H District due to the fact that it's generally consistent with the Office land use designation and that district does permit residential as well as office uses at a density of 26 units per acre. As I noted, they are proposing a congregate care facility upon the site. They have submitted a conditional use permit and they've offered conditions that restrict the site to a congregate care facility, nursing home, or convalescent homes. Those are the only uses that are permitted upon this site. They've also offered a condition that would limit the site's access. No access to Piedmont Parkway. A right-in only access to Wendover and they're also proposing access points from Hickory Grove Road. They've also offered conditions that the site would be subject to the landscaping, signage and architectural criteria of the Eastchester Corridor Overlay.

Staff had no major issues of concern. Under minor issues of concern, we pointed out the criteria of the Wendover Corridor Plan pertaining to access. They have requested an ingress only. The Corridor Plan speaks to limited access to West Wendover Avenue, so this roadway would remain as a commuter roadway. It recommends no access point when it also can obtain access from a side street. The applicant does have the ability to obtain access from the side street to the rear of Hickory Grove Road.

As far as the proposal for a right-in, ingress only access point, the Transportation Department has reviewed that and there's a memorandum in your packet dated August 5th. Within that memorandum, the Transportation Department did not object to the applicant's proposal based upon the allowable use. The fact that they're specifically restricting the use of this site and that it will be a right-in only access. That use that they're restricting it to has a varied limited traffic impact. The memorandum concludes by noting that if in the future, there's ever any proposal to add additional uses, that the access will be reevaluated and potentially a recommendation from Transportation would be made to remove the access point if there's ever additional _____ proposed.

The findings pertaining to this request are outlined on page 51 of your packet. Key items to touch upon are the access restrictions, the use restrictions and the

applicant's conditions to meet the Eastchester Scenic Corridor Overlay requirements???? In regards to landscaping, signage and architectural criteria. The Planning and Development Department recommends this request to rezone to annex this property and to rezone this property be approved. In regards to the rezoning, this is based on staff's conclusion that the request is consistent with the city's Land Use Plan and based upon their requirements that the Development Ordinance and the conditions that they have offered. The Planning & Zoning Commission reviewed this request at their August 16th meeting and recommend approval by a vote of 8-0. Are there any questions?

Chairman Bencini: Thanks Herb.

Mayor Smothers: Herb, I had a question about where they would start the right turn lane. Is it essentially going to be...what about 74 feet back from the intersection?

Herb Shannon: Greg from the Transportation Department can probably give you more details on that specific layout that they have reviewed for that site.

Greg Venable: They have a turn lane and a taper-the turn lane will be 200 feet and the taper will be 250 feet.

Mayor Smothers: Well that's 450 feet.

Greg Venable: Right, but exactly where their exact location of their entrance into the site-I'm not exactly sure where that'll be located. I don't know if that's been fully determined.

Mayor Smothers: Well it says they can't have the turn less than 500 feet from the intersection.

Greg Venable: That's correct. I guess it could be further. It would be closer I guess south-that area there where he's pointing because you have to have that distance from Piedmont Parkway.

Mayor Smothers: I was just trying to figure out, it can't be within 500 feet and you have 450 feet total of storage and taper, does that get you there?

Greg Venable: I think their site in general is....

Mayor Smothers: Maybe they have a real wide driveway.

Greg Venable: I think their maximum is over 700 feet that they have between the two intersections.

Mayor Smothers: I was just looking here. The approximate frontage is 574 feet.

Herb Shannon: The frontage says 574 feet, but when they look at that 500 feet, they look from the middle of the intersection.

Greg Venable: So the total distance between the two intersections is enough distance to get the turn lanes and tapers in as well as the entrance.

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

Tom Terrell: Thank you. Members of Council, I'm Tom Terrell, 529 W. Parkway. Mayor Smothers, in a minute, we can show you those exact measurements. I'm here tonight with Spectrum Acquisition High Point, but also I'd like to make sure....John Martin is here. I represented John Martin in front of this Council ten years ago in 1998, at the last rezoning of this property. He's been trying to sell it every since. The Dameron's are here I believe. If you'll raise your hands. They're also the sellers who are here tonight. Basically if you read your report, the staff report, the P & Z recommendation, this is not a use issue. Right behind this site is a huge rock quarry, caddy-cornered from a shopping center, a CVS drugstore, with two large institutions on the side. If anything, this is a much less intense use than all the uses that surround it at this intersection. Importantly for purposes of this evening, the conditional use permit limits this to one and only one use. The reason that was done was so that the issue of access could be addressed. Over the last ten years-actually longer than ten years, there has been a long parade of buyers that has come to visit this property. They've all visited High Point DOT or NCDOT and have been told that your use generates too much traffic and no access to Wendover will be allowed. Well, finally after a dozen years, Spectrum Acquisition of High Point has a use that A.M. and P.M. hours, numbers that are close to single digit. You just don't ever see that. They are extremely low. It's only because the A.M. and P.M. numbers that are demonstrated by this traffic study are so low that the High Point and NCDOT staff have found that this would be quite consistent with what we're trying to do, there would be a negligible impact upon Wendover.

If you did not have....and I think this is an important point to add....if you did not have some type of access to Wendover for this site that's lying out there waiting for somebody to develop it, you would have buildings with the rear of the building facing the world and nobody's going to develop that when your front door has to be what's basically almost an alleyway that goes behind the site. So this is an opportunity to develop this into something nice. I'd like for John Davenport.....

Chairman Bencini: Excuse me, Tom, you're saying that without the access from Wendover that the building would be oriented with its back facing Wendover, is that what you're saying?

Tom Terrell: I'm saying that if you had to have an access up here on Hickory

Grove, you have to have your front door facing Hickory Grove which puts the back door of the development onto Wendover and from a developer's perspective, that's just not desirable.

Chairman Bencini: But under the Wendover Corridor restriction, you couldn't have like....you wouldn't be looking at like a dumpster or something like that along Wendover. It wouldn't allow that.

Tom Terrell: We can show you the site plan. We have that here. There will not be a visible dumpster from Wendover.

Chairman Bencini: Well what I'm saying is even if you had no access to Wendover, you still wouldn't have those types of utilities.

Tom Terrell: Correct. That is correct. I'm sorry I misunderstood that. John.....

John Davenport: Good afternoon. I'm John Davenport with Davenport Engineering, 545 North Trade Street in Winston Salem, North Carolina. It is a pleasure to be before you distinguished folks again. It's been a while since I've talked to you. Our firm had the pleasure of conducting a traffic impact analysis....

Mayor Smothers: John, excuse me, but did you get sworn in?

John Davenport: No, I did not.

Chairman Bencini: We probably need to do that, John.

Mayor Smothers: Is there anyone else who would like to speak who has not been sworn?

[oath administered to Mr. Davenport]

John Davenport: I do. A traffic impact analysis was not required for this project because of the trip generation, but the owner requested that we conducted one anyway and really highlight the minimal impact of this project. I've stood before you on many projects and many more traffic intense projects and this is about the lightest land use you can put on here besides a single family home. In the morning you have 5 peak hour trips entering and 3 exiting. In the P.M. you have 12 entering and 11 exiting. So there's not a lot of people rushing into this facility. So we looked through that. We worked with High Point DOT staff. We made sure the TIA was satisfactory to them. We met with NCDOT also, numerous times to come up with the appropriate access. The client originally wanted right-in, right-out. We went through a lot of different iterations on design and ended up with a right-in only design which Chuck has. It's actually large and I'm not sure if we can put it on the screen, but it may be beneficial to pass that around. Chuck why don't you just hold that up.

So to get to your question, Mayor Smothers about the.....Mr. Truby has drawn up the position of that right-in only. It is a 250 foot taper with 200 foot storage. Just to give you an idea of the significance of that turn lane, normally you look at 20 feet per vehicle for storage. You could store all five entering vehicles in that turn lane and still have no problem with traffic on 68. So if we close the whole entrance for an hour and traffic backs up, you'd only have five vehicles and you'll still have room for five or six more.

Chairman Bencini: John, what physical barrier keeps cars from leaving this site and taking a right off the access and taking a right to leave?

John Davenport: Right, if you look at the plan, there's a little splitter island that protrudes out into the roadway itself that prevents vehicles from doing that.

Chairman Bencini: I can't tell if that's an island-I guess it is.

John Davenport: I don't have it in front of me. Can you point that out, Chuck?

Chuck Truby: It's the same concept where a project was approved on Eastchester with the same exact configuration of a right-in only and High Point DOT gave us this as a guide to use. That's a 60 foot raised island here and then this is a taper of striping and then a forced curb-there's no way a car would ever want to go back.

Chairman Bencini: But as far as that physical impediment there.....

Chuck Truby: What is the standard? Five inch raised concrete island? You see the island there.

John Davenport: Mr. Bencini, it's a typical island that you have in the roadway. If somebody wanted to do something illegal, they could do that.

Chairman Bencini: With an SUV, they could go over it just like that?

John Davenport: With an SUV, if they decided they wanted to drive over it, they could. Yes sir. Just like all the other islands that we have out there.

Mayor Smothers: And get killed going across Wendover.

Chairman Bencini: They'll be leaving there taking a right, that's all.

Council Member Sims: Mr. Davenport, on the Traffic Impact Analysis, the numbers that you provided to us, how many employees do we anticipate you will have?

John Davenport: Fourteen.

Council Member Sims: And is this shift, or how does that work?

Len Scherder: My name is Len Scherder with Spectrum out of Denver, Colorado. We have a maximum of fourteen employees on a maximum shift. This is a 24-hour building; however, and I can explain the distribution. To answer your question, there are fourteen employees on that shift.

Council Member Sims: Okay, so how do we get to ten trips in the A.M. peak hour with fourteen maximum employees?

John Davenport: It just depends on what time they change the shift. They may not change it at peak hour time.

Council Member Pugh: How do you determine with 150 beds and I would presume that would be 150 residents, how many visitors are going to be there? If you've got 150 people there, how do you just throw a number up and say well this is how many people's going to visit on a specific time, specific day.

John Davenport: Right, we don't throw a number up there. Again, national and local information is the Institute of Transportation Engineers. Again, we've had this discussion before. Land uses are studied throughout the United States and this is data that is utilized and is based on real, live facilities so they go out and study the traffic. They base it on independent variables like the number of units and that's how we come up with that information. That's nationally recognized. It's locally recognized and that's the best way we have of doing it.

Council Member Pugh: I know that, but when you've got 150 people in a facility and you just don't never know how many kin folks are going to show up to visit those people.

John Davenport: There are ways to predict that and that's what we do.

Council Member Pugh: Well my family's been in the nursing home business for 30 years so I'm well aware of that. There's no way to know how many people are going to show up.

John Davenport: That's true and my mother-in-law is in a nursing home and I've never gotten into a traffic jam getting into one either.

Mayor Smothers: Yes, most of them don't have company.

Council Member Sims: Will there be a left turn off Piedmont Parkway onto Hickory Grove?

John Davenport: No.

Council Member Sims: No? Is there something.....

Mayor Smothers: Isn't there an opening? It's not signalized, but isn't there a median cut or something?

John Davenport: There is a subdivision on the other side of Wendover, so the decision was made by D.O.T. that that subdivision would not be restricted.

Mayor Smothers: Is the roof going to be red?

John Davenport: What color does it need to be?

Mayor Smothers: That's what the Fire Department said.

John Davenport: Ms. Stahlmann, you had a question?

Council Member Stahlmann: Actually it was a question for Tom and I just didn't want to interrupt you.

John Davenport: Is that all the questions for traffic?

Chairman Bencini: I think that's it for right now.

John Davenport: Overall, it's not a heavy traffic generator. That's the summary.

Chairman Bencini: Thank you very much. Anyone else present care to speak in favor of this?

Len Scherder: My name is Len Scherder with Spectrum Acquisition- High Point and also....

Chairman Bencini: You were sworn in?

Len Scherder: I was sworn in, yes sir. I want to hand out some brochures. Obviously we have a fine group of adult children as we're called these days and we use every opportunity we can to market sales. Let me back up and tell you a little bit about Spectrum retirement and explain the use in specific detail and I'll be happy to answer your questions. Spectrum Retirement Community is a Denver based owner/operator/developer of senior housing. We own and operate on a daily basis, independent living/congregate care facilities, assisted living and memory care alzheimers facilities around the country. We currently have five under construction and approximately nine in various states of entitlement. My role in acquisition and development is to travel around the country and explain our use and obviously make sure that we're following all the rules of the

jurisdiction that we're in. This facility as defined by ASHA, American Senior Housing Association, and that's the organization that effectively governs senior housing, has made several distinctions as far as senior living. I want to basically make sure that everybody understands that in this day and age-when I was growing up everybody thought of senior housing as nursing homes. Well, there's multiple different categories. The fifth sheet in that brochure looks something like this. It defines active adult community, senior apartments, independent (which is also congregate care), assisted living, independent and assisted living combinations, nursing facilities, and continuing care retirement communities. We spend a great deal of time making sure that there's a clear distinction for our type of use. Obviously, we're impacted by a variety of different things based upon the use and requirements based upon the use. Like John was talking about, the Institute of Traffic Engineers, some technical guidelines to national studies basically has these categories too and defines parking standards, trip generation, blah, blah, blah. I often tell the audience that I'm in front of that we actually generate.....there was only one use that actually generates less traffic and that's typically a mini-warehouse.

I'm going to jump right to comparing ourselves with what you folks have in this market. We do a great deal of study before we even think about coming into a market to make sure there's enough demand for senior housing. We do a lot of research. We look at our competitors. We look at their rent rates. We look at demographics. We look at growth charts. We actually also hire a third party consultant that has over forty years of experience in this industry that will come into a market, drive the market, give us his quote, unquote expectation of whether or not there's enough supply and demand to warrant a building of this size. Interestingly enough, if you'll look at the demographics and this is public information, but we have a proprietor situation and we look at different things and in each market including the number of adult children-there's a very high ratio in this primary market. We also look at the fact that there's going to be somewhere in the neighborhood of 5,000 age income qualified seniors in this market by 2011. Interestingly enough, there's very little competition here as far as what we consider competition. There's a facility here-actually there's two facilities here-that we looked at, but don't consider them competition, nor does our rocket scientist as I call him, he's like a chemistry professor that none of us really understood. None the less, you've got Pennybyrn and River Landing. These are what we call CCRC's. This type of facility typically requires a buy-in situation and that's a different senior than what we are marketing to. Our facility is based on a month to month rental. There's no long-term commitment, no financial commitment, no long-term lease. We offer a series of activities for our seniors that actually we have found historically across the country, actually retains the senior population. So we don't need long-term commitments. Again, it's a senior-that isn't selling a half a million dollar house, okay but that senior typically is a senior that's going to move into a CCRC (Continuing Care Retirement Community). Typically these communities range from everything from a patio home all the way to a skilled care nursing situation. So effectively, they stay on-site, on property for

the rest of their lives.

Our facility as an independent congregate care facility caters to more of a social need than a medical acuity need. A medical acuity need would be an assisted living or obviously a skilled facility. Our residents typically come from a situation where they're ready to downsize. They don't want to take care of the house anymore. They like the social atmosphere. They love having chef-prepared meals in the facility. Activity rooms and there's a whole list of activities that we provide that are a little bit more exciting than BINGO. Activities are so important that we actually hire a Vice President of Activities who came from a cruise ship. This person puts on....I mean it's an entertainment situation, but it's also an education. We also provide weekly housekeeping. We provide a lot of amenities. Approximately 30-35% of our building is common space where we can have the seniors actively engaged in different activities, both social and light exercise and mental stimulation. We bring in attorneys, doctors, people that basically speak to the senior and obviously address concerns that they have. It's basically a cruise ship on land that doesn't go anywhere. Now we also provide, and this is one of the reasons we don't generate a lot of traffic, is we provide a community van and a community limo. Now we may have a senior show up with a car, but due to the convenience and the cost of owning a car these days....I don't even need to talk about gasoline prices....the bottom line is these seniors learn to not drive.

Employees-there was a question posed from the Council Member about the employees and shifts. Effectively the day is the busiest time. Our deliveries are once a week typically and this particular facility is designed where service is delivered in the rear and the parking for the employees is in the rear. We understand what's going on with obviously Piedmont Parkway and W. Wendover Avenue and we do not obviously want to jeopardize the safety of our seniors or any of their children coming to visit. So we're obviously cognizant of that. We did originally request a right-in, right-out, but due to several meetings, we came to the conclusion that we don't really want to expose grandma to W. Wendover coming out of there-given it's proximity to the signalized intersection. So we've set it up and it doesn't really show, but we've made obviously accommodations for all the comments that we received from NCDOT and High Point Department of Transportation. We're looking at a building that hopefully will fit well with High Point. As far as the red roof, the colors unfortunately for reproduction purposes aren't really all that good. We have since transitioned to more of a brownish-red, architectural shingles.

Council Member Alexander: Could you give us a breakdown as to how many of your units will be designed for independent living, assisted living, nursing, or memory?

Len Scherder: This building will be solely designed and this is a critical word, designed, for independent living. Skilled nursing facilities require a whole different set of standards. Assisted living facilities require different standards.

This building will be a three-story building. It will have two elevators. It will not have the medical offices typically required in an assisted or a skilled facility. Only independent living.

Council Member Pugh: You aren't required to get a Certificate of Need from the State?

Len Scherder: In the State of North Carolina, you need a Certificate of Need if it's assisted or memory care like alzheimers (dementia). No Certificate of Need is required for independent living.

Mayor Smothers: The floor plan insert that you have indicates that there are one and two bedroom, a studio and then the cottage type.

Len Scherder: I'm sorry, that's a different property. That's one of the first properties we built in Fort Collins, Colorado.

Mayor Smothers: I just wanted to ask you what will these be?

Len Scherder: These will be studios, one bedroom and two bedrooms. Obviously there's no room for cottages. We'd love to put in cottages, but there's no room for them.

Mayor Smothers: Right, I think it was just an example.

Len Scherder: Yes.

Council Member Alexander: Well this is really an apartment building designed for seniors that accommodates entertainment and food?

Len Scherder: That's.....

Mayor Smothers: And transportation.

Len Scherder: And transportation. Like I said, the best description is a cruise ship on land.

Council Member Pugh: And there's no Certificate of Need needed, so it's basically without the jurisdiction of the State in regard to that and so it's more like an apartment for seniors?

Len Scherder: Not really...well, yes it is, but again if you'll look at the definition, we provide a great deal of services that obviously senior apartments-senior apartments is another category on that list that ASHA provides.

Council Member Pugh: But all these people would be entitled to have a car if they

choose to.

Len Scherder: Yes, we don't tell them they can't.

Council Member Alexander: How would.....I mean you obviously know how people move in and move out. You know if you're having people come and go on a monthly basis, which would be a potential, how do you accommodate things like moving vans and other trucks?

Len Scherder: A very good question. The only eighteen wheelers that you'll actually see on the site will be during the construction phase. At this stage and we're talking average age here 81 to 82 years old, somewhere in that neighborhood. At this stage when they move into a 500 square foot one bedroom apartment, they show up in a U-haul sized moving van-not an eighteen wheeler.

I'll be happy to answer any questions and I just ask for your vote of approval for our facility. We've been in and out of High Point for quite some time and we're excited about being part of the community.

Mayor Smothers: The annexation, I assume, would be upon adoption.

Herb Shannon: Yes.

Mayor Smothers: And what is your build-out plan?

Len Scherder: You mean as far as construction?

Mayor Smothers: Yes.

Len Scherder: All in one phase. Basically we understand that the next step is TRC which will be final site plan approval and architectural review and at that point, we're ready to pull permits. You're typically looking at and I say this because we're building in Chicago and different places where we get crazy weather, but we're looking at a 12-13 month construction window. A majority of the work given that this building is built with all ADA requirements-most of the construction is on the inside. The outside goes up pretty quickly.

Mayor Smothers: I believe it was noted that it was a \$15 million investment.

Len Scherder: Somewhere in that neighborhood.

Council Member Faircloth: Does your company hold the properties or sell them later?

Len Scherder: No, we own and when I say operate-we've got the headquartered staff back in Denver that actually operates it, but we'll hire local operators here

that know the market. Then we're hoping to regionalize. Typically what we do is we come into an area and build three or four properties. It's for efficiency more than anything else. We own and continue to operate and continue to own each one of the facilities that we built.

Chairman Bencini: Thank you very much. Anyone else care to speak?

Chuck Truby: Hello, my name is Chuck Truby, President of CPT Engineering and Surveying. We're located here in High Point. I just wanted to say something. When they brought this project to us, I said what a great use for this site. I mean I can't tell you how many developers have come into my office and wanted to do a drugstore there or lay out a gas station or....I have probably done 25 layouts on this piece of property and every time I come in there, I say guys you're never going to get the access you need. You'll never get this approved, but when Len brought this in, I said this is a homerun. This is good for High Point and it's a low traffic generator and I hope you guys will support it.

Chairman Bencini: Thank you very much. Anyone else care to speak in favor? [none] Any one present care to speak in opposition? [none] Seeing no one, I'm going to close the public hearing.

Council Member Stahlmann: I have a question for Tom. Tom, this is just for illustrative purposes only, but when this was put together, just out of curiosity why the right turn lane into the facility when you had Hickory Grove Road there already-why the expense of this turn lane, median, right-in, right-out?

Tom Terrell: This is probably not the best question for me. I'm not the developer. I'm not the one putting my money at risk for the project. Ray Collins is here. Ray has had this property listed since around 1997 and every single developer has walked away when they could not have some type of access from Wendover. We're not bringing this to you and making this point to you tonight, but if you were to ask Mr. Scherder, he'll tell you that's his company's position too. Wendover access is critical. We had several meetings to work out some type of design. In this case, so it would be right turn in and you get back out to Hickory Grove, but this way it allows the building to be oriented towards Wendover.

Len Scherder: Could I add something? I'm not an architect. I quite playing architect many years ago because my in-house architect got upset. I don't know if you can tell from the elevation, but we build a very nice entrance and we spend a lot of money keeping the front of the building looking very, very good. We do this because we want to fit in, number one and number two, we want an attractive building that will attract the senior resident as well as attract the adult child that's going to obviously have some influence from Mom or Dad spending time in this building and uses in some jurisdictions it's like....because sometimes you know we're in situations like this where you've got a busy frontage. It would be like spending a lot of money on the front of your house and the only way you could

drive up to it would be to come up to the back door. So we'd like to have a front door presence if you will (access and marketing too).

Council Member Stahlmann: And along the outside on Piedmont Parkway, that says retaining wall. Is it an opaque fence? Is it a stucco wall? What is that and how close does it actually come to the edge of your property?

Len Scherder: I can't answer that.

Chuck Truby: This site, there's quite a bit of topography from the intersection of Hickory Grove Road and Piedmont Parkway back to Wendover and of course this building is going to be flat. What you're going to end up with from Piedmont Parkway is it's actually a retaining wall. The ground up at Piedmont Parkway is higher and the building will be sitting on that side of that building will probably be sitting six feet below Piedmont Parkway on the corner. So that's the purpose of the retaining wall.

Council Member Pugh: Are these private paid, or medicare or Medicaid?

Len Scherber: This is all private paid.

Chairman Bencini: Thank you, the public hearing is closed. I'm going to make a motion to approve the rezoning. I'm sorry, the annexation, the rezoning and the conditional use permit based upon the findings of fact.

Council Member Wilkins: Second.

Mayor Smothers: I have a motion and a second. Is there more discussion? I think I believe it was Chuck that commented on the restrictions on this property in terms of its availability for use and certainly, it is severely restricted. I hope this will be a happy home for folks that maybe haven't lived in High Point. So we thank you.

Council Member Pugh: Madam Mayor, I'm not going to oppose it, but I just hope that there's some due diligence there in trying to keep mom and pop off Wendover Avenue because it's going to be tough. It's a nice plan, though, and I'm not going to oppose it.

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

All: Aye.

Mayor Smothers: Any opposed? [none] That motion carries. [9-0 vote] Thank you.

[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 adoption.

Adopted ordinance providing for the annexation of this property.

Ordinance No.

Introduced 09/15/08

Adopted 09/15/08

Ordinance Book Volume XVI, Page

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

Ordinance - Rezoning Case 08-15 - Spectrum Acquisition High Point, LLC

080261

a. Conditional Use General Office-High Intensity (CU GO-H) District

A request by Spectrum Acquisition High Point, LLC to rezone approximately 4.03 acres from a Conditional Use General Office-High Intensity (CU GO-H) District and the Residential Single Family-40 (RS-40) District, within Guilford County's jurisdiction, to an amended Conditional Use General Office-High Intensity (CU GO-H) District. The site is a triangular shaped block bounded by W. Wendover Avenue to the south, Piedmont Parkway to the east and Hickory Grove Road to the north. Approval of this rezoning request is contingent upon City Council approval of a voluntary annexation request.

b. Conditional Use Permit 08-15

A request by Spectrum Acquisition High Point, LLC for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, lot combination, vehicular access, transportation improvements, landscaping, signage and architectural & development design.

The joint public hearing regarding this matter and related matter 080260

Ordinance- Annexation 08-05- Martin, Dameron and Johnson was held on Monday, September 15, 2008 at 5:30 p.m.

Note: For specific comments made at the public hearing regarding this request, please refer to matter 080260 Ordinance- Annexation 08-05- Martin, Dameron and Johnson (above).

Herb Shannon of Planning & Development gave an overview of the rezoning request with accompanying conditional use permit as follows:

CITY OF HIGH POINT

PLANNING AND DEVELOPMENT DEPARTMENT

STAFF REPORT

ZONING CASE 08-15

September 15, 2008

(Revised)

Applicant: Spectrum Acquisition High Point, LLC Owner: Wesley & Cynthia Johnson; Bueal & Thelma Dameron; and John & Denise Martin
Proposal: To rezone 4.03± acres. From: RS-40 CU GO-H Residential Single Family-40 District (Guilford Co) Conditional Use General Office-High Intensity District

To: CU GO-H Conditional Use General Office-High Intensity District

Site Information

Location The site is triangular shaped and bounded by W. Wendover Avenue to the south, Piedmont Parkway to the east and Hickory Grove Road to the north. The site is also known as Guilford County Tax Parcels 14-94-7033-0-0957-00-04, 12 & 13 and 473-2-2 & 3.

Site Acreage Approximately 4.03 acres.

Current Land Use Undeveloped parcel, single family dwelling and a vacant single family dwelling.

Physical Characteristics The site has a moderately sloping terrain that drains to the southeast toward W. Wendover Avenue. A stormwater control device is located at the southeast corner of the site, at the intersection of W. Wendover Avenue and Piedmont Parkway, to treat stormwater runoff from the abutting roadways.

Prox. to Water & Sewer City water and sewer utilities are currently available in this area. An 8-inch sewer line and 16-inch water line runs along the W. Wendover Avenue frontage. A 12-inch water line runs along the Piedmont Parkway frontage.

Stormwater/ Drainage The site is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is greater than 24% of the site.

Overlay Districts None

Site Access & Street Classification

<i>Street Name</i>	<i>Classification</i>	<i>Approximate Frontage</i>
<i>W. Wendover Avenue</i>	<i>Major Thoroughfare</i>	<i>574 ft.</i>
<i>Piedmont Parkway</i>	<i>Major Thoroughfare</i>	<i>482 ft.</i>
<i>Hickory Grove Road</i>	<i>Local Street</i>	<i>535 ft.</i>

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

Surrounding Area Zoning and Current Use

<i>North</i>	<i>CU-PI</i>	<i>Public & Institutional District</i>	<i>Church</i>
<i>South</i>	<i>CU-PDL</i>	<i>CU-PDR</i>	<i>Conditional Use Planned Unit Development-Limited District</i>
			<i>Drugstore</i>
			<i>Multifamily development (apartment complex)</i>
<i>East</i>	<i>RS-40</i>	<i>Residential Single Family-40 District (Guilford Co)</i>	<i>Church</i>
<i>West</i>	<i>CU-PI</i>	<i>Public & Institutional District</i>	<i>Church</i>

School District Information

Not applicable to this zoning case.

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation *The site has an Office land use designation. This classification is intended to accommodate professional, personal and business service uses.*

Relevant Land Use Plan Goals, Obj. & Policies *The following goals, objectives and policies are relevant to this request: 1. Land Use Plan Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the city and its planning area. Obj. #8. Stimulate more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations. Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses. 2. West Wendover Avenue/Guilford College Road Corridor Plan a. Transportation Policies Obj #1: To maintain W. Wendover Avenue as a major traffic carrier rather than a local service road. Recommendation #1 - Vehicular access to W. Wendover Avenue and Guilford College Road should be restricted and the number of median crossings on Wendover Avenue should not be increased. Recommendations#4a. - Vehicular access should be controlled along W. Wendover Avenue within 500 feet of a major intersecting street. b. Land Use Policies Obj #1: To avoid strip development along Guilford College Road and W. Wendover Avenue. Obj #2: To concentrate community/regional commercial uses at each end of the corridor, specifically at the I-40/Wendover and N.C. Highway 68/Wendover intersections, and to focus residential, neighborhood commercial, and office/institutional uses near the intersection of Guilford College Road, W. Wendover Avenue and Greensboro's Western Loop. c. Visual Quality Policies Obj #1: To ensure the maintenance of a high visual quality in the W. Wendover Avenue Corridor with appropriate standards for signs, landscaping, buffer yards, setbacks and design guidelines.*

Relevant Area Plans *West Wendover Avenue/Guilford College Road Corridor Plan*

Related Zoning History *1. In September 1998, the portion of the site that is currently within the city limits was annexed and granted a CU GO-H District zoning. 2. In December 2002 the abutting property to the west was annexed and zoned CU-PI to allow for the current church facility.*

Background Information:

The site is located at the northwest corner of W. Wendover Avenue and Piedmont Parkway. In early 2007, the construction of the Piedmont Parkway extension from Tarrant Road to W. Wendover Avenue was completed. This roadway was constructed as a major thoroughfare; the traffic signals and turn lanes at this intersection were upgraded and through access along Hickory Grove Road was

restricted by a median for safety purposes. The applicant is requesting annexation and rezoning to the Conditional Use General Office-High Intensity (CU GO-H) District in order to develop a 132 unit (150 beds) congregate care facility or nursing & convalescent home use upon the site. Although the GO-H District is intended to accommodate office type uses, it does permit residential uses at a maximum density of 26 dwelling units per acre.

The applicant has requested a CU GO-H District because it is generally consistent with the site's Office land use designation and it permits residential uses at a higher density than the GO-M District. The Development Ordinance calculates the density for a congregate care facility as two bedrooms equivalent to one dwelling unit and calculates a single room occupancy residence, such as nursing/convalescent home, at rooms less than 150 square feet as ½ dwelling units and rooming units over 150 square feet as one dwelling unit. Based upon the size of this site and a density of 26 units per acre, a maximum of 209 congregate care bedrooms may be permitted or 104 single room occupancy residence with an area over 150 square feet may be permitted.

The applicant has submitted a Conditional Use Permit with this request in which they have offered the following:

- Restrict use of the site to congregate care facilities, nursing or convalescent homes use and their customary accessory uses.*
- Limit vehicular access to one ingress only (right-in only) access from W. Wendover Avenue, two access points to Hickory Grove Road and prohibit access to Piedmont Parkway.*
- Require the site to be subject to landscaping, signage and architectural criteria of the Eastchester Scenic Corridor Overlay District requirements.*

Issues:

Major Issues

v None

Minor Issues

v The applicant is requesting to have a right-in ingress point to the site from W. Wendover Avenue. This is not in keeping with the policy recommendation of the W. Wendover Avenue/Guilford College Road Corridor Plan. The plan speaks to limiting access to W. Wendover Avenue so that this roadway will continue to function as a major travel/commuter corridor. It recommends that no access be permitted to W. Wendover Avenue when a site has the ability to obtain access from a side street. Additionally, when access is permitted to W. Wendover Avenue, it should be a minimum of 500 feet from major intersecting streets.

This site does have the ability to obtain access from the abutting side street of Hickory Grove Road. Also, based upon the site's W. Wendover Avenue frontage, an access point cannot be established that will be 500 feet from both the

intersections of Piedmont Parkway and Hickory Grove Road.

The Transportation Department has reviewed this request and responded in the attached August 5, 2008 Memorandum from Mark McDonald, Transportation Director. The Transportation Department did not specifically object to this request based upon the following:

Ø The allowable uses, as restricted by the conditional use permit, are low trip generators. Although a Traffic Impact Analysis was not required, the applicant did provide a study that indicated the requested use would generate an additional 259 trips per day. Approximately 10 trips in the AM peak hour and approximately 14 trips in the PM peak hour.

Ø Access to W. Wendover Avenue is restricted to a "right-in only" access at least 500 feet from the intersection of Piedmont Parkway. Exiting traffic will be directed to Hickory Gove Road that provides access to both Piedmont Parkway and W. Wendover Avenue.

Ø Roadway improvements consisting of an exclusive right turn lane with 200 feet of storage and a 250-foot long taper is to be provided for the W. Wendover Avenue access point.

In conclusion, the memorandum notes that if the allowable uses change to include additional uses, the access will be re-evaluated to potentially remove the access from W. Wendover Avenue.

Findings:

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

That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds
Compliance v The applicants offer to restrict access to W. Wendover Avenue to ingress only, to prohibit access from Piedmont Parkway and to construct turn lanes will help ease traffic congestion and facilitate turning movements. v
Conditions of the permit to restrict allowable uses to the low traffic generating uses of congregate care facilities and nursing/convalescent home uses will ensure development of the site will not significantly increase traffic and turning movement conflicts in the vicinity of these two major thoroughfares.

That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds
Compliance v The allowance of GO-H District uses, as restricted by the permit, will not injure the value of adjacent property owners. v The applicant offered

conditions in the permit that development be subject to landscaping, signage and architectural criteria of the Eastchester Scenic Corridor Overlay District. This will ensure development upon the site will be to similar standards as upon adjacent parcels in this area.

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

Compliance v The requested GO-H District, as conditioned in the permit, is consistent with the site's Office land use designation. v The request is consistent with Goal #5 of the Land Use Plan as it promotes an urban growth pattern that occurs in an orderly fashion. v The request is consistent with objectives 8 & 11 of the Land Use Plan as it is an infill development within an area that is already largely developed rather than on the undeveloped edge of the city. Additionally, based upon conditions offered to meet certain criteria of the Eastchester Scenic Corridor Overlay District, development of the site will not detract from the aesthetic quality of this major gateway into the City. v The applicant offered conditions in the permit that development be subject to landscaping, signage and architectural criteria of the Eastchester Scenic Corridor Overlay District. This will ensure development upon the site addresses the visual quality policy of the corridor plan. v The site is uniquely configured and situated in regards to vehicular access. The applicant offered conditions restricting uses to three low traffic generators and restricted the location, design and type of access points. Based upon this specific location and transportation conditions of the permit, the applicant has mitigated, to the satisfaction of the Transportation Department, corridor plan policy recommendations.

Recommendation:

Staff Recommends Approval

The Planning and Development Department recommends that the request by Spectrum Acquisition, LLC, to rezone approximately 4.03 acres to a Conditional Use General Office-High Intensity District and the accompanying Conditional Use Permit be approved.

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

Action by the Planning and Zoning Commission

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

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

Action by the City Council

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

B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request, is reasonable and in the public interest because: 1) it meets the required findings for a conditional use zoning district as written in this report; 2) conditions restricting the location and types of access to the site enhances public safety; 3) condition restricting use of the site ensure development will be compatible and in harmony with adjacent development; and 4) bringing this entire block in as one planned development will provide for a unified cohesive development, which will assist in establishing compatibility with surrounding area.

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

[end of staff report]

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

Adopted ordinance providing for the rezoning of this property from

Ordinance No.

Introduced

09/15/08

Adopted 09/15/08

Ordinance Book Volume XVI, Page

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

New Business

Appointments- Boards & Commissions-Citizens Advisory Council/Planning & Zoning Commission/Theatre Advisory Board

080262

Council is requested to confirm the following appointments.

Citizens Advisory Council

John Linton as the At-Large appointment of Council Member Alexander.

Appointment to be effective immediately and will expire May 31, 2010.

Planning & Zoning Commission

Kathleen Carter to fill the expired term vacated by George Holbrook who is no longer eligible for reappointment. Appointment to be effective immediately and will expire June 1, 2011.

Theatre Advisory Board

Gene Bohi to fill the expired term of James Armstrong. Appointment effective immediately and will expire on June 1, 2011.

Council is requested to confirm the following appointments.

Citizens Advisory Council

John Linton as the At-Large appointment of Council Member Alexander. Appointment to be effective immediately and will expire May 31, 2010.

Planning & Zoning Commission

Kathleen Carter to fill the expired term vacated by George Holbrook who is no longer eligible for reappointment. Appointment to be effective immediately and will expire June 1, 2011.

Theatre Advisory Board

Gene Bohi to fill the expired term of James Armstrong. Appointment effective immediately and will expire on June 1, 2011.

Since this matter did not originally appear on tonight's Agenda, **motion was made by Council Member Bencini, seconded by Council Member Alexander to suspend the rules so it could be placed on tonight's agenda for consideration. The motion carried unanimously.**

Approved the preceding appointments.

A motion was made by Council Member Alexander, seconded by Council Member Faircloth, that this matter be approved. The motion carried unanimously. [9-0 vote]

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

Resolution Regarding "Roar In Furniture City"

080263

Council is requested to adopt a resolution regarding "Roar In Furniture City" a motorsports event to be held in the downtown area of High Point.

Since this matter did not originally appear on tonight's Agenda, motion was made by Council Member Bencini, seconded by Council Member Alexander to suspend the rules so it could be placed on tonight's agenda for consideration. The motion carried unanimously.

Adopted Resolution regarding "Roar in Furniture City" encouraging the efforts of Furniture City Motorsports to continue pursuing "Roar in Furniture City," a motorsports event and related activities in the Core City area of downtown High Point.

Resolution No.

Introduced 09/15/08

Adopted 09/15/08

Resolution Book Volume XVI, Page

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

For Information Only:

High Point University Rezoning Requirements Regarding Property Acquisition

Council Member Bencini moved to suspend the rules to receive some information from staff regarding High Point University rezoning requirements. Council Member Alexander made a second to the motion which carried unanimously.

Council Member Bencini explained there has been some recent discussions about whether or not the 50% rule applied to one portion of the campus and not another portion. He suggested this matter needed further clarification on the policy and suggested it be further discussed during a Planning & Development Committee meeting held on Tuesday, October 7th at 9:00 a.m.

At this time, Lee Burnette, Director of Planning & Development, distributed some information to Council regarding the Land Use Plan Amendment that was approved by Council in 2001 when the city and the university worked together to redo the Master Plan which looked at expanding the area of institutional use to the west into the Sixth Street and Woodrow Avenue neighborhoods which the university has now basically rezoned or requested rezoning of that entire area and established the policies by which the implementation of zoning was to take place.

Mayor Smothers suggested that the university officials be notified of the meeting so they could also participate in the discussion.

Proposed Agressive Solicitation and Open Container Ordinance

Council Member Pugh asked if the rules could also be suspended to add this matter since it has been sitting around for almost two months. Mayor Smothers suggested that it would require some comment by the Police Department. Council Member Pugh asked if a date certain could be set for discussion. However, no date was set.

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 6:30 p.m. upon motion duly made and seconded.

Respectfully Submitted,

Rebecca R. Smothers, Mayor

Attest:

Lisa B. Vierling, MMC
City Clerk