

City of High Point

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



Meeting Minutes

Monday, February 16, 2009

4:45:00 PM

Council Chambers

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

ROLL CALL, PRAYER, PLEDGE OF ALLEGIANCE

Upon call of the roll, Mayor Rebecca R. Smothers; Mayor Pro Tem William S. "Bill" Bencini, Jr., and Council Members Latimer B. Alexander, IV, Mary Lou Andrews Blakeney, Foster Douglas, John Faircloth; Michael D. Pugh; Bernita Sims and M. Christopher Whitley were present.

Mayor Smothers offered the invocation; the Pledge of Allegiance followed.

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

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

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

§ Finance Committee; Monday, February 2nd @ 3:30 p.m.

§ Combined Meeting; Monday, February 2nd @ 4:45/5:30 p.m.

FINAL ACTION TAKEN AT TONIGHT'S MEETING

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

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

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

PRESENTATION OF ITEMS**FINANCE COMMITTEE - Council Member Whitley, Chair**

Members: Bencini, Douglas and Alexander

(all were present)

Contract - Piggyback Bid No. 33 - Power Transformer**090026**

Council is requested to approve contact for Piggyback City of High Point Bid No. 33 for the purchase of a Power Transformer. Purchasing and the Electric Department recommend that contact be awarded to Kuhlman Electric Corporation in the amount to of \$648,065.00 which is the lowest responsive and responsible bid meeting specifications.

This matter was discussed during a Finance Committee held on Monday, February 16th @ 3:30 p.m. prior to this meeting.

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

Approved contract with Kuhlman Electric Corporation in the amount of \$648,065.00 which is the lowest responsive and responsible bid meeting specifications.

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

Contract - Piggyback Bid - Greenville Utilities Commission, NC - Water Meter

090027

Council is requested to approve contact for Piggyback Bid with the Greenville Utilities Commission, Corporation for the purchase of Water Meters. Purchase and the Customer Service Department recommends that contract be awarded to Carolina Meter and Supply in the amount of \$238,500.00 which is the lowest responsive and responsible bid meeting specifications.

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

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

Approved contract with Carolina Meter and Supply in the amount of \$238,500.00 which is the lowest responsive and responsible bid meeting specifications.

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

Budget Ordinance Amendment - Appropriate Funds for 911 State Funds

090030

Adoption of an ordinance amending the 2008-2009 Budget Ordinance to appropriate funds in the amount of \$315,000 for 911 State Funds.

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

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

Adopted Ordinance amending the 2008-2009 Budget Ordinance appropriating funds in the amount of \$315,000 for 911 State Funds.

Ordinance No. 6603/09-03

Introduced 02/16/2009

Adopted 02/16/2009

Ordinance Book Volume XVI, Page 88

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

Budget Ordinance Amendment - Lead Hazard Control Project

090031

Adoption of an ordinance amending the 2008-2009 Budget Ordinance to appropriate funds in the amount of \$3,000,000 for Federal Grant for the Lead Hazard Control Project.

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

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

Adopted Ordinance amending the 2008-2009 Budget Ordinance appropriating funds in the amount of \$3,000,000 for Federal Grant for the Lead Hazard Control Project.

*Ordinance No. 6604/09-04
02/16/2009*

Introduced

Adopted 02/16/2009

Ordinance Book Volume XVI, Page 89

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

Contract Renewal - CIGNA HealthCare - Employee Group Health/Dental Insurance

090037

Seeking City Council approval authorizing the City Manager to execute contract renewal with CIGNA HealthCare for the employee group health and dental insurance. Contract will be effective for the period of April 1, 2009 - March 31, 2010.

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

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

Approved contract renewal with CIGNA HealthCare for employee group health/dental insurance to be effective for the period of April 1, 2009 through March 31, 2010 and authorized the city manager to execute same.

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

PUBLIC SAFETY COMMITTEE - Council Member Faircloth, Chair

Members: Douglas, Pugh and Alexander

(all were present)

Ordinance - Demolition of Structure - 309 N. West Point Avenue**090028**

Adoption of ordinance ordering the housing inspector to effectuate the demolition of a dwelling located at 309 N. West Point Avenue belonging to Kingston Investments, LLC.

Chairman Faircloth asked staff to provide an update for Council regarding this structure. Katherine Bossi, Local Codes Enforcement Supervisor, reported that the first inspection on this property took place on October 3, 2008 and the structure was found to be substandard at that time due to the number and severity of the Minimum Housing Code violations. She pointed out that the property has not had utilities since March, 2006 and the current owner of the property, Kingston Investments, purchased this property in February 2007. The property has not been occupied according to utility accounts. On October 17th, staff issued the order to repair or demolish giving the owner 90 days with a compliance date of January 16, 2009 (no action has yet to be taken). Ms. Bossi noted that staff has not had any communication with the property owner and that the city had to secure and board up the dwelling. She pointed out that conditions still exist; the Guilford County tax value of the structure is \$35,700 and estimated repairs are \$33,500.

Council Member Alexander felt this would be an excellent

At this time, Chairman Faircloth asked if there was anyone present representing 309 N. West Point Avenue. There being no one present to offer any comments, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for adoption.

Adopted ordinance ordering the housing inspector to effectuate the demolition of a dwelling located at 309 N. West Point Avenue belonging to Kingston Investments, LLC.

Ordinance No. 6605/09-05

Introduced

12/16/2009

Adopted 02/16/2009

Ordinance Book Volume XVI, Page 90

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

Ordinance - Demolition of Structure - 518 Manor Drive**090029**

Adoption of ordinance ordering the housing inspector to effectuate demolition of a dwelling located at 518 Manor Drive belonging to George Brown.

Chairman Faircloth asked staff to update Council regarding this matter. Katherine Bossi, Local Codes Enforcement Supervisor, explained that the structure caught fire in March 2008 and because six months or better had passed with no repairs being made to the structure, staff made an inspection on September 28th and conducted a hearing (the owner did not show). On September 28, 2008, staff issued a 90-day order to repair or demolish the structure with a compliance date of December 31, 2008. Ms. Bossi noted that no action has been taken by the property owner to comply.

Mayor Pro Tem Bencini called another violation involving a burned structure to staff's attention and asked about the status of the dwelling in the 600 block of W. Lexington. Ms. Bossi pointed out that the fire claimed the life of a gentleman and this has held up the process somewhat because staff has not been able to locate the heirs, nor has staff been able to find any foreclosure on it. She explained that due to the fact that there is no significant structural damage and based on the tax value of the property, it will probably be a repair or vacate. The city manager indicated he could help staff possibly track down some of the names of the owners.

Council Member Sims asked staff if they typically notify the mortgage companies, if this information is available and Ms. Bossi replied in the affirmative. She noted that in the case with the burned structure on Manor Drive, staff did speak with the mortgage company and learned that it was not in foreclosure.

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

Ordinance No. 6606/09-06

Introduced 02/16/2009

Adopted 02/16/2009

Ordinance Book Volume XVI, Page 91

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

Pending Items

Amendment to the Code of Ordinances - Section 12 - "Offenses"

080320

Monday, November 3, 2008 at 5:30 p.m. is the date and time established by City Council to receive public comments on the following changes to the High Point Code of Ordinances:

A new section 12-1-14 - Urinating or Defecating on any public place

Amendment to section 12-1-4 - Possession or consumption of malt beverages and unfortified wine on streets and city property. (this matter was split out, please refer to Matter #090052.

Note: This matter was originally included in 080293 and the joint public hearing was held on Monday, November 3rd at which time, the matter was continued to November 18th. At that time, action was taken on the solicitation portion, so the matter was then split out and assigned a new matter number (080230). Matter is still pending.

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

(all were present)

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

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

(all were present)

Resolution of Intent - Annexation 09-01 - Vernon & Lois Shivers

090032

Approval of a Resolution of Intent that establishes a public hearing date of Monday, March 2, 2009 at 5:30 p.m. to consider a voluntary contiguous annexation of approximately 3 acres, by Vernon and Lois Shiver. The site is lying along the north side of Hedgecock Road, opposite Hedgewood Lane (864 Hedgecock Road).

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

Adopted Resolution of Intent establishing a public hearing date of Monday, March 2, 2009 at 5:30 p.m. to consider a voluntary contiguous annexation petition submitted by Vernon and Lois Shiver.

Resolution No. 1484/09-12

Introduced 02/16/2009

Adopted 02/16/2009

Resolution Book Volume XVI, Page 126

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

PUBLIC COMMENT

John Wendal, who resides at 529 Vandever Street, addressed Council in an effort to come to some resolution regarding problems where he lives. He informed Council that he had met with Sheriff B. J. Barnes as well as Commander Collins at GTCC because of his fear of the High Point Police Department and mentioned a negative letter he had received from High Point Police Chief Fealy where he was told not to call the Police Department again, unless there was an emergency and when he did call, he was to talk only to Officer Provost. He proceeded to read a letter he wrote to the Attorney General about the situation. Mr. Wendall expressed concerns about illegal activities around him (drugs, prostitution, illegal dumping, break-ins. He noted that when he did call the High Point Police Department about his concerns, they were hateful and disrespectful to him and to his family and when he sees police officers out in the public, they treat him the same way. Mr. Wendal noted that he has called the D.A., and the city manager and can't get anyone to return his calls. He asked that a mediator get him and Chief Fealy together to come up with a resolution. He also informed Council that he's getting life-threatening letters in his mailbox from folks that want him dead and he was trying to move, but Section 8 is making it difficult for him to do so.

Mayor Smothers asked Council Member Faircloth if he would ask the police department to brief the Public Safety Committee regarding the types of illegal activities in Mr. Wendal's neighborhood.

PUBLIC HEARINGS ON ITEMS

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

PLANNING & DEVELOPMENT COMMITTEE - Council Member Bencini, Chair

Members: Blakeney, Pugh, Sims and Faircloth

(all were present)

Ordinance - Text Amendment 09-01 - High Point University

090033

A request by High Point University to amend Section 9-5-16(c) of the Development Ordinance pertaining to signs incorporated into or on an athletic field scoreboard.

The public hearing regarding this matter was held on Monday, February 16, 2009 at 5:30 p.m.

Note: These proceedings contain a summary of the matter. The entire transcript will be attached as a permanent part of the proceedings in Legistar.

Bob Robbins of Planning & Development gave an overview of the staff report as follows:

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT*

*STAFF REPORT
TEXT AMENDMENT CASE 09-01
January 27, 2009*

Request

Applicant: High Point University Affected Ordinance Sections: Section 9-5-16, entitled Sign Regulations, subsection (c), Signs Exempt From Regulation

Proposal: A request from High Point University to amend Section 9-5-16(c) of the Development Ordinance pertaining to signs located on or affixed to an athletic field scoreboard.

Background

This past summer, High Point University installed a new baseball field scoreboard, located west of the athletic field, roughly parallel to West College Drive and just north of the E. Farriss Avenue intersection. Subsequently, a canvas-type sign that promotes the University was attached to the back of the scoreboard facing West College Drive. The sign covers the back of the scoreboard structure and is about 1200 square feet in area. The Planning and Development Department made a determination that the sign violates the City's sign regulations in that it constitutes a freestanding sign of illegal size and height for the zoning district (Public & Institutional).

The University filed an administrative appeal of the Department's determination with the Board of Adjustment, claiming that the sign should be exempt from regulation because of its content (depicting the University and American flags) and because it is a work of art. The appeal hearing was then continued from the November BOA meeting to the January meeting in order to permit the University time to consider other options for compliance. After consulting with Department staff, the University filed a text amendment request in December, and in January the BOA again agreed to continue the administrative appeal hearing - this time to its March meeting - to allow the text amendment process to conclude first. If the text amendment is adopted, there will be no need for the appeal case to proceed. If it is not, then the appeal may be heard by the Board of Adjustment on March 12th.

Details of Proposal

The proposed changes to the sign regulations involve two paragraphs of Section 9-5-16(c), which describes signage that the City has decided not to regulate. Such signage includes governmental signs, hand carried signs, signs in the interior of buildings or those that are not visible from a public or private street, signs painted on or attached to windows, works of art with no commercial message, and flags of the U.S., North Carolina and other officially recognized local jurisdictions and foreign nations. In paragraph (5), the words 'athletic fields' are added, as this is an Ordinance defined term that generally includes stadiums which will provide clarity, not just in this situation but in others as well. A new paragraph (6) is added that will exempt the sign on the rear of the scoreboard and others like it, so long as 1) the content of the sign does not classify it as an off-site sign or outdoor advertising sign (billboard), or 2) the sign is not larger in any way than the structure it is attached to, or 3) the sign is not a projecting sign, or 4) the sign is not illuminated. Lastly, the amendment rennumbers the remaining paragraphs (old (6) through (10)) as paragraphs (7) through (11).

Analysis

The sign affixed to the rear of the University scoreboard contains a written message promoting High Point University and a photographic image of young people wearing University shirts against a background of alternating HPU and American flags. If this sign were located in the interior of the campus, where it is not legible from public or private streets, it would be exempt from regulation under paragraph (8) of Section 9-5-16(c). However, its size, unobstructed location near the edge of the campus and its orientation westward toward a residential neighborhood make it legible from West College Drive. Because it is not affixed to a wall of a building, the sign is classified as a freestanding sign. The University is permitted one such sign along the West College Drive frontage with a maximum height of 6 ft. and a maximum area of 100 sq.ft. This sign exceeds these dimensions; in fact, the area exceeds the maximum area of any type of sign currently permitted by the Development Ordinance.

The language of the amendment narrows the application of the proposed exemption to signs that are an integral part of, or are in some manner affixed to, an athletic field scoreboard. Paragraph (5) of Section 9-5-16(c) currently exempts from regulation signs located on the interior of stadiums, and this text amendment proposes to add the term 'athletic fields' to clarify that such facilities are to be included, and because this is a term that is defined by the Ordinance. Staff notes that the addition of this term should be adopted, regardless of the outcome to the remainder of the amendment. The existing language of paragraph (5) also exempts signs on a scoreboard (and the scoreboard itself) that face the playing field by referencing 'other structures'.

The new paragraph (6) deals specifically with scoreboard signs that are not oriented toward the playing field. In order for a sign on a scoreboard (not oriented toward the playing field) to be exempt from regulation, the proposed amendment requires that a negative finding be made to each of four criteria. First, the sign must not be considered an off-site or outdoor advertising sign. These terms are defined in the Development Ordinance. It means that the sign may not direct attention to any business, service, commodity, entertainment or attraction sold, offered or existing elsewhere than upon the same zone lot where the sign is displayed. So a sign advertising Coca Cola, or beckoning folks to Eat At Joe's will not be allowed. Second, the sign cannot be larger in any dimension than the scoreboard structure it is attached to. Third, the sign cannot be a projecting sign, which is also defined by the Ordinance. And fourth, the sign may not be illuminated. The sign regulations also contain a list of prohibited signs (Section 9-5-16(b)) that would forbid windblown devices, animated signs and others. Staff believes that the filtering criteria proposed, along with the existing prohibitions will do a good job of alleviating most of the objectionable applications of this exemption.

The proposed text amendment would permit the University's sign to remain, as it would meet the negative finding for the four criteria. At the present time, there are only a few other potential applications of this exemption, which would include Simeon Stadium, athletic fields at local schools and churches, and City owned facilities. It is likely that scoreboards at any such facilities would be much smaller than the one at HPU. Therefore, it is reasonable to assume that the limited application possibilities for such an exemption would prevent a proliferation of such signage around the City.

Although the proposed amendment is limited in application, and tightly written to avoid unintended consequences, it is nonetheless written to provide a remedy for a particular situation. Due to the University's desire to retain its scoreboard sign, the proposed amendment does not address the maximum size of such signs, nor does it address proximity to residential uses or suggest that the visual impact such a sign may have on others be taken into consideration. These are issues that, if included as part of the evaluation criteria, might result in not exempting the HPU sign. Applying the criteria proposed in this amendment, staff is unaware of any existing situation that would result in an exempted sign of a similar size and in a similar location relative to existing residential uses. Thus it may be argued that other potential applications of this exemption would not produce any greater impacts. Whether to approve this amendment, then, seems to rest upon the answer to whether the sign that High Point University has erected should be allowed to remain.

Recommendation

Staff recommends approval.

Based upon the underlying purpose of providing a legal avenue to allow the HPU scoreboard sign, the text amendment as proposed will do so and will restrict such exemptions such that future applications are limited. Thus before approving this amendment, the City should first decide whether such signs should be exempt from regulation, and if so, then decide if the High Point University scoreboard sign is an acceptable application of that exemption.

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. After review, staff suggests in this case, that there is insufficient direction from the Land Use Plan or from the Core City Plan with regard to signage, and therefore it may be stated that the amendment is not inconsistent therewith.

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, and in this case the Core City 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. After review, staff suggests in this case, that there is insufficient direction from the Land Use Plan or from the Core City Plan with regard to signage, and therefore it may be stated that the amendment is not inconsistent therewith.

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 may be deemed reasonable and in the public interest because: 1) the sign exemption has limited application possibilities, thus preventing a proliferation of signage; and 2) the sign exemption is not inconsistent with other types of sign exemptions already permitted. 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, Development Services Administrator and reviewed by G. Lee Burnette, AICP, Director.

[end of staff report]

Following the presentation of the staff report, Mr. Robbins

Chairman Bencini and several other Council Members expressed concerns that adoption of this proposed text amendment would apply to areas throughout the city and felt that its passage would prompt additional requests in the future and could give advertising companies an avenue to take advantage of it.

Council Members also expressed concerns about the following: the true definition of a sign; advertising and contents that could be put on the device; size of the device as it relates to billboards; potential application of this amendment to areas particularly within the Eastchester Scenic Corridor, the US 311 Corridor and By Pass; the implications of adopting this ordinance in reference to the Core City;

Council Member Alexander made a suggestion that it might be possible for them to move the scoreboard from one field to the next field.

Chairman Bencini opened the public hearing and asked if there were any comments in support of the proposed text amendment.

Jim Morgan, attorney representing High Point University, spoke in favor. He explained they were trying to solve a situation due to a disagreement about whether or not it was in fact a sign. He noted that university officials sat down with the city manager and the planning director to come up with a resolution. After staff made a determination that it was a sign, High Point University appealed the decision to the Board of Adjustment for an interpretation. The matter has been before and continued by the Board of Adjustment on three different occasions. Mr. Morgan pointed out that the Board of Adjustment is a quasi-judicial body and that he was aware of one member who already had his mind made up and commented on two different occasions that he was not going to continue the matter again unless the university took down the illegal sign. He pointed out that the university has tried to work through the process and at the direction of the staff has done exactly what they have asked in regards to their recommendation to submit a text amendment for consideration by Council as a possible remedy to the situation. Mr. Morgan alluded to all the positive changes to the campus over the years and concluded his remarks by saying that he would much rather see the sign than a bunch of rusty steel or some black hole. He felt staff drafted the changes tight enough so there wouldn't be any abuse. Mr. Morgan explained that he was told by the city attorney that Council had requested staff draft a policy that would

prohibit the Board of Adjustment from continuing cases and that no text amendments could be considered while a matter was pending with the Board of Adjustment.

Chairman Bencini felt it was a wise decision in doing that because it was somewhat unseemingly to go before the Board of Adjustment and sense that it might not be passed, then decide to ask for a text amendment. Mr. Morgan disagreed and felt staff had come up with a good solution and agreed that it should be exempted under the sign ordinance.

Chairman Bencini asked if there was anyone else present who would like to speak in favor of the request.

Chris Dudley, Vice President for Administration and Community Relations for High Point University, spoke in favor. He addressed Council Member Alexander's suggestion to relocate the scoreboard and explained that the scoreboard could not be placed in its current location because of the proximity of the creek behind left field and it was their original intent to keep it where it was, but it had to be moved because of the creek that runs parallel to the greenway. He reiterated that it has been the university's premise all along to compromise and work out an agreement on what constitutes a sign and they had even offered to take the wording "High Point University" and "Choose to be Extraordinary" off if necessary.

Mr. Dudley stated the university feels that the current ordinance is unclear as to the definition of a sign and they believe that the screen should be permitted under the current ordinance and hope to work out a compromise. He felt the text amendment was restrictive enough so as not to create any issues, but broad enough that it would give Council the lead way to bring it in if necessary. Chairman Bencini shared his concerns about the inability for content to be controlled in the future.

Council Member Alexander asked if the university was open to possibly covering it with just a plain black or solid color screen. Mr. Dudley noted they reached out hoping for a compromise or a solution to the problem, and would not recommend a black or solid color screen due to the significant expense already invested in the sign.

He proceeded to share some history of High Point University. To date, the university has invested approximately \$250 million to transform its campus with about \$25 million being invested to improve the athletic facility. He explained that these facilities were aged and in a state of disrepair and a new baseball stadium, a new soccer stadium, a new track and a new field house were built as a result. Additionally, the university has made a great number of aesthetic and safety improvements and the campus has become a showcase for High Point. He shared some before and after pictures of improvements to the campus and facilities. He noted that at the time of the installation, the university never considered it a sign to

meet an ordinance, but they were trying to do something that they thought was positive to cover the exposed steel on the back of the board.

Mr. Dudley informed Council that over the summer, the university began receiving some concerns from one of the neighbors on W. College Drive, Mr. Clayton Mays and Mr. Mays relayed four specific issues of concern to them:

- 1. The loud sound being produced and generated by the jumbo tron on the scoreboard*
- 2. The lighting on the athletic field*
- 3. The Screen on the back of the board*
- 4. Motorists driving on the greenway making it unsafe*

Mr. Dudley noted in order to mitigate these concerns, the university did agree not to keep the jumbo tron on unless there was a game; and agreed they would not keep the lights on the athletic field unless there was a game; and also put up bollards, at the university's expense, on the city greenway to prevent vehicular traffic on the greenway.

Mr. Dudley noted that after conferring with Mr. Mays as well as the other neighbors on W. College Drive, the university didn't feel like the screen was a nuisance to anyone except for that one particular neighbor, He presented a signed petition for the record as well as four letters from property owners (all the neighbors along W. College Drive signed the petition except for Mr. Mays and one other neighbor, who didn't want to be involved in the controversy. He noted that the university felt the screen covering the back of the scoreboard was a positive thing and it exemplifies gender and racial diversity as well as displays the High Point University flag and an American flag.

Chairman Bencini asked if there was anyone else present who would like to speak in favor.

Howard Allred, 3212 Rolling Road, spoke in favor. He referred to the subject in question as a "device." He shared some of his personal experiences as a spy pilot during World War II and applauded the university for including the American flag on the "device." Mr. Allred stated that he and every combat veteran really appreciated that because it stands for what they fought for--our freedom.

Anita Bowman, 1011 W. College Drive, also spoke in favor. She read letters of support from her father and mother, who reside at 1007 W. College Drive and explained her father could not attend due to health concerns and her mother could not attend due to her shyness. She felt the display on the scoreboard located approximately halfway between W. College Drive and N. College Drive poses no

public safety hazard; does not unfairly block another signage or a business establishment; and the message contained on it was in no way objectionable. She stated the display serves to make the scoreboard more attractive to the community and referred to it as an "artistic display." She proceeded to reminisce about the days she and her husband attended High Point University. Ms. Bowman informed Council that the slogan poses an important challenge for everyone to strive to be a little better whether one is a High Point University student or a High Point citizen.

Coy Willard, who resides at 1301 Brookfield Court, also spoke in favor. As a citizen, he expressed his love not only for High Point University, but also for the City of High Point. He noted that, he too, could have been concerned regarding the possible outcome of other signs and acknowledged that other locations exist that would be affected by the proposed text amendment. He encouraged City Council to allow staff to do their job and felt the proposed text amendment would take care of this situation and any in the future too.

Gilbert Carter, a lifelong citizen of High Point, who resides at 1320 Boundary Street, also spoke in favor of this request. He stated he has seen the city change from an industrial city to a semi-cultural city and he, too, felt the sign in question was an excellent one and he thought the words "Choose to be Extraordinary" were very appropriate and relays a good message. He felt that High Point University has changed High Point and the university has been a vital asset to the city and attributed many of the changes to Dr. Nido Qubein. He hoped Council would see fit to adopt the text amendment and accept the sign.

Chairman Bencini asked if there were any other comments in favor of this request. There being none, he asked if anyone was present who would like to speak in opposition.

Clayton Mays, who resides at 1001 W. College Drive, spoke in opposition. He noted he and his wife, Martha Ward, live directly across from the sign in question and have objected to the sign on several grounds over the past year. They felt like the sign was offensive and obtrusive to their view in the neighborhood because of its size and that's all they see when they look out the front of their home. He shared some photographs with Council.

He expressed many issues of concern:

loud roaring noise from the sign

exposed structure

Brightness of the sign

The university did not ask them what they thought about the screen on the sign

Extreme lighting on the field (24 hours a day)

Vehicular traffic on the greenway

Mr. Mays informed Council that he and his wife were never even consulted about

what the university planned to put on the sign. They did complain to the university about the noise that was being generated from the sign and the university agreed not to run the sign 24 hours a day and they were told by the university that mitigation measures would be taken to help reduce the amount of noise from the sign. Mr. Mays informed Council that he has his wife waited patiently for them to put up a back on the sign and finally they did put up what appeared to be black, fabric panels and this did help muffle the noise and they thought the problem was taken care of, then the large screen appeared. Mr. Dudley disagreed and stated that he didn't remember the university ever putting up a black or dark screen.

He informed Council that they find the sign to be enormous, offensive, ugly and intrusive. Mr. Mays felt it was wonderful that the university has gone to such expense to improve the appearance of the campus, but they should not have carte' blanche to decide which rules and regulations it will follow and whether it will go by all the rules that the rest of the citizens have to observe.

He stated the university should set an exemplary example in all of its affairs and in his opinion, the actual issue is whether the existing due process already in place will stand noting the process and rules were established by Councils (past and present) and the rules should be honored and there was absolutely no reason to circumvent what has worked well in the past or bypass it entirely. He expressed concerns about the university not obtaining a proper permit and being allowed to switch back and forth among the city boards and commissions and Council until they achieve the result they're hoping for.

Mr. Mays urged Council to deny the text amendment request so the matter could go back to the Board of Adjustment where it originated so it could be dealt with. Council Member Faircloth asked Mr. Mays if it would be acceptable to him for the existing screen to be replaced with a nice, subtle, solid, darker screen. Mr. Mays replied in the affirmative, but that he would like to see it before hand.

Martha Ward, the wife of Clayton Mays, who resides at 1001 W. College Drive, spoke in opposition. She prefaced her comments with accolades for the accomplishments of High Point University in the realm of higher education in the community and thanked them for their considerations. She expressed appreciation for the scoreboard management of the noise, for being respectful of the environment by cutting off the stadium lights while the field is not in use, for closing W. College down to Farris Avenue providing extra safety measures for the students as well as placing the bollards on the greenways.

She informed Council that she and her husband loved their scenic view of the university campus until the scoreboard went up and early on, they informed the university that the noise generated from the sign board was invasive to their private lives. She noted that the university knew for months that the scoreboard was a problem and although they never obtained a proper building permit still placed the in-your-face billboard backing on the sign. She felt the university

should have at least consulted them because their home was positioned directly facing the sign. She explained that the university was instructed by the city to remove the sign when it became apparent that the sign was in violation of the city ordinances. She questioned the university's need for so many signs and described the small university campus as a congested, overdressed themepark.

She informed Council that on November 5, 2008, her husband was invited to attend a university executive meeting with Dr. Quebein and out of that meeting, some pertinent questions evolved that, in their opinion, would have implications (ethically and otherwise) on the university and the city. She noted that the university has indicated that the community be on their side and she agreed that the community does want them to succeed, but with transparency, ethics and respect for the peripheral neighborhoods along with following the laws and ordinances of the city.

She commented that the university sign encompassed a greater problem in her eyes--High Point city's future beautification vision--and she did not see this as a great priority with the city as it keeps mortgaging its future for the temporary convenience of the present. She asked if the city was giving up its beautification potential and green environment inch by inch, yard by yard, acre by acre with a slap on the wrist and questioned if the city was defining ordinances or allowing ordinances to be defined by others. She expressed concern that their home has lost value because of the 24/7 intrusive view of the sign and noted signs of this nature, size and distance to residential areas do not belong in a community neighborhood. She felt ordinances need to reflect adequate setbacks to relieve a similar problem as well as size consideration of any given acreage. She asked Council to mandate HPU's accountability and to exercise their political will and do the right thing by denying the text amendment request.

Chairman Bencini asked if there were any additional comments. There being none, he closed the public hearing and offered a few comments/concerns.

- 1. That Council had not dealt in any way with what the impact of this type of signage would be in the future on other public institutional properties.*
- 2. Lack of consistency with it around public institutional areas surrounded by residential neighborhoods.*

3. Controlling the content

He asked the city attorney if the image on the sign was non-conforming and if there was any commercial implication with the message. Mr. Baggett explained that if the text amendment is approved, it would then be conforming, but it would be up to the Board of Adjustment to make the determination as to conformance. Mr. Baggett explained that the message relates to that location and was not referring to or advertising anything off-site. Chairman Bencini disagreed and

noted it would be open to interpretation and reiterated his concern about the inability to control the content in the future when these kinds of signs go up and protect the residential neighborhoods from the same kind of encroachment that the city protects against with the billboard ordinances. He anticipates outdoor advertising companies making High Point's public institutional properties a potential target for developing new billboard campaigns on the backsides of scoreboards at schools and churches.

Mayor Smothers called for a motion.

Council Member Alexander moved to deny Text Amendment 09-01. Council Member Sims offered a second.

For further discussion, Council Member Pugh asked if it would be permissible if there was a beautiful seascape or mountain scene on the sign and Chairman Bencini replied that it would not be and explained that the text amendment, as proposed, would allow it as long as it wasn't advertising a commercial product. Mr. Baggett clarified that it could not direct one's attention to something that wasn't there at that particular location and that distinctions of sign ordinances could be made between off-site and on-site advertising. Chairman Bencini reiterated his concerns and felt the city was heading down a slippery slope trying to control the content.

There being no further discussion on the motion, Mayor Smothers called for a vote. The motion to deny failed by a 4-5 vote as follows:

Votes: Ayes: Mayor Pro Tem Bencini and Council Members Alexander, Sims and Whitley

Nays: Mayor Smothers, and Council Members Blakeney, Douglas, Faircloth and Pugh

Council Member Pugh then offered a motion that the proposed text amendment be adopted as submitted based on consistency with the city's Land Use Plan and Core City Plan and the findings of fact as outlined in the staff report. Council Member Douglas made a second.

At this time, Council Member Alexander offered a substitute motion to move this matter to pending until the Board of Adjustment has an opportunity to hear the case. Council Member Whitley made a second to the substitute motion.

Mayor Smothers called for a vote on the substitute motion which failed by a 4-5 vote as follows:

Votes: Ayes: Mayor Pro Tem Bencini and Council Members Alexander, Sims and Whitley

Nays: Mayor Smothers, and Council Members Blakeney, Douglas, Faircloth and Pugh

After the substitute motion failed, the Mayor called for a vote on the motion for approval of the text amendment. The motion to approve carried by a 5-4 vote as follows:

Votes: Ayes: Mayor Smothers, and Council Members Blakeney, Douglas, Faircloth and Pugh

Nays: Mayor Pro Tem Bencini and Council Members Alexander, Sims and Whitley

Following the vote, Council Member Whitley asked for clarification from staff as to if this would allow other facilities in the city to do the same thing and Lee Burnette, Director of Planning and Development, explained it would apply to athletic fields, colleges, universities, churches. Council Member Whitley stated he was going to recommend to his preacher to proceed with a sign and it would face Johnson Street.

*Ordinance No. 6607/09-07
02/16/2009*

Introduced

*Adopted 02/16/2009
Ordinance Book Volume XVI, Page 92*

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

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

Resolution - Street Abandonment 09-01 - High Point University

090034

A request by High Point University to abandon the northern portion of the Harrison Street right-of-way that is lying north of Meadowbrook Boulevard and south of Montlieu Avenue.

The public hearing regarding this matter was held on Monday, February 16, 2009 at 5:30 p.m.

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

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT*

*STAFF REPORT
STREET ABANDONMENT CASE 09-01
January 27, 2009*

Request

Applicant: High Point University 833 Montlieu Avenue High Point, NC 27262

Proposal: Abandon an improved portion of Harrison Street between Meadowbrook Boulevard and Montlieu Avenue. The street is improved (35.2 feet curb and gutter) within a 50 foot wide right-of-way. In addition, a small area (approximately 1,800 sq. ft.) of extra right-of-way on the north side of Meadowbrook Boulevard is proposed for abandonment.

Adjacent Streets

Name: Classification: R/W and Pavement Width:

*Montlieu Avenue Major Thoroughfare 80' R/W and 51.7' Curb and Gutter
Meadowbrook Blvd Local Street 50' R/W and 32.7' Curb and Gutter*

Adjacent Property Zoning and Current Land Use

North: Public Institutional (PI) High Point University Campus

South: Residential Single Family - 7 (RS-7) Single Family Residence

East: Residential Single Family - 7 (RS-7) N. College Drive

West: Residential Single Family - 7 (RS-7) Vacant and Parking Lot

Analysis

The Harrison Street right-of-way considered for abandonment contains approximately 0.50 acres in area (approximately 50 foot wide by 340 feet in length). It is improved with 35.2 feet of pavement with curb and gutter. The area in Meadowbrook Boulevard is approximately 0.04 acres. All properties abutting the street right-of-ways proposed for abandonment are owned by High Point University. The right-of-way is no longer necessary to provide access to the lots. The lots are proposed to be combined into one parcel and developed as a parking lot (Major Amendment to SUP Case # 07-02). The proposed parking lot will have access only to Montlieu Avenue. Harrison Street contains public water and sewer mains. It has been determined that these mains are no longer necessary. The lines will be abandoned per City standards (terminated in Montlieu Avenue and Meadowbrook Boulevard). A retaining wall for N. College Drive is currently within the Harrison Street right-of-way. An exclusion map will be recorded in

association with the Special Use Permit that will dedicate necessary right-of-way to the NCDOT so that the retaining wall will then be within the N. College Drive right-of-way. Also, the Electric Department has requested a 15 foot electric utility easement along the eastern side of the property for an existing overhead line.

Findings

The TRC reviewed this request on November 26, 2008 and identified no issues that would prevent its abandonment. The retention of easements is necessary for the remaining overhead electrical utility lines.

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 15 foot electric utility easement along the western right-of-way of N. College Drive 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, and reviewed by Bob Robbins and Lee Burnette.

[end of staff report]

Chairman Bencini opened the public hearing and asked if there was anyone present who would like to speak in support of or against the street abandonment request.

There being none, the public hearing was declared closed.

Council Member Sims asked if how the abandonment of the public water and sewer would affect the other side of Meadowbrook and staff replied it wouldn't affect it at all. Council Member Faircloth asked about ownership of the property on the street and staff explained the property would go to the university since the university owned property on both sides of the street.

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

Adopted Resolution authorizing abandonment of the northern portion of the

Harrison Street right-of-way lying north of Meadowbrook Boulevard and south of Montlieu Avenue.

Resolution No. 1485-09-13

Introduced

02/16/2009

Adopted 02/16/2009

Resolution Book Volume XVI, Page 127

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

Major Amendment to Special Use Permit 07-02 - High Point University

090035

A request by High Point University for a Major Amendment to Special Use Permit 07-02 to add approximately 2.5 acres into the permit and to expand the area of automotive parking as a principal use in the Residential Single Family-7 (RS-7) District. The site is lying west of the intersection of Meadowbrook Boulevard & Harrison Street and north of the intersection of Boundary Avenue & Saunders Place.

The public hearing regarding this matter was held on Monday, February 16, 2009 at 5:30 p.m.

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

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT*

*STAFF REPORT
MAJOR AMENDMENT SPECIAL USE PERMIT 07-02
January 27, 2009*

Request

*Applicant: High Point University Owner: High Point University
Proposal: Special Use Permit 07-02 was approved in August 2007 to allow automotive parking as a principal use, in the Residential Single Family-7 (RS-7) District. The applicant is requesting a Major Amendment to the permit to add approximately 2.5 acres into the permit and to expand the area of automotive parking.*

Site Information

Location: Lying northwest of the intersection of Meadowbrook Boulevard & Harrison Street and north of the intersection of Boundary Avenue & Saunders Place.

Tax Parcel Numbers: Guilford County Tax Parcels 160-5-1, 2, 3, 4, 6 and 15.

Site Acreage: Total area proposed to be added to permit is approximately 2.5 acres. Land area already part of SUP07-02 is approximately 3.5 acres.

Current Land Use: The eastern portion of the site, lying northwest of the intersection of Meadowbrook Boulevard and Harrison Street, consists of 2 single family dwellings and 3 undeveloped parcels (former residential structures have been razed or relocated). The western portion of the site to be added to the permit consists of undeveloped land area.

Physical Characteristics: The eastern portion of the site has a moderately sloping terrain and contains floodway, 100 year & 500 year flood zone areas associated with the perennial stream that runs through it. The western portion of the site has a moderate to severely sloping terrain, and the same perennial stream runs through this portion of the site, also containing associated floodways, 100 year & 500 year flood zone areas.

Water & Sewer Proximity: City water and sewer lines are located in the streets surrounding the site (Montlieu Avenue, Boundary Avenue and Harrison Street).

General Drainage and Watershed: The site drains to the stream that runs through the middle of it, which flows in a southeasterly direction. The site is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is

greater than 24% or more of the site.

Overlay Districts None

Adjacent Property Zoning and Current Land Use

North: RS-7 - Residential Single-Family-7 District CU-PI - Conditional Use
Public & Institutional District High Point University parking lot. High Point
University campus (across Montlieu Avenue)

South: RS-7 - Residential Single-Family-7 District Single family residential
subdivision

East: RS-7 - Residential Single-Family-7 District Single family residential
subdivision

West: RS-7 - Residential Single-Family-7 District Single family residential
subdivision

Relevant Land Use Policies and Related Zoning History

Land Use Plan Map Classification: Most of the site has a Low Density
Residential land use classification. However, the southwestern area of the site,
with a perennial stream, is designated as Recreation/Open Space. Descriptions of
these classifications are as follows: Low-Density Residential: These areas
include primarily single family detached dwellings on individual lots.
Development densities in these areas shall not exceed five dwelling units per gross
acre. Recreation/Open Space: Lands for recreation or open space are included in
this classification, offering either active use or passive enjoyment and
environmental protection.

Land Use Plan Goals, Objectives and Policies: The following goals and
objectives of the Land Use Plan, for The High Point Planning Area are relevant to
this request: Goal 2: Encourage development that enhances and preserves
established neighborhoods. Obj. 4: Protect the City's older, established
neighborhoods, and promote their revitalization through needed infrastructure
improvements and new residential investment. Obj. 9: Where feasible and
appropriate, provide a transition in land uses between more and less intensive
land uses. Obj. 11: Enhance the aesthetic appearance of High Point by preserving
the scenic quality of its major gateway streets and travel corridors and by
providing appropriate landscaped buffers and transitional uses between low and
high-intensity land uses.

Relevant Area Plan(s): CORE CITY PLAN - The following principles from the
Core City Plan are relevant to this request: Land Uses - Residential District: It
is the intent of this designation to protect and enhance the qualities of the Core
City's neighborhoods and make them positive places to reside. Neighborhoods -
Neighborhood Planning Principles: Do not allow neighborhoods to get chipped
away at their edges by incompatible uses and development forms. Employ design
measures to accentuate their boundaries through features such as gateway
treatments and street tree plantings.

COMMUNITY GROWTH VISION STATEMENT - The following goal and
objectives from the Community Growth Vision Statement are relevant to this
request: Goal 2: Improve High Point's older urban neighborhoods, while

ensuring better future neighborhoods.

Zoning History: The site has a RS-7 District zoning, which is primarily intended to accommodate high density single family detached dwellings at an overall gross density of 5 units per acre or less. In August 2007, City Council approved a Special Use Permit application (SUP07-02) by High Point University to permit parking in this RS-7 zoned area.

Transportation Information

Adjacent Streets: Name Classification Approx. Frontage

N. College Drive Major Thoroughfare 1,000 ft.

Montlieu Avenue Major Thoroughfare 500 ft

Meadowbrook Blvd Local Street 565 ft.

Boundary Avenue Local Street 460 ft.

Vehicular Access: Montlieu Avenue. Conditions of the SUP prohibit vehicular access from any other street.

Traffic Counts: N. College Drive 14,519 ADT (2006 traffic count)

Montlieu Avenue 4,866 ADT (2001 traffic count)

Meadowbrook Blvd None available

Boundary Avenue 500 ADT (2004 traffic count)

Estimated Trip Generation: None available; however the site plan noted that a total of 273 parking spaces are to be provided.

Traffic Impact Analysis: Required Comment

Yes No X None

Pedestrian Access: There are currently sidewalks along the site's Montlieu Avenue frontage. To discourage unsafe mid block pedestrian crossings, the initially approved Special Use Permit required the installation of a fence (decorative brick & wrought iron fence) along the site's Montlieu Avenue frontage to channel pedestrian traffic to the middle portion of the site's Montlieu Avenue frontage where an actuated pedestrian crossing signal and crosswalk was installed.

School District Comment

Not applicable to this request.

Details of Proposal

High Point University is requesting a Major Amendment to Special Use Permit 07-02 to expand an existing parking lot lying opposite the campus main entrance off Montlieu Avenue. The site is currently zoned RS-7, and parking as a principal use is allowed by the Development Ordinance in all residential zoning districts with a special use permit approval. The requested major amendment does not change the zoning upon the site, but would expand the area of allowable automobile parking for the University. The site is located outside of but adjacent to the Institutional land use boundary established for the University in the Land Use Plan. The land use designation for the site is currently Low-Density Residential. The request consists of the following:

Area of expansion #1: This area consists of 5 parcels lying south of the site at the northwest corner of Meadowbrook Boulevard and Harrison Street. The applicant is proposing to expand the parking lot into this area in order to add an additional 123 parking spaces. The site is separated from adjacent residences by the Meadowbrook Boulevard right-of-way. To further ensure compatibility with the adjacent residential homes, the applicant has offered to amend the permit to note the following:

If a fence is installed in the vicinity of the site's Meadowbrook Boulevard frontage, it shall consist of the decorative perimeter fencing (brick & wrought iron fencing) that generally outlines the boundary of the University.

Required shrubs in the street planting yard along the site's Meadowbrook Boulevard frontage shall be a locally adapted species expected to reach a minimum height of thirty (30) inches and a minimum spread of thirty (30) inches within three years of planting. This larger size planting material is intended to provide a low level screening of headlights from the parking area. If a fence is installed in this area landscaping material shall be between the parking spaces and the fence.

Area of expansion #2: This area consists of that portion of the Harrison Street right-of-way lying north of Meadowbrook Boulevard and south of Montlieu Avenue. Inclusion of this area would be subject to the approval of a street abandonment request by City Council. The University owns all property that would use this portion of Harrison Street for access. In a separate case, the applicant is requesting Street Abandonment of a portion of Harrison Street so that land area of that street's right-of-way may be added to this parking lot (See Street Abandonment Case 09-01). This area is proposed to be used for parking and vehicle circulation. The permit specifically notes that the only access to the site shall be from Montlieu Avenue. To ensure that there is no cut through traffic into the adjacent residential neighborhood the site plan submitted with this permit notes that the roadway asphalt and curbing along the southern limits of this right-of-way (approx. 35' x 40' area) is to be removed and grassed. This makes it clear that this area is no longer a public street and it eliminates the ability to access the parking lot from Meadowbrook Boulevard.

Area of expansion #3: This consists of additional land area owned by the University along the western boundary of the site north of the intersection of Boundary Avenue & Saunders Place. This area is almost entirely within a stream buffer and flood zone area and the Special Use Permit site plan notes that this area is to be undeveloped. An unimproved right-of-way previously ran through this area, and since there was no intention by the City of High Point to construct a public street in this right-of-way, it was abandoned in 2008. Once abandoned, the land area associated with the right-of-way is conveyed to abutting property owners, in this case to the University. The addition of this area will improve the site configuration in this area and assist the applicant in the stormwater calculations in sizing their stormwater control device.

*Identified Issues**Major Issues:*

v None

Minor Issues:

v None

Findings

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

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

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

Compliance v The request does not change any of the initially approved transportation or public safety conditions of the permit. The site is still restricted to only one point of vehicular access, which is to be from Montlieu Avenue.

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

Compliance v Based upon the site plan submitted by the applicant, the request is meeting all requirements of the Development Ordinance.

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

Compliance v The site is upon the outer edge of the adjacent residential subdivision and is separated from the adjacent residential subdivision by public streets (Meadowbrook Boulevard and Boundary Avenue). v The area of development is toward Montlieu Avenue and N. College Drive, both of which are major thoroughfares. The western half of the site is to remain undeveloped due to the location of a perennial stream, required stream buffers and flood zone areas associated with the stream. This will act as a buffer or transition area between the University and the adjacent residential neighborhood. v Except for one dwelling located upon the opposite side of Meadowbrook Boulevard, all of the single family

dwellings in the adjacent residential subdivision do not face the parking area. They either face N. College Drive, Boundary Avenue or the open space/undevelopable area of the site. The one dwelling that does face the parking lot is at the western edge of the parking lot where the buffer area starts and it sits back very deep upon its lot so that it is approximately 150 feet from the proposed parking lot. Conditions offered by the applicant for higher planting standards for shrubs in the Meadowbrook Boulevard street planting yard and that any fences placed in the vicinity of Meadowbrook Boulevard consist of decorative brick and wrought iron fence will further ensure the proposed expansion will not negatively impact adjacent property owners.

That the location and character of the use shall be in harmony with the area in which it is located and in general conformity with the plan of development of the city and its environs; staff finds

Compliance v The site consists of a city block located at the outer edge of a residential subdivision. It lies between the University and the adjoining neighborhood and acts as a transition or buffer area between the University and the adjacent residential neighborhood. The majority of the site is undevelopable due to stream buffer standards and flood zones associated with the stream. The site fronts on and takes access from Montlieu Avenue, a major thoroughfare. Requirements of the Development Ordinance pertaining to landscaping/buffering and conditions of the permit regarding landscaping and fencing will help ensure harmony with the adjacent neighborhood and along Montlieu Avenue. v Conditions in the permit that access is to be from Montlieu Avenue and that a portion the asphalt connecting Harrison Street to Meadowbrook Boulevard be removed will ensure that there will be no traffic related to the parking lot cutting through the adjacent residential neighborhood. This will ensure the requested major amendment will be in harmony with the area.

Recommendation

Staff Recommends Approval:

Based upon above noted findings, staff recommends approval of the requested Major Amendment to Special Use Permit 07-02.

Report Preparation

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

[enf of staff report]

Council Member Sims asked what would be done to help shield the property owner

from lights in the parking lot since they are proposing to put up a wrought iron and brick fence. Mr. Shannon replied this was on the western boundary right on the edge where the parking lot ends and the conditions call for higher planting rates of shrubs in this area to assist in shielding any issues with headlights.

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

Gart Evans, who resides at 3634 Malibu Drive, representing High Point University, spoke in favor. He noted the university has had numerous meetings about the planning for this particular area and that they would be putting in a grassy area so that it's very clear there's no entrance or egress from Meadowbrook onto that area. Additionally, the university will put in an extra thick planting yard and to make it more decorative, they would put the iron and brick fencing there. He explained the parking would be for approximately 110 vehicles and would be used for special event student parking.

Council Member Alexander asked if they had any issues related around the stream bank and the fencing at that location. Mr. Evans replied that he wasn't aware of any. Council Member Faircloth asked about the Harrison right-of-way where it indicates overflow parking. Mr. Evans explained that this would not be altered and it would simply be parallel parking along there and an access to the top from the lower parking area.

Chairman Bencini opened the public hearing and asked if there were any additional comments in support of or in opposition to this request. There being none, Council Member Bencini moved that Major Amendment to Special Use Permit 08-02 be approved based upon the findings of fact as outlined in the staff report and staff's opinion that it is consistent with the city's Land Use Plan. Council Member Sims made a second. The motion carried unanimously. [9-0 vote]

Approved Major Amendment to Special Use Permit 07-02 based upon the findings of fact as outlined in the staff report and staff's opinion that it is consistent with the city's Land Use Plan.

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

Ordinance - Rezoning Case 09-01 - High Point University

090036

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

A request by High Point University to rezone approximately 1.2 acres from the Residential Single Family-7 (RS-7) District to a Conditional Use Public & Institutional (CU-PI) District. The site is lying at the southwest corner of W. College Drive and south of E. Farriss Avenue (915, 921 and 923 W. College Drive).

b. Major Amendment to Conditional Use Permit 00-26

A request by High Point University to add approximately 1.2 acres into the permit and to amend conditions pertaining to development/dimensional standards, landscaping and vehicular access.

The public hearing regarding this matter was held on Monday, February 16, 2009 at 5:30 p.m.

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

*CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT*

*STAFF REPORT
ZONING CASE 09-01
January 27, 2009*

Request

Applicant: High Point University Owner(s): High Point University

Proposal: To rezone 3 parcels along W. College Drive from RS-7 to CU-PI, and to include these parcels into Conditional Use Permit 00-26 (CUP 00-26). From: RS-7 - Residential Single Family-7 District

To: CU-PI - Conditional Use Public & Institutional District

Site Information

Location: Lying at the southwest corner of W. College Drive and E. Farriss Avenue (915, 921 and 923 W. College Drive).

Tax Parcel Numbers: Guilford County Tax Parcels 226-1-3, 42 and 43.

Site Acreage: Total area proposed to be rezoned is approximately 1.2 acres. Land area already part of CUP 00-26 is approximately 24.5 acres.

Current Land Use: One undeveloped parcel and 2 single family dwellings.

Physical Characteristics: The site has a moderately sloping terrain.

Water and Sewer Proximity: A 6-inch city water line is located east of the site within the abandoned W. College Drive right-of-way and north of the site within E. Farriss Avenue. A 12-inch sewer line is also located within the abandoned W. College Drive right-of-way and E. Farriss Avenue. Finally, an 8-inch sewer line is located within Fifth Court, west of the southern portion of the site.

General Drainage and Watershed: The site drains in a general south to north direction toward E. Farriss Avenue and development is subject to the City Lake General Watershed Area requirements of the water supply watershed regulations. Engineered stormwater measures are required for non-residential or multifamily development with an impervious surface area that is greater than 24% or more of the site.

Overlay District(s): City Lake General Watershed Area

Adjacent Property Zoning and Current Land Use

North: RS-7 - Residential Single Family-7 District Single family residential subdivision

South: CU-PI - Conditional Use Public & Institutional District University
Campus (student dormitory & student union facility under construction)
East: CU-PI - Conditional Use Public & Institutional District University
Campus (academic buildings)
West: RS-7 - Residential Single Family-7 District Single family residential
subdivision

Relevant Land Use Policies and Related Zoning History

Relevant Community Growth Vision Statement Goals & Objectives Objective 1H:
Support the continued growth of the City's educational institutions for their many
educational, cultural and economic benefits.

Land Use Plan Map Classification: The site has an Institutional land use
designation. This classification is intended to accommodate public, quasi-public
and institutional uses on large tracts.

Land Use Plan Goals, Objectives and Policies: The following goals and
objectives of the Land Use Plan are relevant to this request: Obj. #9. Where
feasible and appropriate, provide a transition in land uses between more and less
intensive land uses.

Relevant Area Plan(s): Core City Plan: The plan identifies the subject area as
being within the High Point University District, which includes a minimal amount
of peripheral land seen as likely to become part of the university in the future. The
plan recommends the continued reinforcement of the university's visual qualities,
including continuation of a general campus character with consistent architecture,
strategically located parking, and landscaping.

Zoning History: Since 1998, High Point University received a Land Use Plan
Amendment and eleven (11) zoning approvals in the area lying north of Montlieu
Avenue, west of W. College Drive and east of Fifth Street to accommodate the
expansion of the University in this area.

Transportation Information

Adjacent Streets: Name Classification Approx. Frontage

E. Farriss Avenue Local Street 135 ft.

W. College Drive That portion of W. College Drive, between O.A. Kirkman
Way and the southern right-of-way line of E. Farriss Avenue, was abandoned by
High Point City Council on October 6, 2008.

Vehicular Access: Via private drive or private street from intersection of E.
Farriss Avenue and W. College Drive.

Traffic Counts: None available

Estimated Trip Generation: Unknown.

Traffic Impact Analysis: Required Comment

Yes No X None

Pedestrian Access: There are no existing sidewalks adjacent to the site. North
of the site, within the E. Farriss Avenue right-of-way, is an existing greenway trail
the runs in an east to west direction. This trail provides access through the central
part of the High Point University campus.

School District Comment

Not applicable to this zoning case.

Details of Proposal

The applicant is requesting to rezone this area and add it to Conditional Use Permit 00-26 (CUP 00-26). The subject area abuts High Point University's main campus area to the east and south. The central portion of the university campus is zoned PI; however, that portion of the campus lying north of Montlieu Avenue and west of the former W. College Drive, is zoned CU-PI and governed by CUP00-26. This permit includes conditions to protect the adjacent residential neighborhood by prohibiting vehicular access (driveway access) from Fifth Street and Fifth Court and the following higher design standards for development activity within 100-feet of Fifth Street and Fifth Court.

- All building(s) shall be restricted to a maximum height of 60 feet.*
- Loading areas shall not be located on the side of a building that faces those streets.*
- Screening of mechanical or electrical equipment, storage facilities or other such unsightly building appurtenances from those streets.*
- Higher landscaping standards when any building or parking is within 100 feet of those streets.*

The only change the applicant has proposed to CUP00-26 is to add these 3 parcels (1.2 acres) and to include E. Farris Avenue frontage as a location for restricting vehicular access and the above noted higher development standards.

As the University expands, there may be situations where its property will abut or surround individual residential lots. The Development Ordinance contains setback and landscaping requirements that will protect residential uses as the University expands into this area. The PI District standards when a university use abuts a single family use are as follows:

Building height 50 feet. May be increased to 80 feet subject to one (1) additional foot of building setback being provided for each one (1) foot of building height over 50 feet.

Building Setback Front/Street yard setback - 30 feet Rear & side yard setback - 35 feet adjacent to residential zoning

Landscaping Type B planting yard when adjacent to residential use. Ø Average width 30 feet, may be reduced to 25 feet with fence. Ø 8 trees and 25 shrubs every 100 linear feet. Ø Street planting yard with a minimum width of 8 feet, 2 trees and 25 shrubs every 100 linear feet. The above noted Type B and street planting yard standards also apply to any parking areas that may abut a residential use.

*Identified Issues**Major Issues:*

v None

Minor Issues:

v None

Findings

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

That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds

Compliance v The existing condition within CUP00-26 pertaining to prohibiting vehicular access to Fifth Street and Fifth Court, and the added proposal to prohibit access to E. Farriss Avenue will not create any public safety issues.

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

Compliance v In addition to the building height, setback and landscaping standards of the development ordinance, the conditions of CUP00-26 that provide for higher development standards for development activity within 100 feet of Fifth Street, Fifth Court and E. Farriss Avenue will ensure compatibility and harmony with adjacent residential subdivision. v The following standards of the Development Ordinance will insure that development of the zoning site, under the PI District standards, will not substantially injure the value of adjoining property owners: Ø A minimum Type B planting yard is required where university uses or accessory uses abut a single family zoning district. Ø The adjacent residential subdivision to the west has a RS-7 District zoning which permits 50-foot wide lots. The Type B planting yard requires an average width of 30 feet; thus, a landscape buffer area equal to over half the width of a RS-7 residential lot will be provided. Ø The proposed PI District building setback standards are increased from 20-feet to 35-feet when abutting residential zoning. In addition, wider setback standards are imposed for building heights over 50 feet. Any University building next to a residentially zoned area will be setback 35 to 65 feet depending upon its height.

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

Compliance v The area proposed for rezoning has an Institutional Land Use Map designation. The requested CU-PI District and proposed uses as outlined in the conditional use permit are consistent with this land use designation. v Area

abutting the zoning site to the east and south is designated as Institutional upon the City's Land Use Map. v Staff finds the request in harmony with the surrounding area and in conformance with the Land Use Plan based upon the following: Ø The contiguous nature of this rezoning request to the University's main campus and to existing CU-PI District areas associated with the University. Ø The size of the land area owned by the University within this city block allows sufficient area for landscaping and building setback standards of the Development Ordinance to be met. Ø Building height, setback and landscaping standards of the Development Ordinance will assist in ensuring compatibility with abutting residential uses.

Recommendation

Staff Recommends Approval

Based upon above noted findings, staff recommends approval of the request to rezone these parcels to a CU-PI District and the Major Amendment to Conditional Use Permit 00-26.

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) it meets the required

findings for a conditional use zoning district as written in this report; 2) the area proposed for rezoning has an Institutional Land Use Map designation and the requested CU-PI District, as restricted by CUP00-26, is consistent with the land use plan and in harmony with the adjacent residential neighborhood; 3) the higher landscaping and building setback requirements of the permit along Fifth Court and E. Farriss Avenue will further insure the request will be in harmony with adjacent single family dwellings; 4) the development & dimension standards and the landscaping/buffering standards of the Development Ordinance, where PI District abuts residential uses, will further insure that the required CU-PI District will not substantially injure value of adjoining property owners; and 5) the request is a logical and reasonable extension of the High Point University campus based upon the Institutional Land Use Plan designation of this area and the contiguous nature of this rezoning request to the University's main campus area. 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, Senior Planner and reviewed by Robert Robbins, Development Administrator and Lee Burnette, Director.

[end of staff report]

Following the presentation of the staff report, Chairman Bencini opened the public hearing and asked if anyone was present who would like to comment.

Gart Evans, who resides at 3634 Mailibu Drive, representing High Point University, spoke in favor of the request. He explained these three properties adjoin and abut property currently rezoned and used by the university. The university acquired this property over the last few months and plans to use it for auxiliary services at Council's direction. He noted they would be finishing the block and would be appearing before Council to seek approval of the rezoning.

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

Council Member Bencini moved to approve Rezoning Case 09-01 to rezone approximately 1.2 acres from the Residential Single Family-7 (RS-7) District to a Conditional Use Public & Institutional (CU-PI) District and approved Major Amendment to Conditional Use Permit 00-26 based upon the findings of fact as outlined in the staff report and staff's opinion that it is generally consistent with High Point's Land Use Plan. Council Member Sims made a second to the motion. The motion carried unanimously. [9-0 vote]

Adopted ordinance providing for the rezoning of this property and approved Major Amendment to Conditional Use Permit 00-26 based upon the findings of fact as outlined in the staff report and staff's opinion that it's consistent with the City of High Point's Land Use Plan.

Ordinance No. 6608/09-08

Introduced 02/16/2009

Adopted 02/16/2009

Ordinance Book Volume XVI, Page 93

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

For Information Only:

Prior to the meeting starting, Mayor Smothers recognized Boy Scouts who were representing Troop #42 and Troop #1901 and asked those present to stand up and make a brief introduction of themselves. They were fulfilling requirements for their Citizenship in the Community Merit Badge.

*Suggestion to Dissolve the Board of Adjustment
Council Member Alexander stated he would like the City Council to consider dissolving the Board of Adjustment and the City Council assuming those duties.
Council Members Whitley and Sims felt this certainly warrants further discussion.*

ADJOURNMENT

There being no further business to come before Council, the meeting adjourned at 8:00 p.m. upon motion duly made and seconded.

Respectfully Submitted,

Mayor

Rebecca R. Smothers,

Attest:

*Lisa B. Vierling, MMC
City Clerk*