



The Hickory Regional Planning Commission will hold its regular meeting on **Wednesday, January 26, 2022, 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 December 1, 2021 meeting.
- Reading of State Ethics Rules.

PRESENTATIONS AND PUBLIC HEARINGS

1. **Rezoning Petition (RZ) 21-07. (Continuation of hearing opened on December 1, 2021)**
Request by D&J Properties North Carolina, LLC for the consideration of rezoning approximately 13.384 acres of property located between 47th Avenue Place NE and 48th Avenue Lane NE from Catawba County R-20 Residential to City of Hickory Planned Development (PD). The subject property is shown as PIN 373513022954 on the Catawba County Tax Map.
2. **Rezoning Petition (RZ) 22-01.** Request by the City of Hickory for the consideration of rezoning approximately 55.49 acres of property owned by the Margaret Glaze, Josephine Hambrick and Robert Hambrick Trusts located on Spencer Road between 30th Street Court NE and 31st Street Place NE from Low Density Residential (R-1) and R-20 Residential to Medium Density Residential (R-2). The subject property is shown as PIN 3723-15-63-5314 on the Catawba County Tax Map.

OTHER BUSINESS

1. Consideration of FY 2022/2023 Workplan.

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 21-22

Key	A	Absent	AX	Excused		No meeting		No
	P	Present				Vacant/Not yet appointed		Quorum

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	P		P						Jul-20	Jun-23
Catawba County	William Pekman	P	AX	P	P		P						Jul-20	Jun-23
Burke County	Robert Weaver	P	P	P	P		P						Dec-19	Jun-22
Ward 1	Bill McBrayer	P	P	P	P		P						Jul-19	Jun-22
Ward 2	Philip Reed	P	P	P	P		P						Jul-21	Jun-24
Ward 3	Junior Hedrick	P	P	P	P		P						Jul-20	Jun-23
Ward 4	Sam Hunt	P	AX	AX	P		P						Jul-21	Jun-24
Ward 5	Wallace Johnson	P	P	P	AX		P						Jul-20	Jun-23
Ward 6	Anne Williams	P	P	P	P		P						Jul-19	Jun-22

**Hickory Regional Planning Commission
Wednesday, December 1, 2021, 6:00 pm**

A regular meeting of the Hickory Regional Planning Commission (HRPC) was held on Wednesday, December 1, 2021, 6:00 pm, in Council Chambers of the Julian G. Whitener Municipal Bldg.

Members Present: Bill McBrayer, Bill Pekman, Robert Weaver, Junior Hedrick, Wallace Johnson, Anne Williams, Sam Hunt, Philip Reed, and Jeff Kerley

Members Excused: none

Members Absent: none

Others Present: Director of Planning Brian Frazier, Planning Manager Cal Overby, Deputy City Attorney Arnita Dula, and Minutes Clerk Anne Starnes

Parliamentary Call to Order & Welcome: Bill McBrayer, Chair, called the meeting to order at 6:00 pm and welcomed everyone.

Roll Call: Brian Frazier said there was quorum, with all members present.

Approval and Signing of Minutes from the October 27, 2021, Meeting: Minutes from the previous meeting in October were distributed to members in advance. No additions, deletions or corrections were stated. Jeff Kerley moved, seconded by Bill Pekman, to approve the October 27, 2021, minutes as presented. The motion carried unanimously.

Items of Correspondence: none

City Council Action: Mr. Frazier said that, since the previous Planning Commission meeting, City Council had approved the annexation and rezoning for building luxury townhomes on property at the corner of Catawba Valley Blvd. and Short Road.

Reading of State Ethics Rules: Mr. McBrayer read aloud the NC Ethics Awareness & Conflict of Interest Reminder:

In accordance with the State Government Ethics Act, it is the duty of each member of this board to avoid both conflicts of interest and appearances of conflict. Does any member of the board have any known conflict of interest, or appearance of conflict, with respect to any matters coming before us tonight? If so, please identify the conflict, or appearance of conflict, and refrain from any undue participation in the matter involved.

Mr. Kerley said he knows the men bringing Rezoning Petition 21-07. He has looked at the project, but has not bid; however, he could be involved at a later date. Ms. Dula asked if he was seeking to be recused, and Mr. Kerley said he wanted to do the right thing, whatever was needed. She took that as a request to be recused, saying the commission members would need to vote on recusing him.

Sam Hunt moved, seconded by Bill Pekman, to recuse Jeff Kerley from participating in the public hearing for Rezoning Petition 21-07. The motion carried unanimously, with Mr. Kerley abstaining.

Mr. Kerley left the meeting.

PRESENTATIONS & PUBLIC HEARINGS

Mr. McBrayer said the Commission's procedure for a public hearing is to hear from the proponents first, for 15 minutes, followed by the opponents for 15 minutes. Following their testimonies, there will be rebuttal of 5 minutes and surrebuttal of 5 minutes, if needed.

Mr. McBrayer opened the public hearing for **Rezoning Petition 21-07**.

Cal Overby presented the Staff Report and referred to PowerPoint slides. He reviewed slide #2 (Rezoning Petition 21-07):

- Property Owners: D&J Properties NC, LLC
- Applicant: Duke McLaughlin
- Location: Sulphur Springs Rd, between 47th Ave PI NE and 48th Ave. Lane NE
- Current Zoning: R-20 (Catawba County)
- Property Size: 13.384 acres
- Background: The property is zoned R-20 Catawba County and is in the process of being annexed into the City of Hickory. The rezoning request is intended to provide an area for future residential uses.
- Request: The property owner has requested to rezone the property to Planned Development, to facilitate the construction of 42 single-family attached residential units (townhomes).

Mr. Overby said he would share more about the Planned Development later, but basically, it is a 21-lot subdivision, and each individual lot will contain two single-family attached townhome units. A tentative site plan was included in the agenda packet.

Mr. Overby reviewed slide #3 (Map 1. Hickory by Choice Future Land Use) and noted the property in question was outlined in red on the map. He pointed out Catawba Springs and their golf course, east of the rezoning area. He said that on the Hickory by Choice Future Land Use map, the entire area is classified as Low-Density Residential by Hickory's Comprehensive Plan.

Mr. Overby reviewed slide #4 (Map 2. Current Zoning) and pointed out the areas within both Hickory and Catawba County zoning. The adjacent area to the property, highlighted in yellow, is Hickory R-2 Medium Density Residential, which is strictly single-family detached residential. The rezoning area outlined in red is Catawba County R-20 Residential, basically single-family detached residential with a density of about 2-units per acre. To the north, along the lake, is Catawba County R-40 Residential.

Dr. Pekman asked if the properties located along the lake were all in the County. Mr. Overby said yes, and that the only ones currently in Hickory are the two yellow areas of Low Density Residential (R-1) and Medium Density Residential (R-2). Dr. Pekman asked if the area shaded in yellow, directly north of the rezoning area, was a sub-division. Mr. Overby said yes that it was annexed by the City about 20-years ago.

Mr. Overby reviewed slide #5 (Map 3. Aerial Photography), saying the property in question is outlined in red. He pointed out residential areas on the photo, as well as vacant wooded parcels.

Mr. Overby reviewed slide #6 (Rezoning Petition 21-07).

- The property is zoned R-20 Residential and is vacant.
- The general area is **classified Low Density Residential** by the Hickory by Choice 2030 Comprehensive Plan.
- The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this land use category is intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas..." (HBC 2030, Pg. 3.9).
- The PD zoning district is not listed as the implementing zoning district for the Low-Density Residential classification, as **each PD is considered on a case-by-case basis**. Low Density Residential calls for **2-4 units per acre** (HBC 2030, Pg. 3.9). The proposed project would result in a density of roughly **3 units per acre**.
- Given these factors, the rezoning of the property to PD is **consistent** with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

Mr. Overby said units in a Planned Development are tailored to the development itself, and the type of development that will be there; these are kind of closed in, if you will, meaning that nothing else can be built, other than what is approved.

Mr. Overby reviewed slide #7 (Findings & Recommendation).

- Staff finds Rezoning Petition 21-07 to be **reasonable and consistent** with the Hickory by Choice 2030 Comprehensive Plan. Given these findings, the following is recommended:

1. The Hickory Regional Planning Commission adopt a statement **affirming the petition's consistency** with the Hickory by Choice 2030 Comprehensive Plan; and
2. Forward a **recommendation of approval** to the Hickory City Council.

Mr. Overby said staff recommends approval of this request. He asked for questions from Commission members.

Mr. McBrayer asked the nature of the two inquiries by citizens that were noted in the staff report. Mr. Overby said one was an inquiry and one person wanted more information; however, since the agenda packet was printed, he and Mr. Frazier have received a dozen or more calls about the rezoning.

Dr. Pekman said Mr. Overby said there would usually be 2-4 housing units per acre, and this would be 3 units per acre. Mr. Overby said yes, and Dr. Pekman asked if there was any indication regarding the type of housing that would be there. Mr. Overby said yes, it would be a 21-lot subdivision, with a street leading in and a closed cul-de-sac. There will be 21 lots off of that road, and each lot will contain two townhome units sharing a common wall.

There were no additional comments or questions for Mr. Overby.

The Staff Report was entered into the record as Exhibit A.

PROPONENTS

Will Clayton, 2080 Singer Drive, Hickory NC, addressed Commission members, saying he was the civil design engineer for the project. He asked if members had any questions for him, and there were none. Mr. McBrayer thanked him.

Roy Terkelsen, 3640 Steve Ikerd Drive, Hickory NC, addressed Commission members, saying he was neither for nor against the project, but did have a question. He has a piece of property that is adjacent to the proposed development. (Slide #4 (Map 2. Current Zoning) was returned to the screen.) He pointed out his property, at the far northwest tip of the zoning area, and asked if 32nd Street Lane NE would continue into the property being developed, or would the development be approached from Sulphur Springs Road. Ms. Dula advised letting Mr. Clayton come forward to address this during rebuttal, plus any other questions that come up. Mr. Terkelsen clarified that his property appears as yellow on the map, and Mr. McBrayer said it is currently in the City.

Mr. Terkelsen had no other questions.

No other proponents were present to speak.

OPPONENTS

Robert Boyd, 3116 47th Avenue Lane NE, Hickory NC, addressed Commission members, saying that, prior to the hearing he had made a request that any decision be delayed until he has time to attain an appraisal, regarding any devaluation of his property due to this development. He said this development is very different from anything else that has been proposed in that area. It will bring duplexes, which will change the character of the area, and where does it stop? They say it is low-density, but it is duplexes, bringing more people and more traffic, and the roads are already crowded now. He has not even had a chance to look at this; it (the notice) came to his neighbor, not to him. He had been out of town and only found out about it on Monday when his neighbor gave him information on it. Mr. McBrayer said Monday, as in two days ago. Dr. Boyd said yes, and he has not really had time to research it

to see how it is going to affect his property, which butts this property. He said it is within the members' jurisdiction to decide to delay it.

Mr. McBrayer addressed Mr. Frazier, saying he would assume Dr. Boyd would have received notification, but he says that he did not. Mr. Frazier said if his property were further than 500-feet away from the exterior perimeter of the property in question to be rezoned, then he would not have received a notice. Remember, the state statute requires staff to advertise, which they have, and that staff had exceeded their requirements of public notification by sending letters out [to the property owners] within 500-feet, where the state requires only 250-feet.

Dr. Boyd said the entrance to their property abuts directly against that one. Dr. Pekman asked him to show members the location of his property. Dr. Boyd pointed out his property (on Map 2. Current Zoning), saying three people own that area of property, and that he and Mr. Thomas were both here tonight. Again, they have not had time to look into the situation.

Dr. Pekman asked if Dr. Boyd has plans to get an appraisal of his property. Dr. Boyd said yes, to see if it would be devalued by this proposed development.

Mr. Reed asked if Dr. Boyd's property is in the city limits, and Dr. Boyd said no. Mr. McBrayer pointed out that his property is located in Catawba County R-40 Residential. Dr. Boyd said part of it is zoned R-20.

Mr. McBrayer asked if Dr. Boyd planned to have an appraisal done, due to what is going onto the property. Dr. Boyd said yes, the 21 duplexes. Mr. McBrayer said his notes state they would be townhomes.

Dr. Pekman said he expects the question is, if the Commission postpones for a month and there is no appraisal done, then Dr. Boyd would not have accomplished anything. At a minimum, Dr. Pekman could not see being in favor of postponing this, unless he is absolutely and unequivocally sure there is going to be an appraisal. Dr. Boyd said he had tried to find an appraiser in this short time of only two days and could not find one. Dr. Pekman said the Commission could not postpone this decision for more than one month, asking if he would appear on January 27th with a property appraisal. Dr. Boyd said he should be able to get one done by then, that he hopes so, but who knows, with the holidays coming up. Dr. Pekman said, because after the 27th, if the Commission does not act on it, it [automatically] becomes approved. Mr. Frazier clarified that it would then go to City Council without a recommendation from the Planning Commission.

Mr. McBrayer said he felt badly that Dr. Boyd was just now finding out about it. He was not sure how to proceed and asked what the other members thought about it. Mr. Reed asked if the Commission had done this before, and Mr. Frazier said once or twice in his 16-years here. Mr. McBrayer said he could not remember one during his time on the Commission.

Ms. Dula said that, normally, a continuance comes from the applicant, due to some unforeseen circumstance, but it is not a common occurrence. Again, those requests normally come from the applicant.

Ms. Williams asked, if tonight, for whatever reason, a recommendation goes from this Commission to City Council, when would it be acted on by them. Mr. Frazier said Council has scheduled a public hearing for this proposed annexation and rezoning for Tuesday, December 8th, and Mr. McBrayer said that is next week.

Dr. Pekman said he understood that Council could act independently of any recommendation from this Commission, and they could annex the property without any recommendation from Commission members. Mr. Frazier said that would not be a good idea; the City really does not want to annex a property without a proposed zoning for it. He said that happened once during his first or second year here, and the city had averted a near disaster. Mr. Frazier said Council had already advertised for both the annexation and rezoning.

Mr. Reed addressed Ms. Dula, asking if it makes a difference, regarding Dr. Boyd's standing, that he is a county resident and not a city resident. She was not sure if that makes a difference, but said it had been advertised, and again, the city goes beyond the state requirement of notifying [property owners] within 250-feet, they notify all

within 500-feet, which goes above and beyond the requirement. Other things were done, too, in addition to the letters that were sent. It was posted on the City's website, there was a newspaper announcement, and signage was posted on the property, so there were other means of notification.

Dr. Pekman asked if Dr. Boyd's property was within 250-feet of the rezoning property, 500-feet, 1,000-feet, or what distance is he from the rezoning area. Dr. Boyd said the back of his property abuts this property. Dr. Pekman asked if his property was within 250-feet of this property, and Mr. Frazier said he is contiguous. Dr. Pekman said, but Dr. Boyd has said he did not receive notification until 2-days ago. Ms. Dula said Mr. Overby could explain it. Mr. Overby said the property in question is under joint ownership, between Dr. Boyd and two other gentlemen, and the notice was sent to whoever was listed on the tax rolls. Dr. Boyd said he is the property owner, and Mr. Overby said that is not what was listed on the tax roll.

Dr. Pekman said he knew Mr. Frazier could not speak for City Council but asked him what their response would be if the Commission did not act on this tonight, would they be willing to remove it from their next agenda. Mr. Frazier said he doubted they would be happy about it, as the public hearing had already been advertised at a cost to taxpayers but this is a Planning Commission decision.

Mr. Hunt clarified that the person who is listed on the tax roll is the one who received the notice from the city, and Mr. Overby said he believed so. Dr. Pekman asked who it was sent to. Dr. Boyd said Randy Fisher received it, but they have both been out of town. Dr. Boyd was out of town, and then when he came back Mr. Fisher's family was out of town.

Dr. Boyd said he just needs time to figure out how it might affect his property. Mr. McBrayer said to consider that it affects Dr. Boyd's property in a negative way, or the appraisal comes back saying it is not going to affect it, or that it might affect it – what difference would that make. He said it might mean Dr. Boyd is then more adamantly against this project, versus being for it. Dr. Boyd said it might show due cause that this development should not be put in this area, because it would change the whole character of the neighborhood negatively.

Dr. Pekman addressed Mr. Frazier, saying if it comes back as a negative appraisal and Dr. Boyd says it is going to devalue his property, does it make any difference that this is a city development, and he is in the county. Mr. Frazier said he was not an attorney, but as a planner, he would say that it does not make any difference. But then, Mr. Clayton's client may also come back with a counter-appraisal saying something similar, or something different.

Dr. Pekman said his first problem is that this entire situation is so unsure, and Dr. Boyd said he plans to seek an appraisal if the Commission postpones it. Mr. McBrayer asked, if it were postponed, then would it come back to the Commission at their next meeting on January 27. Mr. Frazier said that he was not speaking for Ms. Dula, but from a planning perspective, Council should not annex it until they have the zoning recommendation from the Planning Commission. He said if members decide to continue the hearing, it would be continued to a specific date, with no need or requirement under state and general statute, to re-advertise this meeting, if they had a specific time and date. He said if the Commission fails to act on January 27, then that would be considered as no recommendation at all, and Council could then act independently at some time in February 2022.

Ms. Dula said this issue is standing before the members and suggested letting the other people who signed up and asked to give testimony do so, that this is a legislative matter. Members can decide what weight they want to give the testimony and make a determination about the appraisal, decide what weight to give it and whether it has sufficient weight to change any decision, or to impact the decision. She said the Commission had heard from one neighbor, and there are other people here who want to speak. Mr. McBrayer said few people had signed up to speak, but he could open it up to any others who want to speak.

Dr. Boyd said if he had had the time, he would have come prepared, but he simply did not have enough time in advance of the meeting tonight. There were no further questions for Dr. Boyd.

Edwin Thomas, 3115 47th Avenue Lane NE, Hickory NC, addressed Commission members, saying his property is also zoned R-40. He is a neighbor and homeowner, and his property abuts the applicant's property. He also did not receive a notice, no notification whatsoever. He did, in the one day he had to do it, attempt to go through the information and understand what is planned, and he reviewed the site plans submitted. He had some questions, and staff answered them, but they also indicated the site plan was incomplete, so there was not much he could talk about. He also has concerns about the project and would like to have an appraisal of his property.

Mr. Thomas said he does not think postponing the decision is an unreasonable request, because having 48 hours notice before coming to this meeting does not allow someone to come prepared. He would like to understand better what we are doing here; he would also like to understand what the impact will be, not only on his own community, but on the nearby streets. He requested a postponement until a reasonable time, enough time for the neighbors to get the information they need.

Mr. Thomas asked if there were any questions from the members.

Dr. Pekman asked if he is one of the three property owners mentioned earlier, and Mr. Thomas said yes. Dr. Pekman said he understood that the person who received the letter is not present tonight. Mr. Thomas said he was not, and he assumes he is out of town. Mr. Thomas said he owns property elsewhere, including in Alexander County, so he has some knowledge of what the Commission is doing. However, based on the short notice, he could not do much or line up the professional help that he needed.

There were no further questions for Mr. Thomas.

Gene Krumanocker, 3256 48th Avenue Lane NE, Hickory NC, addressed Commission members, saying his address falls in the Carolina Springs subdivision, and he would characterize it as the existing development directly north of the proposed development.

Dr. Pekman asked him to point out where he lives on the map (Map 2. Current Zoning). Mr. Krumanocker pointed to the upper center point of the red outline around the proposed rezoning. He said he is in the city limits and abuts the proposed development. Dr. Pekman asked if he received notification. Mr. Krumanocker said he did, approximately 2-weeks ago, and that for what it is worth, 2-weeks notice is a very short amount of time to digest all of this and rally with your neighbors, to see if you are in support or in opposition to this proposed development, such as it is. However, Mr. Krumanocker said he had done his homework over the past week or so and asked to continue his remarks. He has lived there for approximately 20-years; he was one of the first homes in that subdivision. He has enjoyed the rural atmosphere provided by that area of town, saying, as you know, this is an area of Hickory that is dominated by farms and fields, open spaces, and wildlife, with low-density neighborhoods consisting of single-family homes, with lot sizes that complement the surrounding areas.

Mr. Krumanocker said he would like to preface his comments tonight by stating that he is in no way opposed to thoughtful, responsible development of the plot of land in question tonight. But, with that said, he objected to the nature and intensity of this specific proposal, as it relates to housing density and type. A Planned Development at this location simply does not fit or remain consistent with the surrounding area. It is, as was stated earlier, classified as a low-density residential area, according to the Hickory by Choice 2030 Plan, and he recognizes that; he also recognizes that low-density can be interpreted as meaning up to 4-units per acre.

With all due respect to the staff who worked on this rezoning analysis, Mr. Krumanocker said he disagreed that the rezoning request would, "... continue the current land use development pattern of the larger area." He said this is stated as if a precedent has already been established, but the facts show that the current development pattern is contrary to this; the development pattern is fairly established at a density at or below R-20. In fact, you must drive over 5-miles to get to the closest Planned Development, and that is located on North Center Street. He said you might be thinking of these yellow shaded areas on the map – Catawba Springs, Carolina Springs, Shoal Creek Cove – those are all zoned Hickory R-2, and that does allow for up to 4-units per acre. He said if you look at these exceptions, they are built-out at a density of less than 2-units per acre; the developer of these properties recognized or respected the type and intensity of the surrounding area, and they built accordingly. If this rezoning

request and proposed development is approved as currently submitted, you are going to create the most densely populated street in the entire area, which he conservatively estimated as within 20-square miles. He said it would set a new precedent tonight and would essentially be invading a rural atmosphere with a development that is reserved for areas closer to town and commercial development amenities.

Mr. Krumanocker said his next topic of opposition was related to the topography of the specific property and the fact that it sits on a ridgeline, with a considerable height differential compared to the adjacent properties lying to the north, which is his neighborhood. If he is looking at the site plan correctly, he thinks that proposed street level is going to sit at about 1,080-feet, while his house and others on that end of Carolina Springs sit at approximately 1,055-feet. He said that is a difference of about 25-feet, which might not sound like much, and it probably isn't over a long linear distance, but unlike the homes on 47th Avenue Place NE, which is the adjoining property to the south, you can see that they sit on 1-acre lots that are long and narrow, so their homes sit a long way from their rear property line. The homes in his development sit much closer to the rear property line, so any building, whether it is a townhome or some other, it is going to tower over their adjacent backyards and homes. He said the proposed setbacks of this development simply do not create enough space to provide a reasonable amount of privacy. He was not sure if these would be 1- or 2-stories, but if they are 2-story, that is the equivalent of having a 4- or 5-story building right outside his backyard. He believes these setbacks are incompatible with their existing development, and he thinks any construction on this property needs to have larger setbacks and a corresponding natural buffer to keep these buildings from sitting right on top of that existing neighborhood.

Mr. Krumanocker said that, staying with the topic of topography, all the houses from the far end of Carolina Springs down to about the two properties located east of his own, that topography has always caused backyard, basement, and crawlspace flooding at every single home on that side of the street, so while we are talking about topography, he hopes the grading and storm water management plan for any development going on here would address these long standing issues, with the knowledge and understanding that there is a pre-existing problem.

Mr. Krumanocker is also worried about the additional 400-plus traffic trips that 42 more dwellings will put on Sulphur Springs Road every day, a road that already feels like it is at the tipping point when it comes to left turns, especially off Snow Creek [Road]. He worries about the impact these units might have on his own property value, especially if a substantial quantity of these ends up becoming rentals at some point. So, he worries about a lot of things. Unfortunately, he could not find any spotted owls or endangered species back there, or there would be some environmentalists here to support him tonight.

With all of that said, Mr. Krumanocker respectfully requested the Commission consider denying this request, in favor of a proposal that fits better with the surrounding area. He thinks the current zoning of Catawba County R-20 is spot-on and that should continue to be honored as consistent with the Hickory by Choice 2030 Plan and the existing development pattern as it exists in reality, not just on paper, and thank you very much.

There were no questions for Mr. Krumanocker.

No other opponents were present to speak.

Mr. McBrayer said there would now be 5-minutes for rebuttal, starting with the proponents.

REBUTTAL – PROPONENTS

Mr. McBrayer offered Mr. Clayton the opportunity to present rebuttal to the testimony given.

Mr. Clayton said he just wanted to clarify a few things, then he would then let the developer speak and explain what he is planning to do. Mr. Clayton said these are going to be \$350-400,000 townhomes, so he does not expect they are ever going to show that they are decreasing the value of neighboring homes; these are going to be nice, and it will be a very nice development. And he cannot argue the fact that someone could come in and say an appraiser said this would devalue their home; he did not know that they could let that affect their decision to have this approved as a Planned Development.

Mr. Clayton said the townhome they are planning to build is technically low-density. Regarding the question asked about 32nd Street Lane NE in the other development, he said it would not tie-in with this development. As he said earlier, this is a single road coming into a cul-de-sac. These units will be 1-story, with an 18–19-foot gable height, so they are not 2-story and will not tower above the neighboring homes. He had brought along a rendering of what one would look like and asked if members would like to view it, saying they will be very high-end, luxury townhomes. The document included an exterior rendering of a 2-unit townhome, and interior layout for each side. It was shared with each member.

The applicant's townhome renderings were entered into the record as Exhibit B.

Mr. Clayton noted the earlier storm water concerns, saying the development design would meet all code requirements for the local municipality and state, and everything that is required. Again, this is just a rezoning; if it is approved, it will go to City Council; if Council approves it, they will then have to submit full design plans that all the departments would need to review and approve.

Mr. Clayton asked if there were any questions.

Dr. Pekman asked if he would be opposed to getting an appraisal, noting that Dr. Boyd had stated he plans to get an appraisal of his property. Dr. Pekman asked if he would also want to get an appraisal. Mr. Clayton said he did not know how they could appraise the vacant land, but he would let the developer know and he could decide, or they could figure it out together.

Ms. Dula advised members that if they are entertaining a continuance, they should not close the hearing. If the hearing were closed tonight, then all the advertising and notice requirements would need to be done again. If members decide to continue it to a certain date and leave it open, those requirements do not need to be repeated. She asked them to consider this before closing the hearing.

Mr. McBrayer asked Mr. Clayton what his role is in the project. Mr. Clayton said he is the design engineer, and they will develop the site plan, grading plan, storm water controls, etc., and the full set of design plans will be submitted to the city, county, and state.

There were no additional questions for Mr. Clayton.

Mr. Frazier said if the Commission decides not to close the hearing, it would be continued to Wednesday, January 26, 2022.

Duke McLauchlin, 2008 46th Avenue Drive NE, Hickory NC, addressed Commission members, saying he is the developer of this project, along with his business partner. Their plan is certainly not to cause any water issues for anyone or devalue anyone's home. As Mr. Clayton said, these are going to be luxury townhomes and will be very nice. The city required one set of sidewalks, but they intend to sidewalk the whole development. They want it to be nice and add value to the community. He sees a demand for these and does not see how it is going to devalue anyone's home because he thinks it will be a help.

Mr. McLauchlin asked if there were any questions from the members.

Dr. Pekman said he wanted to ask the same question he had posed before, asking Mr. McLauchlin if he perceived a need to seek an appraisal if the opponents do so. Mr. McLauchlin said he would not have a problem with it. He is a licensed real estate agent, and his duties include pricing and doing comps, which is how they came up with the price they plan to ask for it. He does not know how an appraisal can be done based on a piece of paper, because all they have are the plans and a picture right now.

There were no additional questions for Mr. McLauchlin.

Ms. Dula said, just to be clear, that it was within the Commission's discretion whether to continue the hearing or not.

SURREBUTTAL – OPPONENTS

Dr. Boyd declined to present rebuttal.

Mr. Thomas addressed Commission members, saying he would like to add the question he had for Mr. Clayton about wastewater management in the area to this conversation. He said Mr. Clayton had discussed it, and there was assurance that they would take care of it, but he still sees that as a potential problem. To be able to get rid of that much water, in the impermeable areas they are going to create, it is going to be difficult. He concluded by saying this was going to change how the water flows in that area, sending it where it is not supposed to go.

Mr. Krumanocker declined.

Mr. McBrayer said members could now choose to close the hearing and move forward, or they could continue it to January 26.

Ms. Williams asked if she was clear that staff had sent the required notices, and that one of the three property owners did receive it. Mr. McBrayer said yes, it was his understanding that, according to Mr. Overby, that it went to the owner whose name appeared in the tax records. She said that while she sympathizes with what you (the opponent) told us, that you personally did not know about the hearing, she did not know that she could hang her hat on that as legality. Mr. McBrayer said he believed Dr. Boyd had stated that he was out of town, and when he returned, the owner who received the notice had left town.

Bill Pekman moved, seconded by Philip Reed, to continue the public hearing for Rezoning Petition 21-07 to the next Planning Commission meeting on January 26, 2022. By a show of hands, the motion carried on a majority vote of 8-1. Voting in favor of the motion to continue the hearing were Dr. Pekman, Mr. Reed, Mr. McBrayer, Mr. Hedrick, Rev. Johnson, Mr. Weaver, and Mr. Hunt; voting against the motion was Ms. Williams.

Mr. Kerley was recused earlier and did not participate.

Mr. McBrayer said the motion to continue Rezoning Petition 21-07 had carried, and the Commission would reconvene the hearing at 6:00 pm on January 26, 2022.

Ms. Dula clarified that the hearing had been continued to January 26 and noted there might be some questions. Mr. McBrayer asked if any of the proponents or opponents had questions on the process going forward.

Mr. Clayton returned to the podium and stated he had one general question. He said the hearing had been continued and asked what the Commission wants from them when they return for the next meeting. He asked if it was continued for them (the opponents) to provide appraisals, or was it continued just for that to come up again and we are waiting on another appraisal.

Mr. McBrayer said no, it would be for them to do their due diligence and vetting with an appraisal, what have you, and then bring it back. He said that the next time, it would be a decision. Mr. Clayton asked what if they do not have their appraisal by the next meeting, and Mr. McBrayer said so be it. Mr. Clayton said okay.

There were no additional questions.

Mr. Kerley returned to the meeting.

Mr. McBrayer opened the public hearing for **Rezoning Petition 21-08**.

Brian Frazier presented the Staff Report and referred to PowerPoint slides. He reviewed slide #9 (Rezoning Petition 21-08):

- Property Owners: Winkler's Grove Baptist Church
- Applicant: Pastor Paul Deal
- Location: 3320, 3326, and 3342 9th Avenue Drive NW
- Current Zoning: R-1
- Property Size: 13.57 acres
- Background: The rezoning request is intended to establish zoning that would provide greater flexibility in the future development of the church campus.
- Request: The property owners have requested to rezone the properties to Neighborhood Center Commercial (NC).

Mr. Frazier said there were four separate parcels on 9th Avenue Drive NW, just north of the airport. The current zoning of R-1 is within the City's ETJ, and this is over the line in Burke County. The property size is 13.5-acres, and the rezoning request from the church is to establish zoning that would provide flexibility for future development of the church properties for their church campus. The applicant has requested to rezone these properties from R-1, Low Density Residential, to NC, Neighborhood Center Commercial.

Mr. Frazier reviewed slide #10 (Map 1. Hickory by Choice 2030 Future Land Use), saying the properties in question that are owned by Winkler's Grove Baptist Church were hashed in red. The Future Land Use Map shows the area shaded in tan as Low Density Residential, and the purple shaded area as Industrial.

Mr. Frazier reviewed slide #11 (Map 2. Current Zoning), saying current zoning of the subject property is R-1, which is in Burke County. He pointed out 9th Avenue Drive NW, 9th Avenue Drive, Hickory Airport Road, and Goat Farm Street to the north of the properties in question, in the R-1 district. He also noted the nearby Hickory Regional Airport property.

Mr. Frazier reviewed slide #12 (Map 3. Aerial Photography), noting the properties in question, the surrounding woodland, residential development pattern of low-density residential, and the orientation to the north. He pointed out the principal runway for the Hickory Regional Airport, as it existed a couple years back.

Dr. Pekman asked if the property across 9th Avenue Drive part of the church is also. Mr. Frazier asked if he meant the other side, and Dr. Pekman said yes. Mr. Frazier said yes, but they have only requested that the subject parcels be rezoned, not all nearby parcels, but he believes those are also owned by the church. Dr. Pekman said there is a cemetery there. Mr. Frazier said yes, and a pastor's residence; he believes there are a couple other properties, maybe residential properties, which are rented out by the church, but suggested Dr. Pekman should ask the church representative that question, because he was not 100% sure.

Mr. Frazier reviewed slide #13 (Rezoning Petition 21-08).

- The property is zoned R-1 Residential and is occupied by a church and its ancillary uses.
- The general area is **classified Low Density Residential** by the Hickory by Choice 2030 Comprehensive Plan.
- The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this land use category is intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas..." (HBC 2030, Pg. 3.9).
- The Neighborhood Center Commercial (NC) zoning district **is not listed as the implementing zoning district** for the Low-Density Residential classification. The proposed rezoning would serve as a **transition area** between current rural land-uses and the industrial uses (Hickory Regional Airport) to the immediate south.
- Given these factors, the rezoning of the properties from R-1 to NC is **inconsistent** with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan, but such a **transitional zoning** district as NC appears to be in **keeping with sound planning and land-use practices**.

Mr. Frazier said that, as he has been saying for years now, Hickory has seriously lacked proper transitional areas; there are a lot of R-2 Residential uses abutting Industrial, abutting Institutional, abutting Commercial properties, and they have really rubbed on each other. So, this NC zoning would provide a transitional area between the rural character to the northwest and northeast, and the Industrial zoning to the immediate south of the church property.

Dr. Pekman asked Mr. Frazier to go back to the map and show him where he believes there is going to be Industrial. Mr. Frazier said there is existing Industrial and pointed it out on Map 1. Dr. Pekman said he drove out there today, and there is no commercial development out there at all. Mr. Frazier said yes, that is correct. Dr. Pekman asked if there is any inkling that that is being planned, had Mr. Frazier seen anything to indicate it. Mr. Frazier said he had not, and that would be a question for the church representative. Dr. Pekman said, but you do not have intentions, and Mr. Frazier said no. Dr. Pekman said, by making this Commercial, how does that protect the Residential area from making that parcel Commercial. Mr. Frazier said it would serve as a buffer between the Industrial, because the airport is planning to expand – there will be a museum there, there is a new economic development focus on the airport for additional hangars, a small business park, and with the Hickory Trail system, including the River Walk and Aviation Walk. The church is looking at the possibility of developing, or redeveloping, some of its parcels. Dr. Pekman asked Mr. Frazier if he thought further industrial would occur in the triangular area outside the shaded region, was that the expectation. Mr. Frazier said no, he did not believe that. He does not expect the Industrial is going to expand; the Industrial will intensify, but it will not expand further.

Ms. Williams asked Mr. Frazier to share the uses that would be allowed in the Neighborhood Center Commercial (NC) District. Mr. Frazier said that within the NC zoning district, Single-family Residential is allowed with a Special Use Permit from the Planning Commission, and that would be detached; Single-family Residential attached, such as townhomes, is permitted by right; a Caretaker's Residence is an accessory use; Duplexes are permitted by right; Upper-Story Residential is allowed by right; Apartments are allowed by right; Family Care Homes, Nursing, Convalescent, Extended Care Facilities, Assisted Living, those would require a Special Use Permit; a Bed & Breakfast is permitted by right; a Drinking Establishment/Nightclub would require a Special Use Permit; and, Offices and Personal Services, Retail Sales and Service, Seasonal Sales, and Vehicle Repair would all be permitted by right. Various Institutional categories would also be permitted by right, such as Schools; Medical Centers; Parks and Playgrounds; Public Facilities; Daycare; Community Recreation; Cultural Facilities, and Basic Utilities, those would all be permitted within the area. He said it would not likely be all straight commercial, it could be a mixture of Commercial, Professional Office, Retail, as well as some Residential.

Ms. Williams asked if general retail would be permitted, and Mr. Frazier said yes.

Dr. Pekman said that what Mr. Frazier just described sounded like a marked expansion of possibilities for use of that land, and Mr. Frazier said yes. Dr. Pekman said, and that zoning would protect the residential nature of the neighborhood. Mr. Frazier said yes, that is what they are intending.

Mr. McBrayer asked Mr. Frazier to continue with his staff report.

Mr. Frazier reviewed slide #14 (Findings & Recommendation).

- Staff finds Rezoning Petition 21-08 to be **inconsistent** with the Hickory by Choice 2030 Comprehensive Plan. Although the findings of inconsistency were clearly outlined, the rezoning of the properties to NC is **reasonable and protects the public interest**, by providing a **transitional zoning area** between more intense industrial uses and the lower intense residential uses.
- Staff recommends:
 1. The Hickory Regional Planning Commission adopt a statement **affirming the petition's consistency** with the Hickory by Choice 2030 Comprehensive Plan; and,
 2. Forward a **recommendation of approval** to the Hickory City Council.

Mr. Frazier said staff recommends approval of this request. He asked for questions from Commission members.

Ms. Williams asked if it should say inconsistency, not consistency, that isn't it inconsistent? Mr. Frazier said, as he had stated, staff believes it is inconsistent with the present plan, but staff believe the proposed rezoning is

reasonable and will protect the public interest. Ms. Williams asked if he was recommending that members affirm the petition's consistency with the Hickory by Choice 2030 Plan, and he said yes. She said, but it is inconsistent, clearly. Mr. Frazier said it is inconsistent, but they believe there are other defending factors that should be considered. She asked what those factors are. He said again, the findings and the recommendations, and the transitional area between the R-1 and the Industrial.

Dr. Pekman said Mr. Frazier had just told him that it does not stop this marked expansion of use of the land. Mr. Frazier said it is also only a few properties. He pointed out where the church was possibly looking to develop, and Dr. Pekman said there is a cemetery sitting in the middle on that side. Dr. Pekman said that property cannot be developed, that it is against State law; you cannot do that, and it is on a large piece of that property.

Mr. McBrayer asked if there were any other questions for Mr. Frazier, and there were none.

The Staff Report was entered into the record as Exhibit C.

Mr. McBrayer said there would be 15 minutes for the proponents to speak, and 15 minutes for the opponents.

PROPONENTS

Clint Berry, 777 Houck Mountain Road, Taylorsville NC, addressed Commission members. He was here representing the congregation of Winkler's Grove, where he has served as a deacon for about 9-years. He said, as most everyone probably knows, Winkler's Grove owns those tracts of land out there, and some across the road from them. They are in close proximity to the airport, and their church is actually one of the largest churches in eastern Burke County and the surrounding area, due to the fact that God has blessed them over the years. Their church continues to grow, both spiritually and physically.

Mr. Berry said rezoning this property from Residential to Neighborhood Commercial would allow opportunities for them to upgrade, improve, expand facilities, ministries, and outreach, as the Lord leads them and as they strive to fulfill their mission to reach the world that needs to know about Jesus Christ, and to be a stronghold for the family of God there at the church. He said possible projects are in discussion; nothing is definite, but their church leadership is throwing some things around and talking about it, praying about it. They do not have a plan yet, but this rezoning would help facilitate that plan.

Mr. McBrayer clarified that the property is currently zoned R-1. Mr. McBrayer asked Mr. Berry what is keeping the church from expanding, as it is now, what is prohibiting them. (Map 1 was returned to the screen.). Mr. Berry said his understanding is that R-1 is more for housing; they do not want to expand housing, they want to expand out in ways to reach the community.

Mr. McBrayer noted that their church is sitting in R-1 now, which is a residential zoning. Ms. Williams said churches are a permitted use in R-1, and Mr. Frazier said they are permitted in all zoning districts.

Dr. Pekman asked Mr. Berry what the church was asking for this rezoning to do, what is it they want to do. Mr. Berry said it would give them the opportunity to expand ministries, make changes, updates or improvements, things around the church they may be limited by with the R-1 zoning. It just gives them some freedom to do what they need to do to improve the church, upgrade, or reach other people, that is all.

Dr. Pekman asked Mr. Frazier, how does that conform to what he was advocating in his presentation about protecting the residential neighborhood; how does that make this a buffer. Mr. Frazier said it would be a transitional area between the residential uses and the airport.

Ms. Dula asked if there were any additional questions for Mr. Berry.

Mr. McBrayer said he is a finite kind of guy, basically. He asked what would be wrong if, once the church leadership develops their plans for whatever it is they want to do, for them to then come back and say, here is what we are going to do if we can get the property rezoned. Mr. Berry said that, if it is already rezoned, then they

do not need to come back and ask; it is their property, and it would be nice to just do what they want and not have to come back, but that is up to you.

There were no additional questions for Mr. Berry.

No other proponents were present.

OPPONENTS

No opponents were present.

Mr. McBrayer declared the public hearing closed.

Mr. McBrayer asked for discussion by members on Rezoning Petition 21-08.

Ms. Williams said she had not been a member for very long, but when she joined the Commission a few months ago, she was told that she should base her decisions on two things, Hickory by Choice 2030, and the Land Development Code. That is what she is using to direct her decisions now, and that this does not appear to be consistent with either of those two plans. She said it was going to be hard for her to see a way to follow the staff recommendation.

Mr. McBrayer asked for a motion to approve or deny the petition.

Anne Williams moved, seconded by Bill Pekman, to deny Rezoning Petition 21-08, based on it being inconsistent with Hickory by Choice 2030 and the Land Development Code, and send a recommendation of denial to City Council.

Mr. McBrayer asked if there was any further discussion.

Mr. Reed said members are under the impression that the church is going to use this property to expand their campus for church type uses, which would include those like the recent rezoning for the townhomes over by *The Cedars*, where the neighboring church was buying the commercial property to operate their school and planned to lease part of it out, and that a portion of it is currently occupied by a nightclub. Mr. Frazier said he did not know if that would happen, and Mr. Reed said that was what members were told [during that hearing]. Mr. Frazier said it had been discussed. Mr. Reed said, if the church uses the property for church uses, then he thinks it would meet what Mr. Frazier is saying about creating a buffer; but what if they decide, even as a not-for-profit, to open something inconsistent with what we standard citizens think a church should be doing, maybe something like say a go-cart track, which he assumes would be permitted separately. Mr. Frazier said, yes, such as a tobacco and vape shop, or a bar, or a gaming business like various churches now own in the city. Mr. Reed said yes, he was thinking of the allowed uses, like a nightclub, but he could see the nearby residents going along with an expansion of the church campus, additional buildings or even a Christian school, but he would think a strip-center with various uses like Mr. Frazier just mentioned, those would need to be permitted as separate businesses. Mr. Frazier said yes, but it does not stop the church from leasing it out to those businesses. Mr. Reed said, and then it is between the church and the taxing authorities how you make that compatible with a non-profit. Mr. Frazier said that was correct.

Dr. Pekman said the scenario that Mr. Reed had just described that Mr. Frazier would not say that was an appropriate neighborhood buffer. Mr. Frazier said correct, he would not say that.

Mr. Hunt said this is a well-established church, and it is growing like wildfire. He does not think the church is growing due to anything negative and thinks the rezoning should pass. They have property there that they can use, but of course, they are not going to put anything up against their cemetery. He said, again, this church is well-established, with good citizens involved in it, and some of them are your own friends. He was opened to making a motion to pass the rezoning. Mr. McBrayer advised him that there was already a motion on the floor to deny it, and if that was his opinion, then he should consider voting against the motion.

Mr. McBrayer asked if there was any further discussion.

Dr. Pekman said this Commission has always made decisions, as Ms. Williams had said, according to Hickory by Choice and the Land Development Code. He said there had been businesses that came before the Commission that were effectively shut down within the city limits because they didn't meet code. Dr. Pekman said there were times that he did not feel good about it, and that he said so at the time, but he had no other choice because those were the rules that were presented to them. He cited one example was the use of feather flags, which the Commission had turned down. He said that was not just a commercial interest, it was also a religious interest, because multiple churches use them, but they do not meet code. Dr. Pekman said his point was that he had a written record here that said this is inconsistent with the two things the members use to guide them in everything they are supposed to do, because the Commission is fair and equitable to everybody who comes before them. He asked what happens the next time if there is a negative recommendation. He said it appears to be arbitrary and capricious.

Mr. McBrayer said there was a motion on the floor to deny Rezoning Petition 21-08, which had been seconded. He brought the motion to a vote, stating that a vote in favor was to deny the petition. By a show of hands, the motion carried on a majority vote of 6-3. Voting in favor of the motion to deny Rezoning Petition 21-08 were Ms. Williams, Dr. Pekman, Mr. McBrayer, Mr. Kerley, Mr. Hedrick, and Mr. Reed. Voting against the motion were Rev. Johnson, Mr. Hunt, and Mr. Weaver.

Mr. McBrayer said a recommendation to deny Rezoning Petition 21-08 would be forwarded to Hickory City Council.

Mr. Frazier said City Council would hold a public hearing on Rezoning Petition 21-08 at their meeting on Tuesday, December 21, 7:00 pm.

Other Business: Mr. McBrayer asked if there was any other business for members, and Mr. Frazier said no.

Mr. Reed asked Ms. Dula if members need to vote to keep the first public hearing open. She said members had voted to continue the public hearing to their next meeting on January 26, which was appropriate.

Next Meeting: The next regular meeting is scheduled for Wednesday, January 26, 2022, at 6:00 pm.

Adjourn: There being no further business, Mr. McBrayer wished everyone happy and safe holidays until the next meeting in 2022. He declared the meeting adjourned at 7:15 pm.

Bill McBrayer, Chair
Hickory Regional Planning Commission

Anne Starnes, Minutes Clerk
City of Hickory

**CITY OF HICKORY
APPLICATION FOR REZONING
(PLANNED DEVELOPMENT OR CONDITIONAL ZONING DISTRICT)**

DATE SUBMITTED: 11-03-2021

TO THE PLANNING COMMISSION AND THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

I (We), the undersigned, do hereby respectfully make application and petition to amend the Land Development Code and change the Zoning Map of the City of Hickory, as hereinafter requested, and in support of this application, the following facts are shown of the application and all required materials):

1. The property proposed to be rezoned is located on SULPHUR SPRINGS ROAD
between 48TH AVE and 47 AVE.

PIN NO. (S): 373513022954

Physical (Street) Address: _____

2. The property is owned by: (please print) D & J PROPERTIES NORTH CAROLINA, LLC
(Attach a copy of the most recent deed, contract for purchase or other legal interest demonstrating an interest in the property.)

Owner Information:

Name: D&j PROPERTIES NORTH CAROLINA, LLC (DUKE MCLAUHLIN)

Address: 2008 46TH AVE DR NE

Phone Number: 928 - 308 - 3193

Email Address: DUKE@LAKEHICKORYREALTY.COM

3. The petition is submitted by: DUKE MCLAUHLIN

(If the Petition is submitted by someone other than the owner, a letter from the owner(s) authorizing the agent to act on his or her behalf must be submitted with the application. This authorization must be signed and notarized by all owners having an interest in the subject property.)

Agent Information:

Name: DUKE MCLAUHLIN

Address: 2008 46TH AVE DR NE

Phone Number: 828-308-3193

4. It is desired and requested that the foregoing property be REZONED:

FROM: CAT COUNTY R-20 TO: PD

5. Please list any overlay districts that apply to the subject property: _____

6. Please list the current use(s) of the property: VACANT LAND

7. Specify the acreage of the proposed development: 13.384

8. Specify the intensity (gross square footage) and/or density (size and number of dwelling units) of the proposed development: 21 BUILDINGS (SINGLE FAMILY ATTACHED) OR 42 UNITS TOTAL

Additional Required information (40 folded copies of all support information must be provided)

Planned Development Districts

A Planned Development Master Land Use Plan must be submitted as part of all petitions to rezone to a Planned Development district. Such plan shall include maps and plans for the subject property at a scale not smaller than 1" – 200' that depicts the following items:

1. The name of the proposed Planned Development and the names of the developer and design professionals;
2. Scale, dimensions, date, north arrow;
3. Conceptual grading, site preparation and stormwater management;
4. General location, height, number of stories, floor area, orientation, setbacks and proposed land-uses of all structures;
5. Building elevations of all proposed buildings;
6. Open space (designate public or private), floor area, recreation space and impervious surface area necessary to demonstrate conformance with applicable requirements;
7. Landscaping and buffering;
8. Any proposed property subdivision, including proposed future property lines;
9. Primary vehicular and pedestrian circulation system including all proposed exclusive storage bays, turn lanes, vehicular and pedestrian cross access points, points of ingress and egress for principal pedestrian, vehicle, bicycle, and transit;
10. Proposed street layout (both public or private);

11. Location of all parking, loading, sanitation and recycling facilities; area and number of parking spaces in parking lots;
12. Location, character and intensity of all proposed outdoor lighting fixtures;
13. Location of all utility systems;
14. Location, height, dimensions and type of all signs; and
15. Locally or nationally recognized historic structures.

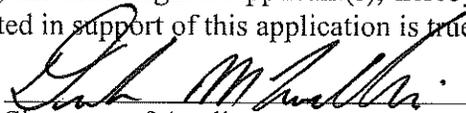
Conditional Zoning Districts

Conditional Zoning can be applied in conjunction with any base zoning district. Applicants petitioning to rezone to a conditional zoning district must meet all the requirements of the underlying zoning district. All applicants must include a list of additional conditions to be placed upon the subject property with their application. Depending on the complexity of the conditions proposed, a site plan similar to the Master Land Use Plan described above may be required.

Applicant's Affidavit

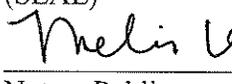
(All applications must be signed by all persons having an ownership interest in the subject property or include an agent authorization letter that includes the notarized signatures of all property owners)

I (We), the undersigned Applicant(s), hereby certify that the information contained herein and submitted in support of this application is true and correct.

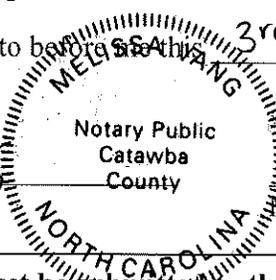


 Signature of Applicant

Sworn and subscribed to before me this 3rd day of November, 2021.

(SEAL) 

 Notary Public My Commission Expires 12/30/2024



This Application must be submitted to the Planning Department by 5:00 p.m. on the last regular working day of the month preceding the meeting at which it is to be considered by the Planning Commission. Only complete applications will be accepted.

REZONING ANALYSIS

PETITION: 21-07

APPLICANT: D&J Properties North Carolina, LLC

OWNERS: Duke McLanuchlin

PROPERTY LOCATION: Sulphur Springs Rd Between 47th Ave PI NE & 48th Ave Ln NE

PINS: 3735-13-02-2954

WARD: Upon annexation, will be in, Ward 2 (Councilwoman Williams).

ACREAGE: 13.384

REQUESTED ACTION: Rezone the property from Catawba County R-20 Residential to City of Hickory Planned Development (PD).

BACKGROUND: The property is zoned R-20 by Catawba County. The rezoning request is intended to provide an area for future residential uses, which comes in the form of forty-two (42) single-family attached units (townhomes).

DEVELOPMENT POTENTIAL The subject property is zoned R-20 Residential by Catawba County and is 13.384 acres in total size. The R-20 zoning district permits residential uses at a density of two (2) dwelling units per acre.

The property is vacant; however, the owners intend to construct forty-two (42) single-family attached dwellings (townhomes). This amounts to approximately three (3) dwelling units per acre.

REVIEW CRITERIA: In reviewing and making recommendations on proposed zoning map amendments, review bodies shall consider the following factors:

1. Consistency of the proposed zoning with the *Hickory Comprehensive Land Use and Transportation Plan (Hickory by Choice 2030)* and the stated Purpose and Intent of this Land Development Code;

The general area is classified Low Density Residential by the Hickory by Choice 2030 Comprehensive Plan. (Note: The Hickory by Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.) (Please refer to Map 1 for detail).

The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this land use category is intended to provide an area of transition between higher density housing in Hickory and the surrounding rural areas..." (HBC 2030, Pg. 3.9).

The PD zoning district is not listed as the implementing zoning district for the Low-Density Residential classification, as each PD is considered on a case-by-case basis. Low Density Residential calls for 2-4 units per acre (HBC 2030, Pg. 3.9). The proposed project would result in a density of roughly 3 units per acre.

Given these factors, the rezoning of the property to PD is consistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan.

The area under consideration for rezoning is indicated by the Hickory by Choice 2030 Comprehensive Plan as being low density residential. The proposed residential density is in keeping with the plan's recommendations.

- Preserve and protect land, air, water and environmental resources and property values.

All improvements that are to take place on the property will be required to follow all applicable development regulations.

- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resource and governmental expenditures.

The subject property will have access to a state-maintained roadway. Public water and sewer infrastructure (upon annexation) will be available to serve the property. During the annexation evaluation process, staff also verified all other public services were available, and would not be diminished with the future development of the subject property. The proposed use of the property represents an efficient use of public services, and the wise use of public funding.

- Regulate the type and intensity of development; and

The current land use pattern of the larger area consists of primarily residential uses (single-family and multi-family). This development pattern will continue under the Planned Development district, as single-family attached residences will be similar in function as those surrounding residential uses. Public resources to provide critical public services are in place to service the area. These include public utilities and transportation infrastructure.

- Ensure protection from fire, flood and other dangers.

Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and properties are properly protected as prescribed by law.

2. Existing land uses within the general vicinity of the subject property (**Please refer to Maps 2 & 3 for more detail**):

- **North:** The properties are zoned R-2 Residential and are occupied by single family homes.
- **South:** The properties are zoned R-20 Residential by Catawba County and are occupied by single family homes.
- **East:** The properties are zoned R-2 Residential and are occupied single family homes.
- **West:** The properties are zoned R-20 Residential by Catawba County. These properties are either occupied by single-family residences, or vacant.

3. The suitability of the subject property for the uses permitted under the existing and proposed zoning classification:

The current land use pattern of the larger area consists of residential uses. The rezoning of the property to PD would continue this development pattern.

4. The extent to which zoning will detrimentally affect properties within the general vicinity of the subject property:

The requested Planned Development (PD) is proposed to permit uses and densities similar to those in the vicinity.

5. The extent to which the proposed amendment (zoning map) will cause public services including roadways, storm water management, water and sewer, fire, and police protection to fall below acceptable levels.

Public resources to provide critical public services are in place to service the area. These include public utilities transportation infrastructure, as well as police and fire protection.

6. The proposed amendment (zoning map) will protect the public health, safety, and general welfare.

The subject property is located within an area where the Hickory by Choice 2030 Comprehensive Plan anticipated continued residential growth. The future use of the property will continue this development pattern.

Any future development that occurs of the subject property as the result of the zoning map amendment, will be required to be adhere to regulations related to zoning, building and fire code, traffic, stormwater, etc., which will work in conjunction with one another to ensure the health and safety of residents and visitors are properly protected.

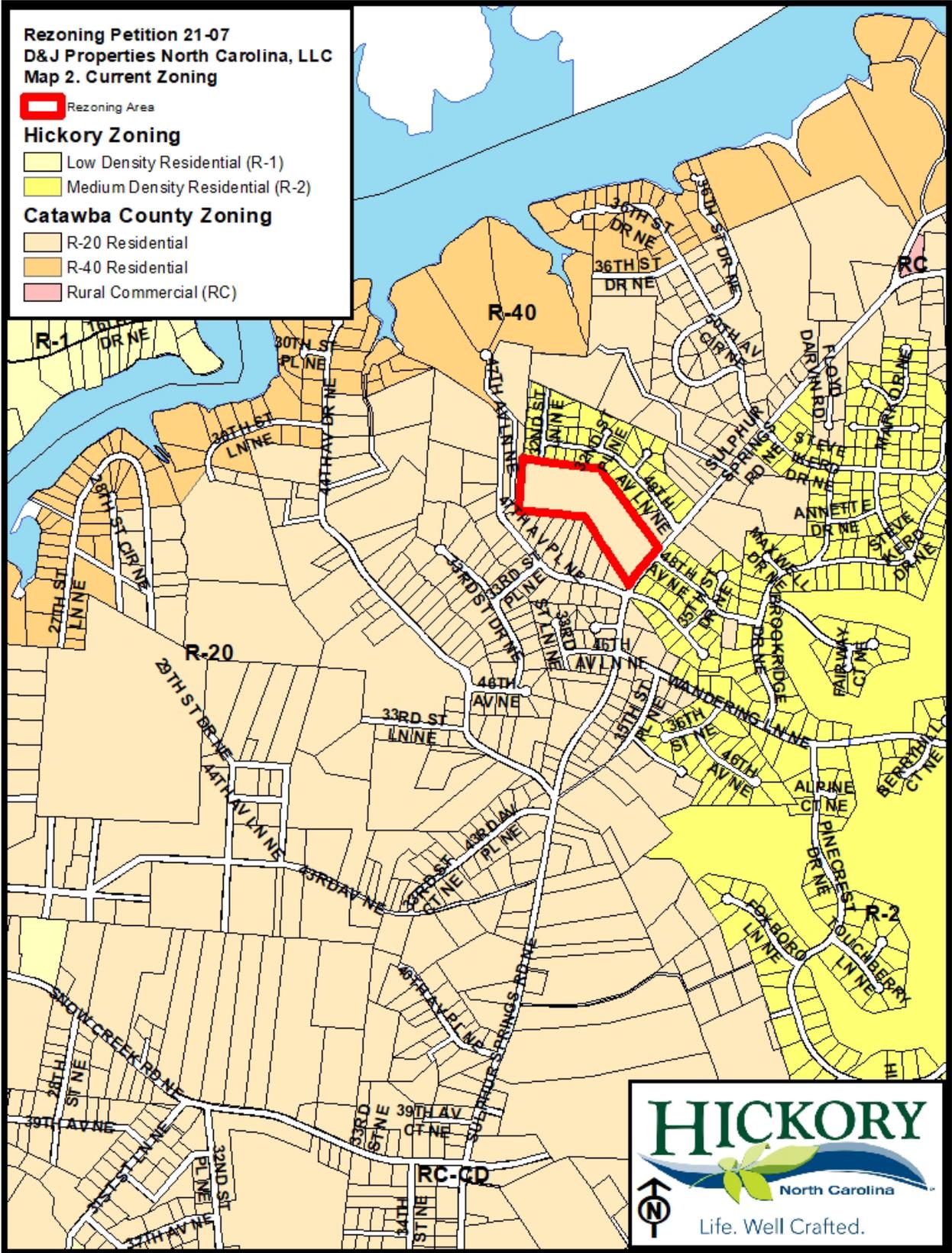
RECOMMENDED ACTION:

Staff finds Rezoning Petition 21-07 to be **consistent** with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:

1. The Hickory Regional Planning Commission adopt a statement affirming the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan; and
2. Forward a recommendation of approval to the Hickory City Council.
the recommendation of the Hickory Regional Planning Commission.

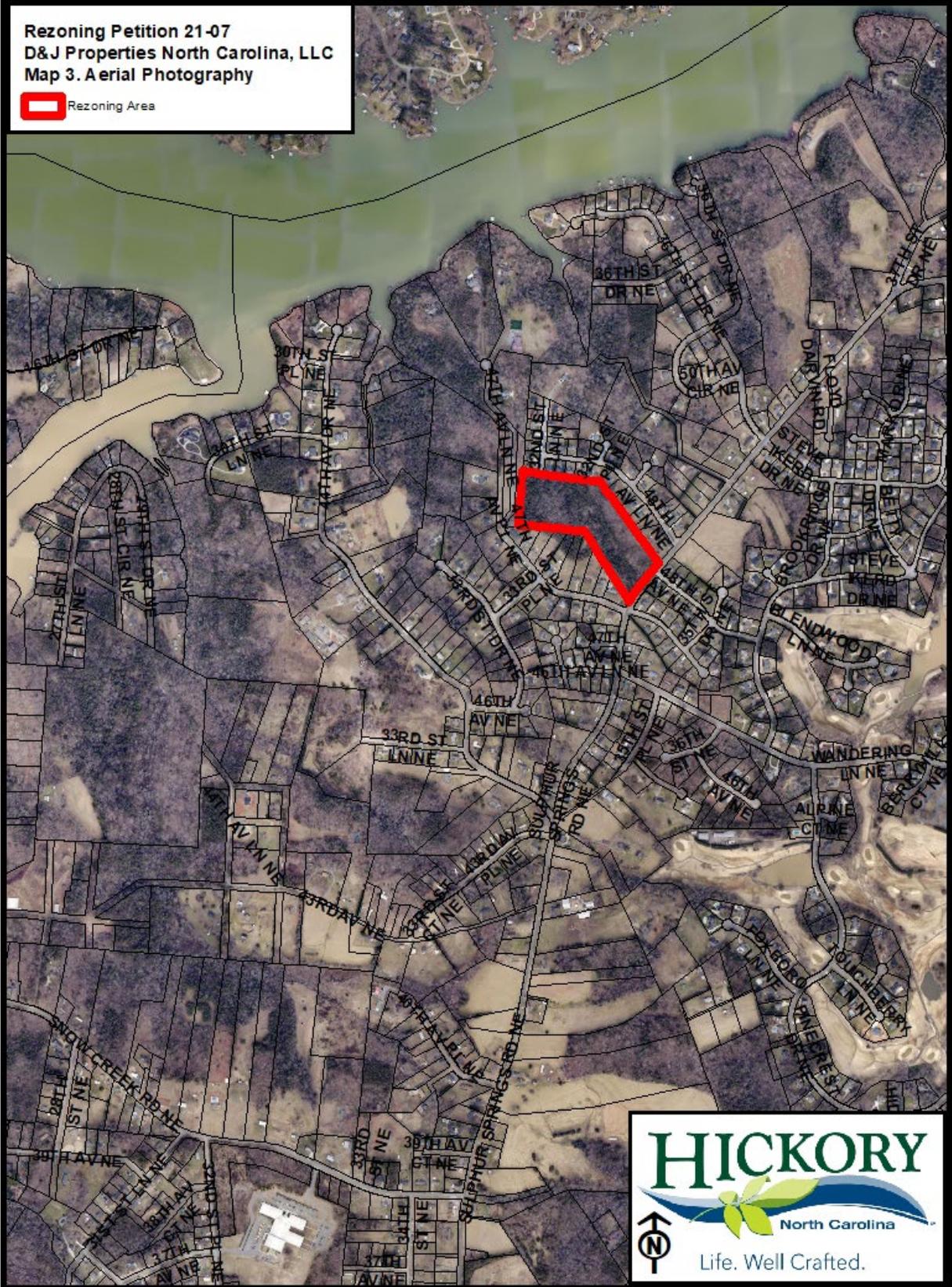
CITIZEN INPUT

As of January 14, 2022, staff has received twelve (12) inquiries regarding this petition.

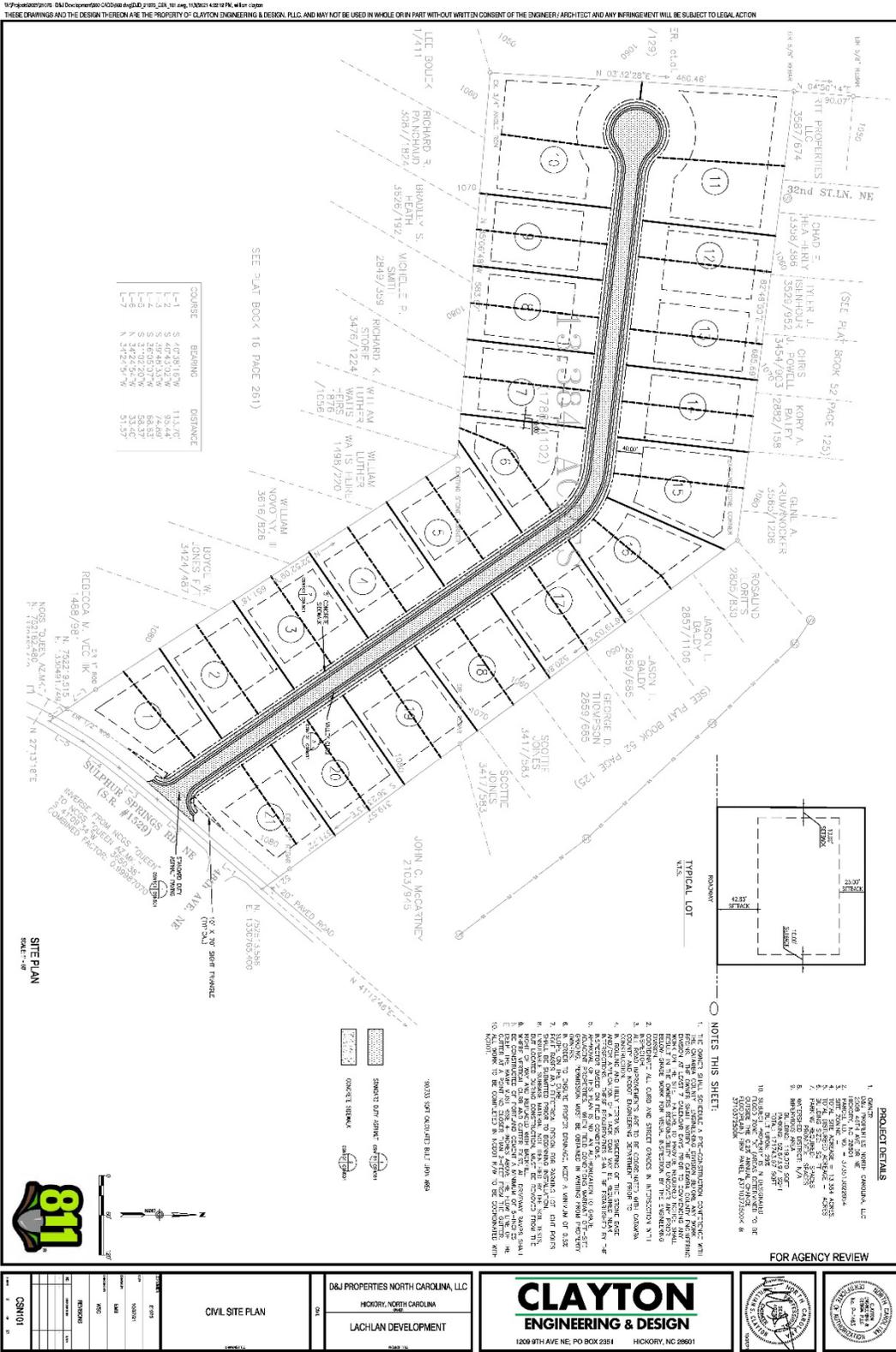


Rezoning Petition 21-07
D&J Properties North Carolina, LLC
Map 3. Aerial Photography

 Rezoning Area



Planned Development Layout.
Twenty-one individual lots, each
containing two single-family
attached units.



CITY OF HICKORY
APPLICATION FOR REZONING (NON PD OR CZ)

DATE SUBMITTED: 12-30-2021

TO THE PLANNING COMMISSION AND THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

I (We), the undersigned, do hereby respectfully make application and petition to amend the Zoning Map of the City of Hickory, as hereinafter requested, and in support of this application, the following facts are shown of the application and all required materials):

1. The property proposed to be rezoned is located on Spencer Road
between 30th ST CT NE and 31st ST PL NE.

PIN NO. (S): 3723-15-63-5314

Physical (Street) Address: None

2. The property is owned by: (please print) Hambrick / Glaze Trust

(Attach a copy of the most recent deed, contract for purchase or other legal interest demonstrating an interest in the property.)

Owner Information:

Name: Josephine Hambrick Trust

Address: 712 8th St Dr NW, Hickory, NC

Phone Number: _____

Email Address: _____

3. The petition is submitted by: City of Hickory

(If the Petition is submitted by someone other than the owner, a letter from the owner(s) authorizing the agent to act on his or her behalf must be submitted with the application. This authorization must be signed and notarized by all owners having an interest in the subject property.)

Agent Information:

Name: None

Address: _____

Phone Number: _____

4. It is desired and requested that the foregoing property be REZONED:

FROM: R-1 and R-20 TO: R-2

5. Please list the current use(s) of the property: Vacant

5. OWNER'S AFFIDAVIT

We, the undersigned owner(s), hereby certify that the information contained herein and submitted in support of this application is true and correct.

NA
Printed Name of Owner

NA
Signature of Owner

(Please choose the appropriate notary block)

State of North Carolina – County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged the due execution of this foregoing instrument for the purposes expressed herein. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20 ____.

My Commission Expires: _____

Notary Public

State of North Carolina – County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged the he / she is the _____ of _____ corporation / limited liability corporation / general partnership / limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity he /she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20 ____.

My Commission Expires: _____

Notary Public

This Application must be submitted to the Planning Department by 5:00 p.m. on the last regular working day of the month preceding the meeting at which it is to be considered by the Planning Commission. Only complete applications will be accepted.

REZONING ANALYSIS

PETITION: 22-01

APPLICANT: City of Hickory

OWNERS: Margaret H. Glaze, Josephine Bonniwell Hambrick Revocable Trust & Robert T. Hambrick, III Trust

PROPERTY LOCATION: Between 30th Street Court NE and 31st Street Court NE.

PIN: 3723-15-63-5314

WARD: Upon annexation, this property would be located in Ward 3 (Councilwoman Seaver).

ACREAGE: 55.49 acres

REQUESTED ACTION: Rezone the property from R-1 and R-20 Residential to R-2 Residential.

BACKGROUND: The property is currently zoned R-1 by the City of Hickory and R-20 by Catawba County. Most of the property is located within Hickory's extra-territorial jurisdiction (ETJ). The property in its entirety, is in the process of being annexed. The owners' intention is for the property to be developed into a residential subdivision, consisting of single-family detached residences.

DEVELOPMENT POTENTIAL: The subject property is currently zoned R-1 Residential by Hickory and R-20 Residential by Catawba County, and totals 55.49 acres in total size. The current R-1 and R-20 zoning districts both permit one and two-family residential uses at a density of two (2) dwelling units per acre.

The subject property is currently vacant; however, the owners' intention is to develop the property for the construction of detached single-family residences. While preliminary development plans have not been provided, the theoretical maximum development yield under R-2 zoning could result in +/-200 residential homes.

REVIEW CRITERIA: In reviewing and making recommendations on proposed zoning map amendments, review bodies shall consider the following factors:

1. Consistency of the proposed zoning with the *Hickory Comprehensive Land Use and Transportation Plan (Hickory by Choice 2030)* and the stated Purpose and Intent of this Land Development Code;

The general area is classified Low Density Residential by the Hickory by Choice 2030 Comprehensive Plan. (Note: The Hickory by Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.) (Please refer to Map 1 for detail).

The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this classification is intended to provide an area of transition between higher density housing and the surrounding area by offering development at two (2) to four (4) units per acre, (HBC 2030, Pg. 3.9). The Hickory by Choice 2030 Comprehensive Plan goes on to state; "although the gross density in these areas is proposed to be less than Medium Density Residential, conservation subdivision design principles can provide opportunities for a combination small and large lot development that helps preserve open

space and protect environmentally sensitive areas” (HBC 2030, Pg. 3.9)

The R-2 zoning district is not listed as the implementing zoning district for the Low-Density Residential classification; however, the density discussed within the quoted section of the Hickory by Choice 2030 Comprehensive Plan clearly states densities up to four (4) units per acre are appropriate for the area. The R-2 district permits density up to, but not more than, four (4) units per acre, which is compatible with the language found with the Hickory by Choice 2030 Comprehensive Plan.

Given these factors, the rezoning of the property to R-2 Residential should be considered consistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan.

The area under consideration for rezoning is indicated by the Hickory by Choice 2030 Comprehensive Plan as being a future residential area with residential densities between two (2) and four (4) units per acre.

- Preserve and protect land, air, water and environmental resources and property values.

All improvements that are to take place on the property will be required to follow all applicable development regulations.

- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resource and governmental expenditures.

The subject property has access to a state-maintained roadway (Spencer Road / SR 1441), as well as water and sewer infrastructure (upon annexation). During the annexation evaluation process, staff also verified all other public services were available, and would not be diminished with the future development of the subject property. The land-use pattern of the area, with the inclusion of the subject property, represents an efficient use of public services, and the wise use of public funding.

- Regulate the type and intensity of development; and

The current land use pattern of the larger area consists almost entirely of single-family dwellings. This development pattern will continue under the R-2 Residential district, as only single-family residences are permitted under this zoning classification. The future use of the property is best suited to further the existing development pattern of the area. Public resources to provide critical public services are in place to service the area. These include public utilities and transportation infrastructure.

- Ensure protection from fire, flood and other dangers.

Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and property are properly protected as prescribed by law.

2. Existing land uses within the general vicinity of the subject property (**Please refer to Maps below for more detail**):

- **North:** The properties are zoned R-1 Residential (Hickory) and R-20 Residential (Catawba County) and are either occupied by single-family residences or vacant.
- **South:** The properties are zoned R-1 Residential (Hickory) and are either occupied by single-family residences or vacant.
- **East:** The properties are part of the Stone Ridge neighborhood and zoned R-1 Residential (Hickory) and R-20 Residential (Catawba County). These properties are occupied by single-family residences.
- **West:** The properties are zoned R-1 Residential (Hickory) and are either occupied by single-family residences or vacant.

3. The suitability of the subject properties for the uses permitted under the existing and proposed zoning classification:

The current land use pattern of the larger area consists largely of single-family residences. The rezoning of the property to R-2 Residential would continue this development pattern and mirror the existing City zoning already in place in the surrounding area.

4. The extent to which zoning will detrimentally affect properties within the general vicinity of the subject property:

The requested Medium Density Residential (R-2) zoning is similar to the existing zoning. The permissible uses of R-2 zoning will aid in enhancing the existing minimizing future impacts on the neighborhood.

5. The extent to which the proposed amendment (zoning map) will cause public services including roadways, storm water management, water and sewer, fire, and police protection to fall below acceptable levels.

Public resources to provide critical public services are in place to service the area. These include public utilities transportation infrastructure, as well as police and fire protection.

6. The proposed amendment (zoning map) will protect the public health, safety, and general welfare.

The subject property is located within an area where the Hickory by Choice 2030 Comprehensive Plan anticipated continued residential development. The future use of the property is residential.

Any future development that occurs of the subject property as the result of the zoning map amendment, will be required to be adhere to regulations related to zoning, building and

fire code, traffic, stormwater, etc.; which will work in conjunction with one another to ensure the health and safety of residents and visitors are properly protected.

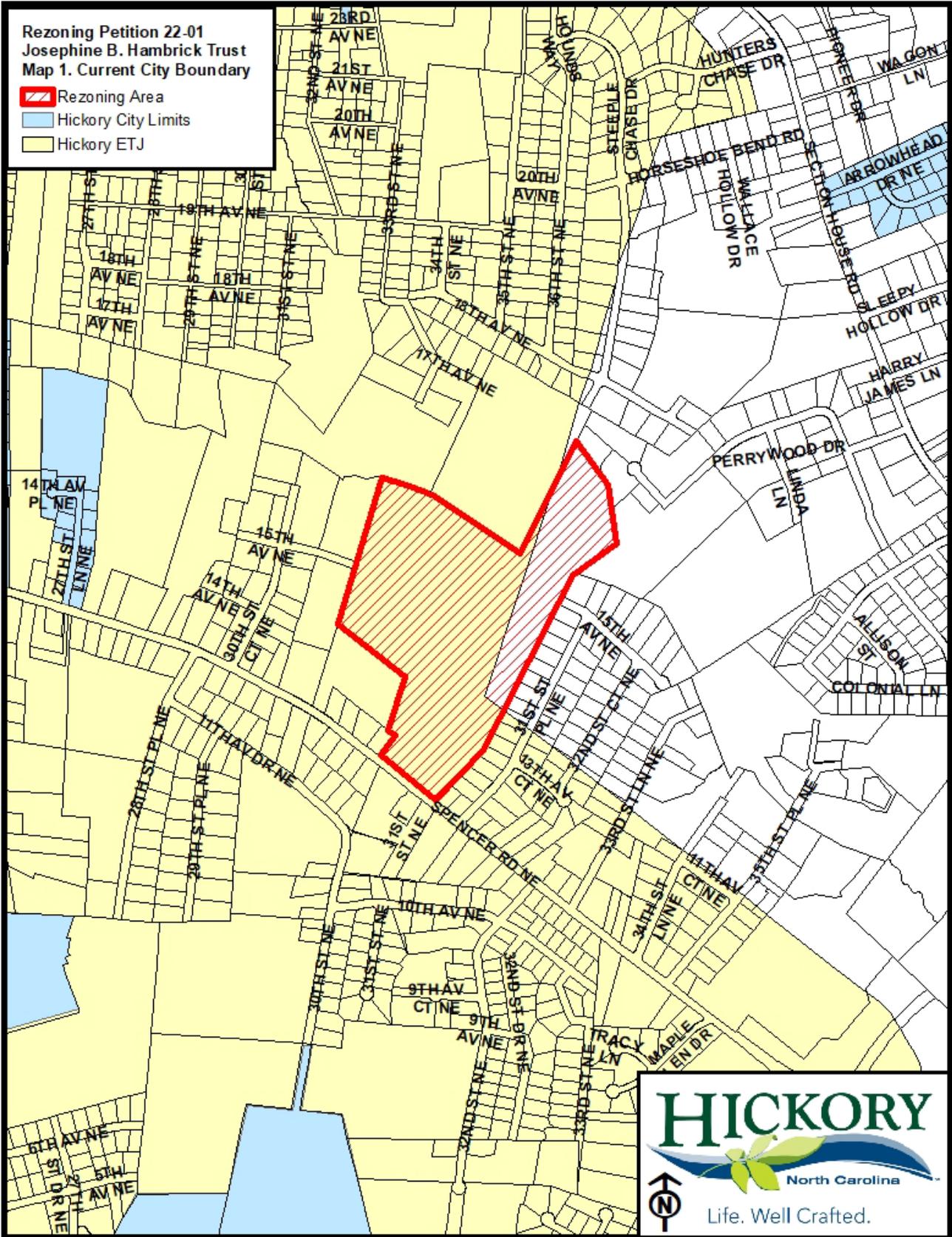
RECOMMENDED ACTION:

Staff finds Rezoning Petition 22-01 to be **consistent** with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:

1. The Hickory Regional Planning Commission adopt a statement affirming the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan; and
2. Forward a recommendation of approval to the Hickory City Council.

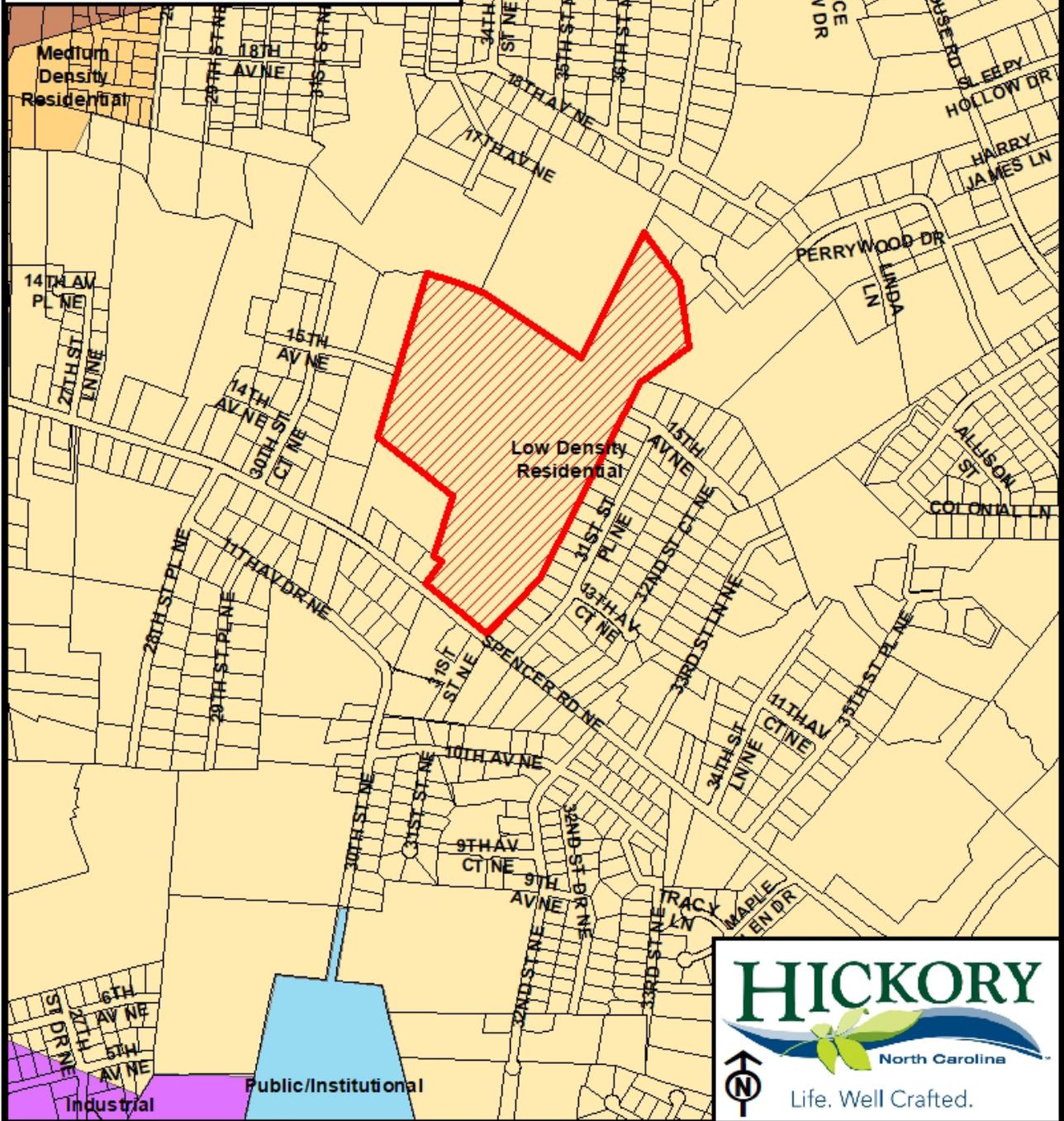
CITIZEN INPUT:

As of January 14, 2022, staff has received one (1) inquiry regarding this petition.



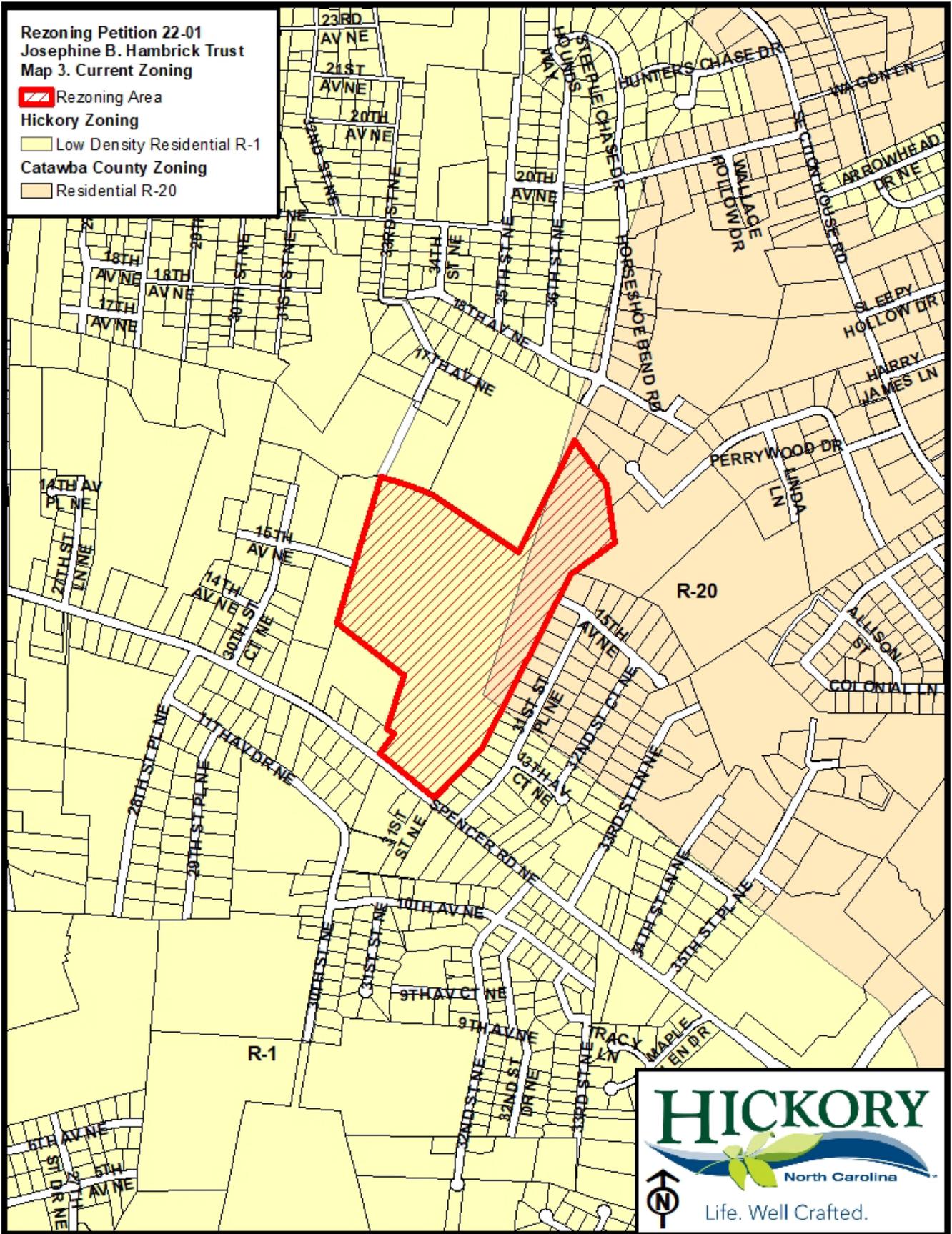
Rezoning Petition 22-01
 Josephine B. Hambrick Trust
 Map 2. Hickory by Choice 2030 Future Land Use

-  Rezoning Area
-  Low Density Residential
-  Public/Institutional
-  Medium Density Residential
-  High Density Residential
-  Industrial



Rezoning Petition 22-01
Josephine B. Hambrick Trust
Map 3. Current Zoning

-  Rezoning Area
- Hickory Zoning**
-  Low Density Residential R-1
- Catawba County Zoning**
-  Residential R-20



HICKORY

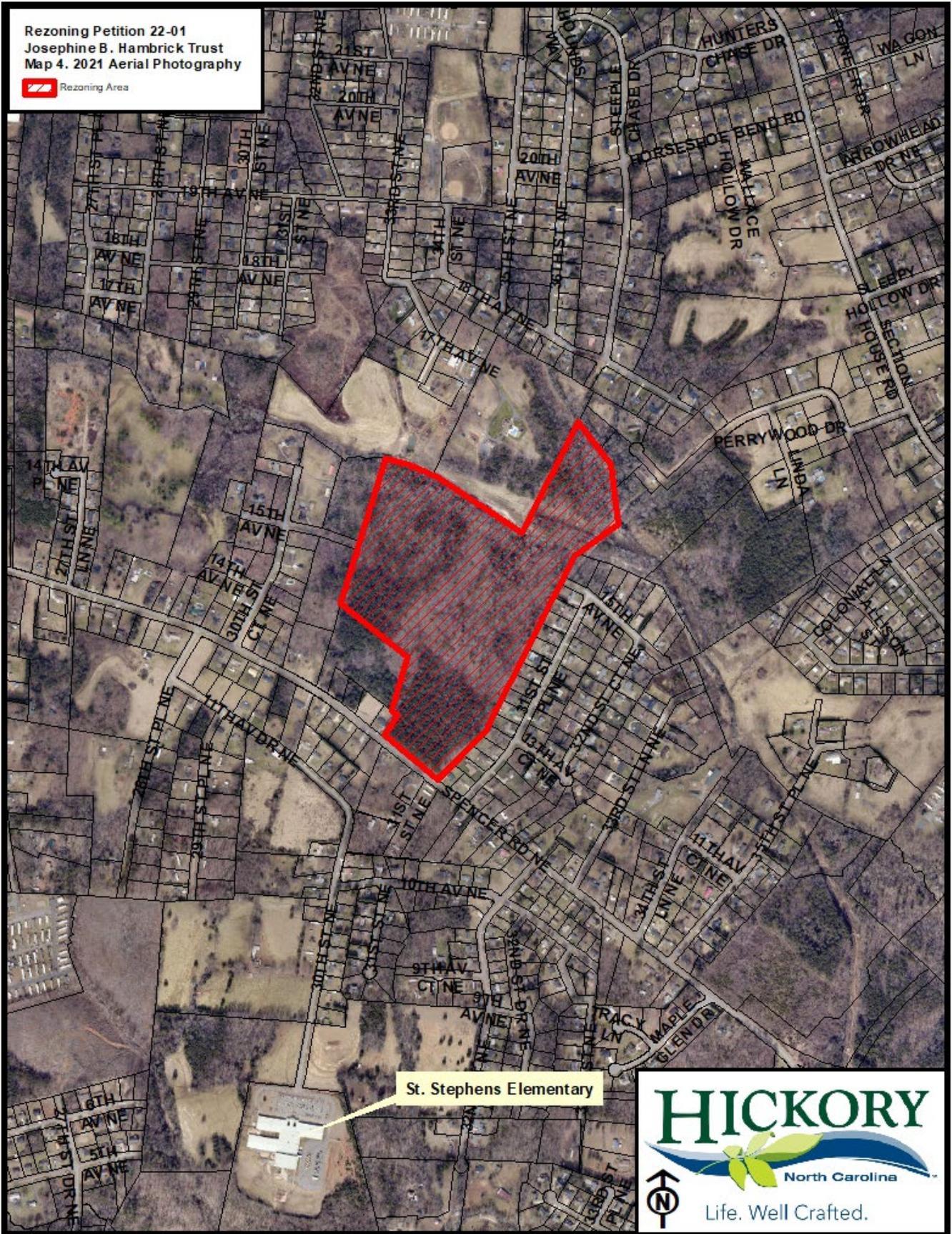


North Carolina
Life. Well Crafted.



Rezoning Petition 22-01
Josephine B. Hambrick Trust
Map 4. 2021 Aerial Photography

 Rezoning Area



St. Stephens Elementary

HICKORY

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Hickory Regional Planning Commission / Board of Adjustment Work Plan 2022-2023

-1- Board/Commission Objectives	-2- Financial Impact	-3- Community Impact	-4- Alternatives
Complete annual review and update of the Hickory Land Development Code, and zoning map.	The process is staff and Commission driven. Any resources needed for the initiative will be provided through the Planning & Development Services Department's operational budget.	The update will review the existing Land Development Code and zoning map to determine what works and what has been problematic, and develop and recommend solutions to those areas where improvement is needed.	Allow the current Land Development Code and zoning map to exist in their current states. This is done with the risk of falling behind on current trends and addressing regulatory standards that should be modified to assist in growth of the City's tax base and employment market.
Continue to expeditiously review petitions pertaining to Rezoning, Special Use Permits, Variances, Administrative Appeals and all other related items.	The Hickory Regional Planning Commission is statutorily obligated to review such petitions. The fees collected when applications for such items are submitted are used to off-set the costs of required legal advertising.	The timely review of these types of petitions aids in the introduction of new development within the City of Hickory. Petitions of this nature are indicative of growth, and benefits the local economy through the expansion of the City's tax base and job creation. The expeditious review of such petitions also work to create an atmosphere of a can do attitude between the City of Hickory, citizens, real estate developers, and the business community.	These types of petition are statutorily required to be reviewed. The City's only real effect on the process is the timeframe of their review. If the City chooses to take longer to review these petitions, economic growth may be negatively impacted.
Continue to stay current on planning related issues by means of training provided by city staff or other qualified entities and organizations.	City staff typically provides training to the Planning Commission on new planning, development, and legal matters.	The training received by the Planning Commission aides the body in making sound, legal decisions regarding matters that come before it.	The only alternative would be to provide off-site training, or no training at all. The former would add additional cost, when training can be provided by staff at no cost. The latter could result in decisions lacking sound planning and legal grounds.
Provide direction to city staff regarding any upcoming long-range planning projects.	The Planning Commission, as part of its general duties, provides City staff with directives regarding planning matters as circumstances arise.	City staff utilizes the direction of the Planning Commission identify planning initiatives needed to aid in the positive growth of the community.	The alternative would be that the Planning commission provides no direction at all. This would not be a wise approach. The Planning Commission, as an appointed body, receives much input and observations form the community that staff may not be able to receive.
Budget Total	\$0		

Chairperson/Liaison: Bill McBrayer (Chair) / Brian Frazier (Liaison)