

# CITY OF HIGH POINT

## AGENDA ITEM



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**Title:** Zoning Map Amendment 16-08  
(Winning Link Property Resources, LLC)

**From:** Lee Burnette, Planning & Development  
Director

**Meeting Date:** May 6, 2016

**Public Hearing:** Yes

**Advertising Date:** May 25, 2016 and June 1, 2016

**Advertised By:** Planning & Development

**Attachments:** A. Planning and Zoning Commission Recommendation  
B. Staff Report  
C. Zoning Ordinance

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### PURPOSE:

A request by Winning Link Property Resources, LLC to rezone an approximately 0.9-acre parcel from the Highway Business (HB) District to the General Business (GB) District. The site is lying east of Westchester Drive and north of N. Ward Avenue (*1911 Westchester Drive*).

### BACKGROUND:

Staff report and the Planning & Zoning Commission's recommendation is enclosed.

### BUDGET IMPACT:

There is no budget impact.

### RECOMMENDATION / ACTION REQUESTED:

- A. Staff recommended approval of this request, as outlined in the attached staff report.
- B. On May 24, 2016, a public hearing was held before the Planning and Zoning Commission regarding Zoning Map Amendment 16-08. The Planning & Zoning Commission recommended approval of this request by a vote of 7-0 as outlined in the staff report.

## **PLANNING AND ZONING COMMISSION RECOMMENDATION**

### **Winning Link Property Resources, LLC**

### **Zoning Map Amendment 16-08**

At its April 26, 2016 public hearing, the Planning and Zoning Commission reviewed this request to rezone an approximate 0.9-acre parcel. Mr. Herbert Shannon, Senior Planner, presented the case and recommended approval as outlined in the staff report.

#### **Speaking in favor of the request:**

Speaking in favor of the request was the applicant's representative, Mr. Jack Summers, 4206 Lupton Court, High Point. Mr. Summers provided an overview of the proposed redevelopment of the site and addressed building setback questions from the Commission.

#### **Speaking in opposition of the request:**

No one spoke in opposition to this request.

### **Planning & Zoning Commission Action**

The Planning & Zoning Commission recommended **approval** of this request, as recommended by staff, by a vote of 7-0.

Upon making its recommendation, the Planning & Zoning Commission stated that its approval of Zoning Map Amendment 16-08 would be consistent with the City's adopted plans. Additionally, the Commission concurred with the staff report and found its approval recommendation reasonable and in the public interest because:

- 1) The request is consistent with the City's Land Use Plan;
- 2) The GB and HB Districts permit the same retail trade uses, thus approval will not be introducing new land uses along this commercial corridor; and
- 3) Based on the adoption of the new Development Ordinance and its conversion of all HB District zoning in the City to the GB District, the lesser setback standards of this district will be available to other commercial property owners in this immediate area. Thus, approval of this request will not give this property owner a long-term advantage that is not also available to other commercial property owners along this corridor, and is not considered illegal spot zoning.

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

**STAFF REPORT  
ZONING MAP AMENDMENT 16-08  
May 24, 2016**

<b>Request</b>	
<b>Applicant:</b> Winning Link Property Resources, LLC	<b>Owner(s):</b> Diamond Dirt LLC and JLB Construction, Inc.
<b>Zoning Proposal:</b> To rezone an approximately 0.9-acre parcel.	<b>From: HB</b> Highway Business District
	<b>To: GB</b> General Business District

<b>Site Information</b>	
<b>Location:</b>	The site is lying east of Westchester Drive and north of N. Ward Avenue ( <i>1911 Westchester Drive</i> ).
<b>Tax Parcel Numbers:</b>	Guilford County Tax Parcel 0185434
<b>Site Acreage:</b>	Approximately 0.9 acres
<b>Current Land Use:</b>	The property is partially developed; the former restaurant has been demolished leaving only a paved parking lot.
<b>Physical Characteristics:</b>	The site is relative flat and gently sloping towards the Westchester Drive right-of-way.
<b>Water and Sewer Proximity:</b>	A 12-inch City water line and 8-inch City sewer line lie adjacent to the site along Westchester Drive. Additionally, a 6-inch City water line and 8-inch City sewer line lie within N. Ward Avenue.
<b>General Drainage and Watershed:</b>	The site drains in a westerly direction, and is within the Yadkin Pee-Dee (non-water supply) watershed. Based upon the size of the site, stormwater control are not required.
<b>Overlay District:</b>	None

<b>Adjacent Property Zoning and Current Land Use</b>			
<b>North:</b>	<b>HB</b>	Highway Business District	Convenience store with gas pumps and single family dwellings
<b>South:</b>	<b>HB</b>	Highway Business District	Church
<b>East:</b>	<b>CU-LO</b>	Conditional Use Limited Office District	Residential dwelling (Duplexes)
<b>West:</b>	<b>HB</b>	Highway Business District	Bank (across Westchester Drive)

<b>Relevant Land Use Policies and Related Zoning History</b>	
<b>Community Growth Vision Statement:</b>	<p>Obj. 2E: Provide retail, service and dining opportunities within a walkable distance to most residents.</p> <p>Obj. 3C: Attract commercial tenants that will offer daily goods and services to nearby neighborhoods.</p>

<b>Land Use Plan Map Classification:</b>	<p>The site has both a Low-Density Residential and a Local/Convenience Commercial land use designation. These designations are defined as follows:</p> <ul style="list-style-type: none"> <li>• <b>Low-Density Residential:</b> 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.</li> <li>• <b>Local/Convenience Commercial:</b> This classification includes moderate-intensity convenience retail or service uses, generally serving small, local neighborhoods.</li> </ul>
<b>Land Use Plan Goals, Objectives &amp; Policies:</b>	<p>The following goal and objective of the Land Use Plan are relevant to this request:</p> <p>Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the City and its planning area.</p> <p>Obj. #8. Stimulate more efficient use of the City's land resources by encouraging in-fill, mixed-use, cluster development and higher residential densities at appropriate locations.</p>
<b>Relevant Area Plan:</b>	Not Applicable
<b>Zoning History:</b>	<p>On the adjacent street north of the zoning site (Carey Avenue), the existing Hospice facility was expanded via a series of zoning applications in 2004, 2005 and 2011 (Zoning Map Amendment 04-20, 05-30 and 11-07)</p> <p>On the adjacent street south of the zoning site (Evergreen Avenue), a 2007 zoning request to establish a larger site for a drive-thru restaurant was denied (Zoning Map Amendment 07-14).</p>

Transportation Information			
Adjacent Streets:	Name		Approx. Frontage
	Westchester Drive	Major Thoroughfare	130 ft
	N. Ward Avenue	Local Street	305 ft
<b>Vehicular Access:</b>	Westchester Drive (public street) and N Ward Avenue (public street)		
<b>Traffic Counts:</b> (Average Daily Trips)	Westchester Drive	18,504 ADT	(2014, COHP 12-Hour Count)
	N. Ward Avenue	1,964 ADT	(2014, COHP 12-Hour Count)
<b>Estimated Trip Generation:</b>	No information		
<b>Traffic Impact Analysis:</b>	Required		Comment
	<u>Yes</u>	<u>No</u> X	None
<b>Pedestrian Access:</b>	Development of the site is subject to the sidewalk requirements of the Development Ordinance.		

School District Comment
Not applicable to this zoning case.

### Details of Proposal

The applicant is requesting to rezone the site from the HB District to the GB District to facilitate the development of a retail use on this 0.9-acre parcel. The HB and GB Districts are comparable in that they allow similar land uses; the GB District allows four uses that the HB District does not. The primary difference between the districts is the building setback standards. The HB District has larger setback standard since it's primarily intended to be used along major thoroughfares catering primarily to passing motorists. The applicant is requesting the GB District in order to develop the property under the lesser building setback standards of the GB District.

### Staff Analysis

Commercial property along this segment of Westchester Drive, from Whittier Avenue to Burton Road, has a HB District zoning classification. Based on the small size of the parcel and that it is located within an area primarily zoned HB District, this zoning request must be thoroughly analyzed under case law standards for spot zoning. Spot zoning occurs when a zoning amendment reclassifies a relatively small parcel of land that is surrounded by a much larger area that is uniformly zoned and the zoning amendment either imposes greater restrictions upon the small parcel than is imposed upon the larger area, or it relieves the small parcel from restrictions to which the larger area is subjected. Spot zoning can be considered illegal unless the City can establish a reasonable public policy basis to approve the amendment. Case law does not allow just listing the benefits of such a zoning change; the City must demonstrate that the zoning change is reasonable. Among the factors that must be considered are the size of the tract; compatibility with the City's comprehensive plan; the benefits and detriments resulting from the zoning action for the owner and the neighbors; and the relationship of uses envisioned under the new zoning and uses currently present on adjacent and nearby parcels.

❖ Compatibility with the City's comprehensive plan; land use pattern and relationship of uses

This segment of the Westchester Drive corridor has a Local Convenience/Commercial Land Use Map classification which is intended to support moderate-intensity convenience retail or service uses. Since the GB and HB Districts allow many of the same land uses, the request does not significantly alter the land use pattern that has been established in this area.

❖ Balance benefits and detriments

The requested GB District allows a lesser building setback than the HB District. This is the primary reason the applicant has submitted this map amendment application. Allowing a small area, such as this 0.9-acre parcel, to be rezoned differently from an overall larger area solely to take advantage of that districts lesser setback standards would be granting that property owner an advantage or benefit over other property owners in the area.

However, this concern has been alleviated with the adoption of the new Development Ordinance by City Council at the May 16, 2016 public hearing. The new ordinance consolidates some of the City's zoning districts that are similar in nature. Under the new ordinance, the current HB and GB Districts will be combined to create a new GB District with lesser building setback standards. The new Development Ordinance will become effective on January 1, 2017. Thus, within approximately 180 days the zoning site and all of the surrounding GB and HB zoned property in this immediate area will be governed by the

same development standards of the new GB District. The property owner could have waited until the new Development Ordinance becomes effective, however, they desire to rezone the property now in order to commence with development as soon as possible.

Staff offers the following for the Planning & Zoning Commission's and the City Council's consideration as they deliberate on this request:

**Consistency with Adopted Plans:**

**The proposed Zoning District is appropriate for its proposed location and is consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans**

**Staff Comments:**

- ❖ The proposed zoning allows redevelopment of the site that will provide commercial goods and services within a walkable distance of the adjacent neighborhood, which meets several goals and objectives of the Community Growth Vision Statement and Land Use Plan.
- ❖ In regards to permitted uses, the requested GB District is similar to the current HB District and will not alter the development pattern envisioned by the Land Use Map for this portion of the Westchester Drive corridor. Additionally, with the adoption of the new Development Ordinance that will become effective on January 1, 2017, the zoning site and surrounding HB zoned properties will be under the same zoning and development standards of the GB District. Thus, alleviating illegal spot zoning concerns.

**Reasonableness/Public Interest:**

**An approval of the proposed Zoning District is considered reasonable and in the public interest.**

**Staff Comments:**

In this case, staff suggests that the approval of this request is reasonable and in the public interest because:

- 1) The request is consistent with the City's Land Use Plan;
- 2) The GB and HB Districts permit the same retail trade uses, thus approval will not be introducing new land uses along this commercial corridor; and
- 3) Based on the adoption of the new Development Ordinance and its conversion of the HB District zoning in the City to the GB District, the lesser setback standards of this district will be available to other commercial property owners in this immediate area. Thus, approval of this request will not give this property owner a long-term advantage that is not also available to other commercial property owners along this corridor, and is not considered illegal spot zoning.

**Recommendation**

**Staff Recommends Approval:**

The Planning & Development Department recommends approval of the request to rezone this 0.9-acre parcel to the GB District.

### **Required Action**

#### **Planning and Zoning Commission:**

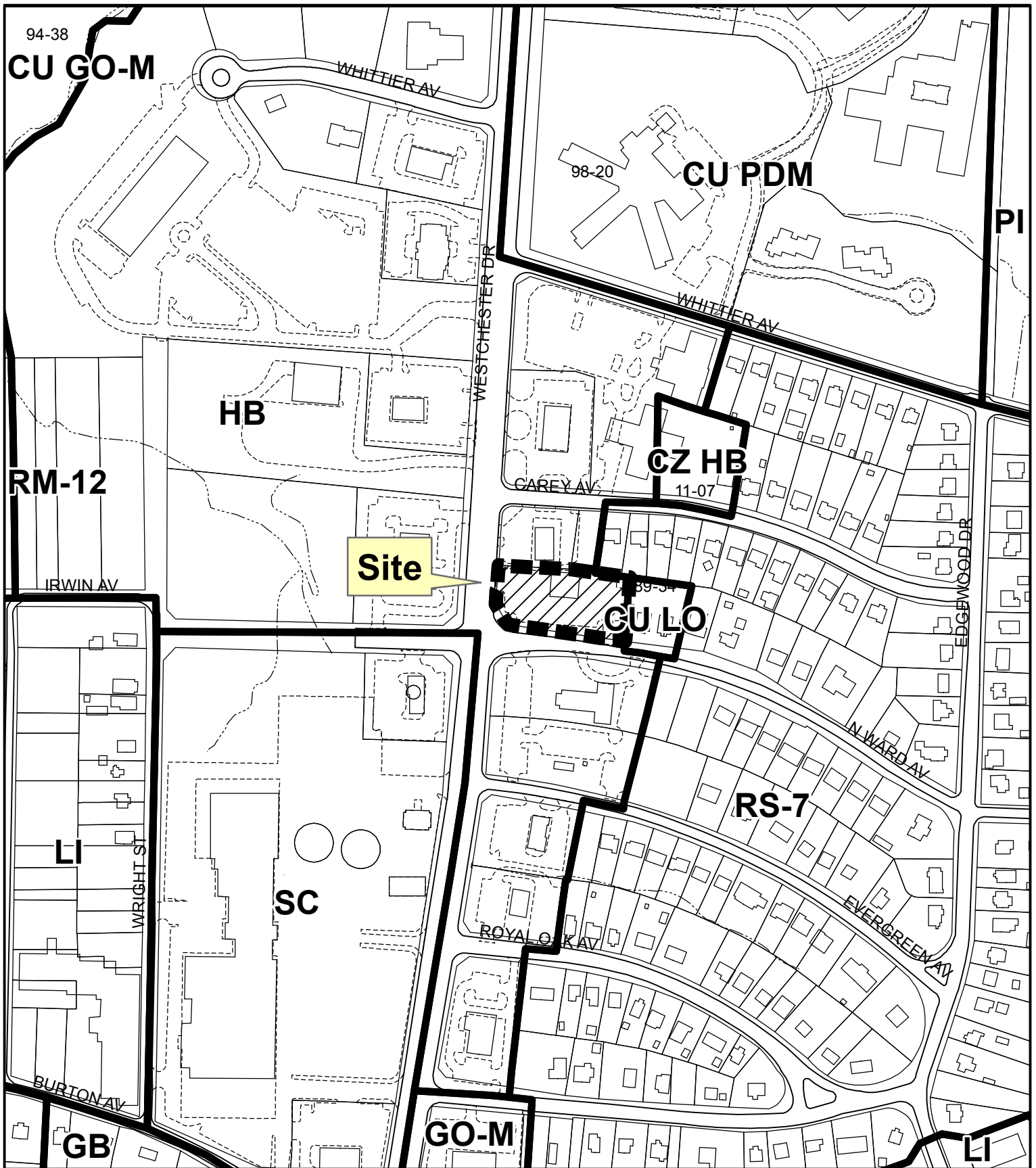
The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

#### **City Council:**

The NC General Statutes require that the City Council also place in the official record a statement of consistency with the City's adopted plans, and explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Staff Analysis section of this report or by adopting its own statement.

### **Report Preparation**

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



## ZONING MAP AMENDMENT ZA16-08

**From: Highway Business  
To: General Business**

**Existing Zoning Boundary  
Subject Property Boundary**



**Planning & Development  
Department**

**City of High Point**

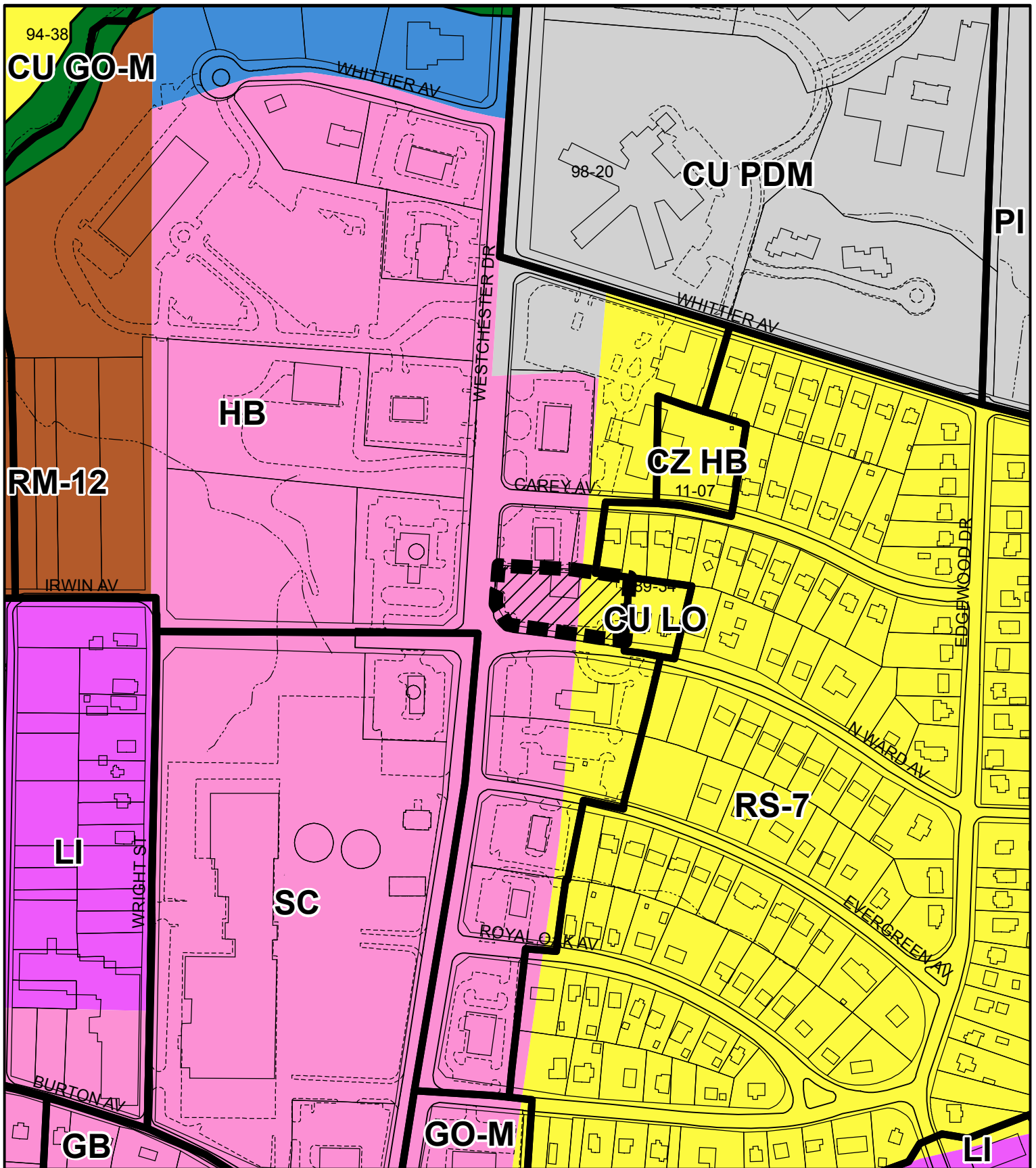
**Date: May 24, 2016**



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## ZONING MAP AMENDMENT ZA16-08

### Land Use Plan

 Low-Density Residential	 Light Industrial
 Medium-Density Residential	 Institutional
 Office	 Recreation/Open Space
 Local/Convenience Commercial	

Planning & Development  
Department

City of High Point

Date: May 24, 2016



Scale: 1"=300'

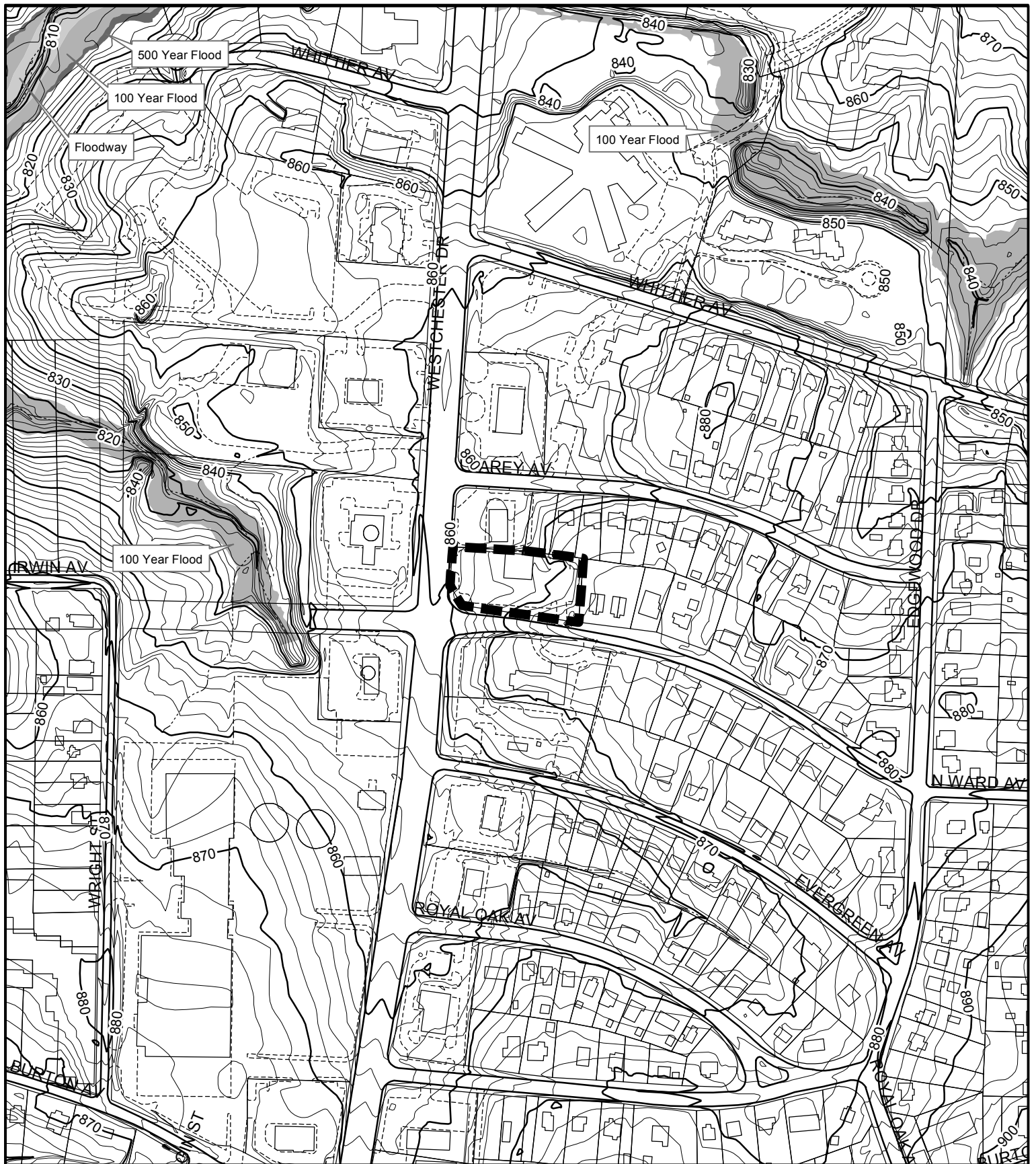
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# ZONING MAP AMENDMENT ZA16-08







# ZONING MAP AMENDMENT ZA16-08

## Topography

Subject Property Boundary - - - - -

Planning & Development  
Department

City of High Point

Date: May 24, 2016



Scale: 1"=300'

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AN ORDINANCE AMENDING “THE CITY OF HIGH POINT, NORTH CAROLINA DEVELOPMENT ORDINANCE,” PURSUANT TO SECTION 9-3-12, ZONING MAP 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 of the City of High Point on May 24, 2016 and before the City Council of the City of High Point on June 6, 2016 regarding **Zoning Case 16-08** a proposed amendment to the Official Zoning Map of the “City of High Point Development Ordinance”;

WHEREAS, notice of the public hearings were published in the High Point Enterprise on May 15, 2016, for the Planning and Zoning Commission public hearing and on May 25, 2016 and June 1, 2016, for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina; and

WHEREAS, the proposed amendment was adopted by the City Council of the City of High Point on **June 6, 2016**.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT:**

**SECTION 1**

That the Official Zoning Map of the City of High Point be amended to establish the following described area as: **General Business (GB) District**. The property is approximately 0.9-acres, lying east of Westchester Drive and north of N. Ward Avenue (1911 Westchester Drive). The property is also known as Guilford County Tax Parcel 0185434.

**SECTION 2**

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 3**

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

**SECTION 4.**

This ordinance shall become effective upon the date of adoption.  
**6<sup>th</sup>** day of **June, 2016**.

Lisa B. Vierling, City Clerk