

City of High Point

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

Meeting Agenda

Monday, June 15, 2009

4:45:00 PM

Council Chambers

Committee of the Whole

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

ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE**PRESENTATION OF ITEMS****FINANCE COMMITTEE****090142 Contract - Bid No. 48 - Chemicals for Water & Wastewater Treatment Plant**

Council is requested to rescind the May 4, 2009 bid award to General Chemical Company for Aluminum Sulfate and award the bid to the next low bidder, Alchem, Inc. Purchasing and the Public Services Department recommend that the contract for Aluminum Sulfate be awarded to Alchem, Inc. in the amount of \$238,815.00 which is the lowest responsible and responsive bidder meeting specifications.

090143 Purchase of Used Refuse Trucks

Council is requested to approve the purchase of three used refuse trucks in the amount of \$226,000, to be used in the automated refuse collection program that will begin FY 2009-2010.

090144 Sole Source Authorization - Radio Equipment from Motorola

Council is requested to approve an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Information Technology Services Department; and approve the acquisition of the radio equipment from Motorola, Inc. in the amount of \$489,822.05.

090145 Resolution - Establish Pension Trust Fund for Law Enforcement Officers Special Separation Allowance

Council is requested to adopt a resolution establishing a Pension Trust Fund for Law Enforcement Officers Special Separation Allowance.

090149 Resolution - Section 5309 Capital Grant Agreement with NCDOT - Mendenhall Station

Council is requested to authorize the City Manager to enter into agreement with the North Carolina Department of Transportation (NCDOT) and execute contract for the Section 5309 Capital Grant Agreement to receive funds in the amount of \$201,770 for the Mendenhall Station.

090160 Adoption of City of High Point Annual Budget and Related Ordinances and Resolutions for FY 2009-2010 and Adoption of Revised Fee Schedules

Council is requested to adopt the 2009-2010 Budget Ordinance for the City of High Point and related ordinances and resolutions and adopt the revised fee schedules for Water & Sewer Rates and establish the automated recycling collection fee.

090134**Resolution - Amending Electric Utility Rate Schedule**

Adoption of a resolution amending the Electric Utility Rate Schedule increasing rates and charges for the electric utility for availability demand and consumption by 4.0% effective for bills dated on or after July 1, 2009.

6/1/2009

Committee of the Whole referred

Finance Committee

090131**Electric Rate Rider REPS - Renewable Energy Portfolio Standards (REPS) Charge**

Council is requested to approve the Electric Rate Rider (REPS) for the Renewable Energy Portfolio Standards (REPS) Charge.

6/1/2009

Committee of the Whole referred

Finance Committee

090162**2009-2010 Annual Budget - High Point Convention & Visitors Bureau**

Council is requested to approve the annual budget for the High Point Convention & Visitors Bureau (CVB) for FY 2009-2010 and authorize the City Manager to execute the contract agreement as presented by the CVB Board of Directors.

090163**2009-2010 Annual Budget - International Home Furnishings Market Authority**

Council is requested to approve the FY 2009-2010 Budget for the International Home Furnishings Market Authority (Market Authority).

Pending Items**090050****Revised Economic Incentive Policy**

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

3/5/2009

Committee of the Whole referred

Committee of the Whole

PUBLIC SAFETY COMMITTEE**090147****No Truck Restriction - Garner Place Between S. Main Street & Archdale Road**

Council is requested to amend Article P, Section XV "Restrictions Upon Use of Streets by Certain Vehicles" of the City Ordinance - No Trucks on Garner Place from S. Main Street to Archdale Road.

090148**No Truck Restriction - Giles Street and Weaver Avenue to the High Point City Limits**

Council is requested to amend Article P, Schedule XV - "Restrictions Upon use of Streets by Certain Vehicles" of the City Ordinance - No Trucks on Weaver Avenue, east of the intersection of Giles Street and Weaver Avenue to the High Point City Limits.

Pending Items

090110**Ordinance - Demolition of Structure - 618 Cable Street**

Council is requested to adopt an ordinance ordering the housing inspector to effectuate the demolition of structure located at 618 Cable Street belonging to Teresa A. Thomas.

5/18/2009

Committee of the Whole

postponed

Public Safety Committee

PUBLIC SERVICES COMMITTEE**PLANNING & DEVELOPMENT COMMITTEE****090150****Resolution of Intent - Street Abandonment 09-14 - CHP**

Approval of a resolution of intent that establishes a public hearing date of Monday, July 20, 2009 at 5:30 p.m. to consider a request to abandon an unnamed alley, lying approximately 425 feet east of Hurdoover Street between Edgedale Drive and Hillcrest Drive, with a small portion of the alley located north of Hillcrest Drive.

090151**Resolution of Intent - Street Abandonment 09-15 - CHP**

Approval of a resolution of intent that establishes a public hearing date of Monday, July 20, 2009 at 5:30 p.m. to consider a request to abandon an unimproved portion of Chiquola Avenue, lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

090159**Resolution of Consideration - Identifying Area Under Consideration for Annexation**

Council is requested to adopt a resolution identifying the area under consideration for annexation and providing notification pursuant to GS 160A-49(i).

PUBLIC HEARINGS ON ITEMS**090146****Public Hearing - Filing of FY 2010 FTA Section 5307 Operating, Capital and Planning Grant Application**

Monday, June 15, 2009 at 5:30 p.m. is the date and time established to receive public comments on the filing of the FY2010 FTA Section 5307 Operating, Capital, and Planning Grant Application for Hi tran, Dial-A-Lift, the Thomasville portion of Davidson County Transportation System, and the area within High Point served by Guilford County Transportation System.

090158**2009 Justice Assistant Grant - JAG - Public Hearing**

Monday, June 15, 2009 at 5:30 p.m. is the date and time established to receive public comments on the proposed spending of the 2009 Justice Assistance Grant (JAG) in the amount of \$415,193.00. this JAG grant award is awarded to three jurisdictions - Guilford County Sheriff's Department (\$105,884.20), Greensboro Police Department (\$230,830.40) and the High Point Police Department (\$78,478.40).

Planning & Development Committee**090152 Ordinance - Rezoning Case 09-04 - Wagner Properties**

A request by Wagner Properties to rezone a 0.2 acre parcel (approximately 8,700 sq. ft.) from the General Office Moderate-Intensity (GO-M) District to a General Business (GB) District. The site is lying along the west side of Pine Street, approximately 200 feet north of Church Avenue.

090153 Ordinance - Rezoning Case 09-05 - City of High Point

A request by the City of High Point to rezone approximately 21.9 acres from the Residential Multifamily-8 (RM-8) District and Residential Multifamily-12 (RM-12) District to a Public & Institutional (PI) District. The site is lying at the four corners of S. College Drive & Leonard Avenue.

090154 Ordinance - Text Amendment 09-04 - City of High Point

Revised and remanded by City Council for reconsideration

A request by the Planning & Development Committee to amend Table 4-5-1 "Permitted Use Schedule" and Section 9-5-2 "Development Standards for Individual Uses" of the Development Ordinance pertaining to Family Care Homes.

090155 Ordinance -Text Amendment 09-05 - City of High Point

A request by the City of High Point to amend Section 9-4-17(b) of the Development Ordinance, entitled "Nonconforming Use of Land", to limit the period of cessation for nonconforming uses in the Main Street (MS) District.

090156 Resolution - Street Abandonment 09-12 - City of High Point

A request by the Technical Review Committee to abandon an unimproved portion of right-of-way known as Hicks Place, lying north of W. State Avenue and Hicks Place.

090157 Resolution - Street Abandonment 09-13 - City of High Point

A request by the Technical Review Committee to abandon an unimproved portion of right-of-way known as W. Dayton Avenue, lying west of the intersection of Long Street and W. Dayton Avenue.

ADJOURNMENT

Publish four (4) consecutive weeks: **June 26, July 3, 10, & 17, 2009**

RESOLUTION OF INTENT TO CONSIDER A
STREET ABANDONMENT
(Case # SA09-14)

WHEREAS, the City Council is requesting to close an unnamed alley, lying approximately 425 east of Hurdoover Street between Edgedale Drive and Hillcrest Drive, with a small portion of the alley located north of Hillcrest Drive.

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

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

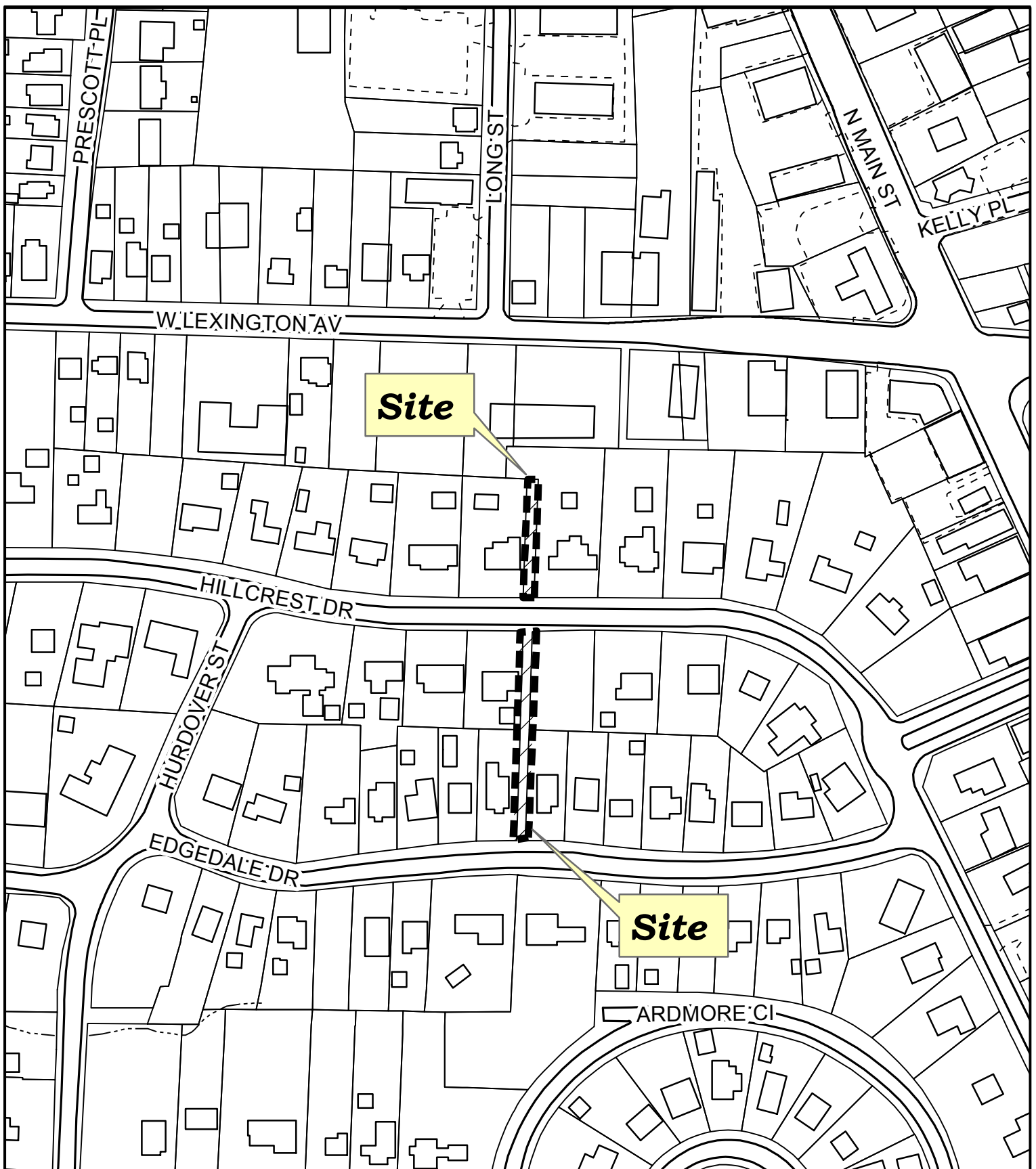
Persons wishing to be heard either for or against the said street closing are asked to be present for the hearing. The meeting facilities of the City of High Point are accessible to people with disabilities. If you need a special accommodation, call 336/883-3298 or TDD# 336/883-8517.

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

By Order of the City Council
This the 18th day of June 2009.

Lisa B. Vierling, City Clerk

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



STREET ABANDONMENT REQUEST SA09-14

Applicant: Technical Review Committee

Area: 0.17 acres



Location of requested street abandonment

**Planning & Development
Department**

City of High Point

Date: June 8, 2009



Scale: 1"=200'

y:/ba-pz/2009/pz/sa09-14.mxd

PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 26, 2009, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Nat Bolds and Mr. Andrew Putnam.

City of High Point

Street Abandonment Case 09-12

A request by the Technical Review Committee to abandon an unimproved portion of right-of-way known as Hicks Place, lying north of W. State Avenue and Hicks Place.

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

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval***, by a vote of 7-0, of Street Abandonment Case 09-12, with a retention of a 20-foot public sanitary sewer easement and a 15-foot public drainage easement, as recommended by staff.

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

**STAFF REPORT
STREET ABANDONMENT CASE 09-12
May 26, 2009**

Request	
Applicant: City of High Point Technical Review Committee	Proposal: Abandonment of an unimproved portion of Hicks Place, lying north of the W. State Avenue and Hicks Place intersection (west of Long Street).

Adjacent Streets		
Name:	Classification:	R/W and Pavement Width:
Hicks Place	Local	25 ft. R/W and unimproved
W. State Avenue	Local	25 ft. R/W and 18-foot ribbon pavement

Adjacent Property Zoning and Current Land Use		
North:	Residential Single-Family-9 (RS-9)	Single-family Residence
South:	Residential Single-Family-9 (RS-9)	Local Street (Hicks Place)
East:	Residential Single-Family-7 (RS-7)	Single-family Residence
West:	Residential Single-Family-9 (RS-9)	Church

Analysis

The portion of Hicks Place right-of-way being considered for abandonment contains approximately 0.11 acres in area (approximately 25 feet wide by 192 feet in length). The right-of-way contains a sanitary sewer line and a stormwater line. The stormwater line crosses the property to the east before entering the right-of-way. The sewer line runs the length of the right-of-way. The area is wooded and the topography drops approximately 16-feet from the Hicks Place and W. State Avenue intersection to the northern terminus of the right-of-way. The property to the east obtains access and has frontage on W. State Avenue. The property to the west obtains access and has frontage on the improved portion of Hicks Place. In addition, the unimproved portion of Hicks Place is not wide enough to improve to city standards.

Findings

The Technical Review Committee (TRC) reviewed this request on April 22, 2009 and identified no issues that would prevent its abandonment. An early notice was sent to the abutting property owners on May 8, 2009. A 20-foot public sanitary sewer easement shall be retained centered over the existing sewer line and a 15-foot public drainageway easement shall be retained centered over the existing stormwater pipe.

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

Recommendation

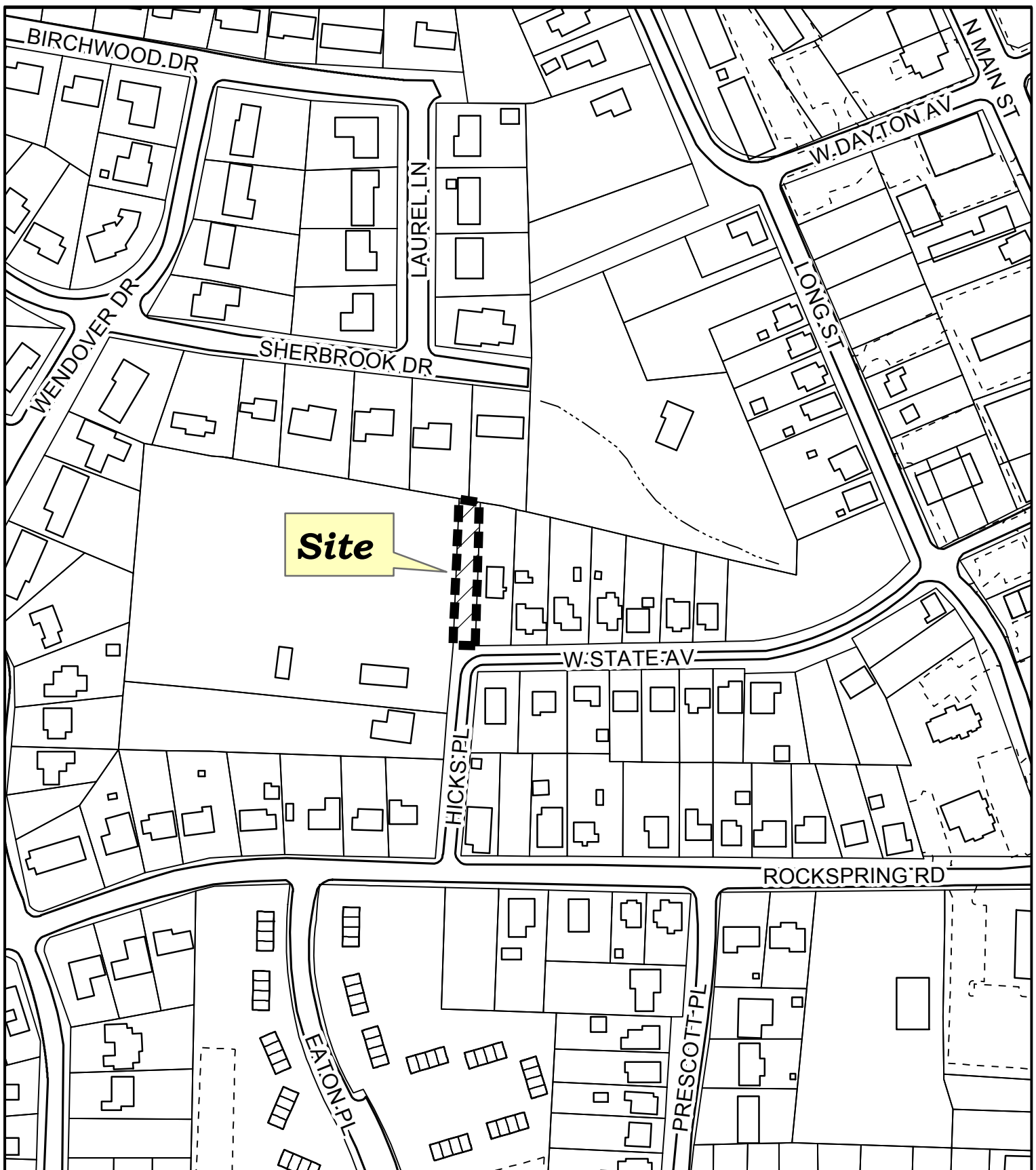
The Planning and Development Department recommends approval of the requested street right-of-way abandonment with the retention of a 20 foot sanitary sewer utility easement and a 15 foot public drainage easement based on preliminary findings that it is not contrary to the public interest, and that no property in the vicinity of the street abandonment would be deprived of reasonable means of ingress or egress.

Report Preparation

This report was prepared by Planning and Development Department staff member Mark Schroeder AICP, and reviewed by Bob Robbins AICP and Lee Burnette AICP.

Attachments:

- 2 Photographs
- 1 Aerial with annotation



STREET ABANDONMENT REQUEST SA09-12

Applicant: Technical Review Committee
Area: 0.17 acres



Location of requested street abandonment

**Planning & Development
 Department**

City of High Point

Date: May 7, 2009



Scale: 1"=200'

y:/ba-pz/2009/pz/sa09-12.mxd

Attachments: Photographs (April, 2009) and Aerial (February, 2008)



Looking north from Hicks Place.



Looking south on Hicks Place from intersection with W. State Avenue

Attachments: Photographs (April, 2009) and Aerial (February, 2008)



Aerial with the abandonment area highlighted.



CITY OF HIGH POINT NORTH CAROLINA



DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION DIVISION

AGENDA ITEM

To: Strib Boynton, City Manager
From: Mark McDonald, Transportation Director
Date: May 29, 2009
Subject: Section 5309 Capital Grant Agreement with NCDOT

On May 6, 2009, the North Carolina Board of Transportation approved funds in the amount of \$201,770 for the state match portion of one of the grants for the construction of Mendenhall Station.

Enclosed are two copies of the project agreement to be executed between the City of High Point and the North Carolina Department of Transportation.

Staff is asking City Council to authorize the City Manager to enter into this agreement on behalf of the City of High Point.

If you have any questions or would like to discuss the matter further, please advise.

PW/aww

716 West Kivett Drive, High Point, North Carolina 27262
Phone (336) 889-7433 • TDD Phone (336) 883-8517
Fax (336) 883-3425 • www.high-point.net/hitrans

RESOLUTION
AUTHORIZING **CITY OF HIGH POINT**
TO ENTER INTO AN AGREEMENT WITH
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

A motion was made by _____ and seconded by _____ for adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, the **City of High Point** has requested the North Carolina Department of Transportation to assist in the funding of Furniture Market Transportation Terminal (aka **Mendenhall Station**); and

WHEREAS, the **City of High Point** will provide **10%** of the cost of the above described project;

NOW THEREFORE, BE IT RESOLVED that the **City Manager** is hereby authorized to enter into a contract with the Department of Transportation and execute all agreements and contracts with the North Carolina Department of Transportation, Public Transportation Division.

.....
I, **Lisa Vierling, City Clerk** do hereby certify that the above is a true and correct copy of an excerpt for the minutes of a meeting of the **City of High Point** duly held on the **18th** day of **June**, 2009.

Signature of Certifying Official

STATE OF NORTH CAROLINA
COUNTY OF WAKE

PUBLIC TRANSPORTATION
SECTION 5309 CAPITAL PROGRAM
GRANT AGREEMENT

**NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**

DOT NUMBER: DOT-19

and

PROJECT NUMBER: 08-04-002

CITY OF HIGH POINT

WBS ELEMENT: 42698

PO NUMBER: TBD

THIS AGREEMENT made this the _____ day of _____, 20____, by and between the **DEPARTMENT OF TRANSPORTATION** (hereinafter referred to as "THE Department"), an agency of the State of North Carolina, and **CITY OF HIGH POINT** (hereafter referred to as the "Contractor").

WHEREAS, Chapter 53 of Title 49 U.S.C. 5309 provides for capital grants to states and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas; and

WHEREAS, the purposes of Chapter 53 of Title 49 U.S.C. 5309 are to assist in the development of improved public transportation facilities, equipment, techniques, and methods with cooperation of public transportation companies both public and private; to encourage the planning and establishment of areawide urban public transportation systems needed for economical and desirable urban development, with the cooperation of public transportation companies both public and private; and to provide assistance to State and local governments and their instrumentality's in financing such systems, to be operated by public or private public transportation companies by local needs; and

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes designated the Department of Transportation as the agency of the State of North Carolina responsible for administering all federal and/or State programs relating to public transportation, and granted the Department authority to do all things required under applicable federal and/or State legislation to administer properly the public transportation programs within the State of North Carolina; and

WHEREAS, the Department and the Contractor desire to secure and utilize grant funds for planning local public transportation services in North Carolina and/or for the purchase of capital for the provision of transit services:

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Department and the Contractor agree as follows:

Section 1. Purpose of Agreement. The purpose of Agreement is to provide for the undertaking of the planning study and/or capital improvements (hereinafter referred to as "Project") by the Contractor and to state the terms, conditions, and mutual undertakings of the parties as to the manner in which the Project will be undertaken and completed.

Section 2. Project Implementation. The Contractor agrees to carry out the Project as follows:

- a. Scope of Project. The Contractor shall undertake and complete the Project as described in its Application, herewith incorporated by reference, filed with and approved by the Department. The Contractor shall undertake and complete the Project in accordance with the procedures and guidelines set forth in the following documents:

- (1) Office of Management and Budget (OMB) Circular A-102, Grants and Cooperative Agreements with State and Local Governments (49 CFR 18);
- (2) FTA Master Agreement, document number FTA MA (13), dated October 1, 2006, at (www.fta.dot.gov/documents/13-Master.doc);
- (3) The Section 5309 grant application for financial assistance

The aforementioned documents, and any subsequent amendments or revisions thereto, are herewith incorporated by reference, and are on file with and approved by the Department in accordance with the terms and conditions of this Agreement. Nothing shall be construed under the terms of this Agreement by the Department or the Contractor that shall cause any conflict with Department, State, or Federal statutes, rules, or regulations.

b. Cost of Project. The total cost of the Project approved by the Department is **TWO MILLION SEVENTEEN THOUSAND SEVEN HUNDRED DOLLARS (\$2,017,700)** as set forth in the Project Description and Budget, incorporated into this Agreement as Attachment A.

- (1) State Share. The Department shall provide, from State funds, **TEN PERCENT (10%)** of the actual net cost of the Project, not in excess of **TWO HUNDRED ONE THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$201,770)**. The Contractor shall be responsible for any remaining costs.

- (2) Local Share. The Contractor hereby agrees that it will provide **TEN PERCENT (10%)** of the actual net cost of the Project and any amounts in excess of the Department's maximum. The net cost is the price paid minus any refunds, rebates, or other items of value received by the Contractor which have the effect of reducing the actual cost. The Contractor shall initiate and prosecute to completion all actions necessary to enable it to provide its share of the Project costs at the time directed.

c. Period of Performance. This Agreement shall commence upon the date of execution, unless specific written authorization from the Department to the contrary is received. The period of performance for all expenditures shall extend from **JULY 1, 2008** to **JUNE 30, 2009** unless written authorization to the contrary is provided by the Department. Any requests to change the Period of Performance must be made in accordance with the policies and procedures established by the Department or FTA. The Contractor shall commence, carry on, and complete the approved Project with all practicable dispatch, in a sound, economical, and efficient manner.

d. Contractor's Capacity. The Contractor agrees to maintain sufficient legal, financial, technical, and managerial capability to:

- (1) Plan, manage, and complete the Project;
- (2) Carry out the safety and security aspects of the Project; and
- (3) Comply with the terms of this agreement, the Master Agreement between the FTA and the Department, the Approved Project Budget, the Project schedules, and applicable Federal and State laws, regulations, and directives.

e. Administrative Requirements. The Contractor agrees to comply with the following Federal and State administrative requirements:

- (1) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18 at (<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1>).
- (2) Title 19A North Carolina Administrative Code (N.C.A.C.) Subchapter 5B at (<http://reports.oah.state.nc.us/ncac.asp>).

f. Application of Federal, State, and Local Laws, Regulations, and Directives. To achieve compliance with changing federal requirements, the Contractor makes note that federal, state and local requirements may change and the changed requirements will apply to this Agreement as required.

g. Contractor's Primary Responsibility to Comply with Federal and State Requirements. Irrespective of involvement by any other participant in the Project, the Contractor agrees that it, rather than the participant, is ultimately responsible for compliance with all applicable Federal and State laws, regulations, and directives, the Master Agreement between the FTA and the Department, and this Agreement, except to the extent that the Department determines otherwise in writing. Unless otherwise authorized in writing by the Department, the Contractor shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of the Department. Further, the Contractor shall incorporate the provisions of this Agreement into any lease arrangement and shall not enter into any lease arrangement without the prior concurrence of the Department. Any lease approved by the Department shall be subject to the conditions or limitations governing the lease as set forth by the FTA and the Department. If the Contractor leases any Project asset to another party, the Contractor agrees to retain ownership of the leased asset, and assure that the Lessee will use the Project asset to provide mass transportation service, either through a "Lease and Supervisory Agreement" between the Contractor and Lessee, or another similar document. The Contractor agrees to provide a copy of any relevant documents.

(1) Significant Participation by a Third Party Contractor. Although the Contractor may enter into a third party contract, after obtaining approval from the Department, in which the third party contractor agrees to provide property or services in support of the Project, or even carry out Project activities normally performed by the Contractor, the Contractor agrees that it, rather than the third party contractor, is ultimately responsible to the Department for compliance with all applicable Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing.

(2) Significant Participation by a Subcontractor. Although the Contractor may delegate any or almost all Project responsibilities to one or more subcontractors, the Contractor agrees that it, rather than the subcontractor, is ultimately responsible for compliance with all applicable Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing.

(3) Significant Participation by a Lessee of a Contractor. Although the contractor may lease project property and delegate some or many project responsibilities to one or more lessees, the Contractor agrees that it, rather than any lessee, is ultimately responsible for compliance with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing.

h. Contractor's Responsibility to Extend Federal and State Requirements to Other Entities.

(1) Entities Affected. Only entities that are signatories to this Agreement for the Project are parties to this agreement. To achieve compliance with certain Federal and State laws, regulations, or directives, however, other

Project participants, such as subrecipients and third party contractors, will necessarily be involved. Accordingly, the Contractor agrees to take the appropriate measures necessary to ensure that all Project participants comply with applicable Federal and State laws, regulations, and directives affecting their performance, except to the extent the Department determines otherwise in writing.

(2) Documents Affected. The applicability provisions of Federal and State laws, regulations, and directives determine the extent to which their provisions affect a Project participant. Thus, the Contractor agrees to include adequate provisions to ensure that each Project participant complies with those Federal and State laws, regulations, and directives, except to the extent that the Department determines otherwise in writing. In addition, the Contractor also agrees to require its third party contractors, subrecipients, and lessees to include adequate provisions to ensure compliance with applicable Federal and State laws, regulations, and directives in each lower tier subcontract and subagreement for the Project, except to the extent that the Department determines otherwise in writing. Additional requirements include the following:

(a) Third Party Contracts. Because Project activities performed by a third party contractor must comply with all applicable Federal and State laws, regulations, and directives, except to the extent the Department determines otherwise in writing, the Contractor agrees to include appropriate clauses in each third party contract stating the third party contractor's responsibilities under Federal and State laws, regulations, and directives, including any provisions directing the third party contractor to extend applicable requirements to its subcontractors at the lowest tier necessary. When the third party contract requires the third party contractor to undertake responsibilities for the Project usually performed by the Contractor, the Contractor agrees to include in that third party contract those requirements applicable to the Contractor imposed by the Grant Agreement for the Project or the FTA Master Agreement and extend those requirements throughout each tier except as the Department determines otherwise in writing. Additional guidance pertaining to third party contracting is contained in the FTA's "Best Practices Procurement Manual." FTA and the Department caution, however, that FTA's "Best Practices Procurement Manual" focuses mainly on third party procurement processes and may omit certain other Federal requirements applicable to the work to be performed.

(b) Subagreements. Because Project activities performed by a subcontractor/subrecipient must comply with all applicable Federal and State laws, regulations, and directives except to the extent that the Department determines otherwise in writing, the Contractor agrees as follows:

1. Written Subagreement. The Contractor agrees to enter into a written agreement with each subrecipient (subagreement) stating the terms and conditions of assistance by which the Project will be undertaken and completed.
2. Compliance with Federal Requirements. The Contractor agrees to implement the Project in a manner that will not compromise the Contractor's compliance with Federal and State

laws, regulations, and directives applicable to the Project and the Contractor's obligations under this Agreement for the Project and the FTA Master Agreement. Therefore, the Contractor agrees to include in each subagreement appropriate clauses directing the subrecipient to comply with those requirements applicable to the Contractor imposed by this Agreement for the Project or the FTA Master Agreement and extend those requirements as necessary to any lower level subagreement or any third party contractor at each tier, except as the Department determines otherwise in writing.

i. No Federal/State Government Obligations to Third Parties. In connection with performance of the Project, the Contractor agrees that, absent the Federal/State Government's express written consent, the Federal/State Government shall not be subject to any obligations or liabilities to any subrecipient, third party contractor, lessee or other person or entity that is not a party to this Agreement for the Project. Notwithstanding that the Federal/State Government may have concurred in or approved any solicitation, subagreement, third party contract or lease, the Federal/State Government has no obligations or liabilities to such entity, including any subrecipient, third party contractor or lessee.

j. Changes in Project Performance (i.e., Disputes, Breaches, Defaults, or Litigation). The Contractor agrees to notify the Department immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may adversely affect the Contractor's ability to perform the Project as provided in this Agreement for the Project. The Contractor also agrees to notify the Department immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect the Federal/State Government's interests in the Project or the Federal/State Government's administration or enforcement of Federal/State laws or regulations; and agrees to inform the Department, also in writing, before naming the Federal or State Government as a party to litigation for any reason, in any forum.

k. Limitations of Agreement. This Agreement shall be subject to the availability of State funds, and contingent upon the terms and conditions of the Master Agreement between the FTA and the Department.

Section 3. Ethics.

a. Code of Ethics. The Contractor agrees to maintain a written code or standards of conduct that shall govern the actions of its officers, employees, board members, or agents engaged in the award or administration of third party contracts, subagreements, or leases financed with Federal/State assistance. The Contractor agrees that its code or standards of conduct shall specify that its officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential third party contractor at any tier, any subrecipient at any tier or agent thereof, or any lessee. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award. The Contractor may set de minimis rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Contractor agrees that its code or standards shall also prohibit the its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by State or local

law or regulations, the Contractor agrees that its code or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, board members, or their agents, its third party contractors or sub-recipients or their agents.

(1) Personal Conflicts of Interest. The Contractor agrees that its code or standards of conduct shall prohibit the Contractor's employees, officers, board members, or agents from participating in the selection, award, or administration of any third party contract, or sub-agreement supported by Federal/State assistance if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award.

(2) Organizational Conflicts of Interest. The Contractor agrees that its code or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or sub-agreement, may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or sub-recipient or impair its objectivity in performing the contract work.

b. Debarment and Suspension. The Contractor agrees to comply, and assures the compliance of each third party contractor, sub-recipient, or lessee at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government-wide Debarment and Suspension (Non-procurement)," 49 C.F.R. Part 29. The Contractor agrees to, and assures that its third party contractors, sub-recipients, and lessees will, review the Excluded Parties Listing System at (<http://epls.arnet.gov/>) before entering into any contracts.

c. Bonus or Commission. The Contractor affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its Federal/State assistance application for the Project.

d. Lobbying Restrictions. The Contractor agrees that:

(1) In compliance with 31 U.S.C. 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement;

(2) It will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities, designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

(3) It will comply, and will assure the compliance of each sub-recipient, lessee, or third party contractor at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

e. Employee Political Activity. To the extent applicable, the Contractor agrees to comply with the provisions of the Hatch Act, 5 U.S.C. §§ 1501 through 1508, and 7324 through 7326, and U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. Part 151. The Hatch Act limits the political activities of State and local agencies and their officers and employees, whose principal employment activities are financed in whole or part

with Federal funds including a Federal grant, cooperative agreement, or loan. Nevertheless, in accordance with 49 U.S.C. § 5307(k)(2)(B) and 23 U.S.C. § 142(g), the Hatch Act does not apply to a non-supervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act would not otherwise apply.

f. False or Fraudulent Statements or Claims. The Contractor acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. By executing this Agreement for the Project, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Contractor also understands that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal/State Government concerning the Project, the Federal/State Government reserves the right to impose on the Contractor the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal/State Government deems appropriate.

(1) Criminal Fraud. If the Contractor makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal/State Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal/State Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal/State Government reserves the right to impose on the Contractor the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001 or other applicable Federal/State law to the extent the Federal/State Government deems appropriate.

Section 4. Project Expenditures.

a. General. The Department shall reimburse the Contractor for allowable costs for work performed under the terms of this Agreement. The Contractor shall expend funds provided in this Agreement in accordance with the approved Project Budget(s), included as Attachment A to this Agreement. It is understood and agreed that the work conducted pursuant to this Agreement shall be done on an actual cost basis by the Contractor. Expenditures submitted for reimbursement shall include all eligible cost incurred within the Period Covered. The Period Covered represents the monthly or quarterly timeframe in which the project reports expenditures to the Department. All payments issued by the Department will be on a reimbursable basis unless the Contractor requests and the Department approves an advance payment. The Department allows grantees in good standing to request advance payment (prior to issuing payment to the vendor) for vehicles and other high-cost capital items. The Contractor agrees to deposit any advance payments into its account when received and issue payment to the vendor within 3 (three) business days. The amount of reimbursement from the Department shall not exceed the funds budgeted in the approved Project Budget. The Contractor shall initiate and prosecute to completion all actions necessary to enable the Contractor to provide its share of project costs at or prior to the time that such funds are needed to meet project costs. The Contractor shall provide its share of project costs from sources other than FTA and State funds from the Department. Any

costs for work not eligible for Federal and State participation shall be financed one hundred percent (100%) by the Contractor.

b. Administrative Expenditures. In order to assist the Contractor in financing the administrative costs of the project, the Department shall reimburse the Contractor up to the percentage specified in the Approved Project Budget of allowable administrative costs which shall be determined by available funding.

c. Operating Expenditures. In order to assist in financing the operating costs of the project, the Department shall reimburse the Contractor for the lesser of the following when providing Section 5311 operating assistance:

(1) The balance of unrecovered operating expenditures after deducting all farebox and other operating revenues, or

(2) Up to the percentage specified in the Approved Project Budget of the allowable total operating expenditures which shall be determined by available funding.

d. Capital Expenditures. In order to assist the Contractor in financing the capital costs of the Project, the Department shall reimburse the Contractor up to the percentage specified in the Approved Project Budget of allowable costs which shall be determined by available funding.

e. Payment and Reimbursement. The Contractor shall submit itemized invoices to the Department not more frequently than monthly, nor less frequently than quarterly, reporting on the Department's Uniform Public Transportation Accounting System (UPTAS) invoicing forms furnished by the Department for work performed under this Agreement. Additional forms must be submitted with reimbursement requests to report on contracting activities with Disadvantaged Business Enterprise (DBE) firms. Invoices shall be supported by documentation of costs unless otherwise waived by the Department. Expenditures submitted for reimbursement shall include all eligible costs incurred within the Period Covered. All requests for reimbursement must be submitted within (30) days following the end of the project's reporting period. Failure to request reimbursement for eligible projects costs incurred within the Period Covered as outlined may result in non-payment and/or termination of the Project. Invoices shall be approved by the Department's Public Transportation Division and reviewed by the Department's External Audit Branch prior to payment.

f. Excluded Costs. The Contractor understands and agrees that, except to the extent the Department determines otherwise in writing, ineligible costs will be treated as follows:

(1) In determining the amount of Federal/State assistance the Department will provide, the Department will exclude:

(a) Any Project cost incurred by the Contractor before the effective date of the grant;

(b) Any cost that is not included in the latest Approved Project Budget;

(c) Any cost for Project property or services received in connection with a third party contract, sub-agreement, lease, or other arrangement that is required to be, but has not been, concurred in or approved in writing by FTA;

(d) Any non-project cost consistent with the prohibitions of 49 U.S.C. § 5323(h); and

(e) Any cost ineligible for FTA/Department participation as provided by applicable Federal/State laws, regulations, or directives.

(2) The Contractor shall limit reimbursement for meals, lodging and travel to

the rates established by the State of North Carolina Travel Policy. Costs incurred by the Contractor in excess of these rates shall be borne by the contractor.

(3) The Contractor understands and agrees that payment to the Contractor for any Project cost does not constitute the Federal/State Government's final decision about whether that cost is allowable and eligible for payment and does not constitute a waiver of any violation by the Contractor of the terms of this Agreement. The Contractor acknowledges that the Federal/State Government will not make a final determination about the allowability and eligibility of any cost until an audit of the Project has been completed. If the Federal/State Government determines that the Contractor is not entitled to receive any portion of the Federal/State assistance the Contractor has requested or provided, the Department will notify the Contractor in writing, stating its reasons. The Contractor agrees that Project closeout will not alter the Contractor's responsibility to return any funds due the Federal/State Government as a result of later refunds, corrections, or other transactions; nor will Project closeout alter the Federal/State Government's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by Federal/State law or regulation, the Federal/State Government may recover any Federal/State assistance funds made available for the Project as necessary to satisfy any outstanding monetary claims that the Federal/State Government may have against the Contractor.

g. Federal/State Claims, Excess Payments, Disallowed Costs, including Interest.

(1) Contractor's Responsibility to Pay. Upon notification to the Contractor that specific amounts are owed to the Federal/State Government, whether for excess payments of Federal/State assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Contractor agrees to remit to the Department promptly the amounts owed, including applicable interest and any penalties and administrative charges.

(2) Amount of Interest. The Contractor agrees to remit to the Department interest owed as determined in accordance with N.C.G.S. 147-86.23. Upon notification to the Contractor that specific amounts are owed to the Federal Government, whether for excess payments of Federal assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Contractor agrees to remit to the Federal Government promptly the amounts owed, including applicable interest, penalties and administrative charges.

(3) Payment to FTA. Upon receipt of repayment from the Contractor, the Department shall be responsible to remit amounts owed to FTA.

h. De-obligation of Funds. The Contractor agrees that the Department may de-obligate unexpended Federal and State funds before Project closeout.

Section 5. Accounting Records.

a. Establishment and Maintenance of Accounting Records. The Contractor shall establish and maintain separate accounts for the public transportation program, either independently or within the existing accounting system. All costs charged to the program shall be in accordance with most current approved Annual Budget and shall be reported to the Department in accordance with UPTAS.

b. Documentation of Project Costs. All costs charged to the Project, including any approved services performed by the Contractor or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges, as referenced in 49

C.F.R. 18, the Office of Management and Budget Circulars A-87, "Costs Principles for State, Local, and Indian Tribal Governments" and A-102 "Grants and Cooperative Agreements with State and Local Governments."

c. Allowable Costs. Expenditures made by the Contractor shall be reimbursed as allowable costs to the extent they meet all of the requirements set forth below. They must be:

- (1) Consistent with the Project Description, plans, specifications, and Project Budget and all other provisions of this Agreement;
- (2) Necessary in order to accomplish the Project;
- (3) Reasonable in amount for the goods or services purchased;
- (4) Actual net costs to the Contractor, i.e., the price paid minus any refunds (e.g., refundable sales and use taxes pursuant to N.C.G.S. 105-164.14), rebates, or other items of value received by the Contractor that have the effect of reducing the cost actually incurred;
- (5) Incurred (and be for work performed) within the period of performance of this Agreement unless specific authorization from the Department to the contrary is received;
- (6) Satisfactorily documented;
- (7) Treated uniformly and consistently under accounting principles and procedures approved or prescribed by the Department; and
- (8) In compliance with U.S. DOT regulations pertaining to allowable costs at 49 C.F.R. § 18.22(b) or 49 C.F.R. § 19.27, which regulations specify the applicability of U.S. Office of Management and Budget (U.S. OMB) circulars and Federal Acquisition Regulation (FAR) provisions are follows:
 - (a1) U.S. OMB Guidance for Grants and Agreements, "Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87)", 2 C.F.R. Part 225, applies to Project costs incurred by a Contractor that is a State, local, or Indian tribal government.
 - (b1) U.S. OMB Guidance for Grants and Agreements, "Cost Principles for Educational Institutions (OMB Circular A-21)", 2 C.F.R. Part 220, applies to Project costs incurred by a Contractor that is an institution of higher education.
 - (c1) U.S. OMB Guidance for Grants and Agreements "Cost Principles for Non-profit Organizations (OMB Circular A-122)," 2 C.F.R. Part 230, applies to Project costs incurred by a Contractor that is a private nonprofit organization.
 - (d1) FAR, at 48 C.F.R., Subpart 31.2, "Contracts with Commercial Organizations" applies to Project costs incurred by a Contractor that is a for-profit organization.

Section 6. Reporting, Record Retention, and Access.

a. Reports. The Contractor shall advise the Department regarding the progress of the Project at a minimum quarterly and at such time and in such a manner as the Department may require. Such reporting and documentation may include, but not limited to meetings and progress reports. The Contractor shall collect and submit to the Department at such time as it may require, such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by the Department. Such reports shall include narrative and financial

statements of sufficient substance to be in conformance with the reporting requirements of the Department. The Contractor will be responsible for having an adequate cost accounting system, and the ongoing burden of proof of adequacy for such system shall be upon the Contractor. The Department will determine whether or not the Contractor has an adequate cost accounting system. Such determination shall be documented initially prior to payment of any invoices pursuant to the Agreement, and from time to time as deemed necessary by the Department. In the event of a negative finding during such determining proceedings, the Department may suspend, revoke, or place conditions upon its determination, and/or may recommend or require remedial actions as appropriate.

b. Record Retention. The Contractor and its third party contractors shall retain all records pertaining to this Project for a period of five (5) years from the date of final payment to the Contractor, or until all audit exceptions have been resolved, whichever is longer, in accordance with "Records Retention and Disposition Schedule – Public Transportation Systems and Authorities, April 1, 2006," at (<http://www.ah.dcr.state.nc.us/records/local/>).

c. Access to Records of Contractor and Subcontractors. The Contractor shall permit and shall require its third party contractors to permit the Department, the Comptroller General of the United States, and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts of the Contractor pertaining to the Project.

d. Project Closeout. The Contractor agrees that Project closeout does not alter the reporting and record retention requirements of this Section 6 of this Agreement.

Section 7. Project Completion, Audit, Settlement, and Closeout.

a. Project Completion. Within ninety (90) calendar days following Project completion, the end of the Project's period of performance, or termination by the Department, the Contractor agrees to submit a final reimbursement request to the Department for eligible Project expenses.

b. Financial Reporting and Audit Requirements. In accordance with OMB Circular A-133, "Audits of State, Local Governments and Non-Profit Organizations," revised on June 27, 2003, and N.C.G.S. 159-34, the Contractor shall have its accounts audited as soon as possible after the close of each fiscal year by an independent auditor. The Contractor agrees to submit the required number of copies of the audit reporting package to the Local Government Commission four months after the Contractor's fiscal year-end.

c. Audit Costs. Unless prohibited by law, the costs of audits made in accordance with the provisions of OMB Circular A-133 are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in OMB Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments." The cost of any audit not conducted in accordance with OMB Circular A-133 and N.C.G.S. 159-34 is unallowable and shall not be charged to State or Federal grants.

d. Funds Owed to the Department. The Contractor agrees to remit to the Department any excess payments made to the Contractor, any costs disallowed by the Department, and any amounts recovered by the Contractor from third parties or from other sources, as well as any penalties and any interest required by Subsection 4g of this Agreement.

e. Project Closeout. Project closeout occurs when the Department issues the

final project payment or acknowledges that the Contractor has remitted the proper refund. The Contractor agrees that Project closeout by the Department does not invalidate any continuing requirements imposed by this Agreement.

Section 8. Civil Rights. The Contractor agrees to comply with all applicable civil rights laws and implementing regulations including, but not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21.

c. Equal Employment Opportunity. The Contractor agrees to comply, and assures the compliance of each third party contractor at any tier of the Project and each subrecipient at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Accordingly:

(1) General. The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Contractor agrees to comply and assures the compliance of each third party contractor at any tier or subrecipient at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

d. Minority and Women Business Enterprises (MBE/WBE).

(1) Policy. It is the policy of the North Carolina Department of Transportation that Minority Business Enterprises and Women Business Enterprises (MBE/WBEs) as defined in GS 136-28.4 shall

have the equal opportunity to compete fairly for and to participate in the performance of contracts financed by the State Funds.

The Firm is also encouraged to give every opportunity to allow MBE/WBE participation in Supplemental Agreements.

- (2) Obligation. The Firm, subconsultant, and subfirm shall not discriminate on the basis of race, religion, color, creed, national origin, sex, handicapping condition or age in the performance of this contract. The Firm shall comply with applicable requirements of GS 136-28.4 in the award and administration of federally assisted contracts. Failure by the Firm to comply with these requirements is a material breach of this contract, which will result in the termination of this contract or such other remedy, as the Department deems necessary.
- (3) Goals. Even though specific MBE/WBE goals are not established for this project, the Department encourages the Firm to have participation from MBE/WBE contractors and/or suppliers.
- (4) Listings of MBE/WBE Subcontractors: The firm, at the time the Letter of Interest is submitted, shall submit a listing of all known MBE/WBE firms that will participate in the performance of the identified work. The participation shall be submitted on the Department's Form RS-2. In the event the firm has no MBE/WBE participation, the firm shall indicate this on the Form RS-2 by entering the word 'None' or the number 'zero' and the form shall be signed. Form RS-2 may be accessed on the website at <https://apps.dot.state.nc.us/quickfind/forms/Default.aspx>.
- (5) Certified Transportation Firms Directory. Real-time information about firms doing business with the Department and firms that are certified through North Carolina's Unified Certification Program is available in the Directory of Transportation Firms. The Directory can be accessed by the link on the Department's homepage or by entering <https://apps.dot.state.nc.us/vendor/directory/> in the address bar of your web browser. Only firms identified as MBE/WBE certified in the Directory shall be listed in the proposal.

The listing of an individual firm in the Department's directory shall not be construed as an endorsement of the firm's capability to perform certain work

- (6) Reporting MBE/WBE Enterprise Participation. When payments are made to MBE/WBE firms, including material suppliers, firms at all levels (Firm, subconsultant or subfirm) shall provide the Contract Administrator with an accounting of said payments. The accounting shall be listed on the Department's Subcontractor Payment Information Form (Form DBE-IS). In the event the firm has no MBE/WBE participation, the firm shall indicate this on the Form DBE-IS by entering the word 'None' or the number 'zero' and the form shall be signed. Form DBE-IS may be accessed on the website at <https://apps.dot.state.nc.us/quickfind/forms/Default.aspx>.

A responsible fiscal officer of the payee Firm, subconsultant or subfirm who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained

from the Department of Transportation. This information shall be submitted as part of the requests for payments made to the Department.

g. Access for Individuals with Disabilities. The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Department determines otherwise in writing, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

h. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Contractor agrees to comply with the confidentiality and

other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 et seq., with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 et seq., and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 et seq., and any subsequent amendments to these acts.

i. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that the Department determines otherwise in writing, the Contractor agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 et seq., January 22, 2001.

j. Environmental Justice. The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Department determines otherwise in writing.

k. Other Nondiscrimination Laws. The Contractor agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination that are applicable, except to the extent the Department determines otherwise in writing.

Section 9. Planning and Private Enterprise.

a. General. To the extent applicable, the Contractor agrees to implement the Project in a manner consistent with the plans developed in compliance with the Federal planning and private enterprise provisions of the following:

(1) 49 U.S.C. §§ 5303, 5304, 5306, and 5323(a)(1);

(2) Joint Federal Highway Administration (FHWA)/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, as amended by joint FHWA/FTA guidance, "SAFETEA-LU Deadline for New Planning Requirements (July 1, 2007)," dated May 2, 2006 [clarifying Guidance on Implementation of SAFETEA-LU Planning Provisions], and subsequent Federal directives implementing SAFETEA-LU, except to the extent FTA determines otherwise in writing;

(3) Joint FHWA/FTA regulations, "Planning Assistance and Standards," 23 C.F.R. Part 450 and 49 C.F.R. Part 613 to the extent that those regulations are consistent with the SAFETEA-LU amendments to public transportation planning and private enterprise laws, and subsequent amendments to those regulations that may be promulgated; and

(4) FTA regulations, "Major Capital Investment Projects," 49 C.F.R. Part 611, to the extent that those regulations are consistent with the SAFETEA-LU amendments to the public transportation planning and private enterprise laws, and any subsequent amendments to those regulations that may be subsequently promulgated.

b. Governmental and Private Nonprofit Providers of Nonemergency Transportation. In addition to providing opportunities to participate in planning as described in Subsection 9a of this Agreement, to the extent feasible the Contractor agrees to comply with the provisions of 49 U.S.C. § 5323(k), which afford governmental agencies and nonprofit organizations that receive Federal assistance

for nonemergency transportation from Federal Government sources (other than U.S. DOT) an opportunity to be included in the design, coordination, and planning of transportation services.

c. Infrastructure Investment. During the implementation of the Project, the Contractor agrees to take into consideration the recommendations of Executive Order No. 12803, "Infrastructure Privatization," 31 U.S.C. § 501 note, and Executive Order No. 12893, "Principles for Federal Infrastructure Investments," 31 U.S.C. § 501 note.

Section 10. Preference for United States Products and Services. To the extent applicable, the Contractor agrees to comply with U.S. domestic preference requirements.

Section 11. Procurement. To the extent applicable, the Contractor agrees to comply with the following third party procurement provisions:

a. Federal Standards. The Contractor agrees to comply with the third party procurement requirements of 49 U.S.C. chapter 53 and other applicable Federal laws in effect now or as subsequently enacted; with U.S. DOT third party procurement regulations of 49 C.F.R. §§ 18.36 and other applicable Federal regulations pertaining to third party procurements and subsequent amendments thereto, to the extent those regulations are consistent with SAFETEA-LU provisions; and Article 8 of Chapter 143 of the North Carolina General Statutes. The Contractor also agrees to comply with the provisions of FTA Circular 4220.1E, "Third Party Contracting Requirements," to the extent those provisions are consistent with SAFETEA-LU provisions and with any subsequent amendments thereto, except to the extent the Department or the FTA determines otherwise in writing. Although the FTA "Best Practices Procurement Manual" provides additional procurement guidance, the Contractor understands that the FTA "Best Practices Procurement Manual" is focused on third party procurement processes and may omit certain Federal requirements applicable to the third party contract work to be performed. The Contractor shall establish written procurement procedures that comply with the required Federal and State standards.

b. Full and Open Competition. In accordance with 49 U.S.C. § 5325(a), the Contractor agrees to conduct all procurement transactions in a manner that provides full and open competition as determined by the Department and FTA.

c. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal laws or regulations, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5325(h) by not using any Federal assistance awarded by FTA to support a procurement using exclusionary or discriminatory specification.

d. Geographic Restrictions. The Contractor agrees that it will not use any State or local geographic preference, except State or local geographic preferences expressly mandated or as permitted by the Department.

e. Department Pre-Award Approval. The Contractor agrees to submit procurement documents to the Department for its review and approval prior to award of a contract/subcontract under this Agreement for any of the following:

- (1) Any "brand name" product or sole source purchase equal to or greater than \$2,500;
- (2) Any contract/subcontract to other than the apparent lowest bidder equal to or greater than \$2,500;
- (3) Any procurement equal to or greater than \$90,000;
- (4) Any contract modification that would change the scope of a contract or increase the contract amount up to or over the formal (sealed) bid threshold of \$90,000.

f. Project Approval/Third Party Contract Approval. Except to the extent the Department determines otherwise in writing, the Contractor agrees that the Department's award of State assistance for the Project does not, by itself, constitute pre-approval of any non-competitive third party contract associated with the Project.

g. Preference for Recycled Products. To the extent applicable, the Contractor agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and with subsequent Federal regulations that may be promulgated. Accordingly, the Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient.

h. Competitive Proposal/Request for Proposal (RFP). The competitive proposal/request for proposal (RFP) method of procurement is normally conducted with more than one source submitting an offer, i.e., proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. The Contractor acknowledges that certain restrictions apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed below.

(1) The Contractor agrees that the RFP Method may not be used in lieu of an invitation for bids (IFB) for:

- (a) Construction/repair work; or
- (b) Purchase of apparatus, supplies, materials or equipment.
See next Subsection, this Agreement, regarding information technology goods as services.

(2) The Contractor agrees that the RFP method of solicitation may be used (in addition to or instead of any other procedure available under North Carolina law) for the procurement of information technology goods and services [as defined in N.C.G.S. 147-33.81(2)]. This applies to electronic data processing goods and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes. The Contractor will comply with the following minimum requirements [N.C.G.S. 143-129.8]:

(a) Notice of the request for proposals shall be given
In accordance with N.C.G.S. 143-129(b).

(b) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals.

(c) The Contractor may use procurement methods set forth in N.C.G.S. 143-135.9 in developing and evaluating requests for proposals.

(d) The Contractor may negotiate with any proposer in order to obtain a final contract that best meets the needs of the Contractor.

(e) Any negotiations shall not alter the contract beyond the

scope of the original request for proposals in a manner that deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(f) Proposals submitted shall not be subject to public inspection until a contract is awarded.

(3) The Contractor agrees that the RFP method, in accordance with FTA Circular 4220.1E, under the guidelines of FTA "Best Practices Procurement Manual," should be used for procurements of professional services, such as consultants for planning activities and for transit system operations/management. The Contractor acknowledges that certain restrictions apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed in Subsection 11I. of this Agreement.

When the RFP method is used for procurement of professional services, the Contractor agrees to abide by the following minimum requirements:

- (a) Normally conducted with more than one source submitting an offer (proposal);
- (b) Either fixed price or cost reimbursement type contract will be used;
- (c) Generally used when conditions are not appropriate for use of sealed bids;
- (d) Requests for proposals will be publicized;
- (d) All evaluation factors will be identified along with their relative importance;
- (e) Proposals will be solicited from an adequate number (3 is recommended) of qualified sources;
- (f) A standard method must be in place for conducting technical evaluations of the proposals received and for selecting awardees;
- (g) Awards will be made to the responsible firm whose proposal is most advantageous to the Contractor's program with price and other factors considered; and
- (i) In determining which proposal is most advantageous, the Contractor may award to the proposer whose proposal offers the greatest business value (best value) to the agency. "Best value" is based on determination of which proposal offers the best tradeoff between price and performance, where quality is considered an integral performance factor.

i. Award to Other than the Lowest Bidder. In accordance with State statutes, a third party contract may be awarded to other than the lowest bidder, if the award furthers an objective (such as improved long-term operating efficiency and lower long-term costs). When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs will be considered in determining which bid is lowest. Prior to the award of any contract equal to or greater than \$2,500 to other than apparent lowest bidder, the Contractor shall submit its recommendation along with basis/reason for selection to the Department for pre-award approval.

j. Award to Responsible Contractors. The Contractor agrees to award third party contracts only to responsible contractors who possess potential ability to successfully perform under the terms and conditions of the proposed procurement.

Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Contracts will not be awarded to parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities in accordance with the Federal debarment and suspension rule, 49 C.F.R. 29. For procurements over \$25,000, the Contractor shall comply, and assure the compliance of each third party contractor and subrecipient at any tier, with the debarment and suspension rule. FTA and the Department recommend that grantees use a certification form for projects over \$25,000, which are funded in part with Federal funds. A sample certification form can be obtained from the Department. The Contractor also agrees to check a potential contractor's debarment/suspension status at the following Web site: <http://epls.arnet.gov/>.

k. Contract Administration System. The Contractor shall maintain a contract administration system that ensures that contractors/subcontractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

l. Access to Third Party Contract Records. The Contractor agrees, and agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide to the Federal and State awarding agencies or their duly authorized representatives, access to all third party contract records to the extent required by 49 U.S.C. § 5325(g), and retain such documents for at least five (5) years after project completion.

Section 12. Leases.

a. Capital Leases. To the extent applicable, the Contractor agrees to comply with FTA regulations, "Capital Leases," 49 C.F.R. Part 639, and any revision thereto.

b. Leases Involving Certificates of Participation. The Contractor agrees to obtain the Department's concurrence before entering into any leasing arrangement involving the issuance of certificates of participation in connection with the acquisition of any capital asset.

Section 13. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that the Department determines otherwise in writing, upon request by the State Government, the Contractor agrees to indemnify, save, and hold harmless the State Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Contractor shall not be required to indemnify the State Government for any such liability caused by the wrongful acts of State employees or agents.

Section 14. Use of Real Property, Equipment, and Supplies. The Contractor understands and agrees that the State Government retains a State interest in any real property, equipment, and supplies financed with State assistance (Project property) until, and to the extent, that the State Government relinquishes its State interest in that Project property. With respect to any Project property financed with State assistance under this Agreement, the Contractor agrees to comply with the following provisions of this Agreement, except to the extent the Department determines otherwise in writing:

a. Use of Project Property. The Contractor agrees to use Project property for appropriate Project purposes (which may include joint development purposes that generate program income, both during and after the award period and used to support public transportation activities) for the duration of the useful life of that

property, as required by the Department. Should the Contractor unreasonably delay or fail to use Project property during the useful life of that property, the Contractor agrees that it may be required to return the entire amount of the State assistance expended on that property. The Contractor further agrees to notify the Department immediately when any Project property is withdrawn from Project use or when any Project property is used in a manner substantially different from the representations the Contractor has made in its Application or in the Project Description for this Agreement for the Project.

b. General. The Contractor agrees to comply with the property management standards of 49 C.F.R. §§ 18.31 through 18.33, including any amendments thereto, and with other applicable Federal and State regulations and directives. Any exception to the requirements of 49 C.F.R. §§ 18.31 through 18.33 requires the express approval of the Department in writing.

c. Records. The Contractor agrees to keep satisfactory records pertaining to the use of Project property, and submit to the Department upon request such information as may be required to assure compliance with this Agreement.

d. Encumbrance of Project Property. The Contractor agrees to maintain satisfactory continuing control of Project property as follows:

(1) Written Transactions. The Contractor agrees that it will not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, third party contract, subagreement, grant anticipation note, alienation, innovative finance arrangement (such as a cross border lease, leveraged lease, or otherwise), or any other obligation pertaining to Project property, that in any way would affect the continuing State interest in that Project property.

(2) Oral Transactions. The Contractor agrees that it will not obligate itself in any manner to any third party with respect to Project property.

(3) Other Actions. The Contractor agrees that it will not take any action adversely affecting the State interest in or impair the Contractor's continuing control of the use of Project property.

e. Insurance Proceeds. If the Contractor receives insurance proceeds as a result of damage or destruction to the Project property, the Contractor agrees to:

- (1) Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service, or
- (2) Return to the Department an amount equal to the remaining State interest in the damaged or destroyed Project property.

f. Misused or Damaged Project Property. If any damage to Project property results from abuse or misuse occurring with the Contractor's knowledge and consent, the Contractor agrees to restore the Project property to its original condition or refund the value of the State interest in that property, as the Department may require.

g. Responsibilities after Project Closeout. The Contractor agrees that Project closeout by the Department will not change the Contractor's Project property management responsibilities as stated in Section 14 of this Agreement, and as may be set forth in subsequent Federal and State laws, regulations, and directives, except to the extent the Department determines otherwise in writing.

Section 15. Insurance. The Contractor shall be responsible for protecting the State financial interests in all items purchased under this Agreement throughout the useful life of the Project property.

Section 16. Patent Rights. If any invention, improvement, or discovery of the Contractor or any third party contractor or any subrecipient at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention,

improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify the Department immediately and provide a detailed report in a format satisfactory to the Department. The Contractor agrees that its rights and responsibilities, and those of each third party contractor at any tier of the Project and each subrecipient at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with 37 C.F.R. Part 401 and any applicable Federal and State laws, regulations, including any waiver thereof.

Section 17. Rights in Data and Copyrights.

a. Data. The term "subject data," as used in this Section 14 of this Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data" does not include financial reports, cost analyses, or similar information used for Project administration. The Contractor acknowledges that, regarding any subject data first produced in the performance of this Agreement for the Project, except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of the Department, unless the Department has previously released or approved the release of such data to the public.

b. Copyrights. The Contractor acknowledges that the FTA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (1) The copyright in any work developed under this Agreement or subagreement/subcontract; and
- (2) Any rights of copyright to which the Contractor or its subrecipients/subcontractors purchase ownership with funds awarded for this Project.

Section 18. Environmental Protections.

The Contractor recognizes that many Federal and State laws imposing environmental and resource conservation requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 through 4335; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q and scattered sections of Title 29, United States Code; the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 through 6992k; the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 through 9675, as well as environmental provisions within Title 23, United States Code, and 49 U.S.C. chapter 53. The Contractor also recognizes that U.S. EPA, FHWA and other Federal agencies have issued, and in the future are expected to issue, Federal regulations and directives that may affect the Project. Thus, the Contractor agrees to comply, and assures the compliance of each third party contractor, with any applicable Federal laws, regulations and directives as the Federal Government are in effect now or become effective in the future, except to the extent the Federal Government determines otherwise in writing. Listed below are environmental provisions of particular concern to FTA and the Department. The Contractor understands and agrees that those laws, regulations, and directives may not constitute the Contractor's entire obligation to meet all Federal environmental and resource conservation requirements.

a. National Environmental Policy. Federal assistance is contingent upon the Contractor's facilitating FTA's compliance with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and subsequent Federal environmental protection regulations that may be promulgated. As a result of enactment of 23 U.S.C. §§ 139 and 326 as well as to amendments to 23 U.S.C. § 138, environmental decision making requirements imposed on FTA projects to be implemented consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued, except to the extent that FTA determines otherwise in writing.

b. Air Quality. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal laws, regulations, and directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q, and:

(1) The Contractor agrees to comply with the applicable requirements of Section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, and any subsequent Federal conformity regulations that may be promulgated. To support the requisite air quality conformity finding for the Project, the Contractor agrees to implement each air quality mitigation or control measure incorporated in the Project. The Contractor further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the Contractor agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Contractor agrees to comply with notice of violating facility

provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

c. Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Contractor agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. In addition:

(1) The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Contractor agrees to comply with notice of violating facility provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

d. Use of Public Lands. The Contractor agrees that in implementing its Project, it will not use any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, and it will not use any land from a historic site of national, state, or local significance, unless the Federal Government makes the findings required by 49 U.S.C. §§ 303(b) and 303(c). The Contractor also agrees to comply with joint FHWA/FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Parts 771 and 774, and 49 C.F.R. Part 622, when promulgated.

e. Wild and Scenic Rivers. The Contractor agrees to comply with applicable provisions of the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 through 1287, relating to protecting components of the national wild and scenic rivers system; and to the extent applicable, to comply with U.S. Forest Service regulations, "Wild and Scenic Rivers," 36 C.F.R. Part 297, and with U.S. Bureau of Land Management regulations, "Management Areas," 43 C.F.R. Part 8350.

f. Coastal Zone Management. The Contractor agrees to assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 through 1465.

g. Wetlands. The Contractor agrees to facilitate compliance with the protections for wetlands in accordance with Executive Order No. 11990, as amended, "Protection of Wetlands," at 42 U.S.C. § 4321 note.

h. Floodplains. The Contractor agrees to comply with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, "Floodplain Management," 42 U.S.C. § 4321 note.

i. Endangered Species and Fisheries Conservation. The Contractor agrees to comply with protections for endangered species set forth in the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 through 1544, and the Magnuson Stevens Fisheries Conservation Act, as amended, 16 U.S.C. §§ 1801 et seq.

j. Historic Preservation. The Contractor agrees to encourage compliance with the Federal historic and archaeological preservation requirements of Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; with Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and with the Archaeological and Historic

Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a through 469c, as follows:

(1) In accordance with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, the Contractor agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify FTA of those properties that are affected.

(2) The Contractor agrees to comply with all applicable Federal regulations and directives to avoid or mitigate adverse effects on those historic properties, except to the extent the Federal Government determines otherwise in writing.

k. Indian Sacred Sites. The Contractor agrees to facilitate compliance with the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, in compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and with Executive Order No. 13007, "Indian Sacred Sites," 42 U.S.C. § 1996 note, except to the extent the Federal Government determines otherwise in writing.

l. Mitigation of Adverse Environmental Effects. Should the proposed Project cause or result in adverse environmental effects, the Contractor agrees to take all reasonable measures to minimize the impact of those adverse effects, as required by 49 U.S.C. § 5324(b), and other applicable Federal laws and regulations, including 23 C.F.R. Part 771 and 49 C.F.R. Part 622. The Contractor agrees to comply with all environmental mitigation measures that may be identified as commitments in applicable environmental documents, (i.e., environmental assessments, environmental impact statements, memoranda of agreement, and other documents as required by 49 U.S.C. § 303) and agrees to comply with any conditions the Federal Government might impose in a finding of no significant impact or record of decision. The Contractor agrees that those environmental mitigation measures are incorporated by reference and made part of this Agreement for the Project. The Contractor also agrees that any deferred mitigation measures will be incorporated by reference and made part of this Agreement for the Project as soon as agreement with the Federal Government is reached. The Contractor agrees that those mitigation measures agreed upon may not be modified or withdrawn without the express written approval of the Federal Government.

Section 19. Energy Conservation. The Contractor agrees to comply with the North Carolina Energy Policy Act of 1975 (N.C.G.S. 113B) issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Department determines otherwise in writing. To the extent applicable, the Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

Section 20. Charter Service Operations. FTA defines charter service under (49 CFR Part 604.3 (c-h) as *Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price.*

Charter service does not include any form of demand-response transportation. The Contractor acknowledges that Federal and State rules and regulations prohibit the provision of charter service using FTA funded equipment and facilities if a registered private charter operator expresses interest in providing the service.

Contractors are allowed to operate community based charter services and some irregular or limited duration services under the exempted and exception provisions. Beginning July 30, 2008, all grantees providing charter service under the exceptions shall post the required records on the FTA charter website quarterly using TEAM within 30 days of the end of each calendar quarter.

NCDOT requires that any sub-recipient wishing to provide charter service must comply with the procedures in the Final Rule on Charter Service. NCDOT must be notified via email or postal service that a request for charter service exception is being submitted to FTA, including all supporting documentation.

The Contractor agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S. C. chapter 53 will engage in charter service operations, except as authorized by 49 U.S. C. 53 5323 (d) and FTA regulations, "Charter Service," 49 C.F. R. Part 604, and any subsequent Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing.

Any charter service agreement required by FTA regulations is incorporated by reference and made part of this Agreement for the Project. The Contractor understands and agrees that in addition to any remedy specified in the charter agreement, if a pattern of violations of that agreement is found, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

Section 21. School Transportation Operations. The Contractor agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, and any subsequent School Transportation Operations regulations or FTA directives that may be issued. Any school transportation operations agreement required by FTA regulations is incorporated by reference and made part of this Agreement for the Project. The Contractor understands and agrees that if it or an operator violates that school transportation operations agreement the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

Section 22. Geographic Information and Related Spatial Data. In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, the Contractor agrees to implement its Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, consistent with the National Spatial Data infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Section 23. Motor Carrier Safety. To the extent applicable, the Contractor agrees to comply with, and assures the compliance of its subrecipients, lessees, and third party contractors with, applicable provisions of the following regulations promulgated by the U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA):

a. Financial Responsibility. The Contractor agrees as follows:

(1) To the extent that the Contractor is engaged in interstate

commerce and not within a defined commercial zone, the Contractor agrees to comply with U.S. FMCSA regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 U.S.C. Part 387, dealing with economic registration and insurance requirements. For recipients of Federal assistance under 49 U.S.C. §§ 5307, 5310, or 5311, 49 C.F.R. Part 387 is modified by 49 U.S.C. § 31138(e)(4) which reduces the amount of insurance required of such recipients to the highest amount of any state in which the transit provider operates.

(2) To the extent that the Contractor is engaged in interstate commerce and not within a defined commercial zone and is not a unit of government (defined as Federal Government, a state, any political subdivision of a state or any agency established under a compact between states), the Contractor agrees to comply with U.S. FMCSA regulations, Subpart B, "Federal Motor Carrier Safety Regulations," at 49 CFR Parts 390 through 396.

b. Driver Qualifications. The Contractor agrees to comply with U.S. FMCSA's regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. Part 383.

c. Substance Abuse Rules for Motor Carriers. The Contractor agrees to comply with U.S. FMCSA's regulations, "Drug and Alcohol Use and Testing Requirements," 49 C.F.R. Part 382, which apply to transit providers that operate a commercial motor vehicle that has a gross weight rating over 26,000 pounds or is designed to transport sixteen (16) or more passengers, including the driver.

Section 24. Substance Abuse. To the extent applicable, the Contractor agrees to comply with the following Federal substance abuse regulations:

a. Drug-Free Workplace. U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 et seq.

b. Alcohol Misuse and Prohibited Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331.

Section 25. Seat Belt Use. In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U. S. C. § 402 note, the Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or subagreements involving the Project.

Section 26. Protection of Sensitive Security Information. To the extent applicable, the Contractor agrees to comply with 49 U.S.C. § 40119(b) and implementing U.S. DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. § 114(s) and implementing U.S. Department of Homeland Security, Transportation Security Administration regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 1520.

Section 27. Disputes, Breaches, Defaults, or Other Litigation. The Contractor agrees that FTA and the Department have a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. Notification to the Department. The Contractor agrees to notify the Department in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal/State Government's interests in the Project or the Federal/State Government's administration or enforcement of Federal/State laws or regulations. If the Contractor seeks to name the Federal/State Government

as a party to litigation for any reason, in any forum, the Contractor agrees to inform the Department in writing before doing so. In turn, the Department shall be responsible for notifying FTA.

b. Federal/State Interest in Recovery. The Federal/State Government retains the right to a proportionate share, based on the percentage of the Federal/State share awarded for the Project, of proceeds derived from any third party recovery, except that the Contractor may return any liquidated damages recovered to its Project Account in lieu of returning the Federal/State share to the Department.

c. Enforcement. The Contractor agrees to pursue all legal rights provided within any third party contract.

d. FTA and Department Concurrence. The FTA and the Department reserve the right to concur in any compromise or settlement of any claim involving the Project and the Contractor.

e. Alternative Dispute Resolution. The Department encourages the Contractor to use alternative dispute resolution procedures, as may be appropriate.

Section 28. Amendments/Revisions to the Project. The Contractor agrees that a change in Project circumstances causing an inconsistency with the terms of this Agreement for the Project will require an amendment or revision to this Agreement for the Project signed by the original signatories or their authorized designees or successors. The Contractor agrees that a change in the fundamental information submitted in its Application will also require an Amendment to its Application or this Agreement for the Project. The Contractor agrees that the project will not incur any costs associated with the amendment or revision before receiving notification of approval from the division. The Contractor agrees that any requests for amendments and or revisions will be submitted in accordance with the policies and procedures established by FTA and the Department.

Section 29. Information Obtained Through Internet Links. This Agreement may include electronic links/Web site addresses to Federal/State laws, regulations, and directives as well as other information. The Department does not guarantee the accuracy of information accessed through such links. Accordingly, the Contractor agrees that information obtained through any electronic link within this Agreement does not represent an official version of a Federal/State law, regulation, or directive, and might be inaccurate. Thus, information obtained through such links is neither incorporated by reference nor made part of this Agreement. The Federal Register and the Code of Federal Regulations are the official sources for regulatory information pertaining to the Federal Government.

Section 30. Severability. If any provision of the FTA Master Agreement or this Agreement for the Project is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable Federal/State laws or regulations.

Section 31. Termination of Agreement.

a. The Department of Transportation. In the event of the Contractor's noncompliance with any of the provisions of this Agreement, the Department may suspend or terminate the Agreement by giving the Contractor thirty (30) days advance notice. Any failure to make reasonable progress on the Project or violation of this Agreement for the Project that endangers substantial performance of the Project shall provide sufficient grounds for the Department to terminate the Agreement for the Project. In general, termination of Federal and State assistance for the Project will not invalidate obligations properly incurred by the Contractor before the termination date to the extent those obligations cannot be canceled. If, however, the Department determines that the Contractor has willfully misused Federal/State assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the

terms of this Agreement for the Project, the Department reserves the right to require the Contractor to refund the entire amount of Federal and State assistance provided for the Project or any lesser amount as the Department may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Agreement for the Project. The Department, before issuing notice of Agreement termination, shall allow the Contractor a reasonable opportunity to correct for noncompliance. Upon noncompliance with the nondiscrimination section (Section 8) of this Agreement or with any of the said rules, regulations or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for contracts in accordance with procedures authorized in Executive Orders No. 11246 and No. 11375, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law. In addition to the Department's rights of termination described above, the Department may terminate its participation in the Project by notifying and receiving the concurrence of the Contractor within sixty (60) days in advance of such termination.

b. The Contractor. The Contractor may terminate its participation in the Project by notifying and receiving the concurrence of the Department sixty (60) days in advance of the termination.

Section 32. Contract Administrators. All notices permitted or required to be given by one Party to the other and all questions about this Agreement from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, postal address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, postal address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the Department:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Name: MR CHARLIE WRIGHT Title: FINANCIAL MANAGER Agency: NCDOT/PTD MSC: 1550 MSC City/Zip: RALEIGH NC 27699-1550 Phone: 919-733-4713, EXTENSION 277 Fax: 919-733-2304 Email: CCWRIGHT@NCDOT.GOV	Name: MR CHARLIE WRIGHT Title: FINANCIAL MANAGER Agency: NCDOT/PTD Street: TRANSPORTATION BLDG Address: 1 S WILMINGTON ST RM 524 City: RALEIGH NC

For the Contractor:

IF DELIVERED BY US POSTAL SERVICE	IF DELIVERED BY ANY OTHER MEANS
Name: Title: Agency: Postal Address: City/Zip: Phone: Fax: Email:	Name: Title: Agency: Street Address: City:

Section 33. Federal Certification Regarding Lobbying. The Contractor certifies, by signing this Agreement, its compliance with Subsection 3d of this Agreement.

Section 34. Federal Certification Regarding Debarment. The Contractor certifies, by signing this Agreement, its compliance with Subsection 3b of this Agreement.

Section 35. Federal Certification Regarding Alcohol Misuse and Prohibited Drug Use. As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Contractor certifies, by signing this Agreement, that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, and Section 21 of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the Department, an agency of the State of North Carolina, and the Contractor by and through a duly authorized representative, and is effective the date and year first above written.

CITY OF HIGH POINT

CONTRACTOR'S FEDERAL TAX ID NUMBER:

CONTRACTOR'S FISCAL YEAR END:

BY:

TITLE:

CITY MANAGER

(SEAL)

ATTEST:

TITLE:

DEPARTMENT OF TRANSPORTATION

BY:

TITLE:

DEPUTY SECRETARY FOR TRANSIT

ATTEST:

TITLE:

SECRETARY

International Home Furnishings Market Authority
Budget Projections
FY07-08 and FY08-09
Revenue Neutral

Revenue	08-09 Budget	FY 09-10 Budget	Variance	
High Point Area				
Show Room License	\$ 1,574,000.00	\$ 1,500,000.00	\$ (74,000.00)	
Occupancy Tax	\$ 335,000.00	\$ 335,000.00	\$ -	
HPCVB	\$ 200,000.00	\$ 200,000.00	\$ -	
City of High Point	\$ 1,000,000.00	\$ 1,000,000.00	\$ -	
Guilford County	\$ 75,000.00	\$ 75,000.00	\$ -	
Other Communities	\$ -	\$ -	\$ -	
Total	\$ 3,184,000.00	\$ 3,110,000.00	\$ (74,000.00)	
State of North Carolina				
NCDOT (Recurring)	\$ 1,206,000.00	\$ 1,200,000.00	\$ (6,000.00)	
NCDOC (Recurring)	\$ 866,250.00	\$ 848,680.00	\$ (17,570.00)	
Additional (Non-recurring)	\$ 600,000.00	\$ -	\$ (600,000.00)	
Total	\$ 2,672,250.00	\$ 2,048,680.00	\$ (623,570.00)	
Other			\$ -	
AHFA	\$ 25,000.00	\$ -	\$ (25,000.00)	
Interest	\$ 42,500.00	\$ 42,500.00	\$ -	
Miscellaneous	\$ 3,000.00	\$ 3,000.00	\$ -	
Total	\$ 70,500.00	\$ 45,500.00	\$ (25,000.00)	
Total Revenue	\$ 5,926,750.00	\$ 5,204,180.00	\$ (722,570.00)	
Expense	08-09 Budget	FY 09-10 Budget	Variance	
Executive Leadership & Admin	\$ 561,957.00	\$ 547,236.00	\$ (14,721.00)	
Transportation	\$ 1,715,403.00	\$ 1,517,353.00	\$ (198,050.00)	
Parking	\$ 163,000.00	\$ 144,200.00	\$ (18,800.00)	
Centralized Registration	\$ 173,300.00	\$ 190,500.00	\$ 17,200.00	
Marketing	\$ 2,133,829.00	\$ 1,942,380.00	\$ (191,449.00)	
Guest Entertainment Concierge	\$ 1,040,011.00	\$ 732,511.00	\$ (307,500.00)	
Contingency	\$ 50,000.00	\$ 50,000.00	\$ -	
Depreciation	\$ 80,000.00	\$ 80,000.00	\$ -	
Total	\$ 5,917,500.00	\$ 5,204,180.00	\$ (713,320.00)	

**NOTICE OF APPROVED AMENDMENT
TO THE CODE OF ORDINANCES
OF THE CITY OF HIGH POINT, NORTH CAROLINA**

TEXT AMENDMENT: 09-04
APPLICANT: City of High Point

AN ORDINANCE AMENDING TITLE 9 OF THE CODE OF ORDINANCES, PURSUANT TO SECTION 9-3-15, TEXT AMENDMENTS, OF THE DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of The City of High Point adopted the "City of High Point Development Ordinance" on January 7, 1992, with an effective date of March 1, 1992, and subsequently amended;

WHEREAS, public hearings were held before the Planning and Zoning Commission on April 28 and May 26, 2009 and before the City Council on May 18, June 15 and June 18, 2009, regarding Text Amendment 09-04;

WHEREAS, notice of the public hearings was published in the High Point Enterprise on April 19, 2009 for the Planning and Zoning Commission public hearing and May 6, and May 13, 2009, for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina; and

WHEREAS, this amendment was adopted by the City Council of the City of High Point on June 18, 2009.

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

SECTION 1. Table 4-7-1, entitled *Permitted Use Schedule*, shall be amended as follows:

The use titled Family Care Homes, which is listed in the table under the use type RESIDENTIAL USES shall be amended by changing the designation in all zoning districts currently shown with a 'P', to a '**D**'. No change shall occur in the following districts where the use is currently prohibited: LB, GB, HB, MS, SC, CP, LI, HI and PI districts.

SECTION 2. Section 9-5-2, entitled *Development Standards for Individual Uses*, shall be amended by adding the following new use, incorporated alphabetically:

FAMILY CARE HOME

- (1) Where Required: All districts where permitted.
- (2) Use separation: No family care home shall be established within a one-half mile radius of an existing family care home.

SECTION 3. That should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That this ordinance shall become effective upon the date of adoption.

Adopted By City Council,

The 18th day of June 2009

Lisa B. Vierling, City Clerk

**NOTICE OF APPROVED AMENDMENT
TO THE CODE OF ORDINANCES
OF THE CITY OF HIGH POINT, NORTH CAROLINA**

TEXT AMENDMENT: 09-05
APPLICANT: City of High Point

AN ORDINANCE AMENDING TITLE 9 OF THE CODE OF ORDINANCES, PURSUANT TO SECTION 9-3-15, TEXT AMENDMENTS, OF THE DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of The City of High Point adopted the "City of High Point Development Ordinance" on January 7, 1992, with an effective date of March 1, 1992, and subsequently amended;

WHEREAS, the City Council of The City of High Point adopted the Core City Plan on February 8, 2007, and desires to implement the Plan; and

WHEREAS, the Core City Plan identifies that there are development, redevelopment and revitalization needs within the Core City area, encourages change in composition of uses along the North Main and South Main corridors and development of mixed use centers at certain areas in these corridors, and recommends a general redevelopment of these corridors in a manner more consistent with traditional downtown development; and

WHEREAS, THE High Point City Council adopted the Main Street zoning district on March 17, 2008, which is applied to portions of the North Main and South Main corridors and which is intended to encourage mixed-use, compact, pedestrian oriented development that includes an integration of residential uses; and

WHEREAS, there are certain existing uses of land in the Main Street district that have been rendered nonconforming by its adoption; and

WHEREAS, it is the desire and intent of the High Point City Council to promote and effect an expeditious termination of nonconforming uses of land in the Main Street district that have ceased operation, in order to advance redevelopment, opportunities that are more consistent with the goals and objectives of the Core City Plan; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on May 26, 2009 and before the City Council on June 15 and June 18, 2009, regarding Text Amendment 09-05;

WHEREAS, notice of the public hearings was published in the High Point Enterprise on May 17, 2009 for the Planning and Zoning Commission public hearing and June 3, and June 10, 2009, for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina; and

WHEREAS, this amendment was adopted by the City Council of the City of High Point on June 18, 2009.

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

SECTION 1. Section 9-4-17(b)(2), entitled *Conditions for Continuance, General*, shall be amended as follows:

- a.** A use shall be determined to have ceased if that use is interrupted or otherwise discontinued, regardless of the intent of the owner or occupant. Without excluding other factors, any one or more of the following factors, may be the basis for a determination that a use has ceased: removal of inventory, equipment or machinery; termination (or substantial reduction in the usage) of utility services; absence or substantial reduction in activity at the site compared with the former level of use; failure to maintain minimal hours of operation; voluntary demolition or lack of occupancy of the building(s) in which the use was formerly conducted; removal of on-site signage or copy from that signage; or the failure to apply for or renew necessary licenses or permits, or to appeal from the denial of such.

(The remaining subsections shall be re-lettered accordingly.)

- e-d.** With the exception of a legally nonconforming sexually oriented business use, market showroom use, a nonconforming use in the Main Street District, or a manufactured dwelling, a legally nonconforming use may be enlarged or extended, upon approval of a special exception by the Board of Adjustment, to occupy a greater area of land or floor area than was occupied at the effective date of adoption or amendment of this Ordinance provided the additional square footage of the enlargement or extension does not exceed 25 percent of the square footage of the structure(s) that existed at the time the use became nonconforming and that the enlargement or extension of additional structure(s) occupy the same zone lot or plot of ground as occupied by the existing structures at the time the use became nonconforming. In no case shall the intensity of the nonconforming use be increased or the number of dwelling units in a nonconforming residential use be increased.
- d-e.** With the exception of a legally nonconforming sexually oriented business use, or a nonconforming use in the Main Street District, if any nonconforming use of land ceases for any reason for a continuous period of more than one hundred eighty (180) days, any subsequent use of such land shall be a use permitted in the district. The property owner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than one hundred eighty (180) days, to maintain its nonconforming status.
- e-f.** With the exception of a legally nonconforming sexually oriented business use, or a nonconforming use in the Main Street District, if any nonconforming use of land ceases because of damage, destruction, or demolition of the structure in which the use is located, the structure may be reconstructed or repaired within one hundred eighty (180) days, but not to exceed the number of square feet of floor area nor the number of cubic feet existing in it prior to its damage or destruction.

SECTION 2. Section 9-4-17(b), entitled *Nonconforming Use of Land*, shall be amended to add the following as a new subsection. The remaining subsections will be renumbered accordingly:

(4). Conditions for Continuance, Main Street District:

- a. If any nonconforming use in the Main Street District, other than a Market showroom use (for which the Conditions for Continuance are provided in Section 9-4-17(b)(4)), a Sexually Oriented Business (for which the Conditions for Continuance are provided in Section 9-4-17(b)(5)) or a Manufactured Dwelling (for which the Conditions for Continuance are provided in Section 9-4-17(b)(6), ceases for any reason for a continuous period of more than thirty (30) days, any subsequent use of land shall be a use permitted in the district. The property owner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than thirty (30) days to maintain its nonconforming status.

(Renumber the remaining sections accordingly.)

SECTION 3. That should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That this ordinance shall become effective upon the date of adoption.

Adopted By City Council,

The 18th day of June 2009

Lisa B. Vierling, City Clerk

May 29, 2009



MEMORANDUM

TO: Randy McCaslin
Assistant City Manager

FROM: Mark McDonald, P.E.
Transportation Director

A handwritten signature in black ink, appearing to read "Mark McDonald", written over the printed name and title.

SUBJECT: NO TRUCKS Restriction, Garner Place between S. Main Street and Archdale Road.

The Department of Transportation recommends the following addition to Article P of the City ordinance:

Schedule XV - Restrictions Upon Use of Streets by Certain Vehicles

NO TRUCKS on Garner Place from S. Main Street to Archdale Road.

This restriction has been requested by the residents of Garner Place and Archdale Road to address the trucks turning from Garner Place to Archdale to access the businesses located at the end of Swathmore Avenue.

Parcel trucks and moving vans with residential deliveries addressed on Garner Place, school buses, refuse collection trucks, emergency vehicles, and other service vehicles associated with the maintenance of municipal facilities are excluded from the NO TRUCKS restriction.

If you have any questions regarding this recommendation, please give me a call at x3225.

Please include this item on City Council's meeting agenda for June 15, 2009.

c Amandeep Mann, EI
 Chris Nelson
 David Cox
 File

HPDOT Traffic Engineering
HPDOT Traffic Services
HPDOT Traffic Engineering



PROPOSED "NO TRUCKS" RESTRICTION ON GARNER PLACE

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

**STAFF REPORT
STREET ABANDONMENT CASE 09-13
May 26, 2009**

Request	
Applicant: City of High Point Technical Review Committee	Proposal: Abandonment of an unimproved portion of W. Dayton Avenue, lying west of the Long Street and W. Dayton Avenue intersection (west of N. Main Street).

Adjacent Streets		
Name:	Classification:	R/W and Pavement Width:
W. Dayton Avenue	Collector	30 ft. R/W and unimproved
Long Street	Collector	30 - 60 ft. R/W and 26-foot curb & gutter

Adjacent Property Zoning and Current Land Use		
North:	Residential Multi-Family-12 (RM-12)	Single-family Residence
South:	Residential Single-Family-9 (RS-9) and Limited Office (LO)	Single-family Residence
East:	Limited Office (LO)	Public Right-of-Way (Long St.)
West:	Residential Single-Family-9 (RS-9)	Single-family Residence

Analysis

The portion of W. Dayton Avenue right-of-way being considered for abandonment contains approximately 0.25 acres in area (being approximately 30 feet wide by 220 feet in length). The right-of-way contains no public improvements. The area is partially wooded and the topography drops approximately 10-feet from the W. Dayton Avenue and Long Street intersection to the western terminus of the right-of-way. The properties to the north and south front and obtain access from Long Street. In addition, the unimproved portion of W. Dayton Avenue is not wide enough to improve to city standards.

Findings

The Technical Review Committee (TRC) reviewed this request on April 22, 2009 and identified no issues that would prevent its abandonment. An early notice was sent to the abutting property owners on May 8, 2009.

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

Recommendation

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

Report Preparation

This report was prepared by Planning and Development Department staff member Mark Schroeder AICP, and reviewed by Bob Robbins AICP and Lee Burnette AICP.

Attachments:

- 2 Photographs
- 1 Aerial with annotation



STREET ABANDONMENT REQUEST SA09-13

Applicant: Technical Review Committee

Area: 0.27 acres



Location of requested street abandonment

**Planning & Development
Department**

City of High Point

Date: May 7, 2009



Scale: 1"=200'

y:/ba-pz/2009/pz/sa09-13.mxd

Attachments: Photographs (April, 2009) and Aerial (February, 2008)



Looking west across the intersection of W. Dayton Avenue and Long Street.



Looking northwest across Long Street (just south of W. Dayton Avenue)

Attachments: Photographs (April, 2009) and Aerial (February, 2008)



Aerial with the abandonment area highlighted.

TEXT AMENDMENT 09-04

PROPOSED AMENDMENT TO THE CITY OF HIGH POINT

DEVELOPMENT ORDINANCE

This text amendment places a minimum separation requirement on facilities meeting the definition of "family care home".

SECTION 1.

Table 4-7-1, entitled *Permitted Use Schedule*, shall be amended as follows:

The use titled Family Care Homes, which is listed in the table under the use type RESIDENTIAL USES shall be amended by changing the designation in all zoning districts currently shown with a 'P', to a '**D**'. No change shall occur in the following districts where the use is currently prohibited: LB, GB, HB, MS, SC, CP, LI, HI and PI districts.

SECTION 2.

Section 9-5-2, entitled *Development Standards for Individual Uses*, shall be amended by adding the following new use, incorporated alphabetically:

FAMILY CARE HOME

- (1) Where Required: All districts where permitted.
- (2) Use separation: No family care home shall be established within a **one-half** mile radius of an existing family care home.



**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGH POINT,
NORTH CAROLINA TO ESTABLISH AN AUTOMATED RECYCLING
COLLECTION FEE**

BE IT RESOLVED, by the City Council of the City of High Point, North Carolina that a one dollar (\$1) automated recycling collection fee will be established for addresses receiving utility services:

BE IT FURTHER RESOLVED that this fee increase will be effective for utility bills dated on or after July 1, 2009 and will continue with the term of the debt payments for automated recycling roll-out carts and collection vehicles (60 months) or until such time as City Council shall determine otherwise.

Adopted by the High Point City Council this 18th day of June, 2009.

Lisa B. Vierling, MMC
City Clerk



MEMORANDUM

June 9, 2009

To: Randy McCaslin, Assistant City Manager
From: G. Lee Burnette, AICP, Director
Subject: Resolution of Consideration

The resolution of consideration adopted by City Council on June 18, 2007 and which became effective June 30, 2007 will expire on June 30, 2009. To allow for the Council's consideration of annexation, the resolution needs to be renewed prior to its expiration.

The purpose of the attached resolution of consideration is to identify the area that the city would like to continue to have under consideration for annexation and to provide general notice to property owners. Based upon preliminary information provided by the City's consultant, the area covered by this 2009 resolution has been reduced as compared to the 2007 resolution which included the entire planning area.

Adoption of this resolution does not declare intent on the part of the City Council to annex, whether voluntarily or involuntarily, any particular area, nor does it commit City Council to proceed further than considering the issue of annexation.

Please place this resolution on the City Council agenda for their June 15, 2009 meeting. If you have any questions, please contact me.

Attachment

cc: Fred Baggett, City Attorney

Administration
336.883.3328

Planning Services
336.883.3328

Development Services
336.883.3328

Inspection Services
336.883.3151

City of High Point, P.O. 230, 211 South Hamilton Street, High Point, NC 27261 USA
Fax: 336.883.3056 www.high-point.net/plan Permit Fax: 336.883.8518 TDD 336.883.8517

A RESOLUTION IDENTIFYING THE AREA
UNDER CONSIDERATION FOR ANNEXATION AND PROVIDING
NOTIFICATION PURSUANT TO G.S. 160A-49(i)

WHEREAS, the City of High Point is in the process of completing a comprehensive study of annexation within the city planning area;

WHEREAS, the comprehensive annexation study is reviewing the viability of all types of annexation within the city planning area, including involuntary, voluntary and legislative annexation;

WHEREAS, the NC General Statutes prescribe specific procedures and standards for municipal annexation, including involuntary annexation;

WHEREAS, the NC General Statutes require that a municipality adopt a resolution of consideration at least one year prior to taking any official action declaring any intent to annex any property; and

WHEREAS, a Resolution of Consideration encompassing the area described in Exhibit A was first adopted by the City on June 30, 2007;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of High Point that:

Section 1. Pursuant to G.S. 160A-49(i), the following described area is hereby identified as being under consideration for future annexation by the City of High Point under the provisions of Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

The attached Exhibit A is incorporated by reference.

Section 2. Pursuant to G.S. 160A-49(i), owners of agricultural land, horticultural land and forestland within the area under consideration for annexation as described in Section 1 above are hereby notified that they may have rights to a delayed effective date of annexation. G.S. 160A-49(f1) and (f2) provide that land being taxed at present-use value qualifies for delayed annexation, and land that is eligible for present-use value taxation but which has not been in actual production for the time period required by G.S. 105-227.3 may qualify for delayed annexation by making application to the Guilford County, Forsyth County, Davidson County or Randolph County Tax Assessor for certification. For qualified tracts, the annexation will not become effective for most purposes until the last day of the month in which the tract or part thereof becomes ineligible for present-use value classification under G.S. 105-227.4 or no longer meets the requirements of G.S. 160A-49(f1)(2). Until annexation

of a tract becomes effective, the tract will not be taxed by the City and will not be entitled to services from the City.

Section 3. A copy of this resolution shall be filed with the City Clerk.

Section 4. This resolution renews the resolution which became effective on June 30, 2007 and shall remain effective as provided by G.S. 160A-49(i)

Adopted this __ day of June 2009.

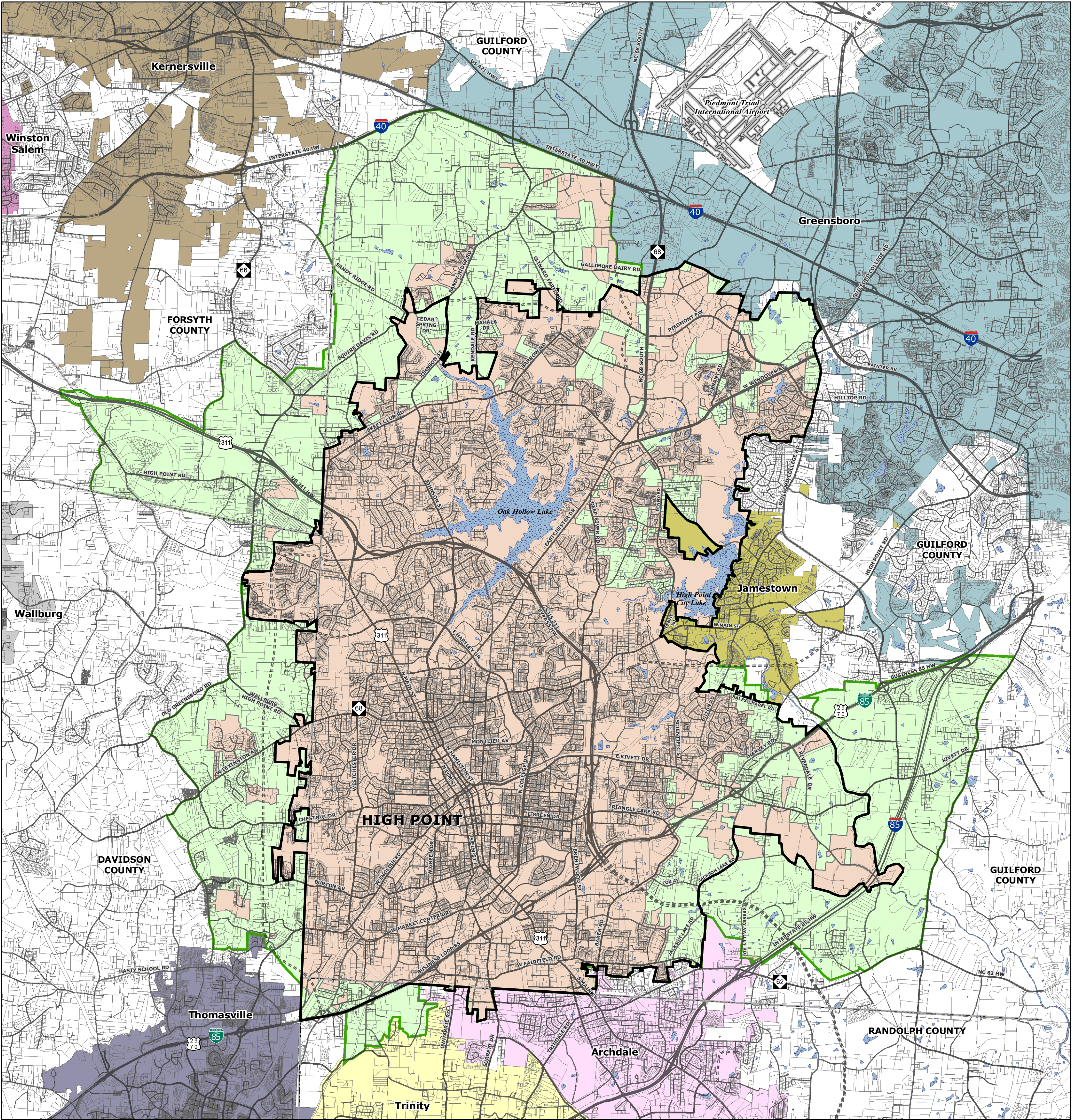
Mayor

ATTEST:

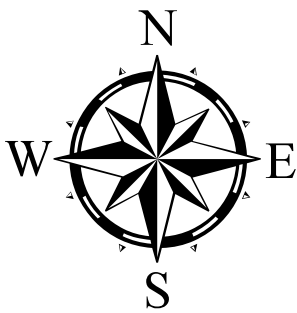
City Clerk

Exhibit A

Resolution of Consideration for Annexation



- Map Legend**
- Roads
 - County Line
 - High Point Corporate Limits
 - High Point Planning Area
 - Area Under Consideration for Annexation



City of High Point
High Point, North Carolina
Planning and Development Department
Exhibit A
Resolution of Consideration for Annexation
June 15, 2009



PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 26, 2009, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Nat Bolds and Mr. Andrew Putnam.

City of High Point

Text Amendment Case 09-04

Revised and remanded by City Council for reconsideration

A request by the Planning & Development Committee to amend Table 4-5-1 "Permitted Use Schedule" and Section 9-5-2 "Development Standards for Individual Uses" of the Development Ordinance pertaining to Family Care Homes.

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

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval*** as amended of Text Amendment Case 09-04, with a ¼ mile separation distance between Family Care Homes, by a vote of 7-0.

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

**STAFF REPORT
TEXT AMENDMENT CASE 09-04
April 28, 2009**

Request	
Applicant: City Council Planning & Development Committee	Affected Ordinance Sections: Table 4-5-1, <i>Permitted Use Schedule</i> , and Section 9-5-2, <i>Development Standards for Individual Uses</i> .
Proposal: To establish a separation requirement for residential care facilities meeting the Family Care Home definition.	

Background

Recently, following several complaints, the City Council asked the Planning & Development Department staff to research and provide information about residential care facilities known generally as family care homes, and to determine what – if anything – might be done through zoning or other legal means to deal with issues brought forth by the various complainants. Staff, with help from the Assistant City Attorney researched state law, studied various NC Department of Health and Human Services (DHHS) rules and regulations, and met with several DHHS staff from the Guilford County office. A report was prepared and presented to Council’s Planning and Development Committee on March 3rd, and staff was subsequently directed to prepare a draft text amendment. The draft amendment was presented to the Committee on April 7th. In the draft, staff recommended a minimum separation distance of ¼ mile, but although the Committee felt that some minimum separation distance was needed, it did not reach consensus on what distance should be used. It was decided to send the amendment to the P&Z for a recommendation and the full Council for deliberation of the minimum distance issue.

Details of Proposal

The proposed text amendment is very straightforward, affecting only two different sections of the Development Ordinance. First, the amendment would change the permitted use designation in Table 4-5-1, *Permitted Use Schedule*, from a ‘P’ to a ‘D’ for the Family Care Home use in all districts where the use is currently allowed. The ‘D’ designation means that the use is permitted by right, subject to compliance with specific development standards. The second section affected is 9-5-2, which is the part of the Ordinance where all of the individual use development standards are listed. The amendment would add a minimum separation requirement of ¼ mile between any existing family care home and one being established. Measurement of this distance would follow the procedure already established in Section 9-5-2(b)(2), which uses a straight line between the closest point on the wall of the principal structure of each of the two uses.

Analysis

The state of North Carolina has defined ‘family care home’ rather broadly. Essentially, it is a residential living arrangement for 6 or less persons with disabilities (also defined by the state) that includes support and supervisory personnel. Family care homes can house children or adults, and disabilities can include temporary or permanent physical, emotional or mental disability such as mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments. Excluded are mentally ill persons who have been judged as dangerous to others. All family care homes, as defined by the state, are required to be licensed by the state.

State law (NCGS §168-22(a)) prohibits local municipalities from treating family care homes differently, in terms of zoning, from any other residential use of property. In addition, a municipality cannot require that a family care home, its owner or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance. This limits local control of these facilities. The only added zoning control permitted by law is the establishment of a minimum separation between family care home uses of up to ½ mile. It is assumed that this was allowed to help protect neighborhoods from becoming “institutionalized” by the congregation of such uses in close proximity to one another.

As part of our research, the Planning & Development Department staff mapped all of the family care homes in High Point and displayed both ¼ and ½ mile radius rings from each one to ascertain how much of the city would be within these rings and therefore not available as a location for a new family care home. There are, as of March 2009, about 34 licensed residential facilities meeting the family care home definition in High Point. Using a ½ mile minimum separation renders many of the existing family care homes nonconforming (about 19 of the 34), and relegates any new ones primarily to residential neighborhood locations north of US 311 and west of NC 68, and to neighborhoods west of N. Main Street. In contrast, using a ¼ mile minimum separation, about 7 of the 34 family care homes would be nonconforming, and much more of the city’s residential area would be open for new locations. The City of Greensboro has established a ¼ mile minimum separation requirement, and the City of Winston-Salem has a 1,200 foot (slightly less than ¼ mile) requirement.

Since all license applications for family care homes must include a letter of zoning compliance from the local municipality, Planning & Development staff will be able to check to insure that a separation distance is being maintained prior to a license being granted. Staff will also need to periodically check the DHHR lists that are available on-line to determine changes in the status of previously licensed family care homes because the city is not notified when facilities close or when licenses are revoked, and those changes can affect where a new family care home may locate.

Recommendation

Staff recommends approval with a ¼ mile minimum separation.

There has been some mention made by others regarding whether a minimum separation requirement placed on family care home facilities might be a violation of the federal Fair Housing Act of 1968, and that such a violation might depend upon whether the size of the separation requirement can be considered to afford ‘reasonable accommodation’ to such uses (thus sustaining the right of ‘protected individuals’ to use and enjoy a dwelling). The ¼ mile separation distance will prevent side by side and same block locations for new family care homes, and thus achieve a disbursement of facilities throughout the city while providing more possible areas for their location, and perhaps reduce the chance of a legal challenge.

Required Action

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 conclusions as written in this report, by adopting the staff’s conclusions with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff’s conclusions, by adoption of its own statement.

City Council:

Upon rendering its decision in this case, the High Point 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 conclusions as written in this report, by adopting the staff’s conclusions with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff’s conclusions, by adoption of its own statement.

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the text amendment establishing a ¼ mile minimum separation requirement for family care homes is reasonable and in the public interest because: 1) the minimum separation requirement will deter the concentration of such uses within neighborhoods, preventing a loss of residential character; 2) the requirement will help protect property values; 3) the ¼ mile requirement will disburse family care home facilities while allowing reasonable opportunity for the location of new facilities. The City Council may adopt this statement, it may add to or change this statement, or, if the Council is in disagreement with the above statement it will need to formulate its own reasonableness / public interest statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Robert L. Robbins, AICP, and reviewed by G. Lee Burnette, AICP, Director.

TEXT AMENDMENT 09-04

PROPOSED AMENDMENT TO THE CITY OF HIGH POINT

DEVELOPMENT ORDINANCE

This text amendment places a minimum separation requirement on facilities meeting the definition of “family care home”.

SECTION 1.

Table 4-7-1, entitled *Permitted Use Schedule*, shall be amended as follows:

The use titled Family Care Homes, which is listed in the table under the use type RESIDENTIAL USES shall be amended by changing the designation in all zoning districts currently shown with a ‘P’, to a ‘**D**’. No change shall occur in the following districts where the use is currently prohibited: LB, GB, HB, MS, SC, CP, LI, HI and PI districts.

SECTION 2.

Section 9-5-2, entitled *Development Standards for Individual Uses*, shall be amended by adding the following new use, incorporated alphabetically:

FAMILY CARE HOME

- (1) Where Required: All districts where permitted.
- (2) Use separation: No family care home shall be established within a one-quarter mile radius of an existing family care home.

June 05, 2009



TO: Randy McCaslin
Assistant City Manager

FROM: Mark McDonald, P.E. 
Transportation Director

SUBJECT: NO TRUCKS Restriction, Weaver Avenue

The Department of Transportation recommends the following additions to Article P of the City's Traffic Ordinance:

Schedule XV – Restrictions Upon Use of Streets by Certain Vehicles

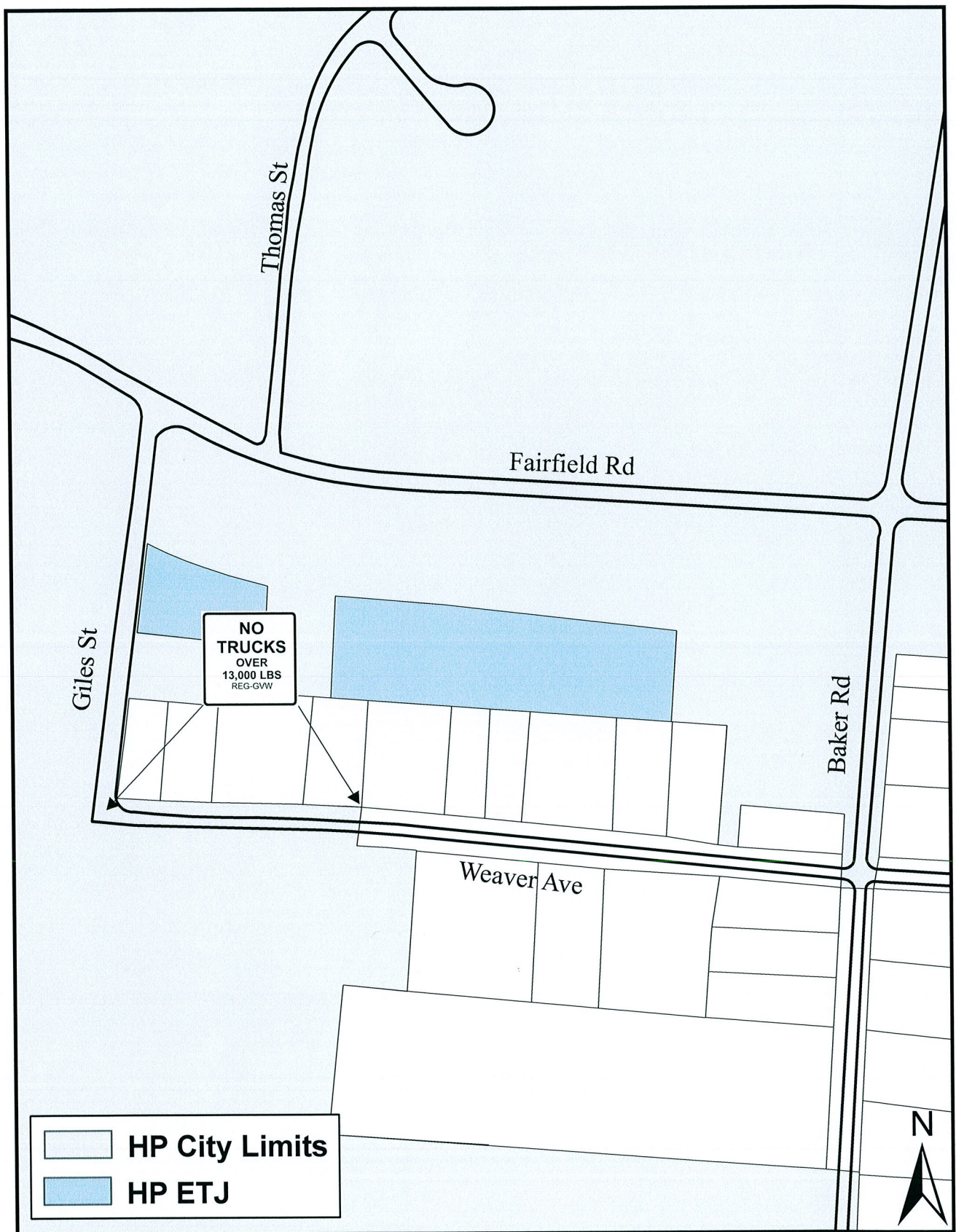
NO TRUCKS on Weaver Avenue, east of the intersection of Giles Street and Weaver Avenue to the HP City limits.

This restriction has been requested by residents of Weaver Avenue. Current pavement width and shoulder conditions on Weaver Avenue are substandard, and it is not intended to carry heavy vehicle traffic.

Parcel trucks and moving vans with residential deliveries addressed on Weaver Avenue, school buses, refuse collection trucks, emergency vehicles, and other service vehicles associated with the maintenance of municipal facilities are excluded from the NO TRUCKS restriction.

Please include this item on City Council's meeting agenda for June 15, 2009.

c	Amandeep Mann, El	HPDOT Traffic Engineering
	Chris Nelson	HPDOT Traffic Services
	David Cox	HPDOT Traffic Engineering
	File	



PROPOSED "NO TRUCKS" RESTRICTION ON WEAVER AVENUE

PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 26, 2009, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Nat Bolds and Mr. Andrew Putnam.

Wagner Properties

Zoning Case 09-04

A request by Wagner Properties to rezone a 0.2 acre parcel (approximately 8,700 sq. ft.) from the General Office Moderate-Intensity (GO-M) District to a General Business (GB) District. The site is lying along the west side of Pine Street, approximately 200 feet north of Church Avenue.

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

Speaking in favor of the request was the applicant, Ms. Olivia W. Cheek.

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval*** of Zoning Case 09-04 by a vote of 7-0.

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

**STAFF REPORT
ZONING CASE 09-04
May 26, 2009**

Request	
Applicant: Wagner Properties	Owner(s): Wagner Properties (<i>Trustees of the Wagner Family Trust - Olivia Wagner Cheek and Sharon Wagner Wilson</i>)
Proposal: To rezone a 0.2 acre parcel that is part of a larger commercial development.	From: GO-M General Office Moderate-Intensity District
	To: GB General Business District

Site Information	
Location:	The northern 50 feet of an existing commercial use at 300 Church Street. The site is lying along the west side of Pine Street, approximately 200 feet north of Church Avenue.
Tax Parcel Numbers:	201-1-5 (Guilford County Tax Parcel)
Site Acreage:	Approximately 8,760 square feet (0.2 acre parcel).
Current Land Use:	Vacant commercial use. The zoning site and abutting parcel to the south were both developed as a single entity consisting of a tire/automotive repair facility. There is an existing building upon these parcels that spans the property line between these parcels.
Physical Characteristics:	The site is relatively flat; areas of the site not covered by a building are paved.
Water and Sewer Proximity:	An 8-inch water line and 8-inch sewer line both run along the site's Pine Street frontage.
General Drainage and Watershed:	The site drains toward Pine Street and is subject to the city's watershed protection regulations but is not located in a water supply watershed.
Overlay District(s):	None

Adjacent Property Zoning and Current Land Use			
North:	GO-M	General Office Moderate-Intensity District	Doctor/medical office
South:	GB	General Business District	Vacant commercial site (former tire/automotive repair facility)
East:	GO-M	General Office Moderate-Intensity District	Doctor/medical office
	GB	General Business District	News paper facility
West:	GO-M	General Office Moderate-Intensity District	Doctor/medical office

Relevant Land Use Policies and Related Zoning History	
Relevant Community Growth Vision Statement Goals & Objectives	None
Land Use Plan Map Classification:	The site has an Office land use designation which is intended to include professional, personal and business service uses.
Land Use Plan Goals, Objectives and Policies:	None.
Relevant Area Plan(s):	Hospital Area Development Assessment.
Zoning History:	None.

Transportation Information			
Adjacent Streets:	Name		Classification
	Pine Street		Local Street
			Approx. Frontage
			53 feet
Vehicular Access:	There is an existing driveway on Pine Street and on Church Avenue.		
Traffic Counts:	Ferndale Blvd. & Lindsay Street		7,500 (2007, 12-hour count)
	English Road & Lindsay Street		10,500 (2007, 12-hour count)
Estimated Trip Generation:	Not applicable (existing use)		
Traffic Impact Analysis:	Required		Comment
	Yes	No X	
Pedestrian Access:	Improvements to Lindsay Street are scheduled as part of a bond project. There will be sidewalks on both sides of Lindsay Street from Main Street to Church Avenue.		

School District Information
Not applicable to this zoning case.

Details of Proposal

The zoning site is part of a large commercial development owned by the applicant with two different zoning districts dividing the site. The applicant is requesting rezoning so this commercial site will be under one zoning district.

The zoning site and abutting parcel to the south are both owned by the applicant and currently developed as a single commercial use known as Piedmont Truck Tires, Inc. (formerly Wagner Tire). There is an approximately 17,200 square foot building located upon this commercial site that spans across both of the parcels. The majority of the site (southern $\frac{3}{4}$ of the site & building) has a GB District zoning designation. However, the northern 50 feet (northern $\frac{1}{4}$ of the site & building) has a GO-M District zoning designation. The southern portion of the site was developed in 1969. The facility was expanded, via a building addition in 1983, onto the northern 50 feet of the site which is being requested to be rezoned. The applicant desires both properties, and the existing building which spans both parcels, have the same GB District zoning designation.

This request would eliminate the existing non-conforming use status of the northern portion of the commercial development as automotive repair and other commercial uses are not a permitted use in the GO-M District. No land use plan amendment is needed due to small land area associated with the zoning site and because the adjacent office Land Use Plan designation is limited to those properties that front on Gatewood Avenue, this site only fronts Pine Street.

Identified Issues

Major Issues:

❖ None.

Minor Issues:

❖ None.

Recommendation

Staff Recommends Approval

The site is at a transitional area where commercial land use (Community Regional/Commercial land use) changes to medical office/hospital uses (Office land use). The site abuts and is part of an existing GB District commercial use and the automotive repair use has been upon this site for more than 25 years. The allowance of the requested GB District will not be out of character with this area and more accurately reflects the existing use and development pattern.

Required Action

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.

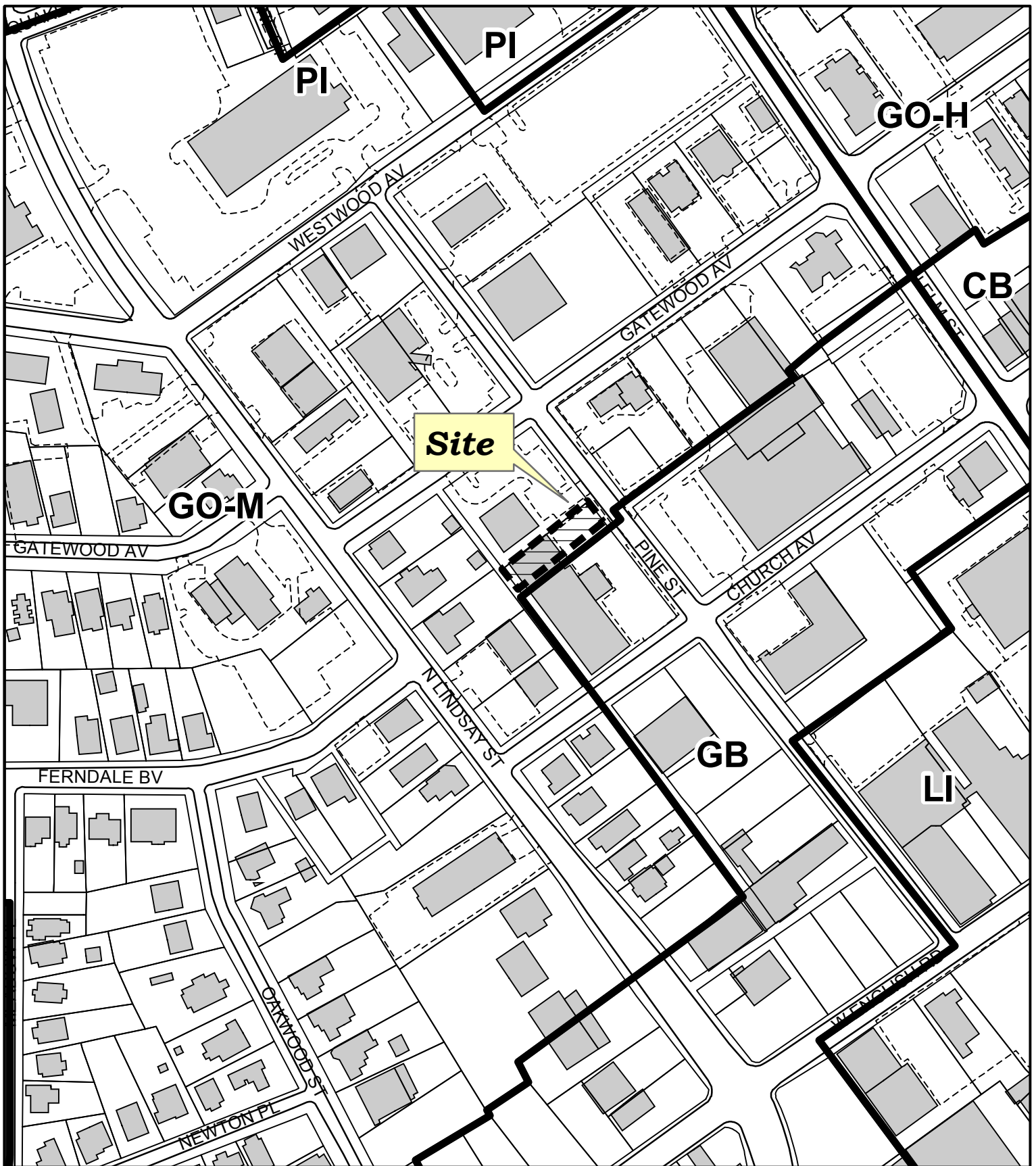
City Council:

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

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request is reasonable and in the public interest because: 1) The requested GB District is generally consistent with the Land Use Plan for this area, as this is where commercial land uses transition to office land uses; 2) The request is not introducing a new uses into this area, the current commercial use has been located upon the specific zoning site for over 25 years; and 3) The request allows the zoning on the site to reflect the exiting use of the property and allows this long-standing commercial development to fall under the regulations of only one zoning district. The City Council may adopt this statement, it may add to or change this statement, or, if the Council is in disagreement with the above statement it will need to formulate its own reasonableness/public interest statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Herbert Shannon AICP, Senior Planner and reviewed by Robert Robbins AICP, Development Administrator and Lee Burnette AICP, Director.



REZONING CASE 09-04

**From: General Office-Moderate
To: General Business**

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

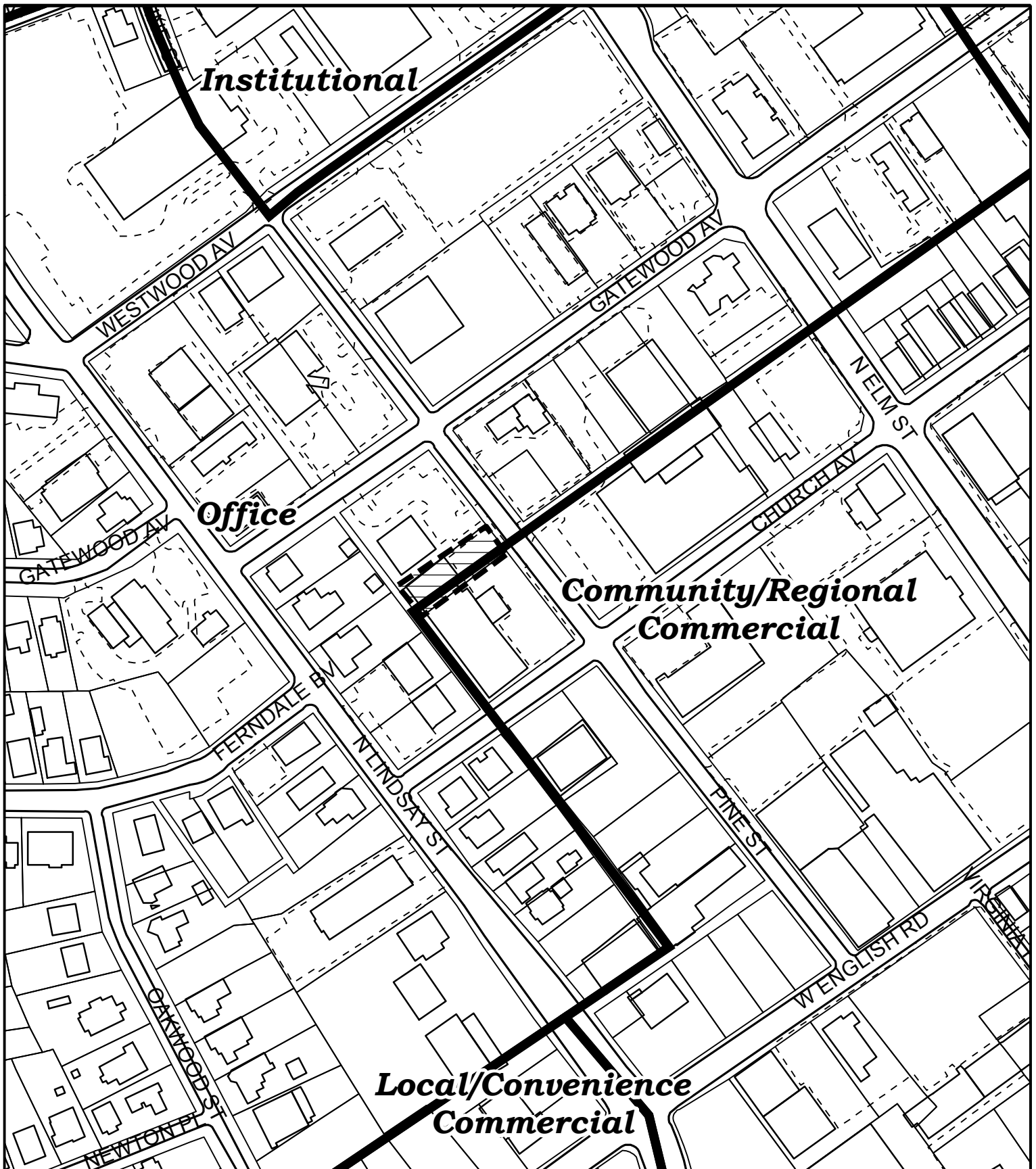
**Planning & Development
Department**

City of High Point

Date: May 8, 2009



Scale: 1"=200'
y:/ba-pz/2009/pz/z09-04.mxd



REZONING CASE 09-04

Land Use Plan

Existing Land Use Plan
Subject Property Boundary



**Planning & Development
 Department**

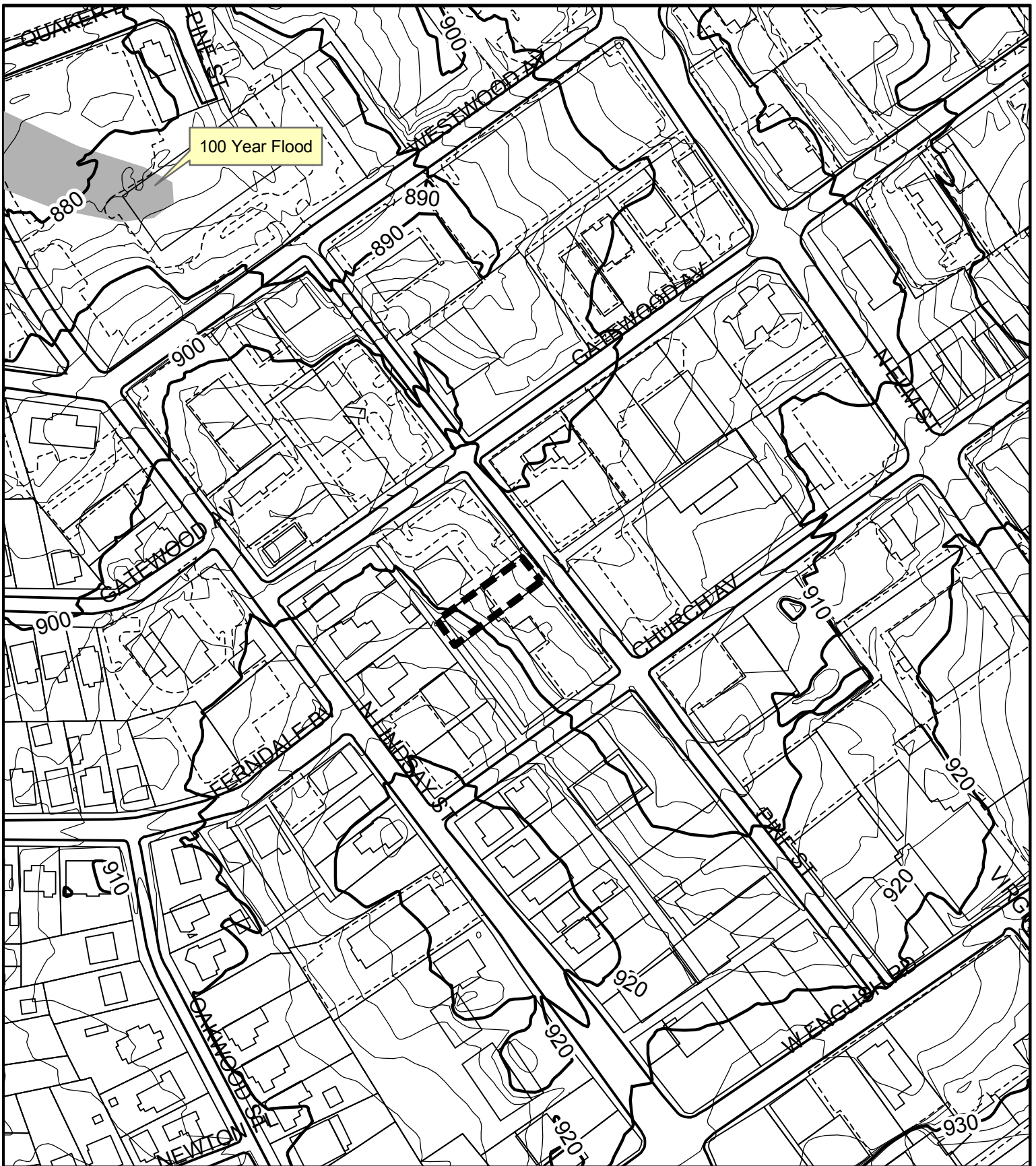
City of High Point

Date: May 12, 2009



Scale: 1"=200'

y:/ba-pz/2009/pz/z09-04lu.mxd



REZONING CASE 09-04

Topography

Subject Property Boundary - - - - -

Planning & Development
Department

City of High Point

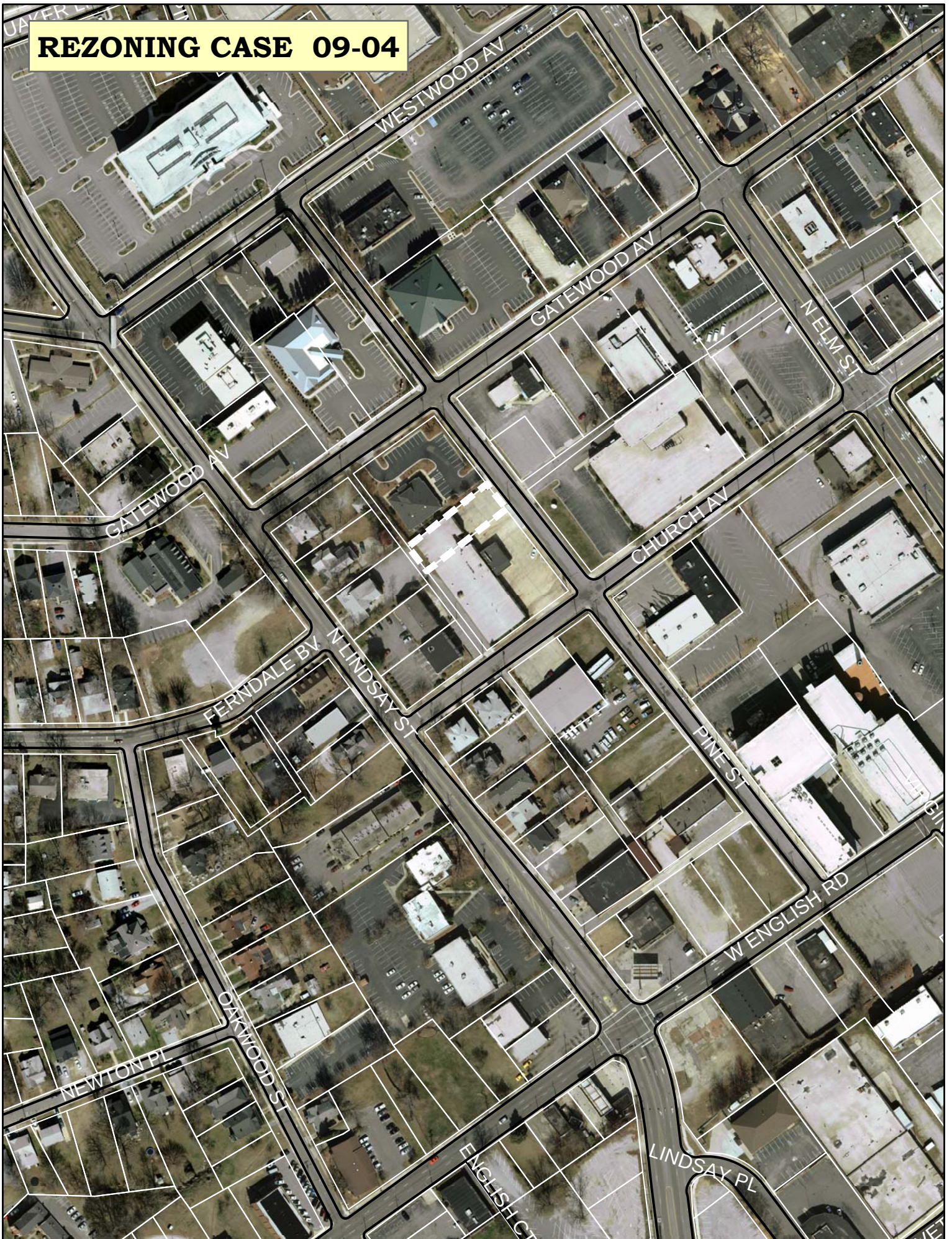
Date: May 12, 2009



Scale: 1"=200'

y:\ba-pz\2009\pz\z09-04topo.mxd

REZONING CASE 09-04





MEMORANDUM

June 9, 2009

MEMO TO: Pat Pate, Assistant City Manager

FROM: Jeffrey A. Moore, Financial Services Director

SUBJECT: Establish Pension Trust Fund for Law Enforcement Officers Special Separation Allowance

Please place the following item for City Council's consideration at their June 15, 2009, Council meeting:

As part of strengthening the city's financial and management practices, the City Council adopted certain Financial Policies on April 3, 2006. As a part of that comprehensive policy, the city created a Law Enforcement Officers Special Separation Allowance Fund (Fund 701) and began in FY2006-2007 to fund \$50,000 each year to this fund to reduce the amount of the accrued actuarial liability.

Although the accrued actuarial liability for the LEOSSA may seem large at almost \$5.8 million, the City budgets a little over \$500,000 annually to provide current pay-as-you-go payments due for the Special Separation Allowance and we add \$50,000 that goes to the pension trust fund.

Government Accounting Standards Board (GASB) Statements No. 25 and No. 43 establish standards for accounting and reporting of pension and post-employment related activities of state and local government entities. The standards specify that these activities should be recorded in an identifiable pension trust fund. In order to fully benefit from this arrangement, our auditors have advised us that city management cannot designate the fund as a pension trust fund but that City Council must establish the LEOSSA Fund as Pension Trust Fund.

The attached Resolution is provided for Council's review and adoption. I will be available if there are any questions.

Accounting
336.883.3240

Internal Audit
336.883.3122

Purchasing
336.883.3219

Treasury Services
336.883.3230

**RESOLUTION ESTABLISHING THE LAW ENFORCEMENT OFFICERS SPECIAL
SEPARATION ALLOWANCE PENSION TRUST FUND**

WHEREAS: The City of High Point (“City”) has previously determined to undertake establishing a separate fund to provide future funding for the City’s obligations under the provisions of the Law Enforcement Officers Special Separation Allowance (LEOSSA) required by state law for sworn law enforcement officers; and,

WHEREAS: The City has annually undertaken an actuarial study for the purposes of recognizing and reporting the LEOSSA actuarial funding requirements and unfunded obligation for purposes of meeting statutory and government accounting and reporting standards;

NOW THEREFORE, BE IT THEREFORE RESOLVED,

1. The City hereby determines to establish and recognize the Law Enforcement Officers Special Separation Allowance Pension Trust Fund in accordance with the requirements of current and future accounting and reporting standards and pronouncements.

2. The City Manager, Human Resources Director and Financial Services Director are designated trustees for purposes of administering the current and future obligations of the LEOSSA Pension Trust.

3. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this __th day of June, 2009

Rebecca R. Smothers, Mayor

PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 26, 2009, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Nat Bolds and Mr. Andrew Putnam.

City of High Point

Text Amendment Case 09-05

A request by the City of High Point to amend Section 9-4-17(b) of the Development Ordinance, entitled "Nonconforming Use of Land", to limit the period of cessation for nonconforming uses in the Main Street (MS) District.

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

No one spoke in opposition.

The Planning & Zoning Commission recommended ***approval*** of Text Amendment Case 09-05, by a vote of 7-0. Mr. White stated for the record that he preferred a cessation period of 60 days and asked that Council consider a shorter period, but not as short as 30 days.

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

**STAFF REPORT
TEXT AMENDMENT CASE 09-05
May 26, 2009**

Request	
Applicant: City of High Point City Council Planning & Development Committee	Affected Ordinance Sections: Section 9-4-17(b), <i>Nonconforming Use of Land</i> .
Proposal: To limit the period of cessation for nonconforming uses in the Main Street District.	

Background

The City Council Planning and Development Committee requested this amendment to minimize the amount of time a nonconforming use would have to resume once it had ceased, with the desire to expedite the removal of existing nonconforming uses from the Main Street (MS) district. The MS district was adopted in the spring of 2008 as part of the implementation of the Core City Plan.

Details of Proposal

This proposed amendment would alter the cessation period for legal nonconforming uses located within the Main Street (MS) district. A legal nonconforming use is one that commenced legally but is no longer permitted by the Development Ordinance in the district in which it is located. The cessation period is the amount of time that such uses can cease or discontinue and still be allowed to resume. Presently the cessation period for most uses is 180 days, regardless of the zoning district in which the use is located. The proposed amendment would reduce this time to 30 days for a nonconforming use located in the MS district. Sexually oriented businesses (S.O.B.s), market showrooms, and manufactured dwellings have their own individual nonconforming use provisions and will not be changed by this amendment or included in the Main Street nonconforming use provisions of this amendment. This amendment also proposes some text that would provide guidance as to what constitutes cessation of use, which is a somewhat nebulous legal concept. The proposed criteria would be used in determining cessation of any legal nonconforming use, not just those located in the Main Street district.

Analysis

The proposed 30 day cessation period would allow a reasonable amount of time for a property owner of a legal nonconforming use to reestablish an existing use if it ceased for a short amount of time, while still increasing the chance that such a property would come into compliance with the Main Street district uses. This is important as Main Street is the principal travel and retail corridor in the city and a focus of the Core City Plan. Furthermore, portions of the corridor function as a surrogate downtown due to the dominance of market showrooms and other wholesalers in the actual downtown (the Central Business District).

A shorter cessation period was initially suggested, including a cessation period of 0 days, but research into the matter with the School of Government as well the existing provisions of other jurisdictions within the state determined that not providing any cessation period (or providing one with 0 days) is not reasonable and likely would not be defensible if challenged in court. A cessation period of 30 days is likely the shortest cessation period that could be determined and legally defended as being a reasonable period of time. This cessation period is the same that is currently provided for S.O.B.s, so this proposed provision would be consistent with an existing provision of the Ordinance.

While there is a current provision in the Ordinance that allows most legal nonconforming uses to apply for a slight enlargement of the use through the Special Exception process (which is administered by the Board of Adjustment), this option will not be available for those nonconforming uses located within the Main Street district.

There are three categories of nonconforming uses that currently have their own nonconforming provisions, along with cessation periods of varying lengths. These three uses, market showrooms, S.O.B.s, and manufactured dwellings, are therefore not included in this Main Street nonconforming provision and will continue to be regulated by their existing nonconforming provisions.

Determining exactly when a nonconforming use has ceased can be complicated – the many North Carolina court decisions on the matter have not resulted in a clear definition or exact criteria for such a determination, although some criteria and ordinance text seem to be more appropriate (legally preferable) than others. Making use of that information, this amendment would provide guidance in the determination of cessation of a nonconforming use by listing a number of factors that could be used by staff in determining if a particular use has ceased. This language would also be beneficial in the legal justification of the termination of a nonconforming use once it has ceased for the appropriate amount of time.

Recommendation

Staff recommends approval.

It is the City's desire to affect removal of non-conforming uses in the MS district at the earliest possible time, and this proposed text amendment would help expedite the removal of such uses by significantly reducing the length of the cessation period. The proposed text also would

provide guidance on what criteria will be deemed to constitute a cessation of use, which would likely be helpful to both Planning and Development staff as well as to property owners with an existing nonconforming use anywhere in the City's jurisdiction.

Required Action

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

City Council:

Upon rendering its decision in this case, the High Point 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 conclusions as written in this report, by adopting the staff's conclusions with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's conclusions, by adoption of its own statement.

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the text amendment creating new nonconforming use provisions for legal nonconforming uses located in the Main Street District is reasonable and in the public interest because: 1) it would reduce the amount of time a legal nonconforming use could resume once it had ceased operation, thereby expediting the removal existing nonconforming uses located in the Main Street district; 2) the Main Street district is the principal travel and retail corridor in the city and one of the foci of the Core City Plan; 3) the 30-day cessation period would still allow a property owner of a legal nonconforming use a reasonable amount of time to resume a use if it temporarily ceased for any reason; and 4) the proposed text would provide valuable guidance as to which criteria constitutes cessation of use. The City Council may adopt this statement, it may add to or change this statement, or, if the Council is in disagreement with the above statement it will need to formulate its own reasonableness / public interest statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Douglas Loveland, AICP, and reviewed by Mark Schroeder, AICP, Robert L. Robbins, AICP, and by G. Lee Burnette, AICP.

**NOTICE OF APPROVED AMENDMENT
TO THE CODE OF ORDINANCES
OF THE CITY OF HIGH POINT, NORTH CAROLINA**

TEXT AMENDMENT: 09-05
APPLICANT: City of High Point

AN ORDINANCE AMENDING TITLE 9 OF THE CODE OF ORDINANCES, PURSUANT TO SECTION 9-3-15, TEXT AMENDMENTS, OF THE DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of The City of High Point adopted the “City of High Point Development Ordinance” on January 7, 1992, with an effective date of March 1, 1992, and subsequently amended;

WHEREAS, the City Council of The City of High Point adopted the Core City Plan on February 8, 2007, and desires to implement the Plan; and

WHEREAS, the Core City Plan identifies that there are development, redevelopment and revitalization needs within the Core City area, encourages change in composition of uses along the North Main and South Main corridors and development of mixed use centers at certain areas in these corridors, and recommends a general redevelopment of these corridors in a manner more consistent with traditional downtown development; and

WHEREAS, THE High Point City Council adopted the Main Street zoning district on March 17, 2008, which is applied to portions of the North Main and South Main corridors and which is intended to encourage mixed-use, compact, pedestrian oriented development that includes an integration of residential uses; and

WHEREAS, there are certain existing uses of land in the Main Street district that have been rendered nonconforming by its adoption; and

WHEREAS, it is the desire and intent of the High Point City Council to promote and effect an expeditious termination of nonconforming uses of land in the Main Street district that have ceased operation, in order to advance redevelopment, opportunities that are more consistent with the goals and objectives of the Core City Plan; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on May 26, 2009 and before the City Council on June 15, 2009, regarding Text Amendment 09-05;

WHEREAS, notice of the public hearings was published in the High Point Enterprise on May 17, 2009 for the Planning and Zoning Commission public hearing and June 3, and June 10, 2009, for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

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

SECTION 1. Section 9-4-17(b)(2), entitled *Conditions for Continuance, General*, shall be amended as follows:

- a. A use shall be determined to have ceased if that use is interrupted or otherwise discontinued, regardless of the intent of the owner or occupant. Without excluding other factors, any one or more of the following factors, may be the basis for a determination that a use has ceased: removal of inventory, equipment or machinery; termination (or substantial reduction in the usage) of utility services; absence or substantial reduction in activity at the site compared with the former level of use; failure to maintain minimal hours of operation; voluntary demolition or lack of occupancy of the building(s) in which the use was formerly conducted; removal of on-site signage or copy from that signage; or the failure to apply for or renew necessary licenses or permits, or to appeal from the denial of such.**

(The remaining subsections shall be re-lettered accordingly.)

- ~~e.d.~~ With the exception of a legally nonconforming sexually oriented business use, market showroom use, a nonconforming use in the Main Street District, or a manufactured dwelling, a legally nonconforming use may be enlarged or extended, upon approval of a special exception by the Board of Adjustment, to occupy a greater area of land or floor area than was occupied at the effective date of adoption or amendment of this Ordinance provided the additional square footage of the enlargement or extension does not exceed 25 percent of the square footage of the structure(s) that existed at the time the use became nonconforming and that the enlargement or extension of additional structure(s) occupy the same zone lot or plot of ground as occupied by the existing structures at the time the use became nonconforming. In no case shall the intensity of the nonconforming use be increased or the number of dwelling units in a nonconforming residential use be increased.**
- ~~d.e.~~ With the exception of a legally nonconforming sexually oriented business use, or a nonconforming use in the Main Street District, if any nonconforming use of land ceases for any reason for a continuous period of more than one hundred eighty (180) days, any subsequent use of such land shall be a use permitted in the district. The property owner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than one hundred eighty (180) days, to maintain its nonconforming status.**
- ~~e.f.~~ With the exception of a legally nonconforming sexually oriented business use, or a nonconforming use in the Main Street District, if any nonconforming use of land ceases because of damage, destruction, or demolition of the structure in which the use is located, the structure may be reconstructed or repaired within one hundred eighty (180) days, but not to exceed the number of square feet of floor area nor the number of cubic feet existing in it prior to its damage or destruction.**

SECTION 2. Section 9-4-17(b), entitled *Nonconforming Use of Land*, shall be amended to add the following as a new subsection. The remaining subsections will be renumbered accordingly:

(4). Conditions for Continuance, Main Street District:

- a. **If any nonconforming use in the Main Street District, other than a Market showroom use (for which the Conditions for Continuance are provided in Section 9-4-17(b)(4)), a Sexually Oriented Business (for which the Conditions for Continuance are provided in Section 9-4-17(b)(5)) or a Manufactured Dwelling (for which the Conditions for Continuance are provided in Section 9-4-17(b)(6), ceases for any reason for a continuous period of more than thirty (30) days, any subsequent use of land shall be a use permitted in the district. The property owner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than thirty (30) days to maintain its nonconforming status.**

(Renumber the remaining sections accordingly.)

SECTION 3. That should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. That this ordinance shall become effective upon the date of adoption.

Adopted By City Council,

The day of 2009

Lisa B. Vierling, City Clerk

City of High Point Water and Sewer Rate Schedule Effective January 1, 2010

Water Rates:			
Commodity Charges (Residential)		Inside Rate	Outside Rate
All units	\$	2.31	\$ 4.62
Commodity Charges (Commercial and Industrial)			
		Inside Rate	Outside Rate
First 35 units	\$	2.31	\$ 4.62
Next 765 units		2.09	4.18
Next 2200 units		1.86	3.72
Over 3000 units		1.62	3.24
Commodity Charges (Intergovernmental)			
All units	\$	1.62	
Commodity Charges (Irrigation)		Inside Rate	Outside Rate
All units	\$	3.46	\$ 6.92
Fixed Charges:			
Meter Code	Meter Size	Inside Rate	Outside Rate
WT1	5/8" & 3/4"	\$ 6.97	\$ 13.94
WT2	1"	17.42	34.84
WT3	1-1/2"	34.83	69.66
WT4	2"	55.71	111.42
WT5	3"	111.44	222.88
WT6	4"	174.12	348.24
WT7	6"	348.23	696.46
WT8	8"	556.63	1,113.26
WT10	10"	1,009.57	
WT12	12"	1,496.89	
1 Unit = 750 gallons			

Sewer Rates:			
Commodity Charges		Inside Rate	Outside Rate
All units	\$	4.02	\$ 8.04
Fixed Charges:			
Meter Code	Meter Size	Inside Rate	Outside Rate
WT1	5/8" & 3/4"	\$ 10.80	\$ 21.60
WT2	1"	27.05	54.10
WT3	1-1/2"	54.10	108.20
WT4	2"	86.53	173.06
WT5	3"	173.07	346.14
WT6	4"	270.42	540.84
WT7	6"	540.84	1,081.68
WT8	8"	865.36	1,730.72
Industrial Surcharge		BOD	SS
Inside Rate		\$ 51.85	\$ 46.09
Outside Rate		\$ 103.70	\$ 92.18
Residential Flat Rate Sewer			
Inside Rate			\$ 38.98
Outside Rate			\$ 77.96
Septage Tickets			
(1 ticket per truck up to 3000 gallons)			\$ 103.52



MEMORANDUM

June 9, 2009

MEMO TO: Pat Pate, Assistant City Manager
FROM: Jeffrey A. Moore, Financial Services Director
SUBJECT: Recommendation for Sole Source Authorization

Please place the following item for City Council's consideration at their June 15, 2009, Council meeting:

The City needs to replace a portion of its radio communication inventory. The Information Technology Services Department budgeted for the replacement radios in the 2008-2009 Budget. Because of its current technology and communication relationship with Motorola, the City is necessarily tied to the company for its radio communication needs. The Communications Services Division has secured a quote via state contract for the new Motorola radios. A memo from Steve Lingerfelt, Information Technology Services Director, is attached for justification of the request.

In order to complete the purchase, the following actions are requested from City Council to authorize the exception to the bid laws and approve the purchase of the radios from Motorola.

1. City Council is requested to approve an exception to the bid laws under the "sole source qualification" for the purchase of equipment by the Information Technology Services Department.

State statute (G.S. 143.129(f)) requires City Council to specifically authorize "qualified sole source" exceptions to the bid laws prior to awarding the contract. Based on the letter of justification, the Information Technology Services Department has met the standard for "standardization considerations" as a qualified exemption. Representatives of the Information Technology Services Department will be present to answer any questions which may arise.

2. City Council is requested to approve the acquisition of the radio equipment from Motorola Inc in the amount of \$489,822.05. The funds for the purchase are budgeted in the Central Services Fund – Radio Shop Division.

Accounting
336.883.3240

Internal Audit
336.883.3122

Purchasing
336.883.3219

Treasury Services
336.883.3230



Date: June 2, 2009

To: Jeff Moore
Director of Finance

From: Steve Lingerfelt *SL*
Director of Information Technology Services

Subject: Replacement Radio Purchase

The Department of ITS requests permission to purchase four hundred eighty (480) Motorola XTS portable radios as part of the Sprint Nextel Rebanding agreement. The new portable radios will be purchased at a price that is approximately one fourth of the normal replacement cost and is only available through the rebanding agreement. This equates to a cost savings of approximately \$1.4 million over the next four years.

The new radios will be used to replace older radios currently in the police and electric departments. The old radios that are being replaced will be used for spare parts to maintain our existing inventory.

Motorola is the sole source vendor for the radios and they have provided State Contract pricing on the attached quote.

Cc: Pat Pate
Assistant City Manager

6-18-09
#090159

Good morning, and thank you for letting me speak. I am Marianne Royle, and I live at 1609 Squire Davis Rd., Kernersville. As a resident of Guilford County, I have no vote in High Point, so I'm glad to have the opportunity to tell you of my concerns and that of my neighbors beyond your city limits.

The Resolution of Consideration which Mr. Lee Burnette has sent to Council is "to identify the area that the city would like to continue to have under consideration for annexation", and is to enhance the city's timeline effecting annexation. This Resolution is important if the city is in a hurry, as annexation can take place as soon as 70 days after you vote to annex.

The High Point Economic Development Corporation website states that "High Point currently totals 55+ square miles, and "High Point is well positioned for expansion north, east and west, growing eventually to a total of 92 square miles."

We have no objections to the city annexing the so-called "donut holes" shown on city maps -if residents are already receiving the city services of water, sewer, police and fire, and wish to be part of the city. We DO object to involuntary annexation of the pristine farms, the forested areas, the small homesteads, the many streams and watersheds within your proposed annexation area (see map page 4 of the Resolution). With suspect food being imported from foreign countries and distant states, enlarging our carbon footprint and putting us at risk of food-borne illnesses, we need to keep and encourage all local farms as safe food supply sources - not raze forests and pave over acres for yet more sprawl.

We, along with many others across the state, have been working hard to get House and Senate bills passed that would give residents a referendum on

being annexed. This is being fought by lobbyist
the NC League of Municipalities. We HAVE no
lobbyists and no financing - only our citizens'
voices.

Finally, I earnestly ask that you vote against the
Resolution of Consideration. Thank you.

Marianne Royle
1609 Squire Davis Rd.
Kernersville, NC 27284
(Guilford County)

For High Point City Council, June 18, 2009



City of High Point North Carolina



Department of Transportation

Public Transportation Division

May 20, 2009

AGENDA ITEM

MEMO

To: Strib Boynton, City Manager

From: Mark McDonald, Transportation Director

Subject: Request for Public Hearing

The Department of Transportation is in the process of preparing the FY2010 FTA Section 5307 operating, capital, and planning grant application for Hi tran, Dial-A-Lift, the Thomasville portion of Davidson County Transportation System, and the area within High Point served by Guilford County Transportation System. In order to comply with federal and state guidelines a public hearing must be held for the grant application and the filing of the grant application with FTA and NCDOT authorized by City Council.

If you concur with this request we would like to use the following schedule.

- June 1, 2009 – Council establishes June 15th as the date for the public hearing
- June 15, 2009 – Public hearing is held
- June 18, 2009 – Council authorizes filing of grant applications to FTA and NCDOT and passes authorizing resolution to enter into agreements with NCDOT.

The proposed funding is as follows:

GRANT	TOTAL	FEDERAL SHARE	STATE SHARE	CITY SHARE	COUNTY	OTHER
Section 5307 (FTA) Operating Assistance						
City of High Point	\$2,696,854	\$1,087,583	\$487,287	\$585,697		\$536,287
Davidson County	\$216,000	\$72,000			\$72,000	\$72,000
Guilford County	\$130,000	\$65,000			\$65,000	
Section 5307 Routine Capital	\$296,500	\$237,200		\$59,300		
Section 5309 Major Capital	\$2,104,150	\$1,683,320	\$210,415	\$105,207		\$105,208
Section 5303 Planning	\$41,050	\$32,840	\$4,105	\$4,105		
Total	\$5,484,554	\$3,177,943	\$701,807	\$754,309	\$137,000	\$713,495

If you have any questions or would like to discuss the matter further, please advise.

MVM/aww

Fleet Services Department

Gary L. Smith
DIRECTOR



MEMORANDUM

DATE: June 1, 2009
TO: Randy McCaslin, Assistant City Manager
FROM: Gary L. Smith, Director of Fleet Services

Gary L. Smith

SUBJECT: Agenda Item – Used Refuse Trucks

I respectfully request that the following be included for consideration on the next Council Agenda:

Purchase of three used refuse trucks to be used in the automated refuse collection program that will begin during FY 09-10. These trucks have been well maintained and should have a useful life of four to five years. New trucks with similar equipment sell for over \$226,000. Purchasing used trucks will allow the city to reduce some of costs associated with implementing the new collection service. The following is a description of the used trucks:

2004 Autocar/Heil 7000 Side Loading Refuse Truck with 43,000 miles
2004 Autocar/Heil 7000 Side Loading Refuse Truck with 60,000 miles
2005 Autocar/Heil 7000 Side Loading Refuse Truck with 42,000 miles

Trucks are priced at \$70,000 each.

Funding for this equipment will come from the following account:

DAK 501271-532401 \$210,000 for three units

cc: Bob Martin, Purchasing
cc: Patty Sykes, Purchasing



June 11, 2009

MEMORANDUM

TO: Strib Boynton, City Manager

FROM: Louanne C. Hedrick
Budget & Evaluation Officer

SUBJECT: City Council Agenda Items for fiscal year 2009-2010
Budget

Listed below are the ordinances and resolutions necessary to adopt the 2009-2010 Budget:

- Budget Ordinance for fiscal year 2009-2010
- Schedule of Water & Sewer fees and charges, effective for bills dated January 1, 2010
- Resolution to adopt a \$1 Automated Recycling Fee for addresses receiving utility services effective July 1, 2009 for a term not to exceed 60 months

CITY OF HIGH POINT, NORTH CAROLINA
Fiscal Year 2009-2010 Budget Ordinance

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

Section 1. The following amounts are hereby appropriated for the operation and maintenance of the City's various governmental departments and divisions for the Fiscal Year beginning July 1, 2009 and ending June 30, 2010:

- (1) That for said fiscal year there is hereby appropriated out of the GENERAL FUND for general governmental operations the sum of:

\$ 107,370,759

- (2) That for said fiscal year there is hereby appropriated out of the SPECIAL GRANTS FUND for purposes outlined within the various grant provisions, the sum of:

\$ 8,466,922

- (3) That for said fiscal year there is hereby appropriated out of the COMMUNITY DEVELOPMENT FUND for purposes outlined within the grant, the sum of:

\$ 4,418,714

- (4) That for said fiscal year there is hereby appropriated out of the ECONOMIC DEVELOPMENT FUND, the sum of:

\$ 1,386,666

- (5) That for said fiscal year there is hereby appropriated out of the GENERAL DEBT SERVICE FUND for the payment of debt service charges on general obligation debt, the sum of:

\$ 10,656,245

- (6) That for said fiscal year there is hereby appropriated out of the GENERAL CAPITAL PROJECTS FUND for the purpose of construction and/or acquisition of certain long-lived assets, the sum of:

Capital Projects	\$ 1,185,000
Transfer to General Debt Service	951,384
	\$ <u>2,136,384</u>

- (7) That for said fiscal year there is hereby appropriated out of the CENTRAL SERVICES FUND the following:

Fleet Services	\$ 8,957,961
Radio Repair Shop	974,504
Maintenance Operations	1,941,109
Computer Replacement	631,534
	\$ <u>12,505,108</u>

- (8) That for said fiscal year there is hereby appropriated out of the WATER and SEWER FUND the following:

Operations	\$ 22,741,685
Debt Service	14,992,474
Transfer to Capital Projects Fund	3,855,200
TOTAL WATER and SEWER FUND	\$ <u>41,589,359</u>

- (9) That for said fiscal year there is hereby appropriated out of the WATER and SEWER CAPITAL PROJECTS FUND the following:

Water Sewer Capital Projects	\$ <u>3,855,200</u>
------------------------------	---------------------

CITY OF HIGH POINT, NORTH CAROLINA
Fiscal Year 2009-2010 Budget Ordinance

(10) That for said fiscal year there is hereby appropriated out of the ELECTRIC FUND the following:

Operations	\$ 102,988,381
Capital Projects	4,873,000
TOTAL ELECTRIC FUND	<u>\$ 107,861,381</u>

(11) That for said fiscal year there is hereby appropriated out of the MASS TRANSIT FUND for the purpose of operating High Point's Transit System, the sum of:

\$ 3,298,004

(12) That for said fiscal year there is hereby appropriated out of the PARKING FACILITIES FUND for the purpose of operating City parking facilities, the sum of:

\$ 472,519

(13) That for said fiscal year there is hereby appropriated out of the LANDFILL FACILITIES FUND the following:

Landfill Facility Operating	\$ 5,264,392
Recycling Facility Operating	1,663,693
Capital Projects	3,090,250
TOTAL LANDFILL FACILITIES FUND	<u>\$ 10,018,335</u>

(14) That for said fiscal year there is hereby appropriated out of the STORM WATER FUND the following:

Operations	\$ 1,795,867
Debt Service	885,121
Capital Projects	803,945
TOTAL STORM WATER FUND	<u>\$ 3,484,933</u>

(15) That for said fiscal year there is hereby appropriated out of the MARKET AUTHORITY FUND, the sum of:

\$ 2,835,000

Section 2. It is estimated that the following revenues will be available during fiscal year beginning July 1, 2009 and ending June 30, 2010:

General Fund	
Ad Valorem Taxes	\$ 54,920,444
Sales & Use Taxes	16,950,000
Intergovernmental Revenues	12,449,767
Licenses & Permits	2,772,900
Charges for Services	4,415,250
Miscellaneous	4,549,176
Administrative Reimbursements	6,829,954
Fund Balance Appropriated	4,483,268
Total Revenues and Other Financing Sources	<u>\$ 107,370,759</u>
Grants Fund	
Intergovernmental Revenues	<u>\$ 8,466,922</u>
Community Development Fund	
Intergovernmental Revenues	<u>\$ 4,418,714</u>

CITY OF HIGH POINT, NORTH CAROLINA
Fiscal Year 2009-2010 Budget Ordinance

Economic Development Fund	
Transfer From General Fund	\$ 100,000
Transfer From Electric Fund	1,200,000
Fund Balance Appropriated	86,666
Total Revenues and Other Financing Sources	<u>\$ 1,386,666</u>
General Debt Service Fund	
Ad Valorem Taxes	\$ 3,072,718
Interest on Investments	400,000
Transfer from Other Funds	7,183,527
Fund Balance Appropriated	-
Total Revenues and Other Financing Sources	<u>\$ 10,656,245</u>
General Capital Projects Fund	
Transfer from General Fund	\$ 1,090,000
Transfer from Other Funds	95,000
Fund Balance Appropriated	951,384
Total Revenues and Other Financing Sources	<u>\$ 2,136,384</u>
Central Services Fund	
Sales and Services	12,429,823
Fund Balance Appropriated	75,285
Total Revenues and Other Financing Sources	<u>\$ 12,505,108</u>
Water and Sewer Fund	
Charges for Services	\$ 39,782,943
Non-operating Revenues	1,218,000
Retained Earnings Appropriated	588,416
Total Revenues and Other Financing Sources	<u>\$ 41,589,359</u>
Water and Sewer Capital Projects Fund	
Transfer from Water and Sewer Fund	<u>\$ 3,855,200</u>
Electric Fund	
Charges for Services	\$ 104,320,734
Non-operating Revenues	860,000
Administrative Reimbursements	1,836,636
Retained Earnings Appropriated	844,011
Total Revenues and Other Financing Sources	<u>\$ 107,861,381</u>
Mass Transit Fund	
Charges for Services	\$ 2,111,158
Intergovernmental Revenues	601,150
Transfer From Other Funds	585,696
Total Revenues and Other Financing Sources	<u>\$ 3,298,004</u>
Parking Facilities Fund	
Charges for Services	\$ 416,000
Miscellaneous	18,000
Transfer From Other Funds	38,519
Total Revenues and Other Financing Sources	<u>\$ 472,519</u>

CITY OF HIGH POINT, NORTH CAROLINA
Fiscal Year 2009-2010 Budget Ordinance

Landfill Facilities Fund	
Landfill Tipping Fee Taxes	\$ 45,000
Charges for Services	6,361,000
Miscellaneous	240,000
Transfer from Landfill Maintenance Reserve Fund	2,857,500
Retained Earnings Appropriated	514,835
Total Revenues and Other Financing Sources	<u>\$ 10,018,335</u>
Storm Water Fund	
Charges for Services	\$ 2,122,500
Miscellaneous	160,000
Transfer from General Debt Service	1,202,433
Total Revenues and Other Financing Sources	<u>\$ 3,484,933</u>
Market Authority Fund	
Room Occupancy Taxes	\$ 335,000
Licenses & Permits	1,500,000
Transfer from General Fund	240,000
Transfer from Water-Sewer Fund	50,000
Transfer from Electric Fund	710,000
Total Revenues and Other Financing Sources	<u>\$ 2,835,000</u>

Section 3. There is hereby levied the following rates of tax on each one hundred dollars (\$100) valuation of taxable property, as listed for taxes as of January 1, 2009, for the purpose of raising the revenue from current year's property tax, as set forth in the foregoing estimates of revenue, and in order to finance the foregoing appropriations.

Rate per \$100 Valuation
General Fund \$.633

Such rates of tax are based on an estimated total valuation of property for purpose of taxation of **\$9,319,800,728** and an estimated rate of collections of **98.0%** during the current year.

Section 4. That the reserve for encumbrances at June 30, 2009, representing the unearned portion of contracts as of that date, shall be re-appropriated and distributed as it applied in order to properly account for the payment against which the fiscal year in which it is paid.

Section 5. That the unencumbered balances as of June 30, 2009 of those capital projects and operating encumbrances which were not completed in Fiscal Year 2008-2009 be reappropriated into the Fiscal Year 2009-2010 budget in order to allow completion.

Section 6. That the unencumbered balances in Grant funds which remain as of June 30, 2009 be re-appropriated into the Fiscal Year 2009-2010 budget for the completion of their original purposes.

Section 7. The number of persons to be employed and the salaries and wages to be paid shall be those which are included in the detailed operation budgets; unless provision is made by the City Manager or City Council for employing additional persons.

Section 8. The City Manager is hereby authorized to approve transfers of appropriations within any fund, provided transfers between funds, and authorization for making expenditures from excess revenue shall be made by the City Council.

CITY OF HIGH POINT, NORTH CAROLINA
Fiscal Year 2009-2010 Budget Ordinance

Section 9. Copies of this ordinance shall be furnished to the City Clerk and the Director of Financial Services to be kept on file by him for his direction in the collection and disbursement of City funds.

Section 10. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted this 18th day of June, 2009.

Attest: Lisa B. Vierling, CMC
City Clerk

City of High Point Water and Sewer Rate Schedule Effective January 1, 2010

Water Rates:			
Commodity Charges (Residential)		Inside Rate	Outside Rate
All units	\$	2.31	\$ 4.62
Commodity Charges (Commercial and Industrial)			
		Inside Rate	Outside Rate
First 35 units	\$	2.31	\$ 4.62
Next 765 units		2.09	4.18
Next 2200 units		1.86	3.72
Over 3000 units		1.62	3.24
Commodity Charges (Intergovernmental)			
All units	\$	1.62	
Commodity Charges (Irrigation)		Inside Rate	Outside Rate
All units	\$	3.46	\$ 6.92
Fixed Charges:			
Meter Code	Meter Size	Inside Rate	Outside Rate
WT1	5/8" & 3/4"	\$ 6.97	\$ 13.94
WT2	1"	17.42	34.84
WT3	1-1/2"	34.83	69.66
WT4	2"	55.71	111.42
WT5	3"	111.44	222.88
WT6	4"	174.12	348.24
WT7	6"	348.23	696.46
WT8	8"	556.63	1,113.26
WT10	10"	1,009.57	
WT12	12"	1,496.89	
1 Unit = 750 gallons			

Sewer Rates:			
Commodity Charges		Inside Rate	Outside Rate
All units	\$	4.02	\$ 8.04
Fixed Charges:			
Meter Code	Meter Size	Inside Rate	Outside Rate
WT1	5/8" & 3/4"	\$ 10.80	\$ 21.60
WT2	1"	27.05	54.10
WT3	1-1/2"	54.10	108.20
WT4	2"	86.53	173.06
WT5	3"	173.07	346.14
WT6	4"	270.42	540.84
WT7	6"	540.84	1,081.68
WT8	8"	865.36	1,730.72
Industrial Surcharge		BOD	SS
Inside Rate		\$ 51.85	\$ 46.09
Outside Rate		\$ 103.70	\$ 92.18
Residential Flat Rate Sewer			
Inside Rate			\$ 38.98
Outside Rate			\$ 77.96
Septage Tickets			
(1 ticket per truck up to 3000 gallons)			\$ 103.52



**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGH POINT,
NORTH CAROLINA TO ESTABLISH AN AUTOMATED RECYCLING
COLLECTION FEE**

BE IT RESOLVED, by the City Council of the City of High Point, North Carolina that a one dollar (\$1) automated recycling collection fee will be established for addresses receiving utility services:

BE IT FURTHER RESOLVED that this fee increase will be effective for utility bills dated on or after July 1, 2009 and will continue with the term of the debt payments for automated recycling roll-out carts and collection vehicles (60 months) or until such time as City Council shall determine otherwise.

Adopted by the High Point City Council this 18th day of June, 2009.

Lisa B. Vierling, MMC
City Clerk

May 22, 2009

Mr. Strib Boynton
City Manager
City of High Point
P. O. Box 230
High Point, NC 27261

Dear Strib,

It is my pleasure to deliver to you, for the consideration of the Mayor, City Council and yourself, the Contract from the Board of Directors of the High Point Convention & Visitors Bureau for 2009-2011. Our Board approved the Budget at their March Meeting.

I have enclosed two original copies of the Contract, Budget and support information. If you require any additional information or would like more copies please let me know.

Sincerely,



Charlotte M. Young
CEO & President

Enclosures

AGREEMENT FOR THE CONVENTION & VISITORS BUREAU
BETWEEN THE
CITY OF HIGH POINT
AND THE
HIGH POINT CONVENTION & VISITORS BUREAU, INC.
FY 2009 - 2011

CONTENTS:

Contract Agreement FY 2009 - 2011
Overview & Program of Work FY 2009 - 2010
Proposed Budget and Explanation for FY 2009 - 2010
Occupancy Tax Receipts for FY 2008 - 2009
Financial Statement for April FY 2008 - 2009
Arts & Tourism Grants Program Awards FY 2008 - 2009
Event Booking Incentives for FY 2008 - 2009
Board of Directors
Organizational Chart
Staff Directory
Chart of Staff Organizational Involvement
Mission, Vision, Values and Five Major Goals
Three Year Strategic Plan
Bureau Annual Report 2007-2008

**NORTH CAROLINA
GUILFORD COUNTY**

**AGREEMENT FOR PROVISION OF
CONVENTION AND VISITORS BUREAU**

THIS AGREEMENT, made and entered into before the first day of July, 2009 by and between the City of High Point (hereinafter referred to as the City) and the High Point Convention and Visitors Bureau, Inc. (hereinafter referred to as the Grantee), pursuant to and subject to the restrictions and conditions set forth herein:

WITNESSETH:

In consideration of receipt of a grant or appropriation of funds from the City Council of the City of High Point equal to the total amount of the net proceeds received by the City of High Point from the Guilford County 3% Room Occupancy and Tourism Development Tax, the Grantee named hereinabove does hereby agree to provide Convention and Visitors Bureau Services for the City of High Point in accordance with the terms of this Agreement as set forth herein.

In consideration of the above, the parties do hereby agree as follows:

(1) The Grantee agrees to expend the funds which are the subject of this Agreement and perform services in consideration of the receipt of funds in accordance with the Overview of Program of Work as attached to this Agreement and incorporated herein by reference. The Grantee further agrees to expend the funds in accordance with an Annual Budget for said funds attached hereto and which is incorporated herein by reference. Funds made available to the Grantee pursuant to this Agreement shall be expended only in accordance with applicable federal, state, and local laws. The Grantee may amend the budget from time to time in order to conform with the actual amount of funds received under this agreement.

(2) The Grantee agrees that it will supply such records, reports, information and verification relating to the expenditures of the funds or the operations of the Grantee as may be requested by the City. This shall include quarterly reports on the receipts and expenditures, as well as an annual audit of the receipts and expenditures relating to the grant funds. The Grantee shall maintain a written accounting and documentation of all

of its receipts and disbursements relating to the grant funds which are the subject of this Agreement. The Grantee agrees to subject itself to the provisions of Article 33c of Chapter 143 of the North Carolina Statutes entitled "Meetings of Governmental Bodies", to the same extent as the City.

(3) Funds will be distributed to the Grantee on a monthly basis in accordance with the attached budget. Further, should expenditures overspend the revenues under this Agreement; the City shall have no obligation to reimburse the Grantee for such expenditures.

(4) This Agreement will automatically terminate on June 30, 2011 at which time a new Agreement will be considered.

(5) Upon termination of this Agreement by either party all non-expendable property purchased under this Agreement shall revert to the City of High Point or its assigns.

(6) A High Point Convention and Visitors Bureau Board of Directors shall be appointed, which shall have the authority to oversee the Convention and Visitors Bureau's implementation of the program of work, and the expenditures of the grant funds which are the subject of this Agreement. The Convention and Visitors Bureau Board shall be composed of a minimum of the following twelve (12) members:

(a) One member of the Guilford County Board of Commissioners appointed by the Board of County Commissioners.

(b) One member of the High Point City Council appointed by the City Council.

(c) Two owners or operators of hotels, motels, or other taxable tourist accommodations in the local metropolitan area, one of whom owns or operates hotels, motels, or other tourist accommodations with more than 100 rental units, and one of whom owns or operates hotels, motels, or other tourist accommodations with 100 or fewer rental units, both appointed by the Board of County Commissioners.

(d) One individual who has demonstrated an interest in tourism development and does not own or operate hotels, motels, or other tourist

accommodations, and is a Board member of the High Point Chamber of Commerce, appointed by the Chamber of Commerce.

(e) One individual involved in the local restaurant or food service business who has demonstrated an interest in tourism development, and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(f) One individual involved in the cultural arts or tourist attraction business who has demonstrated an interest in tourism development, and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(g) One at-large individual who has demonstrated an interest in tourism development and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(h) One individual who has demonstrated an interest in tourism development and is a representative of a High Point public convention/trade show center, appointed by the High Point Chamber of Commerce.

(i) Two at-large individuals who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other tourist accommodations, appointed by the Board of County Commissioners.

(j) The President & CEO of the High Point Convention and Visitors Bureau, Inc., who shall be a non-voting, ex-officio member.

All voting members of the High Point Convention and Visitors Bureau Board shall serve without compensation. All members shall serve two year terms and the term shall be October 1 to September 30 two years later. Members may serve no more than two consecutive terms. Members appointed to fill the at-large designations shall serve a full term, and have all voting rights and privileges. The members shall elect a chairperson, who shall also serve a two year term if eligible. Members appointed to fill vacancies shall first serve for the remainder of the unexpired term for which they are appointed to fill, and then are eligible for appointment for a regular term. The Board

shall meet at the call of the Chairperson, and shall adopt rules of procedure to govern its meetings. The Board shall appoint such ex-officio members as it deems appropriate.

(7) The attached Exhibits are:

- (A) Overview & Program of Work; and
- (B) Proposed New Budget and Explanation
- (C) Occupancy Tax Comparison Current Year to Past Year; and
- (D) Financial Statement through April Current Year; and
- (E) Arts & Tourism Grants Awards for Current Year; and
- (F) Event Booking Incentives for Current Year; and
- (G) Board of Directors, Organizational Chart, Staff Directory and Chart of Staff Organizational Involvement; and
- (H) Bureau Mission, Vision, Values, and Five Major Goals
- (I) Three Year Strategic Plan
- (J) Bureau Annual Report 2007-2008

These exhibits are incorporated herein by reference and shall have the same force and effect as if set forth herein.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its behalf; and the Grantee has caused the same to be duly executed in its behalf as of the date first above written.

CITY OF HIGH POINT, NORTH CAROLINA

ATTEST:

Lisa B. Vierling, City Clerk

Stribling Boynton, City Manager

Approved as to legal form:

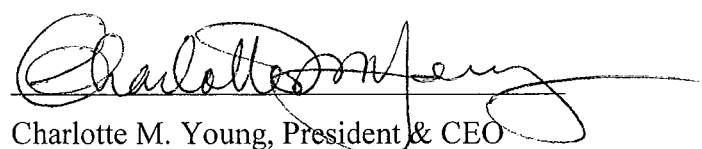
Fred P. Baggett, City Attorney

**HIGH POINT CONVENTION &
VISITORS BUREAU, INC.**

ATTEST:



Chris Adams, Board Chairman



Charlotte M. Young, President & CEO

OVERVIEW & PROGRAM OF WORK FY 2009 - 2010

(Exhibit A Page 1-3)

1. NEW BUDGET

The Proposed Budget for the High Point Convention & Visitors Bureau (HPCVB) is for FY 09-10, *Exhibit B Page 1 – 7*. It is \$1,310,000 which reflects a reduction of 9% from the \$1,435,000 Budget that was proposed for FY 08-09. The current Room Occupancy Tax Comparison shows steady decreases over the previous year, *Exhibit C*, and the estimated final occupancy tax collections for FY 08-09 are \$1,290,000. The new budget, therefore, is a modest 1.15% increase over the estimated final receipts. The Budget is \$1,310,000 tax receipts plus \$8,000 interest totaling \$1,318,000. A copy of the April Financial Statement for FY 08-09 is attached, *Exhibit D Pages 1 & 2*. The rental for the Doll & Miniature Museum of High Point (DMMHP), formerly the Peterson Doll & Miniature Museum (PDMM) is listed separately at the end of the Budget as it is strictly a pass through. The DMMHP space is on the HPCVB lease, therefore, it shows as an expense as well as a receipt and cancels itself out.

The 15% of the room tax revenue allocated for the Arts & Tourism Grants Program will be \$196,500; therefore, \$1,121,500 will be the Regular Budget. The proportion of the Budget for each segment is 37% Administrative, 13% Operations and 50% Marketing, which is within the guidelines outlined by the Destinations Marketing Association International (DMAI) formerly International Association of Convention & Visitor Bureaus (IACVB). The Marketing Budget is \$640,690. This includes Convention Promotions, Tourism Promotions, as well as the Grants Program, which is a significant arm of the tourism effort for the City. The Event Booking Incentive (EBI) Line Item is \$100,000 plus any roll over from the previous year and Market Authority Line Item is \$200,000.

2. FY 08-09 PROGRAM OF WORK

Tourism is one of the leading industries in North Carolina but, as with all areas of business, it has suffered economically. That said, the Bureau is committed to the future and to the strategy of extreme service and attention to the client that goes even beyond all past efforts. The retention of current groups is extremely crucial as well as securing new ones. The sales/service team has designed new services to add to our current menu that will continue to strengthen the strong relationship between the Bureau and the client. The sports market continues to be one that produces well and we will be further developing the new religious/faith based meeting planner organizations. The corporate and tour bus

markets have yet to produce to a satisfactory degree so they will be secondary to the areas that reap the most results. Marketing dollars will be directed to the rejuvenation of the popular "Bring it Home, High Point!" campaign. There will be new energy directed to social media/web marketing and to exploring new avenues to assist in communicating the High Point story. The Bureau will work towards developing more partnerships that can help our tourism industry partners.

PARTNERSHIPS

Arts & Tourism Grants Program:

The Arts & Tourism Grants Program's 15% will be awarded to a number of arts and tourism related projects during FY 09-10. This current year, FY 08-09, support was awarded to 20 worthy applicants/projects totaling \$210,211, *Exhibit E*. Some of the groups also received Event Booking Incentive (EBI) funds.

Funding for International Home Furnishings Market Authority:

For FY 09-10, the HPCVB has allocated \$200,000 to the International Home Furnishings Market Authority with the understanding that this will be a critical year for the Authority in its role of furthering the success of the High Point Market.

Events Booking Incentives:

A number of Event Booking Incentives were offered for conventions and events that were to occur in FY 08-09 and is projected to total \$83,420, *Exhibit F*. The events booking program is more than incentives to book. It is expanded to include maintenance, retention and support of groups. At the April 18, 2007 HPCVB Board Meeting, it was voted to roll over the unused balance of the EBI Line Item at the end of FY 06-07 into FY 07-08 and continue that procedure each year. At the end of FY 07-08 \$22,625 was rolled over into FY 08-09. An estimated \$10,000 to \$14,000 will roll over at the end of FY 08-09. These incentives continue to be successful tools in moving convention/event proposals from lead status to definite bookings and that line item is \$100,000 plus any roll over from FY 08-09.

Doll & Miniature Museum of High Point (DMMHP): formerly Peterson Doll & Miniature Museum (PDMM)

Since the establishment of the DMMHP/PDMM at 101 West Green in 1992, the HPCVB has been its partner. This was the case with the Furniture Discovery Center (FDC) which closed January 31, 2006. The HPCVB is helping to support the operation of the DMMHP with the encouragement that the Board and staff of the DMMHP aggressively seek grants, memberships and fundraising support from other sources. They have received some additional funding and have had number of fund raising and revenue producing programs. It is the desire of the HPCVB that High Point not lose another significant tourist attraction.

Piedmont Triad Council of International Visitors (PTCIV):

In June of 2002, the Bureau extended an offer of a complimentary office to PTCIV which is valued at \$1,792 yearly. PTCIV is a nonprofit organization whose purpose is to improve and promote international relations by sharing the cultural, economic and educational resources of the Piedmont Triad with international visitors. This relationship is a natural as PTCIV is responsible for bringing guests to the area for a period of time staying in hotel and motel properties. The Bureau is currently continuing this arrangement.

Bureau Sports Committee:

The Bureau continues efforts for sporting events. The Bureau Sports Committee, with representatives from a wide range of sports related entities, has facilitated rapid turn around on bookings and increased knowledge of sports facilities that exist. The Committee first met February 2006. The Committee is under the direction of HPCVB Board Member Charles Ramsey. The Bureau joined with the City in the recent NC Marathon 2009 event and now looks forward to engaging the Sports Committee as one more player in expanding and enhancing the NC Marathon 2010 - 2015.

5. ORGANIZATION

The Board of Directors consists of eleven Board Members, nine Ex-officio positions (including the Bureau CEO and the *Chairman Emeritus*) and three staff members, *Exhibit G Pages 1-4*. The Organizational Chart presents an overview of the High Point Convention & Visitors Bureau, the Board, Staff and Committees, *Exhibit G Page 5*. The Bureau Staff, *Exhibit G Page 6*, consists of eight full time and three part-time Visitor Information Specialists. In addition, Registrars and Interns are employed on an 'as needed basis'. The Bureau staff holds memberships and board positions on a number of industry related organizations, *Exhibit G Page 7*.

6. SUMMARY

The Bureau has always recognized its role to fill the City between the International Home Furnishings Markets, thereby keeping a year-round healthy hospitality environment. The Bureau's main focus continues to be strong solicitation of overnight visitors, conventions, special events and trade shows; providing these visitors with outstanding services and insuring a most enjoyable experience for all, which is in keeping with the Bureau Mission, Vision and Values, *Exhibit H*.

In that regard, the Bureau held a two day Board Retreat in January 2008 as a celebration of its 25th Year. The three year Strategic Plan that was the result of the Retreat is attached. *Exhibit I, Pages 1-7*. The Annual Report for 2007-2008 concludes this overview and Program of Work, *Exhibit J*.

PROPOSED HPCVB FY 09-10 BUDGET

<u>No.</u>	<u>ITEM</u>	<u>FY 08-09 Budget</u>	<u>FY 09-10 Itemized</u>	<u>Totals FY 09-10 Proposed</u>
<u>INCOME</u>				
<u>OCCUPANCY TAX COLLECTION</u>				
4101.0	Transient Occupancy Tax * High Point portion of the 3% Guilford County Transient Room Occupancy Tax. This projection is based on the downward economic trend of the current receipts and reflects a 8.7% decrease from FY 08-09 budget.	1,435,000		1,310,000
<u>OTHER INCOME</u>				
4102.0	Interest Income	18,800		8,000
4105.0	Reserve EBI Carry Over	22,625		0
TOTAL BUDGET		1,476,425		1,318,000
<u>GRANT PROGRAM (15% of occupancy tax)</u>				
	Arts & Tourism Grants * This program began in 1984 and each year 15% of the tax receipts is awarded back to tourism and arts related projects.	215,250		196,500
INCOME (-15% grants)=Oper. Budget		1,261,175		1,121,500

EXPENSES**ADMINISTRATIVE EXPENSES**

5201.0	Salaries (See attached list of staff positions)	383,000		383,000
5202.0	Retirement	19,575		21,120
5203.0	Life/Hosp/Dent. Ins.	64,225		63,485
5204.0	Soc. Security	29,300		29,300
5205.0	Unemployment Ins.	1,200		1,100
ADMINISTRATIVE EXPENSES TOTAL		497,300		498,005

OPERATING EXPENSES

5301.0	Memberships/Subscriptions	3,350		3,000
5302.0	Travel/Entertainment	3,500		2,000
5303.0	General & Administrative Operations	41,820		40,000
5303.1	Office Supplies		3,500	
5303.2	Maintenance & Main. Supplies		3,000	
5303.3	Housekeeping & Hskg. Supplies		4,700	
5303.4	Insurance & Prof. Fees		10,200	
5303.5	Enrichment/Pub. Rel.		7,000	
5303.6	Computer		11,600	
5304.0	Postage/General	2,000		2,000
5305.0	Parking	1,920		1,920
5306.0	Telephone	7,000		6,785

<u>No.</u>	<u>ITEM</u>	<u>FY 08-09 Budget</u>	<u>FY 09-10 Itemized</u>	<u>Totals FY 09-10 Proposed</u>
5307.0	Rent/Utilities * Bureau pays rent for space occupied by Bureau and also space occupied by the Doll & Miniature Museum of High Point. (Formerly PDMM). The Musuem reimburses their full portion of the rent on a monthly basis. * Utilities are included. There is a separate section at the end of the Budget reflecting this procedure.	101,400		101,400
5307.1	Rent - Bureau \$10,978/mo. Including utilities;			
5307.4	Rent - Pro Bono * Bureau subleases 400 square feet off VIC lobby and provides 120 square feet of complimentary space to Piedmont Triad Council of International Visitors annually.			
5308.0	Comm/Board Expenses	9,450		8,200
5309.0	Equipment	12,850		14,000
OPERATING EXPENSES TOTAL		183,290		179,305

CONVENTION PROMOTION EXPENSES

5401.0	Convention Advertising	58,000		11,000
5402.0	Convention Services * Promotional materials, convention giveaways, registrars, incentive gifts, signs, sponsorships and special services. Event Booking Incentives to secure and retain group bookings. Support of the High Point Market.	319,475		328,000
5402.2	Conv. Serv.- Incentive Gifts/Bags, etc.		13,500	
5402.3	Conv. Serv.- Registrars		1,500	
5402.5	Conv. Serv.- Event Bkg. Incent.		100,000	
	* Program to encourage bookings and retention of groups by making HP facilities competitive with other convention cities.			
5402.7	High Point Market - IHFMAuthority Event Support		200,000	
	* Funding to support the High Point Market.			
5402.9	Conv. Serv.-Spec. Serv.		13,000	
	* Sales tool to enhance convention or event happening within the FY, such as coffee breaks, receptions and sponsorships.			
5403.0	Entertainment * Expenses of site visits/entertainment of local clients who have potential HP business. Hosting local committees and industry partners.	2,000		1,000
5404.0	Literature/Printing * Production of all necessaery collateral and media for promotion of High Point in order to solicit convention and event business. Items such as Visitor Guides and services guides.	8,475		6,600
5405.0	Memberships - Convention	3,000		2,600
5406.0	Postage - Convention * Postal expenses for bid packets and sales correspondence to clients and to industry partners. Advance promotion of tradeshow participation and consequent follow up correspondence.	2,000		2,000
5407.0	Conv. - Special Promotional Projects Projects such as web marketing, sales blitz, client lunch, and Bring it Home, High Point! Campaign.	30,600		18,200
5408.0	Subscription/Publications	720		0

<u>No.</u>	<u>ITEM</u>	<u>FY 08-09 Budget</u>	<u>FY 09-10 Itemized</u>	<u>Totals FY 09-10 Proposed</u>
5409.0	Travel - Convention	23,250		17,100
	* Personal sales calls on target markets 3-4 days/week.			
5409.1	Travel - Shimon		8,000	
	* Attend AENC regular luncheons in Raleigh and in Charlotte and SGMP meetings, as well as sales calls and attendance at Tradeshows and Bureau Special Projects.			
5409.2	Travel - Wells		8,000	
	* Attend regular meetings of Teams and Sports organizations, regular MPI-CC, as well as sales calls and attendance at Tradeshows and Bureau Special Projects.			
5409.3	Travel - Bice/Siler		1,100	
	* Expenses incurred in special project and in servicing Convention/Events Groups.			
5410.0	Trade Shows - Convention	13,635		5,450
	*Tradeshow Line Item FY 08-09 will include total cost travel, printing and giveaways.			
	* Industry Partners are invited to participate in Bureau booths on a "Pay to-Play" basis at very minimal cost.			
5410.1	Trade Show MS (Shimon)			
	* SGMP Educational Meeting/Tradeshow (Mar.)		400	
5410.2	Trade Show MW (Wells)			
	* TEAMS in conjunction with NC Sports Assn.		3,200	
	* NC Sports Association with Teams		1,500	
	* High Point Chamber Expo - \$350; and others		350	
5412.0	Audiovisuals	500		200
	* Expenses for updating image library, necessary for brochures and promotions.			
5413.0	Intern(s)	4,500		0
CONVENTION PROMOTIONS EXPENSES TOTAL		466,155		392,150

TOURISM PROMOTION EXPENSES

5501.0	Advertising - Tourism - Media Schedule for promoting visitation to High Point including advertising the Passport Program, and Highway Visitor Information Station WPNK 1630 AM	54,000		11,000
5502.0	Audiovisuals	0		0
5503.0	Tourism - Literature/Printing	23,340		18,450
	Production of all necessary collateral for promotion of High Point attractions, dining and heritage, such as Map Pads, African-american Heritage Guide, Visitor Guides "Things to do in High Point" and Restaurant Guides.			
5504.0	Memberships/Subscriptions - Tourism	890		890
	* Maintain memberships in customer oriented organizations in order to maximize our exposure in target markets.			
5505.0	Postage - Tourism	6,000		6,000
	* Industry Partner have the opportunity to insert promotional material in our fulfillment mailing for a nominal fee that is a win-win.			
5506.0	Special Projects	13,000		3,000
	* A number of projects throughout the year supporting the tourism effort. Such as Industry Partners/Media Appreciation Luncheon, Co-Op Marketing and Arm Chair Fam in Raleigh.			
5507.0	Travel/Entertainment	1,250		0
5508.0	Travel Shows	0		0

<u>No.</u>	<u>ITEM</u>	<u>FY 08-09 Budget</u>	<u>FY 09-10 Itemized</u>	<u>Totals FY 09-10 Proposed</u>
5509.0	Visitor Information Center	13,950		10,700
	Provide complimentary refreshments for visitors and decorations appropriate for the seasons and holidays, to further enhance the visitor's experience. Signage and weekend staffing.			
5512.0	Web	2,000		2,000
	* Maintain web site to provide easy access to information regarding High Point Tourism. Also set up to accept inquiries for tourist visits or potential RFP's (request for proposals). Requires constant updating and resubmitting key words for the search engine. Statistics gathered by Open Tracker.			
TOURISM PROMOTION EXPENSES TOTAL		114,430		52,040

TOTAL EXPENSES BEFORE GRANT EXPENSES	1,261,175		1,121,500
---	------------------	--	------------------

GRANT EXPENSES

5800.0	Arts & Tourism Grants Program	215,250		196,500
TOTAL GRANT EXPENSES		215,250		196,500

TOTAL EXPENSES	1,476,425		1,318,000
-----------------------	------------------	--	------------------

Total Marketing Expense	795,835		640,690
--------------------------------	----------------	--	----------------

Excess of Income over Expenses	0		0
---------------------------------------	----------	--	----------

	Bureau pays rent for space occupied by Bureau and also space occupied by the Doll & Miniature Museum of High Point, DMMHP, (Formerly PDMM). The DMMHP reimburses their FULL portion of the rent on a monthly basis.			
INCOME				
4103.0	DMMHP Rents Received*	30,330		30,330
	* Doll & Miniature Museum of High Point (formerly Peterson Doll & Miniature Museum) pays their total rent which is part of the Bureau's lease.			
EXPENSES				
5307.3	DMMHP Rent/Utilities	30,330		30,330
	Rent for DMMHP, \$2,528/mo. Including utilities			
TOTAL		0		0

Publish four (4) consecutive weeks: **June 26, July 3, 10, & 17, 2009**

RESOLUTION OF INTENT TO CONSIDER A
STREET ABANDONMENT
(Case # SA09-15)

WHEREAS, the City Council is requesting to close an unimproved portion of Chiquola Avenue (see Plat Book 141 Page 65), lying east of Hurdoover Street between Edgedale Drive and W. Farriss Avenue.

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

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

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

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

By Order of the City Council
This the 18th day of June 2009.

Lisa B. Vierling, City Clerk

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



STREET ABANDONMENT REQUEST SA09-15

Applicant: Technical Review Committee

Area: 0.05 acres



Location of requested street abandonment

Planning & Development
Department

City of High Point

Date: June 8, 2009



Scale: 1"=200'

y:/ba-pz/2009/pz/sa09-15.mxd

PLANNING AND ZONING COMMISSION RECOMMENDATION

On May 26, 2009, a public hearing was held before the Planning and Zoning Commission regarding the request described below. All members of the Commission were present except for Mr. Nat Bolds and Mr. Andrew Putnam.

City of High Point

Zoning Case 09-05

A request by the City of High Point to rezone approximately 21.9 acres from the Residential Multifamily-8 (RM-8) District and Residential Multifamily-12 (RM-12) District to a Public & Institutional (PI) District. The site is lying at the four corners of S. College Drive & Leonard Avenue.

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

Speaking in favor of the request was Ms. Mary Brown, a member of Baldwin's Chapel Church.

Speaking neither in favor or opposition was Ms. Sharon Ripscomb of St. Stephens AME Zion Church who questioned the impact this rezoning would have on their church.

No one spoke in opposition.

The Planning & Zoning Commission recommended **approval** of Zoning Case 09-05 by a vote of 7-0.

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

**STAFF REPORT
ZONING CASE 09-05
May 26, 2009**

Request	
Applicant: City of High Point (City Council)	Owner(s): City of High Point Trustees of St. Stephens AME Zion Church of High Point South Atlantic Conference of Seventh-Day Adventists, Inc (Baldwin's Chapel)
Proposal: To rezone five parcels totaling approximately 21.9 acres.	From: Residential Multifamily-8 (RM-8) District Residential Multifamily-12 (RM-12) District
	To: Public & Institutional (PI) District

Site Information	
Location:	Parcels lying at the intersection of S. College Drive and Leonard Avenue.
Tax Parcel Numbers:	49-7-1, 49-7-2, 49-10-38, 50-8-6 and 50-14-25 (Guilford County Tax Parcels)
Site Acreage:	Approximately 21.9 acres
Current Land Use:	Northwest corner: City of High Point property, Police Station and Morehead Recreational Center (<i>approx. 16.5 acres</i>). Southwest corner: St. Stephens AME Zion Church (<i>approx. 3.9 acres</i>) Southeast corner: Baldwin's Chapel Seventh Day Adventist Church (<i>approx. 1.7 acres</i>). Northeast corner: Vacant parcel owned by Baldwin's Chapel Seventh Day Adventist Church (<i>approx. 0.78 acres</i>).
Physical Characteristics:	<u>Northwest & Southwest corners:</u> Relatively flat with moderately sloping terrain along S. College Drive. <u>Northeast & Southeast corners:</u> Moderately sloping terrain with a perennial stream and 100 year flood zone area, running in a north to south direction, through the eastern portion of Baldwin's Chapel parcels.
Water and Sewer Proximity:	A 12-inch water line and an 8-inch sewer line runs along Leonard Avenue. In addition, a 12-inch sewer line runs in a north south direction through the Baldwin's Chapel parcel paralleling the perennial stream.
General Drainage and Watershed:	Property in this area drains from west to east toward the stream lying east of S. College Drive. This area is subject to the Randleman Lake General Watershed Area (GWA) requirements of the water supply watershed regulations. Development with an impervious surface area that is 12% or

	more of the site requires engineered stormwater measures. Maximum impervious area is 50%.
Overlay District(s):	Randleman Lake (GWA)

Adjacent Property Zoning and Current Land Use		
North:	Residential Multifamily-12 (RM-12) Residential Multifamily-8 (RM-8)	Railroad tracks lying across E. Kivett Drive Single family dwellings.
South:	Residential Multifamily-12 (RM-12) Residential Multifamily-8 (RM-8)	Single family dwellings and vacant parcels.
East:	Residential Multifamily-8 (RM-8)	Single family dwellings.
West:	Residential Multifamily-12 (RM-12) Residential Multifamily-18 (RM-18) Neighborhood Business (NB)	Multifamily dwellings. Church. Convenience store.

Relevant Land Use Policies and Related Zoning History	
Land Use Plan Map Classification:	<u>Northwest corner:</u> • Recreation/Open Space: Lands for recreation or open space are included in this classification, offering either active use or passive enjoyment and environmental protection. • Institutional: Public, quasi-public and institutional uses on large tracts are included in this classification. <u>Southwest corner:</u> 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. <u>Northeast & Southeast corner:</u> • 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.
Land Use Plan Goals, Objectives and Policies:	<u>Land Use Plan</u> Goal #2: Encourage development that enhances and preserves established neighborhoods; <u>Core City Plan</u> Goal 2: Improve High Point's older urban neighborhoods, while ensuring better future neighborhoods.
Relevant Area Plan(s):	The rezoning site is within the Core City Plan area, but there are no directly relevant goals, objectives or policies in the plan pertaining to the zoning site or the surrounding area.
Zoning History:	N/A

Transportation Information			
Adjacent Streets:	Name	Classification	Approx. Frontage
	Leonard Avenue	Collector Street	990 feet
	S. College Drive	Major Thoroughfare	1,350 feet
	Kivett Drive	Major Thoroughfare	1,175 feet
	Price Street	Local Street	490 feet
Vehicular Access:	The police station and recreation center have existing driveways on Price Street, and the churches have existing driveways on Leonard Avenue.		
Traffic Counts:	College Drive at Leonard Avenue	10,300	(2005, 12-hour count)
	College Drive at Kivett Drive	15,700	(2007, 12-hour count)
Estimated Trip Generation:	Not applicable (<i>existing uses</i>)		
Traffic Impact Analysis:	Required		Comment
	Yes	No	None
		X	
Pedestrian Access:	There are no pedestrian facilities planned for this area.		

School District Comment
Not applicable to this zoning case.

Details of Proposal

There has been a desire from Baldwin's Chapel to conduct temporary outdoor religious events (tent revival services) upon the separate vacant parcel they own on the northeast corner of S. College Drive and Leonard Avenue. However, the current multifamily zoning does not permit this activity; therefore, the planning staff reviewed options for the church to consider that would permit this activity. As part of this review, staff looked at the use and zoning pattern in this area and observed that there is a concentration of institutional uses at the four corners of this intersection, consisting of two churches, the City of High Point police station and a City of High Point recreational facility. During this review it was also discovered that the police station (i.e. Government Office Use) is not a permitted use in the multifamily zoning district that covers this area. The current facility is an existing non-confirming use and may continue to operate. However, there have been preliminary discussions pertaining to the possible expansion of the police station at its current location, and as a non-confirming use any expansion would be restricted.

To address these issues and due to the concentration of long-standing institutional facilities at this intersection, staff recommended that the City Council initiate rezoning of the parcels at the four corners of this intersection from multifamily to a Public & Institutional (PI) District. The PI District would permit outdoor religious events and eliminate the non-confirming status of the police station property. Additionally, it would more accurately reflect the manner in which properties have been developed and used for the past several decades at this intersection.

Identified Issues

Major Issues:

- ❖ None.

Minor Issues:

- ❖ Compatibility with surrounding residential uses:
 - Some of the same uses permitted in the current multifamily district are also allowed in the proposed PI District. The primary difference under the proposed PI District would be that multifamily uses (up to 12 units per acres) and other residential uses would no longer be permitted. Current uses upon the zoning site are long standing institutional uses.
 - Due to the limited land area of most of the individual parcels associated with the zoning site, many of the more feasible uses of the proposed PI District would be of a similar intensity as current uses and no more intense than uses allowed under the current RM-8 and RM-12 Districts.

Recommendation

Staff Recommends Approval

Based upon the land development pattern in this area, long-standing nature of institutional uses upon the zoning site and that many of the potential PI District uses would be in harmony with adjacent uses, staff recommends approval of the request to rezone these parcels to the PI District.

Required Action

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.

City Council:

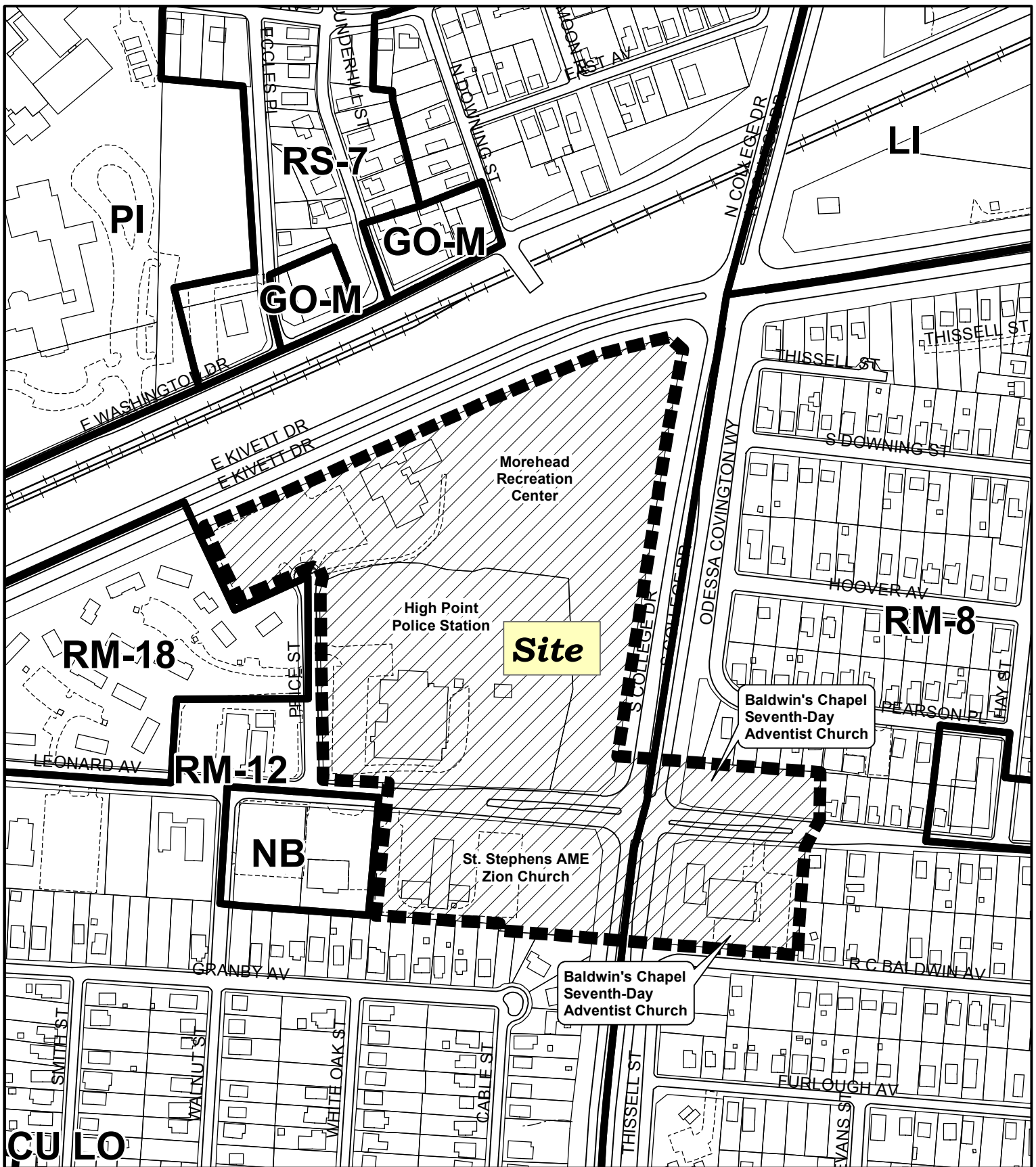
Upon rendering its decision in this case, the High Point City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes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

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the approval of the applicant's request is reasonable and in the public interest because: 1) These existing institutional uses are long standing facilities and the PI District more accurately reflects the manner in which area has developed; 2) Rezoning to PI District would

not affect the continued use of existing churches and would allow Baldwin's Chapel to conduct temporary outdoor religious events without being in violation of the Development Ordinance; 3) The proposed PI District would eliminate the current non-conforming status of the police station property and allow its expansion, this is in keeping with Goal #4 of the Land Use Plan which speaks to ensuring required public services and facilities are sequenced to meet demands of development; and 4) The zoning site is located upon the outer edge of adjacent residential subdivision and have developed and been used as institutional uses for several decades, current and other allowable PI District uses are not expected to negatively impact adjacent residential property owners. The City Council may adopt this statement, it may add to or change this statement, or, if the Council is in disagreement with the above statement it will need to formulate its own reasonableness / public interest statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Herbert Shannon AICP, Senior Planner and reviewed by Robert Robbins AICP, Development Administrator and Lee Burnette AICP, Director.



REZONING CASE 09-05

**From: Residential Multifamily-8 and
Residential Multifamily-12**

To: Public Institutional

Existing Zoning Boundary

Subject Property Boundary



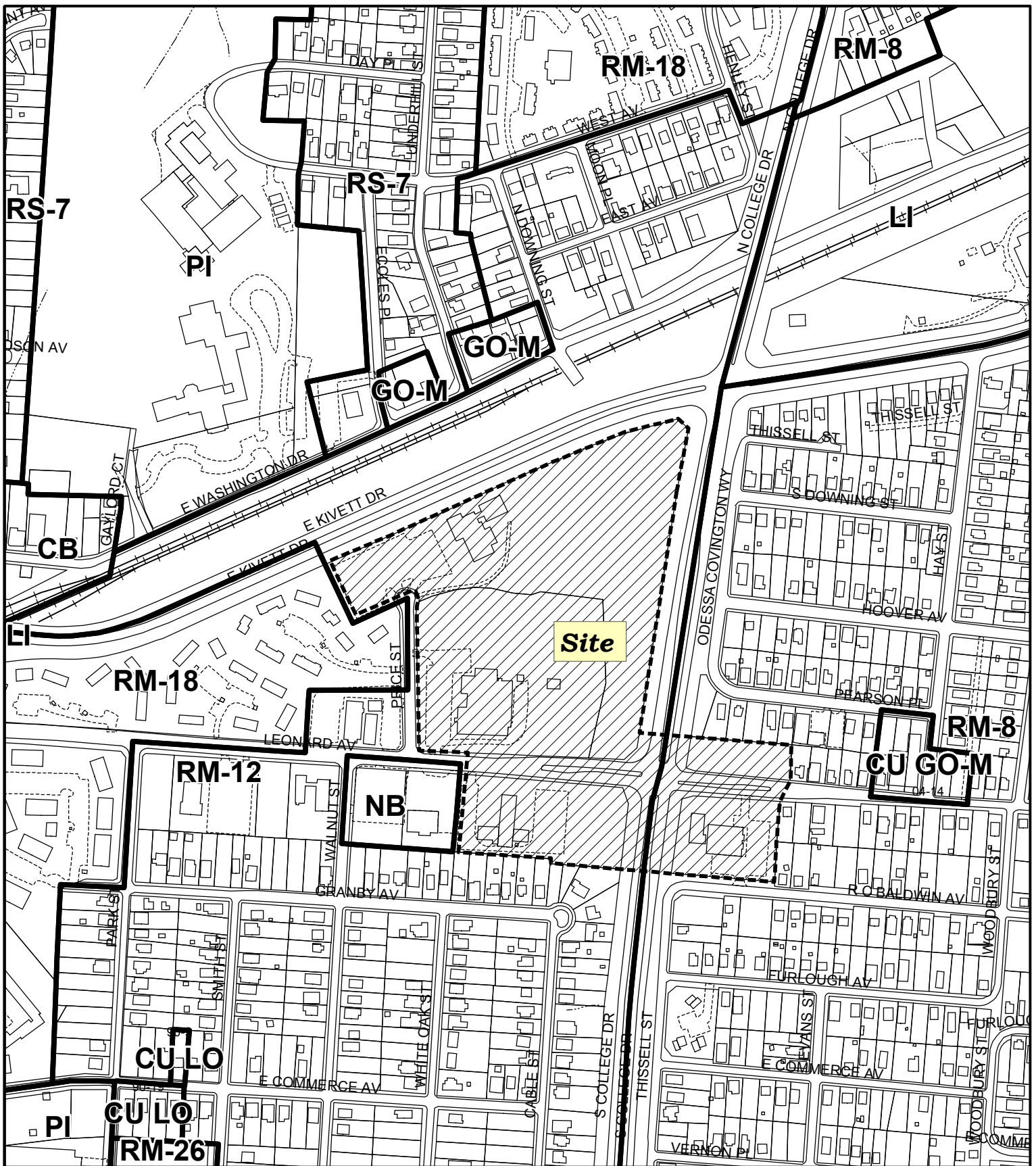
**Planning & Development
Department**

City of High Point

Date: May 8, 2009



Scale: 1"=400'
y:/ba-pz/2009/pz/z09-05.mxd



REZONING CASE 09-05

**From: Residential Multifamily-8 and
Residential Multifamily-12**

To: Public Institutional

Existing Zoning Boundary

Subject Property Boundary



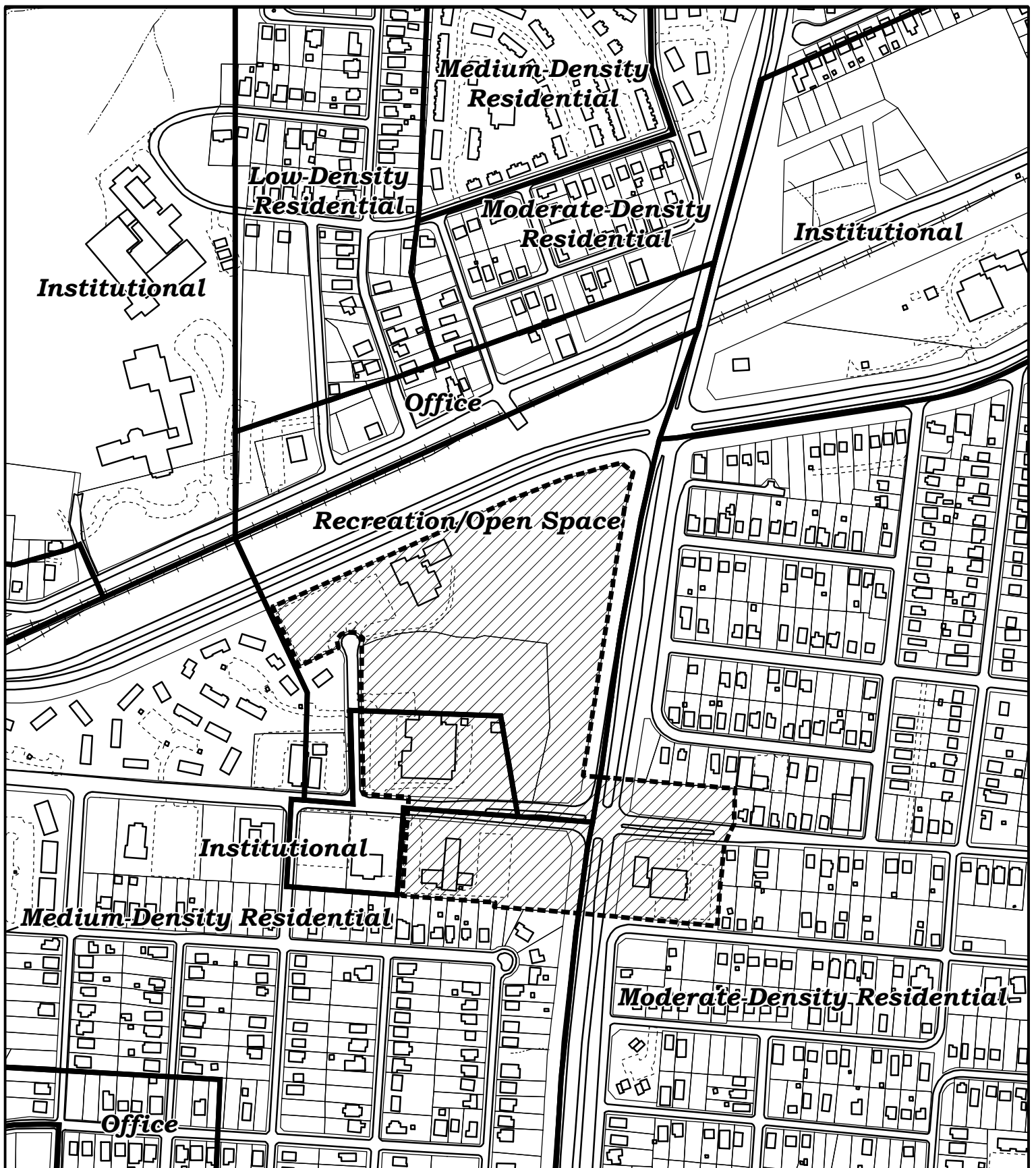
**Planning & Development
Department**

City of High Point

Date: May 8, 2009



Scale: 1"=400'
y:/ba-pz/2009/pz/z09-05.mxd



REZONING CASE 09-05

Land Use Plan

Existing Land Use Plan
Subject Property Boundary



**Planning & Development
 Department**

City of High Point

Date: May 12, 2009



Scale: 1"=400'

y:/ba-pz/2009/pz/z09-05lu.mxd

REZONING CASE 09-05

Topography

Subject Property Boundary - - - - -

**Planning & Development
Department**

City of High Point

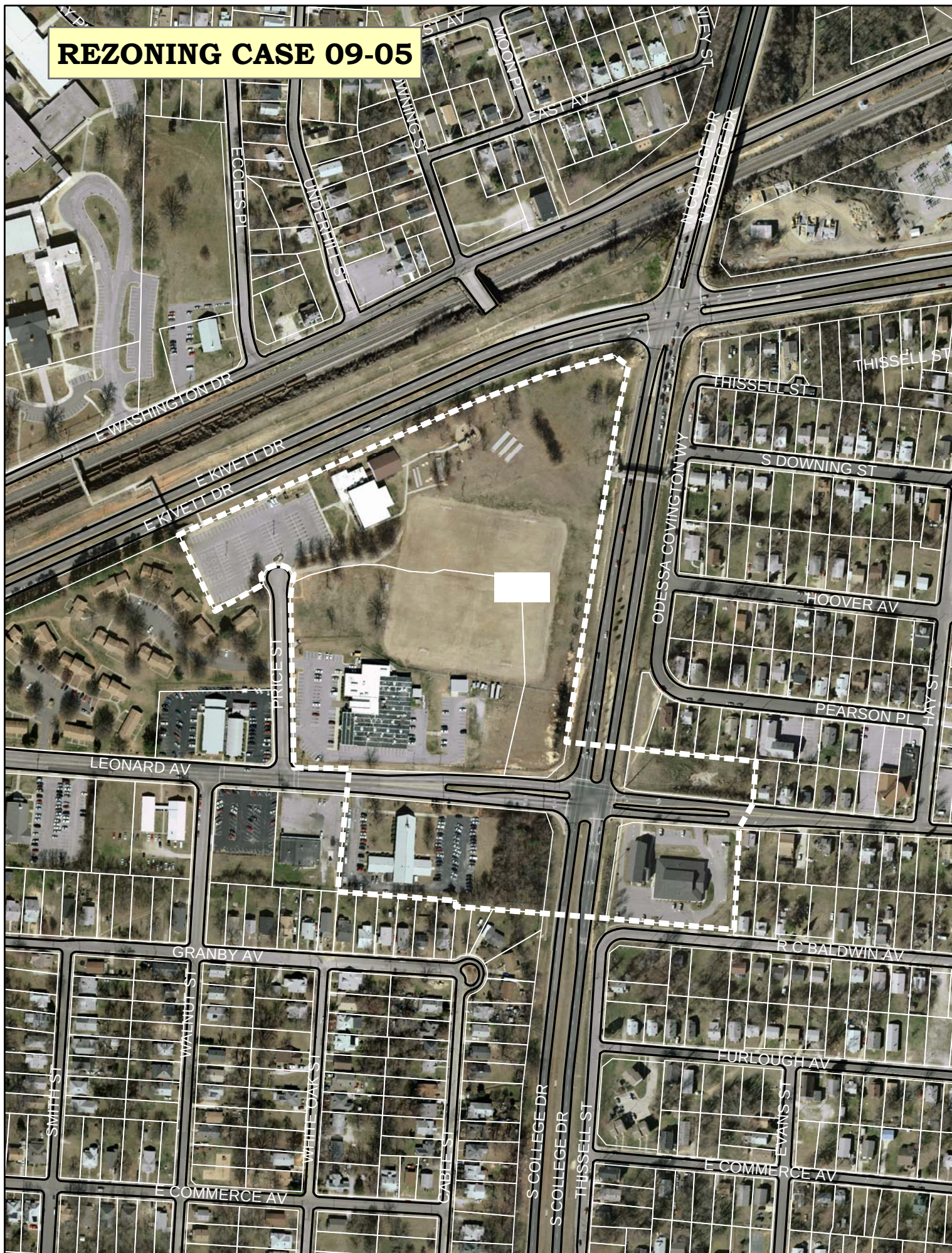
Date: May 12, 2009



Scale: 1'=400'

y:/ba-pz/2009/pz/z09-05topo.mxd

REZONING CASE 09-05



BID INFORMATION AND RECOMMENDATION

BID # 48-042909

DATE OPENED: April 29, 2009

DESCRIPTION: Chemicals for Water & Wastewater Treatment Plants

BID PACKAGES DISTRIBUTED: 30

DEPARTMENT: Public Services

SOURCE OF FUNDS: 621753-526103
621758-526103
621752-526103

BUDGETED AMOUNT: \$ 50,002.
\$ 246,153.
\$ 78,054.

PURPOSE: To request Council to rescind the May 4, 2009 bid award to General Chemical Company for Aluminum Sulfate, and to award the bid to the next low bidder, Alchem, Inc.

COMMENTS: The low bidder, General Chemical, notified us after the bid award that they had a clerical error in their bid, and withdrew their offer.

RECOMMENDED AWARD

QTY	U/M	DESCRIPTION	VENDOR	EA	TOTAL
915	TN	Aluminum Sulfate, Liquid	Alchem, Inc.	\$261.00	\$238,815.00

BID TABULATION

SEE ATTACHED

The **PURCHASING DEPARTMENT AND PUBLIC SERVICES DEPARTMENT** recommend that the contract for **ALUMINUM SULFATE** be awarded to **ALCHEM, INC.**, the lowest responsible and responsive bidders meeting specifications for the total amount of **\$238,815.00**.

DATE OF RECOMMENDATION: June 8, 2009.



Strib Boynton, CITY MANAGER

BID TABULATION
WATER TREATMENT CHEMICALS-6 MONTH CONTRACT
BID NO. 48-042908

ALUMINUM SULFATE		
915 Tons		
General Chemical	\$ 224.00	\$ 204,960.00
Alchem, Inc.	\$ 261.00	\$ 238,815.00
Key Chemical	\$ 379.48	\$ 347,224.20
Kemira Water	\$ 390.00	\$ 356,850.00
Surry Chemicals	\$ 422.00	\$ 386,130.00
Delta Chemicals	\$ 436.00	\$ 398,940.00
Geo Specialty Chemicals	\$ 449.00	\$ 410,835.00
C & S Chemcicals	\$ 463.00	\$ 423,645.00

FLOURIDE		
50 Tons		
Key Chemical	\$ 509.42	\$ 25,471.00
Harcross Chemicals	\$ 512.00	\$ 25,600.00
Brenntag	\$ 600.00	\$ 30,000.00
LCI Ltd.	\$ 601.00	\$ 30,050.00
Univar	\$ 651.00	\$ 32,550.00
Solvay Flourides	\$ 669.00	\$ 33,450.00

QUICK LIME		
65 Tons		
Chemical Lime Company	\$ 144.11	\$ 9,367.15
Greer Lime Company	\$ 160.00	\$ 10,400.00

CORROSION INHIBITOR		
65 Tons		
Simply Aquatics	\$ 904.00	\$ 58,760.00
Dabcoat Chemical	\$ 1,050.00	\$ 68,250.00
Univar	\$ 1,060.00	\$ 68,900.00
Shannon Chemical	\$ 1,827.27	\$ 118,772.55

SODIUM HYDROXIDE		
180 Tons		
Brenntag	\$ 367.56	\$ 66,160.80
Water Guard, Inc.	\$ 397.00	\$ 25,805.00
Surry Chemicals	\$ 410.00	\$ 73,800.00
Basic Chemicals	\$ 459.14	\$ 82,645.20
Univar	\$ 480.00	\$ 31,200.00
Key Chemical	\$ 516.24	\$ 92,923.20
Thatcher Company	\$ 529.00	\$ 95,220.00
Harcross Chemicals	\$ 734.00	\$ 132,120.00

2009 JUSTICE ASSISTANCE GRANT

“JAG”

2009 Award to Three Jurisdictions \$415,193.00

JAG grant awards are direct to local jurisdictions. They are formula-based, non-competitive; there is no match. High Point is again the lead administrative agency for these grant funds.

The Sheriff's Office is certified at 20% disparity by the NC Attorney General's office, which means Greensboro and High Point each must give 20% of their award to GCSO. Reasoning is that while the county's crime numbers are not as high as the cities', the Sheriff is responsible to house prisoners arrested from all three jurisdictions, not only those arrested by deputies.

PROPOSED SPENDING OF 2009 JUSTICE ASSISTANCE FUNDS

Guilford County Sheriff's Department will use the 2009 JAG Funds (\$105,884.20) to purchase technology and support training for an interoperable emergency response system. This system will enable a seamless video, radio, Nextel and telephone communications between the Sheriff's office and critical community assets. They will also use funds to purchase covert video surveillance equipment for their special operations unit.

Greensboro Police Department will use 2009 JAG Funds (\$230,830.40) to purchase 639 bullet proof vests for officers. The lot of vests last purchased for their officers are reaching expiration dates and need to be replaced. By the end of 2010 the Greensboro Police Department will need to replace 426 vests. Additionally, 213 vests will need to be purchased for new hires by the year 2011.

The High Point Police Department will use 2009 JAG Funds (\$78,478.40) to aid in the area of domestic violence research. During the last 5 years the HPPD has responded to an average of 5,054 domestic disturbance calls per year. In 2008 patrol officers handled 4,075 domestic disturbance calls; two officers, for an average of 30 minutes per call, for a total of 5,828 hours committed. The research will focus on a heavy emphasis on helping victims avoid patterns of intimacy with abusers, disengage on helping victims avoid patterns of intimacy with abusers, disengage from abusers with whom they are involved, physically remove themselves from abusive settings and ex post facto, address the damage created by abuse and patterns of abuse. HPPD will contract with one principal investigator and two graduate students to conduct the research associated with the project.