



The Hickory Regional Planning Commission will hold its regular meeting on **Wednesday, December 7, 2016 at 6:00 p.m. in the City Council Chambers of City Hall.** The following will be the agenda for the Regular Meeting:

### **AGENDA**

- Parliamentary Call to Order
- Welcome
- Roll Call
- Items of Correspondence
- City Council Action
- Approval and Signing of Minutes from the October 26, 2016 Meeting

### **PRESENTATIONS AND PUBLIC HEARINGS**

1. **Text Amendment (TA) 16-01.** Consideration of an amendment to Article 7, Section 7.3 of the Hickory Land Development Code. The amendment proposes to amend the residential density standards for the Central Business (C-1) district. Said amendment would increase the permissible residential density from thirty (30) residential dwelling units per acre, to fifty (50) residential dwelling units per acre.

### **OTHER BUSINESS**

1. None

The Hickory Regional Planning Commission does not discriminate on the basis of disability in the provision of its service as charged by the City Council of the City of Hickory. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact the Planning Department at telephone number (828) 323-7422 at least 48 hours prior to the scheduled meeting.

**Attendance Roster**  
**FY 16-17**

**Key**

A	<i>Absent</i>	AX	<i>Excused</i>		<i>No meeting</i>
P	<i>Present</i>				<i>Vacant/Not yet appointed</i>

**Hickory Regional  
Planning Commission**

		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Appoint	Expire
Catawba County	Jeff Kerley	P	P		P									Jun-15	Jun-18
Longview	Randall Mays	P	P		P									Jun-14	Jun-17
Catawba County	John Eldridge	p	A		AX									Jun-14	Jun-17
Burke County	Vacant														
Brookford	Doug Minton		P		P									Aug-16	Jun-19
Caldwell County	James Noggle	P	P		P									Jul-15	Jun-18
Ward 1	Bill McBrayer	P	P		P									Jul-16	Jun-19
Ward 2	Noah Geoghegan				P									Jul-16	Jun-19
Ward 3	Junior Hedrick	P	P		P									Jul-14	Jun-17
Ward 4	Sam Hunt	P	P		P									Jul-15	Jun-18
Ward 5	Wallace Johnson	P	P		P									Jul-14	Jun-17
Ward 6	Shanua O'Brien	AX	P		P									Jul-16	Jun-19

**Hickory Regional Planning Commission  
Wednesday, October 26, 2016, 6:00 pm**

A regular meeting of the Hickory Regional Planning Commission (HRPC) was held on Wednesday, October 26, 2016, 6:00 pm, in Council Chambers of the Julian G. Whitener Municipal Building, Hickory NC.

**Members Present:** Randall Mays, Bill McBrayer, Jeff Kerley, Shauna O'Brien, Junior Hedrick, Doug Minton, Jim Noggle, Wallace Johnson, Sam Hunt and Noah Geoghegan

**Members Excused:** John Eldridge

**Members Absent:** none

**Others Present:** Director of Planning and Development Services Brian Frazier, Principal Planner Cal Overby, Planner Ross Zelenske, Deputy City Attorney Arnita Dula and Minutes Clerk Anne Starnes

**Parliamentary Call to Order & Welcome:** Randall Mays, Chairman, called the meeting to order at 6:05 pm and welcomed everyone present.

**Swearing in of New Member:** Noah Geoghegan, representing Ward 2 in Hickory, was sworn in as a new member. Members welcomed him to the Commission.

**Roll Call:** Director of Planning and Development Brian Frazier stated a quorum was present and Dr. Eldridge was excused. He stated he was not present for Jeff Minton's first meeting, and so wanted to welcome him to the Commission.

**Items of Correspondence:** none

**City Council Action:** Mr. Frazier said the only action was the appointment of Mr. Geoghegan to the HRPC.

**Approval and Signing of Minutes from the August 24, 2016 Meeting:** Minutes of the previous meeting were distributed to members in advance. No additions, deletions or corrections to the minutes were stated. Bill McBrayer moved, seconded by Jeff Kerley, to approve the August 24, 2016 minutes as written. By a show of hands, the motion carried unanimously.

Mr. Mays said one public hearing was on the Commission's agenda tonight.

**PRESENTATIONS AND PUBLIC HEARINGS**

**1. Special Use Permit (SUP) 04-13(B).** Consideration of an amendment to an approved Planned Development Master Plan to permit for the inclusion of a multi-family apartment complex. The subject properties, which are currently owned by Brown Operating Company, Inc., are located at 2758 2<sup>nd</sup> Street NE and an unaddressed lot immediately to the north, and are identified as Catawba County parcel numbers 3704-20-92-5480 and 3704-16-92-6536.

All speakers were sworn in by the Minutes Clerk.

**Cal Overby** presented the Staff Report and referred to PowerPoint slides during his presentation. He said the subject property was rezoned from R-3 Residential to Planned Development-Office and Institutional (PD-OI) some time ago.

Referring to slides #2 & #3 (Special Use Permit 04-13(B)), Mr. Overby said the property is currently owned by Brown Operating Company. The applicant/developer is Courtyard Properties, and their agent is local architect Scott Mitchell. The subject property is two parcels of property, located at 2758 2<sup>nd</sup> Street NE and an unaddressed vacant lot immediately to the north. Again, the property is zoned Planned Development, which is a conditional use district, and was created about 12-years ago. The property is approximately 7-acres in size. The request is to amend the approved Planned Development Master Plan to allow for a 144-unit multi-family apartment complex, with seven (7) structures, in place of the approved 25 residential townhomes.

Mr. Overby said the project has some history to it, and he discussed the background information. He said the property was initially zoned Planned Development in August 2004, with a Master Plan approved that consisted of 27,300 sq.ft. of office area, including six (6) office buildings on 2<sup>nd</sup> Street. One 3,800 sq.ft. office building was constructed, and the remaining property never developed. This was the time we began having a mini-recession in the City, about 2005-2006. In 2007, there was an amendment to the approved Master Plan, deleting the remaining office space and proposing to construct 31 residential townhomes on the property. That project came about in a small fashion. Six (6) of the approved townhomes were converted into six (6) detached single-family residences; six (6) were approved, and two (2) are under construction and nearing completion at the corner of 26<sup>th</sup> Avenue and 2<sup>nd</sup> Street NE. Currently, the properties under consideration are approved to contain twenty-five (25) residential townhome units on them. Again, the request is to amend an approved Master Plan to allow for the inclusion of a 144-unit multi-family apartment complex.

Referring to slide #4 (Map 1: 2014 Aerial Photo), Mr. Overby pointed out the subject property and lots that were converted into single-family residences on the aerial photo, along with Northview Middle School, an existing apartment complex, Mr. Olive Lutheran Church, areas of residential homes, a dental office, and the current construction.

Referring to slide # 5 (Map 2: Zoning), Mr. Overby pointed out the wide variety of zoning designations around the subject property.

Referring to slide #6 (Map 3: HBC 2030), Mr. Overby said the map is a snapshot of the Comprehensive Plan, and does not contain parcel lines; the map only shows streets and generalities. He pointed out the nearby commercial node, zoned Community Commercial, with the intersection of Highway 127 and 29<sup>th</sup> Avenue NE at the center and surrounded by High Density Residential, including the subject property.

Referring to slide #7 (Courtyard Properties – Concept Site Plan), Mr. Overby said this schematic shows the general layout of the property, including six (6) apartment buildings surrounding a clubhouse, pool and playing field at the center. He pointed out the entrance from 27<sup>th</sup> Avenue NE and the location of Mt. Olive Lutheran Church’s walking track.

Referring to slide #8 (Courtyard Properties – Building Elevation), Mr. Overby said this shows the elevation of a building, with exterior finishes, which he expects will look similar to the apartments constructed at 29<sup>th</sup> Avenue and Hwy. 127, behind Walgreen’s. It is a similar building configuration.

Referring to slide #9 (Site Plan), Mr. Overby said this is a more detailed, engineered plan, with more dimensions than the rendering of the plan. He pointed out the clubhouse, pool, and parking areas, as well as storm water retention and buffering where it abuts with single-family residential.

Referring to slide #10 (Special Use Criteria – Consistency with the Hickory by Choice 2030 Plan), Mr. Overby discussed the Special Use Permit review criteria, and consistency with the Hickory by Choice 2030 Comprehensive Plan (HBC 2030), and stated Purpose and Intent of the Land Development Code. He said the area is classified as High Density Residential in HBC 2030, and is consistent with the City’s long-range development plan for this area. HBC states that High Density Residential areas are land areas located

approximately ½-mile from the central point of each mixed-use center, allowing for convenient walking or bicycling from home to shop. The HBC plan also indicates the expected residential density in these areas to be 12 to 20 units per acre, and this project is in the upper margin. He noted that Table 3.1 of HBC identifies multi-family residential as being a defining characteristic of areas classified as High Density Residential.

Referring to slide #11 (Special Use Criteria – Compliance with the City’s Land Development Code), Mr. Overby said the schematic plan submitted with the petition largely complies with the code, from a layout perspective. He said if the SUP is approved, the developers would be required to submit plans for permitting, and these plans would be reviewed to ensure compliance is being met and to make certain that everything works out appropriately, including storm water, parking, and the like.

Referring to slide #12 (Special Use Criteria – Compatibility with Adjacent Uses), Mr. Overby said there is multi-family on one side of the project and a school on the other, a church, an office, and single family homes to the north and southwest; most of the area there is mixed. Buffering will be required along the property line shared with the single-family residential uses to the north, which is shown on the schematic plan.

Mr. Overby said the developer was required to prepare a traffic impact analysis (TIA) as part of the application process, which was provided to Commission members in their agenda packet. (The 113-page report was prepared by Davenport, located in Winston-Salem, NC, for Scott Mitchell, Architect, and dated September 28, 2016.) The TIA analyzed various street intersections and different traffic scenarios, and distribution and volume coming in and out of the apartment complex. He said the findings of the TIA indicated there was no need for any further improvements. The TIA was prepared by a professional engineer, and reviewed by the City’s engineering staff, as well as the NCDOT engineering division, and they all concurred with the findings and conclusions of the analysis.

Mr. Overby pointed out that Publix would soon open a store nearby, and they are putting in a lot of transportation improvements. He expects, had Publix not come in, that these developers would be making these transportation improvements. He referenced the slide, Map 1: 2014 Aerial Photo, and noted a new road that Publix is creating. He said a new median would be installed. He showed where left turns onto 28<sup>th</sup> would no longer be allowed. He said this would solve the conflicting problem of left-hand turns that occur there early in the mornings, very unsafe movements made by multiple drivers daily.

Referring to slide #13 (Special Use Criteria – Mitigation of Significant Impacts & Diminution in Value of Surrounding Properties), Mr. Overby said staff does not anticipate any negative impacts on neighboring properties and the environment; however, they will review the plans when they receive them for permitting. They will review them for storm water retention and buffering along the property lines, landscaping and lighting standards, if the project is approved by the Commission. He said they have not received any information from a qualified professional to indicate that property values would either go up or go down. He said there is no way to determine this without an appraisal by a licensed appraiser.

Referring to slide #14 (Special Use Criteria – Levels of Service & Assurances of Continued Maintenance), Mr. Overby said that police and fire are active in the area, and the project was reviewed by their departments. Public utilities are available to serve the property, and transportation infrastructure is in place to serve the property, also. In terms of continued maintenance, the City requires the property will be maintained, and it is stated in the current codes. He said that, should one of these properties become unmaintained, the City would take action to bring them into compliance with the appropriate codes.

Referring to slides #15, 16 & 17 (Recommendation), Mr. Overby said the staff finds the request to be in conformance with the standards for approval contained in the City’s Land Development Code, and does recommend approval of the project, contingent upon the thirteen (13) conditions outlined in the staff report, which the applicant has agreed with, as follows:

1. All aspects of the project, and its subsequent improvements, shall comply with all applicable provisions of the City's Land Development Code, and the Building and Fire Codes of the State of North Carolina;
2. Fire hydrants shall be provided and distributed on-site in accordance to Chapter 11 of the Hickory City Code and the NC Fire Code. See Section 8.11.9 of the Hickory Land Development Code for minimum requirements.
3. As the area is developed, access to the building and fire hydrants shall be provided in accordance to the NC Fire Code and Chapter 11 of the Hickory City Code.
4. Construction and use of the building shall comply with the NC Fire and Building Code.
5. Prior to the initiation of development; plans must be submitted, reviewed, and approved by the City of Hickory;
6. Adequate measures shall be designed and installed to control storm water originating on or moving across the property;
7. The developers of the proposed development shall be required to cover all expenses associated with the design, permitting, and installation of water and sewer infrastructure.
8. All utilities, including power, cable, and telephone shall be underground;
9. Outdoor site lighting shall be designed to minimize impact on adjacent properties;
10. A landscaping detail for the development must be provided, which demonstrates compliance with the Hickory Land Development Code;
11. The building elevations facing 2nd street NE shall be designed to offer an appearance similar to the elevation detail provided as part of the petition for amendment;
12. Buffering along the northeastern property line, adjacent to the existing single-family residences shall be provided; and
13. An erosion control permit must be obtained.

Mr. Overby asked for questions from Commission members.

Mr. Mays asked if the median being installed would interfere with access to Mr. Olive's parking lot, and Mr. Overby said no, it would not extend that far to the south.

Mr. McBrayer asked if there had been any inquiries from neighbors or the public since the agenda packet was prepared. Mr. Overby said yes, they had an office visit from a resident, requesting some information.

Ms. O'Brien asked if there would be a traffic light on 29<sup>th</sup>. Mr. Overby asked if she meant where 2<sup>nd</sup> would be extended, and she said yes. He said no, that would be too close to the existing signal at Hwy. 127 and 29<sup>th</sup> Avenue to have another one.

Mr. Kerley noted the parcel at the corner with the single-family units that are being completed now, and asked if it has previously been all one parcel. Mr. Overby referred to the slide of Map 2 and said yes, when the Planned Development was initially done in 2004 it included a larger amount of property, which he outlined on

the map, with the laser, for members. He said that one portion was sold off to a different developer, who had then created the existing 48-unit apartment complex. Mr. Kerley asked, since the single-family residences have already been started, will there be any impact on them, and have they commented on the multi-family complex being built. Mr. Overby said no, and that actually, the owner of this property is constructing these, and this property is being sold by the owner, to the developer who is proposing the apartment complex. He said he does not believe those homes are occupied yet, and they are in the final permitting stage. Mr. Kerley said he had just driven by there and they were sowing grass, but it did not appear anyone was living there yet.

Mr. Mays asked what the overall height of the building would be. Mr. Overby referred to slide #8 (Courtyard Properties – Building Elevation), saying it states that a Type One Building would be 30-ft., 6-inches, ground floor to top plate; 39-feet, 2-inches, ground floor to center line of hip roof; and 43-feet, 4-inches, ground floor to roof peak.

Mr. Kerley said it would be very close to the school, and asked if they still have capacity available. Mr. Overby said they have not heard anything from the school system regarding it, one way or the other. He said the last time he looked at the enrollment numbers, there were no capacity issues to note. He clarified that the school numbers were provided by Western Piedmont Council of Governments.

There were no additional questions for Mr. Overby.

The Staff Report was submitted to the Minutes Clerk, and entered into the record as Exhibit A.

Chairman Mays stated this is a quasi-judicial hearing, and reviewed the procedure the Commission would follow. He said proponents of the petition would be allowed to speak first, followed by the opponents, and all persons wishing to speak must be sworn in prior to their testimony.

Chairman Mays opened the Public Hearing for Special Use Permit (SUP) 04-13(B).

### **PROPONENTS**

**JoAnn Spees** addressed Commission members. She stated she has resided on 28<sup>th</sup> Avenue Place NE for 38 years, and asked that the aerial map slide be returned to the screen. She said she was speaking as a proponent because she is not opposed to progress and believes in Hickory's expansion, but she is living in the midst of the Publix construction right now, and looking at how this will also have an effect on our community.

First, Ms. Spees said she wanted to thank the Commission for sending the notice to the residents, because they did not receive a similar notice about the coming of Publix, and appreciate the opportunity to speak on this. And second, she wanted to talk with members about the traffic, that he had stated there would be no impact (from increased traffic). There are approximately 750 children attending Northview Middle School, and most of them tend to be car-riders; there are several buses coming from the southeast and southwest bringing children, but the majority of the neighborhood students are car-riders. She said that from 7:00 until 7:45 am, there is a constant stream of traffic coming down 28<sup>th</sup> Avenue. In the day, when you travel, 28<sup>th</sup> Avenue, 28<sup>th</sup> Avenue Place, 3<sup>rd</sup> Street and 2<sup>nd</sup> Street to get to the school, it is nearly impossible for the residents to get out of their driveways. She cannot project that this will improve significantly, even with the new 2<sup>nd</sup> Street extension, and would ask Commission members to explain more clearly what the traffic patterns are going to be in that area. She understands there will only be a right-hand turn into Belle Hollow Shopping Center, when coming from the east and going toward Hwy. 127, and there will only be a right-hand turn into Publix. So considering that, she expects even more people will pass through their residential streets to enter Publix, and it will be a constant flow of cars.

Ms. Spees said she questions how the involvement of 144 more units is not going to affect traffic coming to the school, and also traffic to Mt. Olive Church. Again, she said she was not speaking against the process, but would like some information for the neighbors who live in this area. She said that, even though she is not a member of Mt. Olive, she has been very closely associated with the church; her residence is in the middle, as the street changes from 3<sup>rd</sup> Street to 28<sup>th</sup> Avenue Place, and she intimately knows the area. She said they have been working with the church to try to create a green space. When Publix came in, they extended the parking area for the church, which was a wonderful blessing for the members of the church, because they (Publix) took over what had been part of the previous parking lot. In doing this, however, it has caused a trench to grow into the Mt. Olive property, from run off. They are hoping to be able to create a green space in that area, but she questions how extending the asphalt and pavement area, and the extension of more housing, especially intense housing, is going to be a benefit. She said the residents in the neighborhood have seen significant changes in bird life, and in the lack of green environmental happy conditions that existed there before. She said persons present who live in intense city situations may not understand the pleasantness of that bucolic situation. The folk who walk the trail – and there some 100 people who possibly walk it daily, certainly hundreds during the course of the week – they enjoy this atmosphere. She said that buildings that are towering over everything else in the neighborhood, it would seem to her, would have an effect on that, so she would ask the City to consider if they would help them to create a natural green space.

Ms. Spees said she needs the City to help her understand what the traffic patterns would be, and help with a better way that would not affect the children attending school and residents in the area. She said it would be impossible for the many residents of Hawks Ridge to get out in the morning, and she cannot understand how the people living in this new apartment building are not going to be affected, if they need to get to work. Again, she requested the City's help in creating a natural green space and finding the answers they need.

Mr. Mays said that, regarding the traffic patterns, Mr. Overby had noted earlier the 113-page traffic analysis study, of all the intersections, roadways and crossovers, and including the traffic flow that will be initiated by the new 144-unit apartment complex. He said he does not understand it, but the analysts say it will not create that much more impact. Regarding the green space, he said he could not give her an answer on that question, but he expects that with private property in that area, the City would not get involved in it, that it would be up to the property owners to initiate green space or other property uses.

**Scott Mitchell** addressed Commission members. He is the agent and designer for the landowners and developers, so naturally he is speaking for the project. He clarified that he is not an out-of-town expert, he is a native and local resident of Hickory, with a vested interest in Hickory and that area of the city.

Mr. Mitchell said that Ms. Spees raised a lot of good questions, and that his group thinks this plan answers just about all of them. He said if the three-story apartments they have planned are considered, they will actually take up less land area than the single-family residences equivalent, or the office complex that was originally approved for that site. He said that, in terms of traffic, the study has 28 pages of numbers, but what it basically says is that this apartment complex will generate less trips per day than the office complex that was originally approved. They will be spread out more during the day, instead of during the peak hours, and the adjacency of the bike and walking trails is, in their opinions, an amenity. Most of those residents will walk to Publix or Lowes, and should not need to get in their cars, which again reduces the number of trips per day. He said they designed it purposely to put three buildings along the street, which breaks it up. Originally, all of the office buildings were strewn along 2<sup>nd</sup> Street, and all you saw was a wall of buildings. They broke this up and added more green space, with all of the parking in the center, so it will not be visible from the single-family residences on that street.

Mr. Mitchell said the topography of that land, if you go by there, it is varied, and those buildings will start out 10-feet below the road level and drop even further down. So you are really not seeing three stories of building, and it is probably going to be level to those two-story homes being built on the single-family area to the south.

He said a lot of the plan was done on purpose, to mitigate the impact to the neighborhood. They feel like it is a much better plan than the previously approved plan, and are asking the Commission to approve this amendment tonight, if they see fit.

Mr. Mitchell asked for questions from members.

Mr. McBrayer asked where the project would start, that he had seen the property and it looks like fill dirt along 2<sup>nd</sup> Street, and the site drops down from there. He asked if it would mimic the apartments behind it. Mr. Mitchell said that site to the south is much lower, but the buildings would start out at least 8- to 10-feet below road level for the first building you would see, and then go down from there another 10- to 15-feet below that for the buildings that are behind it.

Mr. McBrayer said it appears the main entrance would be from 27<sup>th</sup>, and Mr. Mitchell said yes, it lines up with 27<sup>th</sup> Avenue. Mr. McBrayer noted a tricky curve there, a difficult left turn to make. Mr. Mitchell said if you read all of the numbers in the traffic study, most of the traffic from the multi-family site is going to come to 2<sup>nd</sup> Street and either turn left or right, and come down to 26<sup>th</sup> Avenue to come into town. They won't be going out to Hwy. 127 because you cannot turn left on it. Ms. O'Brien said they would go out by the former Ace Hardware building. Mr. Mitchell said, yes, they will be going the back way, or they will turn right and go out to 29<sup>th</sup> Avenue and turn right, since you cannot turn left there with the new Publix improvements. Mr. McBrayer said it might push more traffic onto 5<sup>th</sup> Street to come into town, and Mr. Mitchell said that was correct.

Mr. McBrayer said Ms. Spees made a good point, because that extension – and this really has nothing to do with this project necessarily – but the extension by Publix, that Ms. Spees' road Ts into it, and he wondered if that would continue to T into it, or if it would be a dead end. He said if you turn right from the apartment complex onto 2<sup>nd</sup> Street, and Publix is on your left, and they are cutting the new road in by the vet's office, Ms. Spees' road Ts into that road. Mr. Mitchell said it was his understanding it would continue to T into the new street, but Brian Frazier may be able to answer this better. Deputy City Attorney Arnita Dula reminded Mr. McBrayer that this is not a part of this project, and Mr. McBrayer said yes, he had stated that when he asked the question, that he was simply curious about it. He said that when he looked at the traffic pattern and report, and you would need to be an engineer to do this, which he is not, so he guesses we will just be at the mercy of the firm that prepared it. Mr. Mitchell said he tried to summarize it in the fact that there is definitely an impact over an undeveloped piece of property, but it is less than what would have happened, if they had built the office complex. He said DOT reviewed it, the City of Hickory traffic department reviewed it, and he certainly did not understand all of the numbers, other than to summarize it, when it gets into all of the turns and all the cars.

Mr. McBrayer noted the woods in behind the doctor's office, and asked if those trees would be part of the buffer. Mr. Mitchell said yes, there is a natural buffer that has been retained between those two single-family homes. Mr. McBrayer said there are a lot of existing trees by the school's football field, and so if you gutted the inside area and kept the perimeter trees, that would enhance the whole project. Mr. Mitchell said that was a good point, and they have done that.

Mr. McBrayer asked where the runoff would go, with the elevation it has to go down. Mr. Mitchell said there is a natural stream, where everything ultimately flows to the creek, Falling Creek. Ms. O'Brien said that the retaining area would fall into that creek, and Mr. Mitchell said yes it would. He said this project picks up two existing storm sewer lines that just kind of empty in there, and they will improve that situation, too. He said it is hard to visualize that, but right now it is just running across vacant property and they are going to contain it and mitigate it.

Mr. McBrayer asked where Courtyard Properties originates, that he tried but was unable to find it, and was interested in knowing what kind of price point these rentals would have. Mr. Mitchell said these would be

equivalent to the apartments over across 29<sup>th</sup>, starting around \$750 for a 1-bedroom apartment, and \$1,200 to \$1,300 for 2-bedrooms, and is upper end for Hickory. Mr. McBrayer said, so the field behind the pool, that will just be a grass field, and Mr. Mitchell said yes, that is a green space. Mr. McBrayer said he thinks it is a nice project, he just has a lot of questions about it. Mr. Mitchell said he should show members a diagram with 140 homes sitting on that property, so they could see very quickly how much more land area is taken up, and more impervious area, that he should include that in these reports just to show the difference. He said there is much less impact in going with this route. Mr. McBrayer asked if, before breaking ground, are they required to bring in the plan with details on what trees will be kept and where, and so on. Mr. Mays said there would have to be a landscaping plan, with buffering, in place, submitted by their office, and approved per the Land Development Code.

There were no additional questions for Mr. Mitchell, and no other speakers in support of the petition.

## **OPPONENTS**

**Eric Eaker** addressed Commission members. He said they own a home on 2<sup>nd</sup> Street NE, which is directly across from the subject property; they rent the home, and do not live there. When he was remodeling the house, he saw that there was a lot more traffic on that road than he ever would have believed, coming to the school there. First, he said he is not really sure of the impact on the property he owns there, but it seems to him that the traffic increase and traffic patterns are going to be quite substantial. He said (Commission member) Ms. O'Brien had already spoken to this, and he believes that once the road is built, there is going to be a thoroughfare there, which he believes Mr. Overby spoke about, that people are going to try and dodge Hwy. 127. They are going to try and use this road because it will be open to 29<sup>th</sup> Avenue.

Mr. Eaker said this is going to create quite a bit more traffic, and the guy who talked about 140 homes, he had not seen that 140 homes were proposed. He saw an office, he saw 31 townhomes, and now 144 apartments. For 144 apartments, that is somewhere around 432 people, if you have three (3) people to an apartment. He said he was not sure what the property value is going to be, but he is sure that the traffic pattern and the traffic is going to increase, even though he knows you have a study that says it will not.

Mr. Eaker asked who paid for the study. Director of Planning and Development Services Brian Frazier said that was a good question, and that the study was paid for by the developer, but it was not handed to City staff by the developer. He said the City and the NC Dept. of Transportation (NCDOT) require that the study be done. It cost somewhere between \$8,000 and \$10,000, and was paid for by the developer. Mr. Eaker said if the developer paid for it, and the City and NCDOT had then looked at it, did they agree or just accept it as a study. Mr. Frazier said they had concurred with the findings. Mr. Eaker said okay, but he would go back to Ms. Spees, that he has been over there quite a bit, and could not imagine adding that many people there *and* changing the traffic pattern. Someone spoke earlier about cars being backed up on Hwy. 127 and they have a hard time making those turns already, well as soon as they figure out that they can drive all the way through there, they are going to get off Hwy. 127.

Mr. Mays said something Mr. Eaker was addressing, that Ms. Spees had also addressed, had a lot to do with traffic flow, traffic patterns and traffic analysis. He said that the plan, as it exists now, with no changes being made to it at all, with the Commission not approving this request or anything else, as it stands right now, this already has 31 townhomes and different things that are approved (for the property) that can be constructed there, without approval of this request tonight. There are already existing plans, from when they proposed so much office space out there. That is what they are talking about regarding mitigating the flow, and if they build as it is already approved right now, before the Commission makes any decision, the amount of traffic there versus the amount of traffic *if* they get this approval, mitigates the traffic difference, and the traffic flow is throughout the day, instead of only at peak times, such as the school with heavy traffic early in the morning and in the afternoon. He said if you have businesses in there, you are going to have that same flow of even

heavier traffic in the morning added to it, and in the afternoon because of the business hours. So maybe that goes into this traffic analysis, how it mitigates out.

Mr. Eaker said that after the 25, because there were already 6 built, to him 25 townhomes would basically have 4 people in them additionally, and you are talking about 100 people, where with the 144 apartments with 3 people in each one, that will be 430 people. He said he did not know how they came up with their no impact analysis, but he was sure they knew. He said those were his concerns about it, and he heard Ms. O'Brien mention that, about the road going all the way through, and Mr. McBrayer had also mentioned that concern. He said he thought Mr. Overby had kind of made his point, also, when he said they were already having to change the traffic pattern because there is already a lot of traffic out there. Everybody knows Hwy. 127 is crowded, and people are always looking for a way to dodge traffic. And he knows that someone said this is not part of it, but adding this many more people is hard on the neighborhood.

Mr. Eaker said one of the questions he had was already answered, basically what the rental rate would be.

Mr. Eaker said he was going to reiterate what he said, that he is not positive one way or the other about property values, but he is *pretty* positive that if you live over there, you are going to see an increase in traffic, and he also understands that they have a traffic report there, but unless you live there, he does not think anyone realizes the traffic.

Mr. Mays asked if there were any questions for Mr. Eaker.

Jeff Minton said he agrees with Scott Mitchell, that the way it is approved right now, if you build the doctor and dentists offices, with 40 to 50 patients an hour coming and going out of there, you would really have a traffic problem then. He said having traffic spaced out throughout the day, like this, would have a lot less impact on the neighborhood than if they went ahead and built the doctors' offices, which were already approved.

Mr. Eaker said the way he understood it, and correct him if he is wrong, it started out as being offices and businesses, but he thought that when they approved the 31 townhomes it took the offices off the table. So, he asked if they were going to build 31 townhomes *and* the offices and businesses. Mr. Minton said that was the original plan. Mr. Mays said the Planned Development Master Plan was revised in 2007 and it deleted the remaining office space and replaced it with 31 residential townhomes. Mr. Eaker said that's what he read, so now it's the 31 townhomes, unless this is approved. Mr. Mays asked Mr. Overby if this was correct, and he said it was correct.

Mr. Eaker asked if there was a site plan, looking from the street. He said someone asked about the height of the buildings, and that he had looked at the property and it does drop off. What he heard Mr. Mitchell say was that the buildings would start past the level area, on the downhill side. Mr. Mays said Mr. Mitchell had said the proposal was for the ground floor at 8- to 10-feet below grade level. Mr. Eaker said, which means it has to be past the level area. Mr. Mays said he assumed it would be on the downhill portion.

Ms. Dula advised that Mr. Eaker would have an opportunity to ask Mr. Mitchell questions later in the hearing, during rebuttal.

There were no further questions for Mr. Eaker.

**Karla Eaker** addressed Commission members. She said they own the house that will be almost directly across from the project that is being built. She apologized for not being better prepared, saying she had checked with the Planning Dept. today and they had mailed their notice on October 11; they left for vacation on the 15<sup>th</sup> and had not received it, then returned on the 23<sup>rd</sup>, so they have only known about this for two days. She assured the

members that if she had had more time, she would be better prepared and thinks she could have had more people here to speak. With all of that said, one of the things that concerns her is if the Planning Committee had sent this to just the people along 2<sup>nd</sup> Street NE, and who else was notified about this. Mr. May said that all property owners within 500-feet of the property were notified. She said, so basically, only the people on 2<sup>nd</sup> Street NE. Mr. Frazier said no, that was incorrect, it was sent to property owners within 500-feet of the exterior of this property. It was also on the City's website for a longer period of time, at least one sign was placed along the property, and it was in the newspaper on the two preceding Fridays. She asked what they think 500-feet would include, that she is just trying to guess. Mr. Mays said the North Carolina Ordinance states 500-feet. She said the reason she asks is that she also has son who owns a house at 2326 4<sup>th</sup> Street NE, and if you notice on this pattern here, when you come down 2<sup>nd</sup> Street and hit 27<sup>th</sup> Avenue, you can go out, which is right in front of the apartments, then you come on down to 28<sup>th</sup> Avenue, and neither of those have a light at 29<sup>th</sup> Avenue, so you have to go straight through and come on down 4<sup>th</sup> Street, until you get over to 23<sup>rd</sup> Avenue, and then you can take a right, and go out to 127 at a traffic light. She brings this up because when you extend 2<sup>nd</sup> Street all the way to 29<sup>th</sup> Avenue, you have now made a thoroughfare. Everybody who lives over in this neighborhood, to the south, on 4<sup>th</sup> Street or any of the streets that are below here, they are going to use that to go over to 29<sup>th</sup> Avenue, so they can get on McDonald Parkway or any roads that go back toward the mall. She said it is not going to just affect 2<sup>nd</sup> Street NE, it is going to affect those people on 4<sup>th</sup> Street NE as well, because just as everyone has said that has talked about 127, there is no good access to 127, except at 23<sup>rd</sup> Avenue NE, where you can take a right or left at the light, or on 29<sup>th</sup>. So, those other three streets that run through there, if you want to get out on 127, hopefully you are turning right, you are not going across and turning left. And so you are proposing apartments on that street, and when Publix gets through you are going to have a thoroughfare, from 23<sup>rd</sup> Avenue all the way out to 29<sup>th</sup> Avenue, because that is going to be the way people travel in their cars to get over to 29<sup>th</sup>, rather than going out to 127. That is going to create a lot more traffic than what is there now, a lot more, because of the access to 29<sup>th</sup> Avenue. She said the other thing is that those people on 4<sup>th</sup> Street do not even know that their road is going to be affected by this. She said it is not 2<sup>nd</sup> Street, it is 4<sup>th</sup> Street, and those people are more than 500-feet away from there; and granted, there is a sign out there on the property, but those people do not go that way to get out on 29<sup>th</sup> or 127, they go back to 23<sup>rd</sup> to get out, so they never pass that lot. So they do not have access to it (the notification information), and there are not many people that get on your website and look to see what your planning is, unless it would affect them.

Ms. Eaker asked how many people take the newspaper now, and said that everybody gets on the internet. (A few Commission members raised their hand.) Well okay, you obviously have a lot more involvement than most people do, in the City government and City planning. She said she is just saying that all those things are possible and could be done, but there are a lot of people who are totally ignorant of what is going on out there. This afternoon she knocked on the door of the person living next to her house, and they have lived there for 30-years, and she asked her if she was going to the meeting tonight to say something, and she asked what the point was. Ms. Eaker told her the point is that they are going to build 144 apartments across the street from you, do you not want to have anything to say about that, or have any input on it. And she said, well I didn't know that. Ms. Eaker said they are an older couple, have been there 30-years like she said earlier, and that 144 apartments going up is a lot of apartments.

Ms. Eaker said the apartment complex is below ground level up here, to the south, really below ground level, but it is senior citizens that mostly occupy that, and they walk those trails, even in wheelchairs, unaided wheelchairs. They come down that street and over to that park behind the church, and come back up. You see those people walking all the time. So you are going to take that huge complex and put it right there, where those people live, and have lived for however long that complex has been there. She said you are not just creating a throughway to 29<sup>th</sup> on 2<sup>nd</sup> Street, you are creating a thoroughfare from 23<sup>rd</sup> Street all the way over to 29<sup>th</sup>.

Ms. Eaker said she knew they did a study, and she knows they are engineers and they know a lot more than she does, technically, but common sense tells her that people are going to go the simplest and easiest way to go, and there is not any way to get to 29<sup>th</sup> right now, that she knows, she used to take that little cut through where

you (nodding to Ms. Spees) live to get over there. But a lot of people did not even know it was over there, and so there was not as much traffic. But when you cut it straight through, no light is going to be there, so people are going to rush through there and back up, because there will be no light there to get out. Mr. Mays said it would be a right-out only. She said a right-out only, so what happens to the people who want to go left, and he said there is no way to get there. She said right, there is no way to get there, *except* down 2<sup>nd</sup> Street NE and onto 4<sup>th</sup> Street NE, and then back up to the light at 127. And that is why she said you are creating a thoroughfare that engages a whole lot more people. Mr. Mays said that she keeps saying we are creating a thoroughfare, but that neither the developer nor this board is creating a thoroughfare. She said, well if you approve it. Mr. Mays said that Publix is making a roadway through, and she said well somebody approved it.

Mr. Overby interjected, saying that 2<sup>nd</sup> Street is going to be done, and extended, whether or not the apartments are approved. She said right, but it is not going to be 144 apartments there sitting on it, that she agrees with that, the thoroughfare is going to be there. But when you add 144 apartments to the traffic there, and that is what she was saying, how do you do a study and give a definitive report when a road is not even there yet; that cut through is not there yet, it is not finished, and there is no way anybody sat there and counted cars and saw what was going to go on there, and how the traffic patterns are going to be. They are giving you a report on something they do not know anything about yet, they have estimates. Well, her estimate is that they are creating a traffic monster. Like she said, when you go out of there, when you come out from the school, which there is no outlet to that school, that you realize you go into Northview Middle School, and there is one way in and one way out. That's it, there is no other exit, so when you come out, if you are sending buses out, you are going to have to take a right because you are going to put up a median to keep you from taking a left. So obviously, you are either going to have to take a right either on 127 or on 2<sup>nd</sup> Street, and then you will have to take another right because you can't go left on 29<sup>th</sup> Avenue coming off of 2<sup>nd</sup> Street, *or* you have to go left down 2<sup>nd</sup> Street. Now, are those buses going to go down those streets that do not have lights, when they can go all the way down 4<sup>th</sup> Street and go up to 23<sup>rd</sup>. She said she would not do it, not with kids on a bus, she would want to know that she could get out, before she went left. She said traffic is a huge issue, and you are right, it is going to be there, 2<sup>nd</sup> Street is going to be there, and it is going to be open and is going to be a thoroughfare. But it does not have to have 144 apartments worth of people on it.

Ms. Eaker said her husband made a really good point, that the business park was approved back in 2004, but it is a moot point now. So if that engineering or traffic pattern thing has come from something to do with businesses on that property, that is really a moot point, because there are going to be no businesses built over there. Mr. Mays said this study was based on this development. She said that everybody keeps bringing up all the traffic that would be there from the businesses, that no businesses are going to be there – six single-family homes have already been built, and only 25 townhouses can be built, according to what you have here. She looked at the proposal, the development potential thing, and it does say that you can have up to 20-units per acre. Well, this one pushes the limit. It says negative 7-acres on his thing, so if you have 144 you are over the 20. So this is really pushing the level of everything that could be there.

Ms. Eaker said she also looked at the picture that was posted up there, and a lot of you asked about the school and the buffer between the football field and this, there shows no buffer. If you go back a complete 7-acres so you can build a 144 (apartment) complex, there is not going to be any room for any trees. Mr. Mays said there is a required buffer that will have to be in place. She said, okay, so you will have a few trees there. Mr. Mays said no, it is more than a few trees, there is a requirement for the buffer. She said that you cannot tell that by what they presented here. He said no, you cannot tell that, but they have to present a plan to the planning staff and the staff has to approve it; just because they submit a plan with two trees on it does not mean it will be approved, there are requirements in the Land Development Code, especially related to buffering between a development and single-family residences, and between businesses and residences, etc. So, there is a required buffer that will be put in place. She said that's great.

Ms. Eaker said it bothers her that other people in those neighborhoods are not aware of the apartments, that like she said, she went down and knocked on a couple of doors on 4<sup>th</sup> Street NE, of people she knows because,

like she said, her son owns one of those houses. And those people did not get notices, so they do not know, and yet they are going to be affected by the traffic, and by the school traffic and everything else that takes place there. So she thinks there is a consideration of what those roads can really take. She heard them say there was a determination that the streets are adequate, so you are not going to widen any streets or do anything to adjust for that traffic. She said this was something that someone had said to her, that they were sure they would just widen the streets and do something different to accommodate for that. But she heard him say that that is not so.

She thanked Commission members for listening and for their consideration. She added that she is not against progress either, that she thinks you have to have places for people to live, but she thinks that you need to consider the people that already live there and what their situations are going to be, and how they are going to get in and out of traffic. She said there is a big difference in 25 townhouses and 144 apartments.

Mr. Mays asked if there were any questions for Ms. Eaker.

Ms. O'Brien asked, when Ms. Eaker was talking about 4<sup>th</sup> Street, was she talking where 2<sup>nd</sup> becomes 4<sup>th</sup> Street, after crossing over 26<sup>th</sup> Avenue, to go up to that road going up to the old Ace Hardware. Ms. Eaker said, yes, that is 23<sup>rd</sup> Avenue, and when you come down to 4<sup>th</sup> Street and you take a left, you cross over it (26<sup>th</sup> Street) and it becomes 2<sup>nd</sup> Street NE. And so that is what everybody, like the lady she talked to who has lived there for 30 years, she said that is the way she always does, because she wants to come out at a light at 127. So yes, that is what she is talking about when she talked about 4<sup>th</sup> Street NE.

There were no additional questions for Ms. Eaker, and no other speakers in opposition of the petition.

Mr. Mays said if there were no additional questions or speakers, there would now be time for rebuttal.

### **REBUTTAL - PROPONENTS**

Mr. Mays asked Ms. Spees if she wanted to present rebuttal to the testimony.

**Ms. Spees** said she knows that Mr. Mitchell is a great architect, and has great respect for his abilities. She thinks the message on the traffic has been pretty well discussed. In defense of the City sending notices, she said the entire area north of the property, those residents had all received letters informing them of this meeting. She did not see the 35 pages of instruction that you have, and would like to know if her street is going through or not, that there is a loud bulldozer there right now, and she would like to know whether or not their street is changing, because they have heard rumors. Mr. Mays said that Mr. Overby had stated that 2<sup>nd</sup> Street would extend on out to 29<sup>th</sup> Avenue. She asked if her street, 28<sup>th</sup> Avenue Place NE, would change, that people would be able to take it from 2<sup>nd</sup> Street and go to 3<sup>rd</sup> Street to 29<sup>th</sup>. Mr. Overby stated there is nothing happening to that roadway whatsoever. Ms. Spees said, incidentally, that is 273 steps from her driveway.

Mr. Mays asked if any members had questions for Ms. Spees.

Ms. Dula asked Mr. McBrayer if he had a question, and he said no, he was just thinking that if we did not have the answer to the question Ms. Spees had asked, possibly Chuck Hansen could address it.

Ms. O'Brien asked Ms. Spees about the road, saying that right now, the road goes up, crosses and winds around, and comes out by Generations, and she is saying they can go that way, and take a left. Ms. Spees said yes, where Generations used to be, and yes, she thinks they would be able to take a left. And one other thing she would say, having a little experience with doctors' offices, that the flow for most doctors' offices is more of a slow continuum, it would not be one where there would be massive numbers of people coming at any time, unless you had an enormous practice. She said she did know two practices, the dental practice and the

Generations' previous location, they have a very small flow of traffic, so she did not see that being quite as intense as the 144-unit apartments. She closed her remarks.

Mr. Mays asked Mr. Mitchell if he wanted to present rebuttal to the testimony.

**Mr. Mitchell** said he would point out two things, that there were some good questions asked and points made. In terms of the traffic study, they had actually found the same folks that did the traffic study for the Publix and hired them to do this study, so they did know the numbers, and they anticipated that street. Another point to be made is that in this apartment complex, the mix of units is 48 one-bedrooms, which is less people and less traffic. So there is a high ratio of one-bedroom units in the complex, which helps bring those numbers down. He said most of the traffic is from Publix and the school, that they are kind of caught in the middle; that traffic is there and it is going to continue to be there.

Mr. Mays said so that traffic study did include the addition of Publix being in operation. Mr. Mitchell said yes, and it included that street being completed; the study anticipates the numbers that are going into and out of Publix.

Wallace Johnson asked if Mr. Mitchell knew of any other traffic analyses that had been made, other than the one done for him. Mr. Mitchell said he only knew of the one done for Publix, which created all of the changes to 127, that they are a much bigger traffic generator, so that previous study had created those changes. Mr. Frazier said that study for Publix was also required by the City of Hickory and NCDOT.

Ms. O'Brien said that from Publix, people will exit on both sides, 29<sup>th</sup> and whatever that street is down by Northview. So if you are going to Publix and you want to go toward where most of Hickory is when you leave, how would you go – how do you make a left to go anywhere.

Ms. Dula advised the Commission members to remember the scope of this Special Use Permit, that they are venturing off into what Publix is doing, and she realizes there is some impact there, but they are two separate things. Ms. O'Brien said the traffic is related if you are trying to leave the Publix. Mr. Frazier said you would also have to look at Northview Middle School, so they need to remain separate. Ms. Dula said her point is that members are asking some questions that would best be answered by Publix representatives who are not here tonight to address them. So asking someone who is not intimately involved in that project, she was not sure what responses you can attain, without their being directly affiliated with that project. Ms. Dula asked members to bear that in mind, they are related but they are not, so bear that in mind as you are questioning speakers.

Ms. Spees asked Mr. Mitchell what time of year the traffic study was done, particularly, was it done during the summer when school was out. Mr. Mays said the report was recorded on September 28, 2016. Mr. Mitchell said the study was done before that. Ms. Spees asked when it was done, was school in session, and at what times of day. Mr. Mays said that Mr. Mitchell did not do the study or prepare the report, so he could not really answer this. Ms. Spees said she believes the study may have a slight flaw in it, in that she is not sure it was prepared during the highest traffic time. Mr. Mays said the traffic times were throughout the day.

Mr. Eaker said he wanted to ask again if Mr. Mitchell has a street level view of that first apartment building, and he would explain why he is asking. He said if you look at the six townhouses, the lots that are there, he said, looking at the back of those six lots, how big are those lots from the street level. He said it is level from there all the way over to the next street, heading north, would Mr. Mitchell agree, and he said yes. So was he (Mr. Mitchell) telling him that these (apartments) are going to start past where the back of these six lots are laid out. Mr. Mitchell said yes, but that level is about 10-feet below street level. Mr. Kerley said that if you look at the contour sheet on this, there is going to be a lot of grading done to bring it below grade. Mr. Eaker said, okay, so they are going to dig it out. Mr. Mays said yes, that is why he was saying it would be 8- to -10 feet below street level, when he was addressing that issue earlier. Mr. Eaker said that when you look at that

picture, these things are going to be right up on the street there. Mr. and Ms. Eaker began speaking at the same time about the proximity to the street, and Ms. Dula asked that questions be asked one at a time. Mr. Mays said there is a required setback, and they have to meet that, so they will not be directly on the street. Mr. Eaker said (to Mr. Mitchell), well he's the architect, so what is it. Mr. Mays said that is not up to the architect, that is a zoning requirement. Mr. Mitchell said the zoning requirement for the front setback is 10-feet. Mr. Eaker said, so you can be 10-feet off the road, and Mr. Mitchell said 10-feet from the property line. He said there are likely some survey stakes on the property now, which would help him to visualize it.

Mr. Eaker asked if they would take the sidewalk there, and Mr. Mitchell said the sidewalk would continue, in front of this property and all the way to Publix.

Ms. Eaker said she still had a question about that setback, because she had visited the Planning Department today and talked to a gentleman, who is here tonight, and he indicated that they were going to move that closer to the street so that no parking could be put by the street. She asked if she was incorrect about this. Mr. Mitchell said the buildings are in front of the parking, the parking is not on the street. She said the gentleman in Planning had indicated to her that, because of that, the building would be closer to the sidewalk to allow the parking on the interior, and not on the exterior. She asked if this is correct, and Mr. Mitchell said no, that was incorrect, that it would be no closer than what zoning allows them to put there, and that they are abiding by the zoning laws for the City of Hickory. She said, so it will be 10-feet from the sidewalk and then back, and he said he could not tell her that, because he did not know where the sidewalk is, but they would begin 10-feet from the property line. Mr. Frazier said it is too early to determine this, there is no concrete setback, and he does not think it is pertinent to discuss site design during the discussion at this hearing. Ms. Eaker said she is asking because that is part of the project narrative, that that building is going to be below street level, and if you live over there or have property over there, you know that those six houses, that are already there, are literally on street level. Mr. Mays impressed on her that she is speaking of different property from the property for this project, and it is being developed differently from how the homes are developed. He said this is a Planned Development; they will issue plans, and they will be reviewed by staff before they are approved. These will be a different set of plans, drawings, or whatever, from the six that are already developed there on the corner. It will be built differently, different plans and drawings. But right now they have not submitted it, right now the proposal we are talking about is basically a footprint. That is what we considering approving, it is basically a footprint for the six buildings being accommodated as a 144-unit apartment complex. Mr. Frazier added that it is simply a schematic design, it is not a building plan. Ms. Eaker said the reason she asked is because it is part of the narrative, that it drops off, and that when it is built it is only going to appear as two levels high and fit in with the topography there in the neighborhood, and there is no way that she can see that, so that is why she is asking the question.

There were no additional questions for Mr. Mitchell.

### **REBUTTAL - OPPONENTS**

Mr. Mays asked Mr. Eaker if he wanted to present rebuttal to the testimony.

**Mr. Eaker** said that maybe they had overblown the traffic, that he does not know and does not live there, but he thinks the people who do live there will be impacted. However, he does find it a little offensive when you say that there is no one here from Publix to talk about this road, because that was approved by this Board, was it not. Mr. Mays said no sir, and Mr. Eaker asked who approved it. Mr. Mays said he supposes NCDOT did, and Mr. Eaker said no, he meant being able to build the Publix. Mr. Frazier said the City of Hickory approved it, and it was only required by Code, by law, only to go through the Planning Department. Mr. Eaker said that she (Ms. Dula) had said we are talking about two separate items, and Ms. Dula said you are. Mr. Eaker said that the traffic is still going to be going down that road, some of it is going to be created by Publix and some of it is going to be created by these 144-units, and you are saying that this Board had nothing to do with anything that Publix did. Mr. Frazier said that was right, that by law they are not required to (go through the

Commission). Mr. Mays said the Planning Commission did not have anything to do with the Publix building. Mr. Frazier said it was permitted by right, and did not require a Special Use Permit, nor did it require a zoning change under City law. Mr. Eaker said he found that surprising, so okay, and they did not need a building permit or anything. Mr. Frazier said, yes of course. Mr. Mays said a building permit was required, but no zoning permit, because it was already zoned for it there. Mr. Eaker said he was satisfied, thank you.

There were no questions for Mr. Eaker.

Mr. Mays asked Ms. Eaker if she wanted to present rebuttal to the testimony.

**Ms. Eaker** said that was interesting, about the zoning, because Publix had taken in some housing over there, housing that was already there, so it would have been zoned differently than what Publix is. She acknowledged that she was aware we are not here to talk about Publix. Mr. Mays said that with zoning, homes can be zoned as Commercial, that he knows it may have been Residential at one time, but since that time the area had been re-zoned. So yes, the homes could remain, because they already existed there, but the zoning was in place for Publix, and by right they could build because the zoning was already in place. She said, so they did not need to re-plan or re-zone, make any changes, because it had already taken place.

Ms. Eaker said that, as she had mentioned before, she understands that they may be two separate things, but one creates a problem for the other, that 2<sup>nd</sup> Street going all the way through creates a thoroughfare from 23<sup>rd</sup> on over. She thinks that is something that people should be aware of, and she really thinks that people in the neighborhood do not have a clue what is going on.

There were no questions for Ms. Eaker.

The Public Hearing was closed.

Mr. Mays stated that, as a quasi-judicial hearing for a Special Use Permit, members would have a roll call vote. He asked if there was any discussion, and any questions regarding the testimony given or the witnesses that had presented it tonight.

Mr. Johnson said he is still puzzled over the transportation analysis, that it keeps coming up, and he knows this company produced it and that DOT had approved it, but he is just puzzled by those conclusions, that is all. Ms. O'Brien said she would have to agree, because you are talking about Northview Middle School, where her kids went, and they would come down 2<sup>nd</sup>, 4<sup>th</sup>, and up by the old Ace Hardware, which is the way the buses go, and is probably the way 70% of the people driving students to school go, and now you are adding this. She said the reason she asked about Publix is because you are also adding the Publix traffic that wants to go left, toward (the center of) Hickory. She said going right from Publix would include a portion of Hickory, but that for most of Hickory, or for anywhere else you are going, they need to go left. She said the only access now is down that (neighborhood) road, because they have taken all the left-hand turns out. So she wonders about putting that many more (people) right there, with just that one left-hand turn that is safe, at the light, because they took the others out. She said that making left-hand turns without a light is not safe, they are dangerous. So that is why she was asking about the Publix, is they are adding in that traffic too, it just seems like a lot of people on that road. She does not know the science of traffic studies or how one can encompass all of that.

Mr. McBrayer said he heard what everyone said earlier, and what Ms. O'Brien had just said, but he could not help but thinking back to when Lowe's Hardware wanted to build (in Viewmont) and this place was full, on both sides of the aisle, and Hickory High is right there, and all the other businesses and homes around it. And today, he did not see any big impact represented here, not that he was saying it would not have any impact. Ms. O'Brien said that Lowe's was directly on Hwy. 127, with three exits out to 127. Mr. McBrayer said, true, it was not going to trickle through the neighborhood. He said he heard that loud and clear, but does not see the

response present. Ms. O'Brien said it is the development itself. Mr. Mays said that was one thing that was not done with the Lowe's request, there was no traffic analysis, but it has worked out.

Mr. Kerley said one thing about this is that not everybody is going to Hickory, and not everybody is going to turn left; people leaving there are going to go a lot of different ways. He has a good friend who lives out that way, and he goes out by the college to LR Blvd. to I-40 to his job in Morganton. Mr. Kerley said that turning left and going up 127 was not required, this person goes up 5<sup>th</sup> Street, by the golf course and up to LR through those neighborhoods, and when he visits him, he goes the same way. He said there is not much property around that has utilities, water and sewer, roads, and you have the school right there where these kids can walk to school. It has a lot of advantages. Yes, there are going to be traffic pattern changes, but that is going to be a problem wherever you go, in his opinion, but this has a lot of pluses to go along with it. There are not many places around that have all the infrastructure it needs to make a place for people to live, and this town needs people to live here and work. If you look at our numbers, we are dwindling, and we need more people to live here. If we don't keep moving forward, then we are going to struggle along. We have the utilities right there, we are not going to spend a lot of money to put them there, so it is a great place to put this, other than a few traffic hoops to jump through. And like Mr. McBrayer said, when it is all said and done, he does not think it is going to be a big issue.

Bill McBrayer moved, seconded by Sam Hunt, to approve Special Use Permit 04-13(B).

Mr. Mays again stated that as a quasi-judicial hearing there would be a roll call vote, and members would vote to either approve or deny Special Use Permit 04-13(B), basing their findings on the staff report, evidence, testimony, findings of fact, or other information they received tonight.

**Mr. Hedrick** voted to approve SUP 04-13(B), based on the findings of fact tonight, testimony given, the thirteen (13) conditions recommended by the staff, and that the project is consistent with Hickory by Choice 2030.

**Mr. McBrayer** voted to approve SUP 04-13(B), based on the finding of facts, that none of the testimony presented had changed his mind from his initial feelings regarding the project, and that he agrees with Mr. Kerley's comments supporting the project.

**Ms. O'Brien** voted to approve SUP 04-13(B), based on the staff recommendation, although she has future traffic concerns.

**Mr. Kerley** voted to approve SUP 04-13(B), based on the staff recommendation and thirteen (13) conditions, that the utilities are in place, it meets all specifications, and the school capacity currently exists.

**Mr. Mays** voted to approve SUP 04-13(B), based on the testimony, and it meets the conditions stated in the staff recommendation for this type of facility.

**Mr. Johnson** voted to approve SUP 04-13(B), based on the facts presented, the staff recommendation, and that the project is in accordance with Hickory by Choice 2030.

**Mr. Minton** voted to approve SUP 04-13(B), based on the facts presented tonight and the information supplied by staff.

**Mr. Hunt** voted to approve SUP 04-13(B), based on the finding of facts, the staff report, and testimony provided by all parties, particularly the Eakers, and although he views it as a very difficult situation when change comes and disrupts people and communities, Commission members have a responsibility to follow the guidelines provided to them.

**Mr. Geoghegan** voted to approve SUP 04-13(B), based on the facts presented tonight and the recommendations made by staff, and stated that as a younger resident of Hickory, he is interested in having a walk-able, livable city in the future, which this apartment project will provide for their tenants.

**Mr. Noggle** voted to approve SUP 04-13(B), based on the applicant meeting the seven criteria stated in the Hickory Land Development Code, the testimony presented, and the findings of fact.

Mr. Mays stated that Special Use Permit 04-13(B) had been approved by the Hickory Regional Planning Commission.

### **OTHER BUSINESS**

**Consideration of Consolidation of November and December Meetings** – Mr. Mayes said it was typical for the November and December meetings of the HRPC to be consolidated as a single meeting in early December, due to the timing of both regular meetings occurring during holiday weeks. Mr. Frazier said the proposed date is Wednesday, December 7, 2016, 6:00 pm, the first Wednesday of the month. Mr. Mayes asked for a motion to consolidate the two regular meetings.

Sam Hunt moved, seconded by Jeff Minton, to consolidate the regular November and December meetings of the Hickory Regional Planning Commission as a single meeting on Wednesday, December 7, 2016, 6:00 pm. By a show of hands, the motion carried unanimously.

Mr. Mays said the meeting on December 7th would be held only if there was business for the HRPC to consider. He asked if there was any other business for the Commission, and there was none.

**Adjourn:** Bill McBrayer moved, seconded by Wallace Johnson, to adjourn. There being no further business, the meeting adjourned at 7:50 pm.

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Randall Mays, Chairman  
Hickory Regional Planning Commission

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Anne Starnes, Minutes Clerk  
City of Hickory



DEVELOPMENT  
CONSTRUCTION  
MANAGEMENT

128 Habersham Street  
Savannah, GA, 31401

Office: 912.224.2169

www.wodagroup.com

Brian Frazier  
Director of Planning  
76 North Center Street  
Hickory, NC 28601

October 26, 2016

**RE: 105 South Center Street, Hickory NC 28602**  
**Tax ID # 370207682889**

Brian,

We intend to submit to the North Carolina Housing Finance Agency for tax credits in the 2017 application round to develop a senior property at 105 South Center Street, Hickory NC 28602. We have determined that this site would be extremely competitive in the upcoming tax credit round (preliminary application due on January 20, 2017).

It is however our understanding that this site currently has an allowed residential density of 30 units per acre. For this site to be competitive the residential density would need to be 50 units per acre. This would enable us to develop a senior development similar to the Viewmont Square Court property that we completed last year. The Viewmont Square Court property has been a success and has had 100% occupancy since lease-up. We believe the site at 105 South Center Street would be just as successful!

We herewith kindly request that the City amend the residential density to allow for 50 units per acre. With the current residential density of 30 units per acre the development is not financially viable. Please let us know if we can provide any additional data as we would need to know prior to the pre-application deadline of January 20, 2016. Thank you for considering this request

Sincerely,

The Woda Group, Inc.

Denis Blackburne  
Senior Vice President

Copies: Andrea Surratt / Yaidee Fox



To: Hickory Regional Planning Commission  
 From: Hickory Planning & Development Services Department  
 Re: Text Amendment (TA) 16-01

The City of Hickory’s Planning and Development Services Department has received a request from The Woda Group for consideration of amending Article 7, Section 7.3 of the Hickory Land Development Code, as it relates to permissible residential density within the Central Business (C-1) district. The specific request is to amend the Hickory Land Development Code to permit residential density within the Central Business (C-1) district at a maximum rate of fifty (50) dwelling units per acre.

Article 7, Section 7.3 of the Hickory Land Development Code stipulate dimensional and intensity standards for development within the city’s various non-residential zoning districts. The section is included below for reference.

**Sec. 7.3 Nonresidential District Standards**

*All development in nonresidential zoning districts shall be subject to the following Intensity, Dimensional and Design Standards. These standards shall not be interpreted as a “guarantee” of development intensity. Other factors and requirements may limit development intensity more than these standards.*

	NC	CC-1	CC-2	OI	C-1	C-2	C-3	IND
<i>Min. Lot Area (sq ft)</i>	2,500	2,500	10,000	10,000	2,500	15,000	20,000	15,000
<i>Min. Lot Width (sq ft)</i>	50	50	50	50	50	50	50	50
<i>Max. Residential Density (units per Acre)</i>	30	30	30	30	30	30	30	N/A
<i>Max. Non-Residential Density (Floor Area Ratio)</i>	.85	.85	.85	.85	3	.85	.85	N/A
<i>Principal Structures – Minimum Yard / Setbacks (ft)</i>								
<i>Front (street)</i>	10	10	20	20	0	20	20	30
<i>Side Corner</i>	10	10	15	15	0	15	15	15
<i>Side</i>	10	10	10	10	0	10	10	10
<i>Rear</i>	20	20	20	20	0	20	20	20
<i>Side/Rear (adjacent to a residential district)</i>	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35

<i>Max. Building Height (ft)</i>	40[1]	55[1]	40	50[3]	80	80	80	80
<i>Min. Building Height (ft)</i>	NA	NA	NA	NA	30[2]	NA	NA	NA
<i>Accessory Structures – Minimum Yard /Setbacks (ft )</i> [4]								
<i>Front (street)</i>	10	10	20	20	0 [5]	20	20	30
<i>Side Corner</i>	10	10	20	20	0 [5]	15	15	15
<i>Side</i>	5	5	5	5	0	5	5	5
<i>Rear</i>	5	5	5	5	0	5	5	5
<i>Side/Rear (adjacent to a residential district)</i>	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35
<i>Max. Building Height (ft)</i> [6]	15	15	15	15	15	15	15	15

[1] For all development within 150 feet of R-1 or R-2 district, the following additional standards shall apply to ensure compatibility: The maximum height for structures at the boundary of the R-1 or R-2 zone is 30 feet. An additional one foot of building height is granted for every two feet of horizontal distance from the R-1 or R-2 zone boundary.

[2] Buildings in C-1 Districts shall be no less than 2 stories in height.

[3] Increased building height, up to 80 feet, may be approved through the issuance of a Special Use Permit.

[4] No individual accessory structure shall exceed 50 percent of the floor area of the principal structure on the lot. The total of all accessory structures on a zoning lot shall not exceed 2,000 square feet. All accessory structures over 500 square feet shall meet the primary structure setback requirements.

[5] No accessory structure shall be erected or placed between the primary structure and any adjacent street or right-of-way.

[6] Accessory structures may exceed 15 feet in height, up to the maximum permitted height for the zoning district, provided that the accessory structure meets the primary structure setbacks.

The current intensity for residential development permitted within the Central Business (C-1) district is thirty (30) dwelling units per acre; while the maximum intensity for non-residential development, measured using a floor area ratio (FAR) is three (3). Under these prescribed intensities, a one (1) acre lot could potentially yield thirty (30) residential dwelling units, or 130,680 ft<sup>2</sup> of non-residential floor area.

The intensity calculations reveal a pronounced difference between the intensity standards for residential and non-residential development within the Central Business (C-1) district. To put the difference into perspective, a thirty (30) unit apartment complex, entirely made up of 1,000 ft<sup>2</sup> units, would only contain 30,000 ft<sup>2</sup> of total floor area. A similar property developed for non-residential purposes would contain almost four and one-half (4<sup>1/2</sup>) times as the floor area as the residentially zoned property.

In comparison, all of the other non-residential districts, with the exception of Industrial (IND), contain intensities that are closer to one another. Within all other non-residential districts; residential development is permitted at thirty (30) dwelling units per acre, and non-residential development is permitted at a maximum floor area ration (FAR) of eighty-five hundredths (0.85). Given the same one (1) acre lot, residential development would yield thirty (30) units, while non-residential development would yield 37,026 ft<sup>2</sup> of floor area.

The discrepancy between these development intensities has largely gone unnoticed by staff since the most recent iteration of the City's Land Development Code was adopted in 2011. The reason this has gone unnoticed, is that residential developments of scale have largely been absent within the city's central business

district. In retrospect had this discrepancy been realized in 2011, the intensities for residential and non-residential development would have been constructed in a manner so that the two were closer to one another in terms of total square foot.

To provide an on-the-ground example of the scale of development the proposed amendment would produce, the recent development of Viewmont Square Court on 4<sup>th</sup> Street Drive NW should be observed. This particular development consists of a four (4) story apartment building, which contains forty-four (44) dwellings units. The entirety of the building and its dwelling units, consists of sixty thousand, eight hundred square feet (60,800 ft<sup>2</sup>) of total floor area.

### **Findings and Recommendation**

In reviewing proposed amendments to the text of the City's Land Development Code, review and decision making bodies are required to evaluate the proposed amendment(s) using a prescribed set of factors contained within Article 2, Section 2.2.7, Subsection B of the Land Development Code. These factors, and staff's evaluations of these factors are provided below.

1. Whether the proposed amendment corrects an error or inconsistency in the Land Development Code or meets the challenge of a changing condition.

*The proposed amendment to the intensity standards for residential development within the Central Business (C-1) district will result in the correction of an error that occurred during the initial drafting of the Land Development Code. Amending the Land Development Code to increase the permissible density for residential development brings the standards for residential development closer to the intensity standard for non-residential development within the Central Business (C-1) district.*

2. Whether the proposed amendment is consistent with the Hickory By Choice 2030 Comprehensive Plan and the purpose of the Land Development Code.

*The Hickory By Choice 2030 Comprehensive Plan is all but silent with regards to residential development within the City's Central Business District. The plan does make reference to upper-story residential, but this is the extent of language regarding residential development within the central business district.*

*The Planning and Development Services Department and a subcommittee of the Hickory Regional Planning Commission are currently in the process of conducting a five year review of the Hickory By Choice 2030 Comprehensive Plan. This process has been unfolding over the last year, and will conclude in early 2017. During this review staff and the Planning Commission have identified the need to alter the plan's language regarding the central business district to include specific goals and strategies for the inclusion of residential development within Hickory's downtown area.*

*The purpose and intent of the Land Development Code is to:*

- a. *Implement the Hickory By Choice 2030 Comprehensive Plan;*

*The Hickory By Choice 2030 Comprehensive Plan provides limited insight into residential uses with the Central Business District. Efforts are currently underway to update the Hickory By Choice 2030 Comprehensive Plan. These updates are to include specific goals and strategies for addressing residential development within the Central Business District.*

- b. *Protect natural resource and property values, promote efficient provision of public services; and*

*The proposed amendment will work to protect property values by allowing for increased residential intensity, but at the same time requiring quality development through the enforcement of all other development standards contained within the Land Development Code.*

- c. *Regulate development;*

*The proposed amendment will modify the residential intensity standards for development within the Central Business (C-1) district. Intensity, as well as all other development regulations will still be applicable to residential development within the Central Business (C-1) district.*

- d. *Provide protection from natural disasters and fire.*

*Upon submission of a development proposal, city and county staff will review the plans and specifications to ensure they comply with the safety specifications contained within the North Carolina State Building and Fire Code. This review will also ensure development within flood prone areas is done in a manner consistent with federal, state, and local laws.*

3. Whether the proposed amendment will protect the public health, safety and general welfare.

*The proposed amendment will in no way impact and rules or laws implemented to protect public health and safety. All building, fire and sanitation standards will apply to development projects as they occur. The general welfare of the citizens of Hickory will be protected, and likely improved, by providing expanded housing options in and adjacent to the Central Business District.*

Staff finds the proposed amendment does meet criteria outlined above. Additionally, staff recommends the Hickory Regional Planning Commission adopts a statement affirming the amendments consistency with the Hickory by Choice 2030 Comprehensive Plan, and forward a recommendation of approval to the Hickory City Council.

#### **Citizen Comments / Input**

As of November 28, 2016 staff has not received any citizen comments or input.

## **EXHIBIT A FOLLOWS (ADDITIONS ARE HIGHLIGHTED / DELETIONS ARE STRUCK-THROUGH)**

# EXHIBIT A

## Sec. 7.3 Nonresidential District Standards

All development in nonresidential zoning districts shall be subject to the following Intensity, Dimensional and Design Standards. These standards shall not be interpreted as a “guarantee” of development intensity. Other factors and requirements may limit development intensity more than these standards.

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Side Corner	10	10	15	15	0	15	15	15
Side	10	10	10	10	0	10	10	10
Rear	20	20	20	20	0	20	20	20
Side/Rear (adjacent to a residential district)	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35
Max. Building Height (ft)	40[1]	55[1]	40	50[3]	80	80	80	80
Min. Building Height (ft)	NA	NA	NA	NA	30[2]	NA	NA	NA
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Front (street)	10	10	20	20	0 [5]	20	20	30
Side Corner	10	10	20	20	0 [5]	15	15	15
Side	5	5	5	5	0	5	5	5
Rear	5	5	5	5	0	5	5	5
Side/Rear (adjacent to a residential district)	20/20	15/15	15/20	20/20	20/20	20/20	35/35	35/35
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