

City of High Point

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



Meeting Minutes

Tuesday, September 2, 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

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

Finance Committee; Monday, August 18th @ 3:30 p.m.

Combined Meeting; Monday, August 18th @ 4:45/5:30 p.m.

Manager's Briefing; Tuesday, August 19th @ 4:00 p.m.

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 Wilkins 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 Mayor Pro Tem Whitley, 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)

080242

Approval of contract for award of Bid No. 05 for the Deep River System Improvements - Segment 6. Purchasing and Public Services recommend that contract be awarded to Prillaman & Pace in the amount of \$1,394,160.00 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 Bid No. 04 for the Deep River System Improvements- Segment 6 awarding the contract to Prillaman & Pace in the amount of \$1,394,160.00 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.

080243

Approval of a contract extension in the amount of \$475,000 to the Triangle Grading and Paving Contract (ENG-2006-05) for additional roadway work to make improvements at the intersection of Gordon Street and Cedrow Drive.

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 extension in the amount of \$475,000 to the Triangle Grading and Paving Contract (ENG- 2006-05) for additional roadway work to make improvements at the intersection of Gordon Street and Cedrow Drive.

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

080251

Council is requested to adopt a budget ordinance amendment amending the 2008-2009 budget to appropriate an additional \$50,000 in the General Fund fund balance for the High Point Historical Museum.

Since this matter did not appear on the Agenda, motion was made by Council Member Sims, seconded by Council Member Faircloth to suspend the rules in order to place this matter on tonight's agenda for consideration. The motion carried unanimously. [9-0 vote]

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

Mayor Smothers explained the budget amendment transfers \$50,000 from the general fund balance for additional funding for the High Point Historical Museum. She noted that the Museum did attempt to seek additional funding from Guilford County as directed by City Council, but did not get approved for the funding.

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

Adopted Ordinance amending the Budget Ordinance appropriating General Fund balance to the High Point Historical Museum in the amount of \$50,000.

Ordinance No. 6577/08-62

Introduced

09/02/08

Adopted 09/02/08

Ordinance Book Volume XVI, Page 62

A motion was made by Council Member Sims, seconded by Mayor Pro Tem Whitley, that this matter be adopted. 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)

080248

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

Chairwoman Sims explained these should not be considered "revisions" but a clarification of regulations already in the existing ordinance providing further detailed definitions in some gray areas and letting residents know that the city is going to start enforcing the ordinance. She asked staff to give a brief update regarding the revisions to the city's Solid Waste Ordinance. She explained they really should not be termed "revisions" and were more clarification and updating information in the ordinance.

Richard McMahon, Assistant Director of Public Services- Solid Waste Division- reviewed the highlights. He reiterated a lot of this was clean up of the present ordinance and provided further clarification to bring it in line with current practices. Some of the main items discussed were:

Household/Solid waste (no loose bags of garbage-all bags must be contained in the city approved rollout carts all trash required to be in bags- city manager will have the authority to authorize collection of additional bagged solid waste on certain occasions during the year (i.e. Christmas)- maximum number of rollout carts allowed for garbage service for any one household is two carts)

Yard waste- loose limb, bulky items (moving everything to boxed, bagged and bundled for it to be picked up- defined loose limbs in the ordinance- city will no longer pick up loose limbs, but the city manager will have the authority to change it and allow pick up in the event of an ice storm, tornado, hurricane, etc...)

Back Door, Dead Animal and Red Trailer Service (defined in detail)

He explained that the city would tag property owners and notify them of any violations and if not rectified in a timely manner, city crews were subject to cleaning it up and the property owner would be charged the actual cost and repeat offenders could be charged an additional cost. Council Member Pugh asked if there was a time limit for allowing debris to sit on the street before the city crews pick it up. Mr. McMahon replied the process generally takes about three weeks (tagging, notification, etc....) but staff was working on trying to condense this time so it's picked up quicker.

Council Member Whitley asked how crews would collect additional bags in the areas being serviced by the one-armed bandit. Mr. McMahon explained the city would probably end up running two trucks on those routes to pick up the extra bags.

Council Member Wilkins mentioned a personal incident while riding in his wheelchair involving a blocked sidewalk that prohibited his access to the sidewalk. He felt more consideration should be given to the disabled. Staff encouraged folks to report these incidents to customer service so it can be taken care of.

Mayor Smothers pointed out that one of the issues discussed in committee had to do with yard waste that's to be placed in clear plastic bags and concerns were raised that clear plastic bags are hard to find. Mr. McMahon noted that the home

improvement stores do carry the clear plastic bags, and these should be adequate provided they're not overfilled.

A discussion followed regarding the time limit trash/debris should be allowed to sit on the street. Council Member Faircloth asked if these clarifications would help in reducing the amount of time the unsightly piles remained on the streets. Mr. McMahon reiterated one of the goals was to speed up enforcement. He noted that 90% of the residents already comply with the regulations, but there's a small number that abuse the service. The piles of debris put out on the streets by landlords was discussed. Council Member Faircloth asked if the notice of violation was a statutory requirement or a courtesy on the city's part. The city attorney replied it was not statutorily required. Council Member Faircloth pointed out that the city does not give courtesy tags for violations of other ordinances. Chris Thompson, Director of Public Services, explained traditionally, in the past, crews have tagged it to give the property owners the opportunity to correct it. Mr. Boynton recommended that staff find the shortest period of time possible for giving notice so the debris could be picked up in a very timely manner.

Mayor Pro Tem Whitley suggested a database be created identifying owners of rental property so they can be notified of the regulations.

Council Member Wilkins informed staff of some debris that has been on property at the corner of Park and Clay for quite a while.

Mr. Boynton encouraged Council to get any written suggestions, additions or corrections to him in the next few days so the ordinance could be put on the next agenda for action.

Council Member Alexander asked if it would be possible to put the highlights of the ordinance on the city's government access channel and also encouraged the local print media to do a story on it.

The Committee recommended this matter be deferred for action until the September 15th Council meeting to allow for public comment.

A motion was made by Council Member Sims, seconded by Council Member Alexander, that this matter be deferred to the Public Services Committee, due back on September 15, 2008. The motion carried unanimously.

Pending Items

080247

Council is requested to adopt a resolution regarding the Interstate 85 Bridges over the Yadkin River as recommended by the High Point Metropolitan Planning Organization.

Chairman Faircloth referred Council to the resolution and noted that he could not support the resolution the way it is written due to concerns with leaving out the toll possibility for the bridge without some further study and information. Council Member Alexander agreed with Chairman Faircloth and felt tolling on this project should not be eliminated as a possibility. Mayor Smothers pointed out the question shouldn't be about the appropriateness of tolling--but rather the fact is that the bridge is not on the list to be considered as a toll road, but does need to get a funding stream.

Chairman Faircloth then moved to place the resolution on Thursday's Agenda with a favorable recommendation for approval with the elimination of the last phrase in paragraph 5 which reads "or making the project a toll facility are not reasonable solutions."

The Mayor suggested rewording it "or currently estimated at \$400 million through the 1989 Highway Trust Fund Equity Formula is not a reasonable solution. Chairman Faircloth stated he had no problems with this wording and amended his previous motion to reflect this wording change. Council Member Stahlmann made a second to the motion.

For further discussion, Council Member Wilkins pointed out there were many bridges in need of repairs in North Carolina and didn't believe any should be left out. He felt this would be a step forward in repairing the bridges in North Carolina.

There being no further discussion, the motion to place this matter on Thursday's Agenda with a favorable recommendation for adoption of the resolution with the change in paragraph 5 as follows: WHEREAS, funding the Yadkin River Bridges, currently estimated at \$400 million, through the 1989 Highway Trust Fund Equity formula is not a reasonable solution carried unanimously. [9-0 vote]

Resolution No.

Introduced 09/02/08

Adopted 09/02/08

Resolution Book Volume XVI, Page

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

**PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair
Committee Members: Faircloth, Sims, Stahlmann and Whitley**

(all members were present)

080244

Approval of a Resolution of Intent that establishes a public hearing date of Monday, September 15, 2008 at 5:30 p.m. to consider a voluntary contiguous annexation of approximately 5.23 acres, by John & Denise Martin; Dueal & Thelma Dameron; and Wesley and Cynthia Johnson. 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 Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted Resolution of Intent establishing the date of Monday, September 15, 2008 at 5:30 p.m. as the date and time to consider public comment regarding a voluntary contiguous annexation petition of property located off W. Wendover Avenue.

Resolution No.

Introduced

09/02/08

Adopted 09/02/08

Resolution Book Volume XVI, Page

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

080200

Consideration of a request for the City Council to initiate a zoning application for an approximately 32 acre parcel lying at the northwestern corner of Pegg Road and Gallimore Dairy Road. The request is for Council to rezone this parcel from its current Conditional Use Light Industrial (CU-LI) District to the Agricultural (AG) District, pursuant to Section 9-3-13(a)(7) of the Development Ordinance, due to applicant's failure to accept conditions of the approved Conditional Use Permit 07-26.

Chairman Bencini asked if there was a representative from the family of the property owner present.

Lynne Bostic, representing the family, informed Council that all the owners of the property would like the property to be rezoned to its original AG (Agricultural) District.

The Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation authorizing the planning staff to initiate the rezoning subject to verification of the ownership.

Authorized staff to initiate the rezoning of this 32-acre parcel lying at the northwestern corner of Pegg Road and Gallimore Dairy Road from its current Conditional Use Light Industrial (CU-LI) District to the Agriculture (AG) District, pursuant to Section 9-3-13(a)(7) of the Development Ordinance, due to the applicant's failure to accept conditions of the approved Conditional Use Permit 07-26.

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

080250

Adoption of a Resolution of Intent establishing Monday, October 6, 2008 at 5:30 pm. to consider street abandonment 08-14 to close a portion of an improved 50 foot right of way known as Fifth Street between Montlieu and Woodrow Avenues, an improved 55 foot right of way known as O.A. Kirkman Way, and an improved 40 foot right of way known as West College Drive between O.A. Kirkman Way and east Farriss Avenue as submitted by High Point University.

Since this matter did not appear on the Agenda, motion was made by Council Member Sims, seconded by Council Member Faircloth to suspend the rules in order to place this matter on tonight's agenda for consideration. The motion carried unanimously. [9-0 vote]

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

Adopted the Resolution of Intent establishing Monday, October 6, 2008 at 5:30 p.m. to consider Street Abandonment 08-14 to close a portion of an improved 50-foot right-of-way known as Fifth Street between Montlieu and Woodrow Avenues, an improved 55-foot right-of-way known as O. A. Kirkman Way, and an improved 40-foot right-of-way known as West College Drive between O. A. Kirkman Way and east Farriss Avenue as submitted by High Point University.

Resolution No.

Introduced 09/02/08

Adopted 09/02/08

Resolution Book Volume XVI, Page

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

080249

Council is requested to confirm the appointment of Gray Wehrley (Ward 4) to the Citizens Advisory Council. Appointment to be effective immediately and will expire 5/31/2010.

Since this matter did not appear on the Agenda, motion was made by Council Member Sims, seconded by Council Member Faircloth to suspend the rules in order to place this matter on tonight's agenda for consideration. The motion carried unanimously. [9-0 vote]

It was recommended that this appointment to the CAC be placed on Thursday's Agenda with a favorable recommendation.

Confirmed the appointment of Ms. Gray Wehrley to the Citizens Advisory Council as the Ward 4 representative.

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

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

Planning & Development Committee - Council Member Bencini, Chair**080217**

A request by High Point University to amend the City of High Point Land Use Map to change the classification for approximately 1.4 acres from Low Density Residential to the Institutional land use designation. The site consists of five parcels lying along the west side of Guyer Street, approximately 350 feet south of the intersection of Guyer Street and Chatham Drive (1407 thru 1415 Guyer Street). In addition, the request includes consideration by the Planning & Development Department for additional parcels lying along the west side of Guyer Street to be changed to the Institutional land use designation.

The public hearing for this matter and related matter 080218 Ordinance- Rezoning Case 08-13- High Point University- Guyer Street with accompanying request for a Major Amendment to Conditional Use Permit 07-25 was held on Monday, August 4, 2008 at 5:30 p.m. and was continued to Tuesday, September 2, 2008.

Public Hearing: Monday, August 4, 2008

The public hearing regarding this matter and related matter 080218 Ordinance- Rezoning case 08-13- High Point University- Guyer Street was held on Monday, August 4, 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
LAND USE PLAN AMENDMENT CASE 08-03
July 29, 2008*

*Applicant: High Point University Owner: High Point University
Proposal: To redesignate approximately 31.36 acres to reflect the existing institutional use and to provide an additional area for parking. From: Low Density Residential, Moderate Density Residential and Medium Density Residential
To: Institutional*

Site Information

Location The site lies along both sides of N. College Drive between its intersections with E. Lexington Avenue and N. Centennial Street. The site also includes properties on the west side of Guyer St. south of Chatham Dr.

Acreage Approximately 31.36 acres

Current Land Use Student housing, athletic facilities and single-family houses

Existing Zoning District(s) Conditional Use Public and Institutional and Residential Single-family-9

Physical Characteristics Slopes generally from south to north

Relevant Overlay District(s) High Point City Lake General Watershed Area

Street Access & Street Classification

Street Name Classification Approximate Frontage

N. College Dr. Major Thoroughfare 2,000 ft.

E. Lexington Ave. Major Thoroughfare 103 ft.

N. Centennial St. Major and Minor Thoroughfare 225 ft.

Guyer St. Local Street 1, 400 ft.

Surrounding Zoning and Current Use

North RS-9 Residential Single-family-9 Single-family residential

South GO-M and PI General Office-Moderate and Residential Single-family-7

Funeral home, church and single-family residential

East RS-9 Residential Single-family-9 and Residential Multifamily-8 Single-
and multifamily residential

West RS-7 and CU GO-H Residential Single-family-7 and Conditional Use
General Office-Heavy Single-family residential and senior citizen's home

Surrounding Land Use Designations

North Low Density Residential

South Office, Institutional and Low Density Residential

East Low Density Residential

West Low Density Residential and Institutional

Purpose of Existing and Proposed Land Use Designations

Existing Designation Low-Density Residential: These areas include primarily single family detached dwellings on individual lots. Development densities in these areas shall not exceed five dwelling units per gross acre. Moderate-Density Residential: This classification includes a variety of detached or attached dwellings, generally including single family homes, cluster homes, duplexes and townhouses. Development densities shall range from five to eight dwelling units per gross acre. Medium-Density Residential: This classification includes a variety of attached dwellings, generally including higher density townhouses and less land-intensive multi-family housing such as garden apartments. Development densities shall range from eight to sixteen dwellings units per gross acre.

Proposed Designation Institutional: Public, quasi-public and institutional uses on large tracts are included in this classification.

Land Use Plan Amendment History

Case # Date Description

00-03 April 11, 2001 Land Use Plan Amendment case 00-03 came about as a result of rezoning case 99-48. The land use amendment included approximately 24 acres on the west side of W. College Drive, bounded on the west by Fifth Street, Fifth Court and the rear property lines of several lots fronting on W. College Dr.. This request was approved by Council and the Land Use Plan has not been amended for university expansion since that time.

Background

As stated above, April 2001 was the last time the Land Use Plan was amended for a High Point University expansion. The rezoning case that precipitated the 2001 land use amendment included about 10 lots on both sides of Barbee Avenue (now W. College Dr.) north of Montlieu Avenue. Council approved the rezoning request from RS-7 to CU PI for the lots on the east side Barbee Avenue because they conformed with the Land Use Plan, but they did not approve the rezoning on the west side because the Land Use Plan showed Low Density Residential. Upon request of City Council, University officials and City staff worked together after rezoning case 99-48 was approved to update the 1992 Campus Assessment Master Plan to reflect future growth intentions of the university. The result of this collaboration was Land Use Plan Amendment case 00-03 and the High Point

University Land Use Plan Implementation policy. The land use amendment expanded the Institutional land use designation west of W. College Drive to Fifth Street, which is the current boundary of the Institutional land use designation. The policy document that was created, established a set of criteria on how rezonings and expansions of the university should occur.

Since 2001, the university has grown physically to the west, within the institutionally designated area, and most recently to the north (north of Lexington Avenue). This 2007 northern expansion for new dormitories goes beyond the area designated in 2001 as Institutional. While they are currently seeking a Land Use Plan Amendment for the dorms and an associated parking lot, this could indicate the need for staff and the University to update plans for any additional future growth of the university, so that the Land Use Plan can consider and reflect their future needs in a holistic approach.

Relevant City Plans

COMMUNITY GROWTH VISION STATEMENT

Goal 2: Improve High Point's older urban neighborhoods, while ensuring better future neighborhoods.

LAND USE PLAN

Land Use Goals and Objectives

Goal 2: Encourage Development That Enhances and Preserves Established Neighborhoods

Goal 3: Provide a Wide Range of Housing Opportunities for Families of All Income

Levels

Objective 3. Provide opportunities for an adequate supply of affordable housing at appropriate locations convenient to employment, shopping and service areas

Objective 4. Protect the City's older, established neighborhoods, and promote their revitalization through needed infrastructure improvements and new residential investment

Objective 9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;

Staff Analysis

The Land Use Plan amendment proposed by the university consists of the area along North College Drive and a portion of the west side of Guyer Street. They are requesting a change from Medium Density residential along College Dr. and Low Density Residential along Guyer Street to Institutional for the entire area. Such an amendment would result in a small Institutional intrusion into the

Low-Density Residential designation along Guyer Street. Staff reviewed the land uses along the west side of Guyer Street between East Lexington Avenue and just south of Chatham Drive and found that, if this proposal is approved, the majority of the residential of this section of Guyer will consist of institutional uses (the College and the Methodist Church). Therefore, staff recommends that all the lots that front on the west side of Guyer Street from Chatham Drive to E. Lexington Avenue should be included in the amendment to Institutional, if it is to be approved. This will result in one cohesive Institutional area that is separated from the Low Density Residential area by a collector street. The change in designation of the area along North College Drive to Institutional is appropriate to acknowledge the development of the new dormitories that are adjacent to the church which is already designated as Institutional.

The issue then becomes whether or not the encroachment of the Institutional designation onto Guyer Street is appropriate. This can be viewed as an intrusion into the single-family neighborhood. However, the residential land use fabric on the west side has been diminished by institutional uses. The church expanded and added a new building on Guyer Street and the university currently owns and is in the process of removing five single-family homes on the site of their current request. There are many relevant adopted City land use policies that speak to this case, which are listed in the Relevant City Plans section of this report. Many, if not all, of the policies discuss the concerns for the protection of existing neighborhoods, especially when they abut non-residential uses. This is a neighborhood of well-kept homes that provide a much needed supply of affordable housing stock.

Weighing the expansion of an institutional use into an existing neighborhood is never easy. Both entities need to be nurtured and protected, so it comes down to weighing the details of each case and then looking towards the policies for guidance. In this particular case, High Point University is growing and it needs to expand to remain competitive. As previously mentioned, this expansion will include the removal of five existing homes and the existing mature trees between the neighborhood and the university. When evaluating this case, the following factors need to be considered: the protection of the edge of this neighborhood and the possible precedent that this could set for the surrounding area; the intensity of the use; the visual impact on the neighborhood; and the level of need for the expansion.

It is important to protect the edges of neighborhoods so that they remain as a stable and desirable place to live. Part of what makes a neighborhood stable is a consistent pattern and rhythm of compatible development. Due to the fact that the pattern of use along the west side of Guyer is an inconsistent mix of residential and institutional uses and that Guyer Street carries a fairly significant amount of traffic, Guyer Street could be a logical new western edge to this neighborhood.

Visual impact on the neighborhood is also of concern. The property along Guyer Street generally slopes down from south to north and there are several large trees

along the rear lot lines of the residential properties on the west side of Guyer Street. If the two lots to the north of the university proposal are not included it would be very difficult to screen their view. The lots on the east side of Guyer are also of concern. Currently their view of the new dormitories is screened from the existing houses and mature trees on the west side of Guyer St. If this request is approved, the edge of the institutional uses will be brought to Guyer Street. Adequate protection for the houses on the east side needs to be ensured for the future viability of this neighborhood. When the church to the south was recently expanded elements of good design were demonstrated by respecting the building line of the adjacent residential structures and the placement the parking a lot away from Guyer Street. If this proposal is passed there is a concern that the houses on the east side of Guyer Street will have a direct view into the university property.

The hardest factor to evaluate is the level of need for the university to expand. This can likely only be answered through consideration of the following questions: can this need be filled in another way, will this need for additional space end here or will it continue, is this location best for the community if additional future expansions may be needed?

In this case, the benefit of the university expansion must be balanced against the impacts it might bring to the nearby residents. When looking at the existing land use policies and the existing land use pattern for guidance, the policies support the protection of existing neighborhoods. In this case however, due to the current inconsistent land use pattern along the west side of Guyer St. and the fact that Guyer St. functions as a collector street, a new logical boundary between the neighborhood and the institutional uses could be Guyer Street. Staff cautions that the treatment of this boundary is of paramount importance and that a strong buffer along Guyer Street will need to be put in place to ensure that the consistent and stable residential area on the east side of Guyer Street is protected and maintained.

Recommendation

The Planning and Development Department recommends approval of this requested Land Use Plan amendment from the Low Density Residential, Medium Density Residential, and Moderate-Density Residential designations to the Institutional designation as denoted by staff.

[end of staff report]

Chairman Bencini questioned the language in the policy that serves as a trigger point regarding the percentage of ownership in a block and thought it applied to the entire area, not one specific area. Herb Shannon explained that the policy was for one area on the western portion of campus and was put into place when the university came in with the Land Use Plan Amendment in 2000. Mayor Pro Tem Whitley agreed with Chairman Bencini and felt staff was misinterpreting what the City Council did years ago.

Mr. Shannon pointed out the big issue for staff was how this area has been intruded upon by institutional uses and noted that a valid protest petition has been submitted which would require 3/4 majority of City Council or 7 members would be required to approve the rezoning request.

Council Member Sims asked if the university met the parking requirements when the dorms were planned and Mr. Shannon noted that they did meet the minimum requirements at that time. Council Member Stahlmann asked about the buffer where the residents are and asked how wide the bank was north of the retention pond and south of the existing homes. The applicant explained it was about 43 feet from the edge of the parking lot to the property line. Mr. Shannon noted that the applicant is proposing a fence next to the parking lot to help mitigate the view and spillover lighting from headlights. Several Council members questioned staff's opinion that this will not be injurious to surrounding property values.

Following the conclusion of the staff report, Chairman Bencini opened the public hearing and asked for comments in support of this request.

Gart Evans, 3634 Malibu Drive, representing High Point University, spoke in favor. He provided additional information as well as photographs of the bio cell, the fence and some other concerns that may have been expressed. He stated that High Point University had no original desire to go into this area on Guyer Street, but the need for additional parking for the facility made it necessary due to excessive grading and buffer issues from having to move the buildings back. He explained that although they meet the minimum parking requirement, there is still a great need for additional spaces to accommodate visitors coming onto campus, patrons at the restaurant, etc....

Mr. Evans indicated that he was successful in negotiations with the property owner on the north, but was unsuccessful with Mr. Chason because he chose not to communicate or negotiate with the university.

He reiterated some of the mitigation measures such as the 20' buffer area with an opaque fence, canopy trees will be at least 3 inches in diameter and 10 feet in height, submitted a lighting plan, will keep as many trees as possible on that front section of the Guyer Street side, also will start fencing where the front of the houses are to allow extra buffer between there and the street, no plan to make an entrance or egress from parking lot to Guyer.

He addressed a resident's concern that the High Point University would not be putting up a brick, wrought iron fence as in other areas and chose to put up an opaque fence that would help mitigate the headlights from the vehicles. He elaborated on the location of the bio cell and shared some photographs of a similar bio cell currently on a parking lot on Montlieu Avenue and noted that bio cells are considered to be "property amenities" according to experts.

Don Scarborough, 1108 Ferndale, Vice President of Institutional Advancement for High Point University also spoke in favor of this request. Mr. Scarborough shared some facts about High Point University and noted that the university is a shining star in the community gaining significant national attention and a pacesetter with great economic impact on the community at \$320 million per year. He elaborated on the enrollment, visitor numbers, staff members, etc.... and how they contribute to the economic impact of High Point as patrons.

Council Member Sims asked about the diversity numbers of the staff (how many were African-American) at the university and where they live. Mr. Scarborough replied that he was not responsible for the faculty, did not have these numbers, but could get them. He noted that the university can only encourage its employees/faculty/staff to live in High Point and could not mandate it.

He explained that the university purchased property formerly owned by Colonial Motor Freight which cost the university \$190,763.60 to clean up. He felt the neighbors should be happy with the Bio cells and asked if they would rather have 6,000 tons of contaminated soil or the Bio cells.

Chairman Bencini asked about the university's response to the one residence that staff has indicated their property value would be injured. Mr. Scarborough replied that it was difficult to establish the price of a property when the property owner refuses to return calls, accept visits or negotiate a price. He noted that the other 150 people who sold their homes to the university after negotiations did quite well. Council Member Sims pointed out that there were some individuals that are not happy with the way they were treated by the university (namely renters who were displaced by it).

Gene Kininmonth, 1107 Johnson Street, a new employee at High Point University addressed Council in support of the request. He pointed out that he was new to the area and has recently purchased a property in High Point in the Johnson Street Historic District. He considered the diversity at the university to be one of its greatest attributes and pointed out that the President was Arab-American and the Dean of the Business School who is an African-American. He felt anything that could improve the economic strength of the community should be aided and High Point University was full of strong attributes.

Greg Mercer, 1506 Trafalgar Ct., representing High Point University as their architect, also spoke in favor. He explained that everything the university has done is a great improvement over most of the other areas in High Point (going beyond the minimum requirements) and that the university has done everything possible to try to mitigate concerns of the neighbors. He stressed that High Point University has a mission to be a good neighbor and will continue to address issues in the future.

Teresa Jackson, Program Specialist with Big Brothers/Big Sisters of the Piedmont who resides at 1806 Danzler Drive in High Point. She elaborated about the positive attributes of the program and the profound impact the university students have on the children in the community in the program.

Janet Brown with Ed Price & Associates Realtors 801 W. Ray Street, also spoke in favor of the request. She pointed out that Mr. Chason and Ms. Graves would soon be looking at five empty lots in a few weeks and asked if they wouldn't rather have a beautiful, planted area which would improve the value of their property. She addressed the issue about the renters and noted that they speak to the owners and ask their permission to talk to the renters regarding assistance in finding them another place to live, to buy, and the university has given some allowances to some in an effort to assist them in buying another house or to pay the down payment, utilities or the one month rental deposit for another house. She felt 99.9% of the people they have worked with are happy and feel they have been treated fairly.

Gail Tuttle, Vice President for Student Life, who resides at 1507 Whitehall. She noted there would be 566 beds and the number one concern for parents is safety on campus. She reiterated that the university desperately needs the additional parking and lighting for the students (residents) at this facility.

Mayor Pro Tem Whitley asked why the university didn't scale down the footprints of the proposed buildings if they knew additional parking would be needed. Mayor Smothers noted that when they had to push the buildings back, it created some problems with parking allocations. Greg Mercer explained that the city's development standards require one space per four beds (530 beds/135 spaces). He noted there were presently 530 spaces on site including handicap spaces. He explained that the destination restaurant on site will result in folks coming from off campus to eat supper and the need to accommodate visitors and employees working at The Village. He reiterated the safety concerns for the students. The university is looking at about 130 extra parking spaces.

Gene Kester, 1301 Robin Hood Dr in High Point, spoke in favor of the requested. He noted that everything that he has seen done over the past several years at High Point University has been nothing short of first rate (how the campus is manicured, the plantings, the architecture). He felt the whole thrust is not only education, but it's economical, social, cultural--so many benefits to the university. Mr. Kester confirmed that several folks from High Point University have attempted to communicate with Mr. Chason, but he has completely refused to talk to anyone.

Coy Willard, 1301 Brookfield Court in High Point spoke in favor. He noted that since the expansion of the university, the members of the faculty and staff have doubled their United Way campaign dollars. He gave an example of personal experiences he's had where cooperation paid off. He encouraged everyone to work together to work this out in an effort to do what is best for the City of High Point.

David Wolfe, 3509 Greenhill Drive in High Point, a realtor in High point, spoke in favor. He pleaded with Council to give the university what they need and that it would only complement anyone and everything.

Chris Dudley, 1247 Dovershire Place, a 1994 graduate of High Point University who is currently serving as the Vice President for Administration and Community Relations spoke in support of this request. He noted that the university sympathizes with some of the inconveniences that some of the growth that High Point University has caused neighbors and they in no way minimize it, but at the same time, the university has done everything in its power to mitigate those inconveniences by working tirelessly with city staff and neighbors to make provisions to go above and beyond the call of duty to make things right with them. He noted that in some cases, people just aren't willing to negotiate and nothing that the university does would satisfy them. He reiterated the parking places were critical for the future of High Point University and without the spaces they're fearful that students might park on the street and park illegally potentially creating an additional safety risk for them as well as other pedestrians. For these reasons, High Point University has invested over a million dollars to create these parking spaces. He urged Council's support for the Guyer Street rezoning as requested by High Point University.

Elizabeth Cardy, 1721 Gentry Court in High Point, a senior at High Point University also spoke in support of the request. She expressed concerns regarding safety issues due to inadequate parking at The Village and explained there were some nights that she has to come back to campus really late at night and parking is a major problem. She reiterated the critical need for the additional parking spaces.

At this time, Council Member Wilkins inquired about the total number of parking spaces presently on campus at the university including these. Mr. Mercer noted there were 3,138 spaces.

Mayor Smothers called for a recess prior to receiving opposition comments regarding this request. Council recessed at 7:40 p.m. Mayor Smothers called the meeting back to order at 7:55 p.m. and noted that Council Member Stahlmann left the meeting and asked to be connected via the Polycom Speakerphone for discussion and voting on this issue.

Chairman Bencini asked for those speaking in opposition to come forward.

Larry Chason, who resides at 1417 Guyer Street, spoke in opposition to the rezoning. He questioned the review of the plans for the grading work by the planning department and didn't understand how they didn't know they were going to have to do a lot of filling in and cut down all the trees. He shared a video of what is taking place in his back yard (i.e. trees being removed, drainage, excessive water flowing). He informed Council that he had to have someone put down some

seed and straw on his property and no one from the university has offered to reimburse him for his damages.

Mr. Chason felt the parking lot would damage and diminish the value of the homes in his neighborhood and felt they should have grandfather rights because he was told that their area did not fall within the 50% ownership rule. He expressed concerns about potential noise from the parking lot (beeping horns, loud music, etc...) He accused the university and representatives of using scare tactics to get people to sell their property to them and also accused the university of not obtaining all the necessary permits relating to the construction/signs on the property. He also expressed dissatisfaction that the university was allowed to do the construction on Sunday's and felt it was injurious and disrespectful to the church. He urged Council to vote no.

Christy Chason, who resides at 4341 Baylor Street in Greensboro, also spoke in opposition. She pointed out that Guyer Street was a two-lane residential street and felt the proposed plan was incompatible with existing adjacent residential properties. She expressed concerns about the opaque white fence proposed by the university and felt it was not in harmony with the single family residences on Guyer. She noted that according to the staff reports for the rezoning plans specifically points out that the location for the storm water device leaves little area for transitional grading or proper landscaping to be installed between the parking lot and the home at the north of the lot and that the site limitations and conditions restrict the university's ability to properly mitigate the impacts upon that home.

She expressed concerns about the Bio Retention cell proposed and asked what would happen if it is not approved and wanted to know if an inspection and maintenance schedule would be put into place if it is approved. She also reiterated concerns regarding noise from the cars in the parking lot. She cited inconsistency with the city's Land Use Plan as outlined in the staff's report. She felt if this request is approved, there wouldn't be any guarantees that what's done with the property would not negatively impact the abutting residential neighborhood. She asked Council to oppose the rezoning as well as the land use plan amendment. She suggested that the university follow their own artist's rendering of the property and replace all the trees that have been removed and plant them on the lots they purchased on Guyer.

Steve Hinkle, who resides at 1424 Guyer Street, spoke in opposition. He pointed out that the grade for the property is approximately 10 feet above the road with a 70- foot high structure behind the property and the university is proposing to put up the white fence and putting 3-inch diameter trees in there. He noted it would take about 100 years for the trees to grow enough to block out a percentage of the building behind them. He proposed that they would not put the parking lot there and suggested if they do an overflow parking lot, it needs to go on the same side of the property they own. He felt they should have had ample parking when the project was approved. He questioned the university's motives in putting up a white

opaque fence in this area when they had put up the brick, wrought iron fencing elsewhere. Mayor Smothers explained the reason was probably in an effort to mitigate the headlights. He voiced concerns about the lighting in the area and felt like the parking lot would decrease the value of the neighbors' property making it difficult to sell.

Michael Ellerbe, 240 Montlieu Avenue, addressed Council regarding this matter. He noted he was not in support of or in opposition to the request, but did have a question raised to him by some of the High Point University students. He noted that most of the evening and non-traditional students classes were being funneled over to the Winston-Salem site. He felt High Point University should assure the night students that won't be a transit and that they won't be moved out of the college because of that.

Mayor Smothers asked the petitioner to address some of the concerns raised by Mr. Chason regarding Mr. Chason's statement that he was told the trees would not be cut down.

Mr. Mercer noted that when they initially came up with the plans for the complex, they presented them to the City of High Point and they hired Davis, Martin Powell, an engineering firm, to do soil erosion studies, watershed studies and grading studies. The plans also included demolition plans showing the extent of the demolition and before they could cut down the first tree, they had to have approval on all of these issues from the City. He explained they took every measure possible to contain all the stormwater on site.

Council Member Alexander inquired about the exact number of parking spaces on campus and asked if it was safe to say that the university was about 1,000 spaces short. Mr. Mercer replied this was correct and explained the parking chart for the university containing the exact locations of all parking spaces and explained they were doing everything possible to mitigate any parking problems they had. The total is 3,138 spaces which includes all the lots currently planned on campus or are under review at this point. Council Member Alexander pointed out that the university has created the need for additional parking spaces. Council Member Alexander asked if the university could supply Council with a copy of the university's parking space chart.

Steve Hinkle raised a question about the inability for evening students having access to parking spaces. Gail Tuttle pointed out there were parking spaces that the evening students could use and explained the parking policy.

Chairman Bencini asked if there were any other comments. There being none, he suggested that the public hearing for this matter be continued to a date and time certain because Council needed additional time to consider the information presented at the meeting tonight and it was certainly Council's intention to attempt to come up with a solution to satisfy both the university and the surrounding

neighbors.

At this time, Chairman Bencini moved that this matter be continued to Tuesday, September 2nd at 5:30 p.m. for further consideration. Council Member Faircloth made a second to the motion.

For further discussion, Mayor Smothers noted that she would support the motion, but felt there needs to be some clear understanding that there has been a considerable amount of effort spent on both sides to document their positions. She suggested that both sides should get closer together and share some dialogue. She expressed her support for the university and noted that she didn't feel like the neighborhood was being damaged.

Council Member Faircloth pointed out that many college campuses, the streets become clogged because of inadequate parking and hopes that whatever overall design works out, it would not generate the problem of on-street parking that clogs everything around it for blocks.

Mayor Pro Tem Whitley suggested the university might need to start considering a parking deck to handle the growth and overflow.

Council Member Sims noted that she in no way is opposed to the expansion at High Point University and felt it was a great and wonderful asset to the community, however, there are people living in neighborhoods being affected by what they do. She cited problems with the way the university goes about doing their business. She noted that her concerns from the very beginning when they proposed putting the dormitories on N. College was how it was going to change and transition that residential neighborhood. She pleaded with the university to sit down with the neighbors as they move through the growth process to get their opinion. She explained she could not and would not support the rezoning and the use of this property as a parking lot because it was not good for the neighborhood. Council Member Sims questioned the purpose for extending this matter for four weeks and asked what would be accomplished.

Council Member Stahlmann applauded High Point University's efforts and the neighbors coming together. She asked that the university continue to keep Council and the community apprised of all short and long term plans for the university's expansions.

Council Member Pugh strongly suggested the university develop an open dialogue with the neighbors to try to get something worked out. Mayor Smothers asked Mr. Chason if he was interested in entering in talking to the university and Mr. Chason noted he would have to think about it. Gart Evans went on record to say that the university is interested in dialogue with Mr. Chason and will continue to be.

The Mayor noted part of the problem was the sufficient protest petition that was

submitted after the Planning & Zoning Commission met that puts Council in the position to overturn the Planning & Zoning Commission which requires seven votes.

Greg Mercer clarified that until this matter is approved, the only reason they would put in the erosion control device would be if the university uses the property as a parking lot. He explained they would probably just sod and stabilize the lots on the site until a decision is made and that the Bio cell would not be installed until the university receives Council's approval.

There being no further discussion, the Mayor called for a vote on the motion to continue this matter until Tuesday, September 2nd at 5:30 p.m. The motion carried by a 9-0 unanimous vote.

[end of public hearing comments: Monday, August 4, 2008]

_____ Continued Public Hearing: Monday, September 2, 2008 _____

Note: The following members of Council reported that they had been contacted by individuals regarding this case, but it did not affect their decision:

Mayor Smothers, and Council Members

Chairman Bencini explained this matter was continued for thirty days from the August 4, 2008 public hearing to allow the petitioner and one of the property owners the opportunity to talk and for Council to receive any new information on the case. He then asked if there was anyone present who would like to address Council regarding this matter that was not sworn in previously. [none at this time]

Gart Evans, representing High Point University, addressed Council. He informed Council that he met with Mr. and Mrs. Chason on two separate occasions: August 15th (on the HPU campus) and August 28th (at the Chason's home). He explained after leaving the meeting on August 15th and offering the Chason's a very fair and generous offer for their property, they decided they were not interested in selling their property, but would be willing to meet a second time. The Chason's did make a counter offer, but Mr. Evans indicated the two figures were a great deal apart.

Mr. Evans explained at the first meeting, he asked the Chason's if there was anything the university could do to benefit them. Mr. and Mrs. Chason asked for the following:

Look at the landscaping (buffer) at the rear of their property abutting The Village

and how it could possibly be improved

Moving some construction materials that were left

Look at an alternative type of fence instead of the opaque fence (if they would consider putting back the brick and iron fence. Mr. Evans explained as part of the agreement with the city, they must put up an opaque fence as outlined in the Conditional Use Permit).

If the university would consider leaving the existing shrubbery at the side of their property. (The university met with Davis, Martin, Powell to walk the property again to see if any of the large trees could possibly be saved and they were told by an arborist that they would not be feasible to save the trees).

Mr. Evans urged Council's approval of the university's request. He explained all they have done is cleared the house, remains from the moving and demolition so that the property now stands cleared and put in required erosion control devices in addition to seeding and strawing the property.

Council Member Alexander asked for clarification that the Sketch Plan submitted by the university was binding and any modifications to the plan would require Council approval. Mr. Shannon replied in the affirmative. Mr. Evans reaffirmed that they did agree that it would be binding and reminded Council that there would be no entrance or egress to Guyer.

Council Member Faircloth asked about the possibility of having a fence that would be decorative in nature like the rest of the existing fencing with opaque panels between the brick pilings. Mr. Evans noted he had talked with at least three of the neighbors and none voiced any concerns to him about the fence.

Mayor Pro Tem Whitley asked about the maturity of the evergreens to be planted on Tract 3. Mr. Evans noted they plan to mix these and some of the plantings would be the large holly type shrubs.

Council Member Alexander asked about the university's schedule and plan for maintenance of the dry ponds. Mr. Evans replied that they would certainly comply with all regulations and that the groundskeepers do keep the areas around the Bio Cells well-maintained and clean.

Council Member Sims asked how the university plans to address the stormwater run-off that's currently affecting the vacant lots should their request not be approved. Mr. Evans pointed out all they could do would be to seed, straw and make sure it's a grassy area with shrubs and with grass. It was noted that there were widespread problems throughout the city after last week's extreme downpour.

Chairman Bencini then asked if there was anyone else present that would like to

speak in support of the request. There being none, he asked if there were any opposition comments.

Larry Chason, who resides at 1417 Guyer Street, spoke in opposition. He noted that he and his wife, along with their neighbors were opposed to the Land Use Plan amendment Case 08-03 and Zoning Case 08-13 A & B and that the parking lot would be located directly in front of his neighbors and immediately beside his home. He shared some new pictures taken on Wednesday, August 27th just after the rainfall last week showing:

- 1. Run-off beside his home*
- 2. Bio Cell Retention area they have fixed temporarily showing some of the erosion.*
- 3. Run-off along his fence abutting the university's property*
- 4. Run-off in his front yard*
- 5. Run-off underneath his house*

Mr. Chason felt the water run-off would be a continuous problem and a parking lot would hurt the value of all the homes in their neighborhood. He urged Council to vote no on each one of these cases. Council Member Sims asked Mr. Chason if he had any problems with water underneath his house prior to the other houses being removed. Mr. Chason replied that he did a long time ago, but hasn't had any problems in several years.

Mayor Smothers personally thanked Mr. Chason for making the effort to meet with the university and although the rainfall last week, we desperately needed the rain.

Chairman Bencini asked if there were any other comments.

David Willett, who resides at 1501 Delk Drive, addressed Council regarding some major flooding/erosion problems on Delk Drive (1501, 1507, 1509....). He noted this was in a flood plain and shared some pictures of the extensive damage caused by the rain washing away the property resulting in very deep culverts. Mr. Willett measured the depth of the culverts by placing a yard rake inside the hole (one covered the rake). He pointed out this has been an on-going problem for this area dating back to 1972 when he moved there, but he had never seen the yards washed away as they have with the recent flooding. He felt there might be a problem with the culverts causing the erosion. He mentioned the stormwater fee that was implemented by the City and asked about the requirements for projects to qualify. Mr. Boynton explained that both big and small projects qualify and assured Mr. Willett that staff would personally visit the area to figure out what could be causing the erosion.

Mr. Willett explained that he wasn't necessarily against the college, but did want to make his concerns known regarding the detention pond because he felt it wasn't sufficient to handle the heavy rains.

Chairman Bencini asked if there was anyone else to speak in opposition. There being none, he closed the public hearing.

Council Member Sims asked if the amount of parking needed was determined based on the original plans submitted for the dormitories. Mr. Shannon replied that it did meet the city's minimum parking requirement. Mayor Smothers asked if additional parking was taken out of the site for the dormitories due to the need to place a Bio Retention Cell where the dorms are right now. Mr. Shannon explained that was all considered with their initial design and parking was not eliminated to put it in. A brief discussion followed regarding the actual parking standards and whether the minimum included all the other ancillary demands for parking spaces (visitors, employees, faculty, residents of the dorm, etc...). Mr. Shannon noted that the standard is seven per classroom, plus one for every bed in the main campus dorms, plus one space for every 250 square feet of office space, plus one for every five or six feet in assembly area and that for this particular site, staff took in account the one space for every four beds for the dormitory facility. Council Member Sims pointed out that based on this that the additional parking lots being requested are not really required, but rather something that the university desires.

Council Member Pugh asked for clarification of the number of people the university employs; Mr. Evans replied between 560 and 570.

At this time, Mr. Chason informed Council that he had something that might be of interest. Although the public hearing was closed, Mr. Chason was allowed to submit an article that he pulled off the university's website regarding parking that indicated the university has 440 parking spaces.

At this time, Chairman Bencini moved approval of the Land Use Plan Amendment. Council Member Stahlmann made a second to the motion. The motion carried by an 8-1 vote with Council Member Sims dissenting.

After the vote was taken on this matter and the associated rezoning request with accompanying major amendment to conditional use permit 07-25, Council Member Sims reiterated her concerns of allowing the university to continue to expand and she felt this was an intrusion into that neighborhood. She stated it wasn't fair to the neighborhood that they should have to go up against the university and commented if this were happening in other parts of the community such as the Country Club area, it would not have been approved.

Mayor Smothers stated she and other Council members share some of these same concerns about the preservation of neighborhoods and the biggest problem was that the city became a pawn in a match between those desiring to sell and those who wanted to buy property. She stressed the importance of Council knowing what the general long-term plan is for the university and this reflects Council's

care and concern for neighborhoods.

Council Member Pugh acknowledged that it was a balancing act and noted this was an extremely difficult decision for him to make since the university is an anchor in the Core City. He also encouraged the university to continue their efforts in acquiring Mr. Chason's property.

Chairman Bencini expressed concerns about the application of the policy adopted by Council for future growth at High Point University. He stated he was under the impression that the policy only applied to those areas to the south of Lexington Avenue, but recently found out that was not the case. He suggested in the next thirty days that Council consider applying the policy to all contiguous areas of the university regardless of what side Lexington Avenue they're on. Council Member Whitley agreed with Chairman Bencini and he, too, thought a policy was in place to prevent this type of scenario. He felt the university's growth is getting way beyond the scope of what is considered the campus.

Resolution No.

Introduced 08/04/08

Adopted 09/02/08

Resolution Book Volume XVI, Page

A motion was made by Council Member Bencini, seconded by Council Member Stahlmann, 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 Bencini, Council Member Faircloth, Council Member Pugh and Council Member Stahlmann
Nay: Council Member Sims

080218

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

A request by High Point University to rezone approximately 1.4 acres from the Residential Single Family-9 (RS-9) District to a Conditional Use Public & Institutional (CU-PI) District. The site consists of five parcels lying along the west side of Guyer Street, approximately 350 feet south of the intersection of Guyer Street and Chatham Drive (1407 thru 1415 Guyer Street).

b. Major Amendment to Conditional Use Permit 07-25

A request by the High Point University to amend the permit to add approximately 1.4 acres and to revise conditions of the permit pertaining to permitted uses, landscaping & fencing and vehicular access.

The public hearing for this matter and related matter 080217 Resolution- Land Use Plan Amendment 08-03- High Point University- Guyer Street was held on Monday, August 4, 2008 at 5:30 p.m. and was continued to Tuesday, September 2, 2008.

Note: For specific comments made at the public hearing on August 4, 2008 and the continued public hearing on September 2, 2008, please refer to 080217 Resolution- Land Use Plan Amendment 08-03- High Point University- Guyer Street.

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

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT
STAFF REPORT
ZONING CASE 08-13
July 30, 2008
(Revised)*

Applicant/Owner: High Point University

Proposal: 1. Rezone 5 parcels (1.4 acres) along the west side of Guyer Street. 2. Amend Conditional Use Permit 07-25 (CUP 07-25) to add the 1.4 acres along Guyer Street into that permit. 3. Amend CUP07-25 to revised permitted uses, landscaping & fencing and access conditions. From: RS-9 Residential Single Family-9 District

To: CU-PI Conditional Use Public & Institutional District

Site Information

Location Five parcels lying along the west side of Guyer Street, approximately 350 feet south of the intersection of Guyer Street and Chatham Drive. The zoning site is addressed as 1407 thru 1415 Guyer Street and also known as Guilford County Tax Parcels 152-1-4, 8, 20, 86 & 87.

Site Acreage Approximately 1.4 acres

Current Land Use There are single family dwellings upon each of the parcels. However, several of the dwellings are in the process of being removed.

Physical Characteristics The site has a moderately sloping terrain and drains from the south to the north.

Prox. to Water & Sewer City water and sewer utilities are currently available in this area along N. College Drive and Guyer Street.

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% or more of the site.

Overlay Districts City Lake General Watershed Area

Site Access & Street Classification

<i>Street Name</i>	<i>Classification</i>	<i>Approximate Frontage</i>
<i>Guyer Street</i>	<i>Collector Street</i>	<i>330 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>RS-9</i>	<i>Residential Single-Family-9 District</i>	<i>Single family dwelling</i>
<i>South</i>	<i>RS-9</i>	<i>Residential Single-Family-9 District</i>	<i>Single family dwelling</i>
<i>East</i>	<i>RS-9</i>	<i>Residential Single-Family-9 District</i>	<i>Single family dwellings</i>
<i>West</i>	<i>CU-PI</i>	<i>Conditional Use Public & Institutional District</i>	<i>High Point University student dormitories</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 a Low Density Residential land use designation. This classification is primarily intended for single family detached dwellings on individual lots. Development densities in these areas shall not exceed five dwelling units per gross acre. In conjunction with the zoning application, the applicant has also submitted a Land Use Plan Amendment application to change the designation of the zoning site and property they own to the west to an Institutional classification (See LUPA 08-03).

Relevant Land Use Plan Goals, Obj. & Policies The following goals and objectives of the Land Use Plan are relevant to this request: Goal #2: Encourage development that enhances and preserves established neighborhoods. Goal #3: Provide a wide range of housing opportunities for families of all income levels. Obj. #3. Provide opportunities for an adequate supply of affordable housing at appropriate locations convenient to employment, shopping and service areas. Obj. #4. Protect the City's older, established neighborhoods, and promote their revitalization through needed infrastructure improvements and new residential investment. Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses.

Relevant Area Plans Core City Plan

Related Zoning History Zoning Case 07-25 was approved in September 2007 for dormitory use for High Point University. This previous application rezoned approximately 17 acres along both sides of N. College Drive, between the intersections of E. Lexington Avenue and N. Centennial Street, from RS-9, RM-8 and GO-M Districts to a CU-PI District. A Major Amendment to Z07-25 was approved in January 2008 to revise the access requirement from W. College Drive.

Background Information:

High Point University is requesting to rezone this 1.4 acre area of land so that it may be added to their abutting student housing facility for parking. The

application includes amendments to the approved conditional use permit (CUP07-25) that would do the following:

§ Amend CUP 07-25 to add the 1.4 acre rezoning site (5 parcels along Guyer Street) into the permit, note it as Tract 3, and limit uses to a parking lot.

§ Revise landscaping and fencing conditions of the permit to include standards for Tract 3 and to clarify fencing requirements along the northern boundary of Tract 1.

§ Revise transportation access conditions to prohibit any access from the zoning site to Guyer Street.

§ Add two sketch plan exhibits (Exhibits B & C) that establishes the site layout and lighting design for the parking lot (Tract 3).

During the public hearing for the abutting student dormitory site (Z07-25), the applicant stated their intent to save a substantial amount of the existing trees and vegetation next to homes along Chatham Drive and Guyer Street to protect and limit the impact to abutting homes. However, the rear of the site was filled which required a transitional slope area next to the single family homes along Guyer Street and Chatham Drive that resulted in a lesser amount of the vegetation and trees being preserved. It also created a situation where the development site and dormitory buildings were higher than the abutting homes.

It should also be recognized that this proposal is not the first instance of institutional uses in the Guyer Street neighborhood. A small church and associated parking lot is located to the north of the rezoning site on the east side of Guyer Street. Also, the abutting church south of the zoning site, at the corner E. Lexington Avenue and N. College Drive, expanded several years ago and removed several homes along the west side of Guyer Street. This expansion altered the historic single family pattern along the west side of Guyer Street. The church expansion did not require rezoning approval so specific impacts upon adjacent homes could not be addressed other than through the normal standards of the Development Ordinance.

Issues:

Major Issues

v Extension of institutional zoning into the neighborhood. This request will be extending institutional zoning into this neighborhood, which is designated as Low Density Residential. The applicant has proposed a land use plan amendment for this area (See LUPA Case 08-03) to address this issue.

v Impact upon adjacent single family residences

Ø The home immediately to the south of the zoning site is at a higher elevation than the proposed parking lot, based upon the applicant's site plan and the location of the home, there is sufficient area to allow for proper landscaping.

Ø The two homes to the north of the zoning site are at a lower elevation than the proposed parking lot site and the stormwater control device (bio retention) will be located between the home and the parking lot. This leaves little area for

transitional grading and proper landscaping to be installed. In addition, the abutting home north of the zoning site is close to its side property line, which puts it closer to the parking lot.

Ø Due to filling upon the dormitory site and subsequent removal of vegetation, the 4-story buildings are more visible than initially expected. The removal of the houses and trees upon the zoning site for a parking lot will remove most, if not all, of the visual filter provided and will allow the dormitory buildings to become more visible to the Guyer Street property owners.

Ø Lighting upon the dormitory site consists of fixtures upon 40-foot high light poles and similar height lighting is proposed for this parking lot.

Minor Issues: None

ANALYSIS

This current proposal to expand the university campus westward into the abutting residential neighborhood raises concerns as to the impact upon adjacent single family homes along Guyer Street. Staff considered in its review of this request the mass, scale & height of the dormitory development; topography of the parking lot site as it related to adjacent single family homes; neighborhood compatibility & harmony; the visual impact on the residential neighborhood; and the sufficiency of the proposed buffering, setbacks & landscaping.

This zoning request is not the first situation where intuitional uses have encroached into this area. Previous institutional use expansion from the abutting church to the south has already altered the historic single family pattern along the west side of Guyer Street. Thus, the character of this portion of the residential neighborhood along the west side of Guyer Street has changed. The University purchased the property associated with this zoning request and is in the process of removing the homes. In total, six single-family homes will remain along the west side of Guyer Street.

Staff has been concerned with the impact this request will have upon the abutting single family homes. To the west, across Guyer Street, the single family homes will be facing directly at the parking lot, and with the removal of the homes and remaining trees, they will have an unobstructed view of the dormitory development. To mitigate the impact of the parking lot the applicant has offered in their conditional use permit and upon their sketch plan to have the parking lot setback the same distance as the homes that were removed (approx. 35 feet); have a higher landscaping planting rate within the 35 foot buffer area along Guyer Street; and to install an opaque fence behind the landscaping. To mitigate the direct view of the dormitory buildings all trees to be planted in the 35 foot wide buffer area and in the parking lot planting islands will be canopy trees, which have the ability to grow to heights above 40 feet. These canopy trees are proposed to be of a more mature status than required by the ordinance at the time of planting so they can mature quicker and increase their effectiveness as a visual filter. Finally, the lighting plan submitted by the University notes intensity of lighting upon adjacent parcels will be limited to 0 to 0.1 foot-candles of impact.

These conditions, in total, properly mitigates impact upon homes across Guyer Street.

The impact upon the home to the south has also generally been mitigated through landscaping and fencing conditions, a wider planting yard at a higher planting rate is proposed with an opaque fencing being installed behind the landscaping. Also, that property, as well as the majority of the area where the landscaping will be installed, is approximately 8 feet above the final grade of the proposed parking lot. In conjunction with the limited spillover lighting noted on their lighting plan, these site conditions further mitigates the visual impact from vehicles in the proposed parking lot.

However, the ability to properly mitigate the impacts upon the two homes to the north is limited due to area and topography. These parcels are 5 - 10 feet lower than the proposed parking lot. The stormwater control device for the parking lot will abut the home immediately to the north, which limits the University's ability to properly landscape and buffer adjacent to these homes. In addition, the abutting single family home to the north is very close to the property line and is more exposed to parking lot and dormitory development. In total, these site limitations and conditions restricts the University's ability to properly mitigate the impacts upon these homes.

Staff informed High Point University, prior to submittal of this zoning request, of these concerns with the area to the north and advised them that these two parcels need to be included in this request. Staff understands that the University has recently initiated contact with the two property owners and has come to an agreement with the northern most owner, but has not been able to talk with the remaining property owner, which abuts the zoning site.

The inclusion of these two parcels will allow the University to properly mitigate the impacts by allowing for the buffering and stormwater control device to be more appropriately apart of the site design. Staff envisions the additional land area from these two parcels to the north to better form the other edge of the University's development in this area; provide for a wider perimeter landscaping edge to the north; provide more flexibility in designing the stormwater control device and remove the homes closest to the site. If these two homes remain, they will very likely never be included into the University's development. By not being apart of the development, given the site's topography and their location to homes along Chatham Drive, their reuse is extremely limited.

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 To eliminate potential traffic safety concerns and impact to the neighborhood, the applicant has offered to prohibit vehicular access from the zoning site to Guyer Street. All access to the site will be from N. College Drive.

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

Compliance v To limit impact upon the adjacent property owners, the applicant has offered conditions and restrictions as follows: Ø The site is limited to parking lot use only. Ø A minimum 35 foot wide Type B Planting Yard is to be provided along the Guyer Street frontage. This planting yard requires 8 trees and 25 shrubs every 100 linear feet. The sketch plan notes that the fence will be placed internally upon the site behind the landscaping. Ø To attempt to filter the view of the dormitories that are located at a higher elevation, the applicant is proposing that all trees in the Guyer Street planting yard and within the parking lot consist of canopy trees. These are trees that normally grow to a mature height of 40 or more feet and are typically shade producing trees. Ø A Type B Planting yard, with fence behind the landscaping material, will be provided next to abutting single dwellings lying north and south of the site. Ø The lighting plan denotes that light fixtures upon the site will be pointed inward and that the intensity of the lighting will be no more than 0.1 foot-candle as measured from the property lines of adjacent parcels to the north, south and east.

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 If the corresponding Land Use Plan Amendment (LUPA 08-03) for Institutional Land Use designation is approved, as recommended by staff, the zoning request will be generally consistent with the City's Land Use Plan.

Staff Recommends Approval

At the Planning & Zoning Commission public hearing on July 29, 2008, staff recommended the request be postponed in order to encourage the University to meet and discuss the matter with the two abutting property owners to the north (owners of 1417 & 1419 Guyer Street). The Commission asked the University representatives and the abutting property owner, Mr. Chason of 1417 Guyer Street, if a postponement would be helpful. Mr. Evans, of High Point University, noted that the University desires that the case proceed forward. He noted that the University has purchased 1419 Guyer Street, the northern most property, and has since early July attempted to meet with Mr. Chason to no avail. Mr. Chason noted at the public hearing that he believes the University is trying to squeeze him out and is not interested in selling his property.

Due to the fact these two stakeholders are not interested in postponing the case in order to meet, the Planning & Development Department has revised its recommendation. Subject to the approval of Land Use Plan Amendment 08-03, the Planning & Development Department offers a recommendation of approval of the request by High Point University to:

Rezone 5 parcels (1.4 acres) along the west side of Guyer Street from a RS-9 to a CU-PI District;

Revised Conditional Use Permit 07-25 (CUP 07-25) to add the 1.4 acres along Guyer Street into that permit.

Revise conditions of CUP07-25 pertaining to permitted uses, landscaping & fencing and access.

This recommendation is made based on the staff's conclusion that subject to the approval of Land Use Plan Amendment 08-03, the zoning request is consistent with the City's Land Use Plan, and that based upon requirements of the Development Ordinance and conditions offered by the applicant within their conditional use permit, the rezoning of this property will generally be in harmony with the area.

Action by the Planning and Zoning Commission

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

Action by the City Council

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

B. In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that subject to the approval of Land Use Plan Amendment 08-03, 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) This request for CU-PI zoning is not the first situation where intuitional uses have encroached into this area. Previous expansion from the abutting church to the south has already altered the historic single family pattern along the west side of Guyer Street and changed the character of this portion of the residential neighborhood along the west side of Guyer Street; 3) Conditions offered by the applicant for development of the site to adhere to a sketch plan and lighting plan have generally mitigated the impact of

the parking lot upon adjacent property owners; 4) Conditions of the permit pertaining to the setback of the parking lot from abutting uses; higher landscaping planting standards within the 35 foot buffer area along Guyer Street and along abutting properties to north the and south; and installation of an opaque fence behind the landscaping, all assist in mitigating impact to abutting property owners; and 5) Conditions offered by the applicant for all new trees in the buffer areas to be canopy trees and for these trees to be of a larger size then normally required at the time of planting will assist, over time, to filter the direct view of the dormitory buildings.

*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, Chairman Bencini moved approval of the rezoning request and the Major Amendment to Conditional Use Permit 07-25 based upon staff's reports and findings as outlined in the staff report and that the request is consistent with the Land Use Plan for the City of High Point. Council Member Stahlmann made a second. The motion carried by an 8-1 vote with Council Member Sims dissenting.

Ordinance No.

Introduced 08/04/08

Adopted 09/02/08

Ordinance Book Volume XVI, Page

A motion was made by Council Member Bencini, seconded by Council Member Stahlmann, that this matter be adopted. The motion carried by the following vote:

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

080246

A request by the Technical Review Committee to abandon an improved 50 foot wide right of way lying east of Manley Street and opposite of Clish Place.

The public hearing regarding this matter was held on Tuesday, September 2, 2008 at 5:30 p.m.

Herb Shannon of Planning and Development gave an overview of the staff report as follows.

Chairman Bencini opened the public hearing and asked anyone was present who like to speak in favor of or in opposition to this street closing request. There being none, the public hearing was declared closed.

Following the conclusion of the public hearing, Chairman Bencini moved adoption of the resolution authorizing the abandonment of the 50-foot wide improved right-of-way lying east of Manley Street and opposite of Clish Place. Council Member Faircloth made a second to the motion. The motion carried unanimously. [9-0 vote]

<i>Resolution No.</i>	<i>Introduced</i>
<i>09/02/08</i>	
<i>Adopted 09/02/08</i>	
<i>Resolution Book Volume XVI, Page</i>	

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

080245

A request by the Technical Review Committee to abandon a portion of an unimproved 70 foot wide right of way, known as Ardale Drive that is lying west of the intersection of Greenview Terrace and Ardale Drive.

The public hearing regarding this matter was held on Tuesday, September 2, 2008 at 5:30 p.m.

Herb Shannon of Planning and Development gave an overview of the staff report as follows.

Chairman Bencini opened the public hearing and asked anyone was present who like to speak in favor of or in opposition to this street closing request. There being none, the public hearing was declared closed.

Following the conclusion of the public hearing, Chairman Bencini moved adoption of the resolution authorizing the abandonment of a 70-foot wide right-of-way known as Ardale Drive lying west of the intersection of Greenview Terrace and Ardale Drive. The motion carried unanimously. [9-0 vote]

<i>Resolution No.</i>	<i>Introduced</i>
<i>09/02/08</i>	
<i>Adopted 09/02/08</i>	
<i>Resolution Book Volume XVI, Page</i>	

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

080252

Council is asked to consider a proposed salary and expense adjustment as recommended by Council Member Stahlmann.

Since this matter did not appear on the Agenda, motion was made by Council Member Sims, seconded by Council Member Faircloth to suspend the rules in order to place this matter on tonight's agenda for consideration. The motion carried unanimously. [9-0 vote]

During the Finance Committee meeting held at 3:30 p.m. prior to this meeting, Council Member Stahlmann asked Council to consider a salary and expense adjustment for City Council to be effective on December 1st with the newly elected Council.

She felt the adjustments were needed in light of the time commitment and weight of policy decisions along with expenses incurred by Council and pointed out that Council's salary has not been increased since 1996. The financial impact of the proposed increase would be approximately \$16,000 a year which, if approved, would equate to a 1.3% annual increase over the 12-year period.

Council Member Stahlmann moved that the salary for Council and Mayor be increased \$100 a month; the expense allowances also be increased \$100 a month and hereafter be increased with the CPI each year--to be effective December 1st with the newly elected Council. Council Member Alexander made a second.

For further clarification, it was noted that the CPI would only affect the expense allowance. Council Member Pugh explained that although he felt Council was deserving of the increase, he could not endorse it because he has been against any kind of increases (tax, utility, etc...).

There being no further discussion, the motion carried by an 8-1 vote with Council Member Pugh dissenting.

A motion was made by Council Member Stahlmann, seconded by Council Member Alexander, 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 Bencini, Council Member Faircloth, Council Member Sims and Council Member Stahlmann
Nay: Council Member Pugh

Special Recognition

Mayor Smothers and Planning Director Lee Burnette presented Tommy Cole with a plaque recognizing him for his four years of faithful service to the Planning & Zoning Commission.

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 6:25 p.m. upon motion duly made and seconded.

Respectfully Submitted,

Mayor

Rebecca R. Smothers,

Attest:

Lisa B. Vierling, MMC
City Clerk