



The Hickory Regional Planning Commission will hold its regular meeting on **Wednesday, June 23, 2021 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 April 28, 2021 meeting.

### **PRESENTATIONS AND PUBLIC HEARINGS**

1. **Rezoning Petition (RZ) 21-02.** Request by REC Group, LLC and RECL NC, LLC for the consideration of rezoning 137.299 acres of property located between the terminus of Short Road and the terminus of Eller Drive, including 2205 and 2120 Markland Drive and 3350 Eller Drive, from Catawba County R-20 Residential and City of Hickory Low Density Residential (R-1) to City of Hickory Medium Density Residential (R-2). The subject property is shown as PINs 371116844173, 371119615646, 371119622278, 371119628108, 371116726809, 371116837965, and 371116849988 on the Catawba County Tax Map.

### **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 20-21**

|            |   |         |    |         |  |                          |  |        |
|------------|---|---------|----|---------|--|--------------------------|--|--------|
| <b>Key</b> | 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  |     | P   |     | AX  |     | AX  | AX  | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Longview        |     | AX  |     | P   |     | P   | P   | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Catawba County  |     | P   |     | P   |     | AX  | P   | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Burke County    |     | P   |     | P   |     | P   | P   | P   | P   | P   |     |     | Dec-19  | Jun-22 |
| Brookford       |     |     |     |     |     |     |     |     |     |     |     |     |         |        |
| Caldwell County |     | P   |     | AX  |     | P   | AX  | P   | P   | P   |     |     | Jul-19  | Jun-22 |
| Ward 1          |     | P   |     | P   |     | P   | P   | P   | P   | P   |     |     | Jul-19  | Jun-22 |
| Ward 2          |     | P   |     | P   |     | P   | P   | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Ward 3          |     | AX  |     | AX  |     | AX  | A   | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Ward 4          |     | P   |     | P   |     | P   | A   | P   | AX  | A   |     |     | Jul-18  | Jun-21 |
| Ward 5          |     | AX  |     | P   |     | P   | P   | P   | P   | P   |     |     | Jul-20  | Jun-23 |
| Ward 6          |     | P   |     | AX  |     | P   | AX  | P   | P   |     |     |     | Jul-19  | Jun-22 |

**Hickory Regional Planning Commission**  
**Wednesday, April 28, 2021, 6:00 pm**

A regular meeting of the Hickory Regional Planning Commission (HRPC) was held on Wednesday, April 28, 2021, 6:00 pm, in Council Chambers of the Julian G. Whitener Municipal Bldg.

**Members Present:** Randall Mays, Bill McBrayer, Junior Hedrick, David Deal, Robert Weaver, Wallace Johnson, Dan Shabeldeen, Bill Pekman, and Jeff Kerley

**Members Excused:** none

**Members Absent:** Sam Hunt

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

**Parliamentary Call to Order & Welcome:** Randall Mays, Chairman, called the meeting to order at 6:00 pm and welcomed everyone.

**Roll Call:** Mr. Frazier said a quorum was present, Mr. Hunt was absent, and Ms. Locke resigned from her position on the Planning Commission this morning, effective immediately. She also notified Councilwoman Patton, and Mr. Frazier sent an e-mail to Chairman Mays this morning, advising him of Ms. Locke's resignation.

**Items of Correspondence:** none

**City Council Action:** Mr. Frazier said City Council held the second reading of Scott Riley's rezoning petition last week, and it was approved unanimously.

**Approval and Signing of Minutes from the March 24, 2021 Meeting:** Minutes from the previous meeting were distributed to members in advance. No additions, deletions or corrections to the minutes were stated. David Deal moved, seconded by Bill McBrayer, to approve the March 24, 2021 minutes as presented. By a show of hands, the motion carried unanimously.

**PRESENTATIONS & PUBLIC HEARINGS**

Mr. Mays said there was one public hearing on the agenda, for Text Amendment 21-01. He read the NC State Ethics Commission's **Ethics Awareness & Conflict of Interest Reminder:**

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

None of the members attending stated a known conflict or requested to be recused.

**1. Text Amendment 21-01.** Consideration of various amendments to the Hickory Land Development Code to align the document with recently enacted requirements of the State of North Carolina. Said amendments also include other technical modifications, not directly related to the recently enacted state requirements.

Prior to the meeting, members were provided a copy of the 256-page document "Land Development Code – Hickory" dated November 19, 2019, and "2021 Land Development Code Update – Text Amendments (TA) 21-01," an 11-page summary of the proposed changes prepared by staff.

**Cal Overby** presented the Staff Report and referred to PowerPoint slides.

Mr. Overby reviewed slide #2 (Text Amendment 21-01):

- Annually, staff reviews the City's Land Development Code to identify areas of improvement.
- This year's review largely includes revisions made necessary by NC Session Law 2019-11 but does contain needed technical revisions identified by staff over the course of 2020.
- Session Law 2019-11 replaces the land-use sections in NCGS 160A (cities) and NCGS 153A (counties) and codifies both into NCGS 160D.
- In addition to the codification, the new chapter significantly revises the procedures associated with land-use decisions.
- NCGS 160D is currently in effect as a law, but local governments have been given until August 1, 2021 to modify their ordinances to reflect the new laws.

He said members had before them a huge change in much of state law regarding planning activity, such as zoning, subdivision regulations, Board of Adjustment legalities, and things of this nature. He said this law is now effective, but they are allowed some time to adopt and merge the new ordinances into their current processes for future purposes. It codifies a couple of laws they knew already existed, and staff had already planned to implement them, prior to the State Legislature's move to create a new chapter, which basically took all of the planning statutes from the Cities and Counties, and codified them into one revised section of statutes.

Mr. Overby reviewed slide #3 (Article 1 – Introductory Provisions):

- Article 1 – Introductory Provisions
  - Plans, comprehensive or otherwise, as now required to be officially adopted by governing bodies. (NCGS 160D)
  - Allows the use of digital zoning maps, but requires archiving prior maps. (NCGS 160D)
  - Regulatory documents are allowed to be referenced by name within development ordinances. Eliminates unnecessary changes should documents change. (NCGS 160D)
  - The language of what constitutes a performance guarantee, and what types of instruments may be used. (Session Law 2019-79)

Mr. Overby said a performance guarantee is commonly known as a bond, and the law basically dictates what a local government must accept as a bond, what their obligation is regarding holding a bond, as well as releasing one. Included are letters of credit, an actual performance bond, cash or check. It caps the bond amount at 125% of the construction costs, which is what Hickory does, and it also outlines how they are released. Cash bonds are released with interest, whatever interest accrued throughout the process or duration. If it is a letter of credit or a performance bond, it must be surrendered back to the institution that issued it, removing it from their books and also from the client's records.

Mr. Overby reviewed slide #4 (Article 2 – Development Review Procedures).

- Article 2 – Development Review Procedures
  - Expands those who may submit applications for development approvals to include lessees, those holding an option to purchase, and an authorized agent. (NCGS 160D)
  - Requires posted notices be done in the same timeframe as all other required notices. Also includes rewording of certifications of notices. (NCGS 160D)

- Articles were amended to clearly indicate only the City, property owner, or their agent can initiate a rezoning. (NCGS 160D)
- Amended to state when notices are required, and who receives notices for specific actions. (NCGS 160D)
- Requires written notice of development approvals or denials. (NCGS 160D)
- Allows property owners to provide constructive notice to all persons who may have standing to appeal administrative development approvals. (NCGS 160D)
- Amended to outline which types of development approvals which conditions can be placed. (NCGS 160D)

Mr. Overby said that, in the past, the owner or their assigned agent could submit applications for development approvals, and now it could be a leaseholder, someone with an option to purchase, or someone of that nature, but it does not have to be the property owner. Regarding rezonings, any effort to down-zone a property to something more restrictive is clearly prohibited. He said this had not happened locally in the past, but it must have happened somewhere, since it was addressed by the legislature. The notices being addressed are related to any type of development approval, including zoning permits, a subdivision map, a special use permit, and basically dictates that the owner and applicant, if they are two different people, would each receive notification of the approval. Regarding constructive notice, the contractual attorney who assisted Mr. Overby advised that this has actually been practiced before, where a property owner addresses staff and asks for what is called an administrative decision, meaning they are given a zoning permit or are told they can do this-or-that with their property. Then they can actually post a sign on their property, with required letters 18-inches tall, so that anyone, such as an adjacent property owner, would then be “given notice” this had happened, and they could then challenge the decision. Regarding the limitation on items that can be placed as conditions of approval, as far as Special Use Permits, only things that are outlined within the City’s ordinance can be addressed, and things that directly impact public safety, health, and welfare. So, if the Commission looks at a sidebar conversation about a roadway impact or another concern, those cannot be used as a condition of approval; that is outside the realm of what a Special Use Permit is supposed to do. Those items, such as traffic, would be addressed during the Planning meeting.

Mr. Shabeldeen asked if this was part of the section law. Mr. Overby said yes, and he could share more detailed information with him if he was interested in reading it.

Mr. Overby reviewed slide #5 (Article 2 – Development Review Procedures).

- Article 2 – Development Review Procedures (continued)
  - In the event development rules change once an application has been submitted, the applicant has the ability to choose which rules will govern. (NCGS 160D)
  - NCGS 160D clarifies and modifies the establishment and duration of vested rights. In summary:
    - Building Permits: 6 months unless work has commenced;
    - Other Development Approvals: 1 year unless work has commenced;
    - Site-Specific Development Plans: 2 years, with the option of being expanded to 5 years, provided the extension is approved in compliance with NCGS 160D; Examples of site-specific development plans are planned developments, special use permits, and subdivisions.
    - Multi-Phase Developments: 7 years from initial approval, and must contain no less than 25 acres; and,

- Development Agreements: No expiration date, unless specified in agreement.
- Changes in zoning shall not impair duly established vested right, unless, after an evidentiary hearing, conditions are found serious threats pose a serious threat to public safety, safety, and welfare.

Regarding which rules will govern, Mr. Overby said this has actually been in effect for some time, from when the economy crashed about 8-years ago, but had been codified into section 160D. He said if a development application has been either applied for or approved, and the rules change, then the applicant or holder of the permit has the choice of using either the previous or the current rules, which is a benefit to the property owner. Regarding vested rights, Mr. Overby reviewed each of the five bullet points, noting that a site-specific development plan could actually be extended to 5-years, by vote of the City Council.

Mr. Overby reviewed slide #6 (Article 2 – Development Review Procedures).

- Article 2 – Development Review Procedures (continued)
  - The procedures and requirements for quasi-judicial hearings have been modified to more align them with an actual court proceeding. Language throughout NCGS 160D now refers to evidentiary hearings. Other modifications include:
    - Who may participate in a hearing (applicant, city, and those with standing);
    - Allows others to present competent, material, and substantial evidence;
    - Outlines how materials are provided, board’s responsibilities/powers; and
    - Requires board’s decision be based only upon findings of competent, material, and substantial evidence.
  - NCGS 160D - 403 establishes a sunset provision of one year for development approvals permitted by the City. Similar to vested rights, but expands to all types of development approvals; including quasi-judicial decisions, but not legislative decisions (i.e. rezonings).
  - NCGS 160D - 605 requires City Council to adopt both a consistency statement of plan consistency and reasonableness before ruling on rezonings or text amendments. These items must be clearly outlined in the meeting minutes, and Council was aware of and considered the Planning Commission’s recommendation.

Mr. Overby said that throughout the new chapter adopted by the Legislature, they refer to quasi-judicial hearings as evidentiary hearings, which makes it appear more “legalistic” in nature. The modifications transform the hearings into much more of an actual court proceeding. The Board of Adjustment would be gathering information from the applicants to make its decision. What it says, is to basically dictate who can participate in the hearing. Specifically, it is the applicant, the City, and those that have standing.

Mr. Overby said to consider the example where there is a piece of property and the owner of the property submits a Special Use Permit application to establish a day care in a residential district. The surrounding property owners have standing, and likely some others in the general vicinity. But if someone lives across town and they want to come and speak because they drive by it every day, and do not think it is a good idea, they do not have standing to speak and cannot be included in the hearing. Also, the Board of Adjustment and the Planning Commission, acting on quasi-judicial matters, can only evaluate things based upon competent material and substantive evidence. This means that opinions, and such, do not count as items to be considered.

It is staff’s responsibility to provide materials to the Boards, and clarify the responsibilities and powers of the Boards, how they operate, and make findings and decisions.

Mr. Shabeldeen said if this outlines who may participate in the hearing and that it must be someone with standing, then if Board members are sitting there, and people are signed up to speak, how do the members determine if they are in standing or not. Mr. Overby said the Board has to determine that, and generally speaking, the Chair of both the Board of Adjustment and Planning Commission has the power to make that determination; that decision should also be made in consultation with legal counsel.

Mr. McBrayer said he expects they would determine the standing of the person speaking by their address. Mr. Mays asked how the Chair would question this during the actual hearing, after the person had already signed up to speak. Mr. Overby said that, first and foremost, it should be someone whose residence immediately abuts the property, or a property that would be directly impacted, such as if an improvement was being made to a property that would cause an ongoing traffic jam at the intersection just down the block; this is how he would look at it.

Mr. Shabeldeen said that a notice is sent out to everyone within 500-feet of the property. Mr. Overby said yes, but the City is not actually required to do this, saying that Hickory's advertising requirement goes way beyond what the State requires. The State only requires the City to send notice to adjacent properties; a notice to all properties within 500-feet is not required. Mr. Overby said that is something the City elected to do in order to give notice to people. In the instance of appeals, such as when someone appeals a decision made by the Director, then there are no notice requirements at all. He said Hickory goes above and beyond, just for the sake of making sure the public is aware of what is going on, and those are the reasons behind this.

Mr. Shabeldeen asked Mr. Mays if he was okay with this process, and Mr. Mays said yes, that he was asking how they would be able to weed some people out, and ensure that someone has standing. Mr. Shabeldeen said it seemed rather subjective to him. Mr. Deal said that Mr. Mays always asks each speaker to state their name and address, so it would come down to the person's address, and what if they live nowhere near the property. Mr. Frazier said each person states their physical address, but staff also has maps available and the speaker could use the laser pointer to pinpoint their residence on the map.

Mr. Mays asked what if he had an adjacent property, but did not live at that address. Mr. Overby said if they own property that directly abuts it, then they have standing. Ms. Dula said they were not required to live on the property. Mr. Overby agreed, saying it just has to impact their property, and obviously these Boards will need to go through a learning curve on how "standing" works. Ms. Dula said staff would need to do further training with the members.

Mr. Shabeldeen stated he could see how this could become a difficult situation, with the potential of people becoming very angry, and quickly, if Mr. Mays tells them, "No, we are not going to let you speak." Mr. McBrayer said that, speaking historically, most of the people who have chosen to speak had a direct interest in the property being discussed; there might be others who are debating it, but he had no idea where any of them lived in relation to the property being discussed. Mr. Mays said he expects it will be judgmental call, and the Board's decision as to whether a person will be allowed to speak or not, based on their direct contact with a particular property and the action being taken.

Mr. Overby said the Chair of the Board of Adjustment has a lot of power. They can actually issue a subpoena and require someone to come and give testimony, and also have other powers; they are almost acting like a Judge. He said the members would be depending on Ms. Dula to guide them through the process, and noted this statute makes everything more process specific, that there is no deviation. Mr. Mays said the statute does clarify a lot of the actions that can be handled; it says what you can and cannot do, and how you are allowed to go about it.

Mr. Overby continued to review slide #6, saying a sunset provision is established for any other type of development approval that is not listed under vested rights, whether that is a zoning permit or anything of that nature, a floodplain development permit, etc. Basically, if they have not started work in a year, and continue to work, then the permit is not valid; or, if they stop work and a year passes, the permit is not valid.

Mr. Overby said the next one had been in effect for a while, but it was codified to stand alone now. City Council can no longer simply vote through a rezoning or text amendment. Now the statute requires that City Council adopt a statement of consistency, similar to what the Planning Commission does, and also state that the item is reasonable and why it is reasonable. All of this must all be clearly outlined in the meeting minutes. He said Council was aware of and considered the Planning Commission's recommendation regarding the matter. So, this is new and may be a learning curve for City Council.

Mr. Overby reviewed slide #7 (Article 2 – Development Review Procedures).

- Article 2 – Development Review Procedures (continued)
  - Amendments were made to clearly define what constitutes a minor or major modification to plans. This was recommended by legal counsel to eliminate ambiguity.
  - NCGS 160D - 702 stipulates conditions may not be placed upon development approvals without the applicant's consent.
  - NCGS 160D - 803 establishes requirements for those public entities who must be provided opportunity to comment on property divisions. The same section also outlines who receives decision notices.
  - NCGS 1403 modifies the appeal process for property divisions. Appeals now go directly to Superior Court, rather than the Board of Adjustment.
  - Legal Counsel recommended strengthening the requirement property divisions cannot be granted unless criteria are met.
  - NCGS160D – 705 prohibits requiring improvements of infrastructure, dedications, etc., for which legislative authority does not exist.
  - Legal Counsel recommended applicant consent in writing to reasonable conditions placed upon permits.

This is current case law.

Mr. Overby said staff has developed a definition for what constitutes a minor or major modification to a plan, along with their contractual legal counsel. Basically, a major modification was defined as being something that changes heights, forms, density, uses, and sizes, which is similar to what they had before, but it further certifies those throughout the ordinance. He said conditions cannot be placed on anything without the applicant's consent; that does not mean it could not be denied, it just means they cannot have conditions placed on it arbitrarily that they do not agree with. Mr. Overby believes this has been ruled on in court for a couple of items. He said this would have a lot of weight on conditional zoning, planned developments, some Special Use Permits. He said their contractual attorney had suggested they should get this consent in writing from both parties and keep it on file, so if it ever comes up in the future, they would have something to back them up.

Mr. Overby said it establishes requirements for public entities, such as the Department of Transportation, Public Health Department, Department of Natural Resources, Environmental Health, etc., with an opportunity to comment on property divisions. He said they are all included on their department's mailing list. Regarding the sub-division appeal process, Mr. Overby said he was not sure about the reason for this one. Whether it is a minor sub-division, meaning just a few lots, or a major sub-division, meaning an entire housing development, those are no longer appealed to the Board of Adjustment, but go straight to Superior Court. All of Hickory's sub-divisions, regardless of type, are staff approved, and there is no board or formal group involved. Regarding prohibiting improvements of infrastructure, dedications, etc., for which they have no authority to do so, Mr. Overby said this would include certain types of roadway improvements, the dedication of property for various purposes, etc. He said it allows for property to be reserved for schools, and that a school system has 12-months

to move on purchasing the property before it goes away. He said this goes along with the reservation of right-of-ways for road projects, and cited an example where the development was not constructed yet.

Mr. McBrayer asked if Trivium Corporate Center would be an example of this, where they will eventually open up the road to 4-lanes. Mr. Overby said yes, and they have been advising all developers of that, since why would a developer want to go ahead and build something they knew was going to be torn up, unless they wanted imminent domain to happen.

Mr. Overby said the last point on the slide is, again, about recommending that the applicant consent in writing to reasonable conditions put on permits, as well as the City.

Mr. Overby reviewed slide #8 (Article 2 – Development Review Procedures).

- Article 2 – Development Review Procedures (continued)
  - NCGS 160D – 705 outlines what elements of a Special Use Permit may be administratively modified.
  - NCGS 160D – 947 changes the term guidelines to standards for historic districts. Impact of the change is unclear at this time.
  - NCGS 160D – 947 modifies the procedure for Historic Preservation Commission meetings. Provides clarity to existing procedures.
  - NCGS 160D – 406 outlines appeals to certificates of appropriateness, and what items are to be considered.
  - NCGS 160D – 403 states only those with standing may appeal administrative decisions.
  - NCGS – 1402 addresses stay of action when an appeal has been filed.
  - Section 2.10.6(d) was deleted, as legislative authority does not grant this power to remand items back.
  - NCGS – 109 expanded and added what creates conflicts of interest for elected and appointed officials, as well as administrative staff.

Regarding what may be administratively modified on Special Use Permits, Mr. Overby said it could not be use, density, size and those other items. Staff can approve minor modifications, such as general building placement, and perhaps driveway locations, but they cannot be anything really significant to the Special Use Permit itself. Regarding historic districts, the term “standards” has replaced “guidelines” and he was not sure what the implications of this would be. He said the two terms do not seem that much different from each other, but staff will see how that turns out in the future as it relates to historic districts. Regarding Historic Preservation Commission meetings, Mr. Overby said the procedures have been slightly modified to make them more in line with a regular quasi-judicial hearing; they already are, to some degree, but this makes them much more so now, and more like what the Board of Adjustment does.

Mr. McBrayer asked if he meant it is more of an evidentiary hearing, and Mr. Overby said yes.

The next section addresses appeals of major Certificates of Appropriateness, and what is considered when appealed. Mr. Overby said he was advised by counsel that when they are appealed, they then basically start from scratch; whoever appealed it is not appealing the decision, they are appealing the entire process. The next section addresses the stay of action when an appeal has been filed; any enforcement matters cease until it is rectified, unless something is directly impacting public health and safety.

Mr. Overby said this section was difficult to understand. When acting on variances, it almost seems to give the Board of Adjustment the power to remand things back to staff to review again; there is actually no power for staff to do that, so this was interesting to him. He said either the Board of Adjustment has to make their decision then, or not – that seems to be how it would work.

Mr. McBrayer asked if it could be tabled until the next meeting. Mr. Overby said yes, it can be pushed further out, but it cannot be pushed back; it is not like a higher court remands it back to a lower court.

Dr. Pekman asked for clarification that what staff provided to members is a summary of the 256 page Land Development Code document, and the slides represent only a portion of the summary document. Mr. Overby said yes, that too many slides would be needed for the entire summary.

Regarding what creates conflicts of interest, Mr. Overby said the verbiage says that in addition to the direct, financial, or familial conflicts of interest, it also adds associated relationships that may have financial impact. He was not certain what that means, but legal counsel could address it. He guesses it means that if someone is associated with anyone who may have a financial impact on it, then they would have a conflict of interest, and that was his interpretation of it.

Mr. Overby reviewed slide #9 (Article 3 – Base Zoning Districts & Article 4 – Overlay Zoning Districts):

- Article 3 – Base Zoning Districts
  - Each district was amended to clearly state local governments are prohibited from regulating the design elements for one and two-family residences built to state building code. The appearance of manufactured homes can still be regulated. (Prior legislation)
  - Staff recommends adding a sub-section addressing container and other non-traditional homes. This would include meeting the set-up and appearance standards required for manufactured homes, and these dwellings are built to NC residential building code.

He said this one has been in effect for quite awhile, and staff has never done anything like this. Local governments are prohibited from regulating the appearance, style, and size of dwellings built to the one- and two-family State building code. So, single-family homes and duplexes cannot be regulated, but the appearance of manufactured homes can still be regulated. They do have a lot of standards for apartment complexes, but they fall under the City’s commercial building codes.

Mr. Overby said staff had been discussing the second item listed with legal counsel for quite awhile. Other jurisdictions are seeing people converting shipping containers into houses, and turning lawn mower sheds from Home Depot into houses. He said that is all good, but the decision staff came to is that it must meet the NC building code for dwellings. So, moving forward, that is the recommendation from staff to Council.

- Article 4 – Overlay Zoning Districts
  - Amended watershed overlay to incorporate new state rules regarding grandfathered impervious surfaces and cluster development.
  - Amended the definition for existing development in water supply watershed to reference other sections of the ordinance.
  - Amended use of the term guarantee rather than bond, what can be offered as a performance guarantee, and the City’s obligations in holding and releasing the guarantee.

Mr. Overby said the next couple were about Water-Supply-Watersheds, with respect to areas near Lake Hickory. There were several new State rules regarding definitions of an existing impervious area, the definition of a buffer, and requirements for cluster development within Water-Supply-Watersheds. All of these were

incorporated into that section. The definition of “Existing Development” was modified to reference another section of the Land Development Code, rather than the General Statutes. The term “guarantee” was modified from the previous “bond”, as the General Statutes now refer to the terms in this manner.

Mr. Overby reviewed slide #10 (Article 5 – Planned Developments & Article 6 – Use Regulations):

- Article 5 – Planned Developments

- Modified by the recommendation of staff to increase the permissible floor area ratio (FAR) for Planned Developments.
- Modified to reflect Session Law 2020-25 regarding overhead power lines. Local governments are prohibited from requiring the burial of overhead utility lines that either existed prior to development or are located outside the boundary of the development site.

Mr. Overby said staff recommended that the permissible floor area ratio (FAR) be increased for Planned Developments. Modifications also added language indicating City Council has responsibility for approving the dimensional standards for lots in Planned Developments, after consulting the Long Range Plan. The next one regards overhead power lines on properties that, prior to development, had existing overhead power lines, or if they were outside the property line boundaries.

Mr. Mays asked how far outside the boundaries of the development site this means. Mr. Overby said right outside the property line where development is taking place. Mr. Mays said, so it means adjacent to the property being developed, and Mr. Overby said exactly.

- Article 6 – Use Regulations

- Recommendation by staff to add single-family attached to the use table. The use would be permitted by-right in R-1, R-3, R-4, OI, NC, and C-1. Single-family attached have been defined in the glossary using the definition provided in NC building code.
- NCGS 160D – 909 prohibits local governments from eliminating manufactured homes from their jurisdictions and prohibits the regulation of manufactured homes based upon age but continues to allow regulation based upon appearance.

Mr. Overby said staff made some changes to the use table listing for single-family residences. The modification creates two listings for single-family residences, single-family attached and single-family detached. He noted that R-2 would remain as only single-family detached. The next one is new, stating that local governments can no longer exclude manufactured homes, based on their age. Standards regarding the appearance and set-up standards for manufactured homes may still be regulated.

Mr. Overby reviewed slide #11 (Article 6 – Use Regulations & Article 7 – Intensity, Dimensional and Design (all are staff recommended)):

- Article 6 – Use Regulations (continued)

- Recommendation from staff to strengthen the appearance standards for manufactured homes. Provides a clearer description of roofing and siding materials. Similar to standards of Catawba County.
- Terminology for performance guarantees was changed as required by NCGS 160D – 804.
- Recommendation by staff to increase the distance requirements between day centers, food pantries, and shelter facilities from 1,500 feet to 2,500 feet.
- NCGS – 160D – 903 prohibits municipalities from regulating bona fide farms in extra-territorial-jurisdictional (ETJ) areas.

Mr. Overby said staff recommended that appearance standards for manufactured homes be strengthened; this includes a clearer description of roofing and siding materials. The terminology for performance guarantees was also changed. Three sections were amended to increase the separation between day centers, food pantries, and helter facilities, from 1,500 feet to 2,500 feet. He said the final section here prohibits municipalities from applying zoning regulations on bona fide farm operations within extraterritorial jurisdictional areas (ETJs).

Mr. Deal asked what a day center is, and Mr. Overby said they serve the homeless or indigenous population by offering services for them. Day centers offer a place for them to go during the day, only, and their services might include a place to take a shower, do laundry, receive counseling, and contact family members, things of that nature.

Mr. Kerley said they have run into the farm operation situation in his subdivisions, and that, even though they are considered farm animals in the County, you cannot enforce that people will not have chickens in their yard. He said many neighbors do not like having chickens in nearby yards. Mr. Overby said chickens are different from bona fide farm animals, and that five (5) of them are allowed on property, anywhere. He knows of residences, some of them very large, that have chickens on their property. He said it specifically states “small fowl.” They took the exact verbiage in the City’s Animal Control Ordinance enforced by the Police Department and inserted it into the Land Development Code; this way, they can go outside the city limits, where Animal Control cannot. So, that was how this originated. Mr. Overby said swine were mentioned, and are prohibited.

- Article 7 – Intensity, Dimensional, and Design (all staff recommended)
  - Insert minimum lot sizes for single-family attached in R-1.
  - Modify minimum lots sizes for R-4. Current sizes do not equate to actual permissible units per acre.
  - Increase the permissible units per acre in R-3 from 6 to 10, which is more in-line with the Hickory by Choice Plan.

Mr. Overby said they inserted lot sizes for single-family attached residences in the R-1 district, made marginal changes to lot sizes for R-4, and increased permissible units from 6 to 10 per acre in R-3 to make it more in-line with Hickory by Choice 2030.

Mr. Overby reviewed slide #12 (Article 7. Intensity, Dimensional, and Design (all staff recommended)):

- Article 7 – Intensity, Dimensional, and Design (continued)
  - Increase the maximum building height in R-3 from 35 feet to 40 feet. The extra height would create the opportunity to construct 3-story buildings.
  - Increase R-3 and R-4 densities and lot dimensions to match the comprehensive plan.
  - Increase the minimum lot width in R-4 from 40 feet to 60 feet.
  - Delete footnotes 2 and 3. The requirements do not appear to have any positive effect on attached housing.
  - Deletion of requirement for 20% multi-family off-street parking to be located behind building lines.
  - Reduce minimum lots size for C-3 to 15,000 ft<sup>2</sup>, which aligns with C-2.
  - Reduce the minimum lot with for C-1 to 25 feet (downtown area).

- Increase the permissible density in all office and commercial districts (except C-1, which is currently FAR of 6). FARs increased from 0.85 to 2. While intensity has never been an issue, the increase will allow for greater opportunities.
- The maximum height for non-residential development abutting R-1 and R-2 has been increase from 30 feet to 35 feet.

Buildings above this height are required to have a 1:1 foot offset for differences in building height.

Mr. Overby said they increased the maximum building height in R-3 districts from 35 to 40 feet, creating opportunities to construct 3-story buildings. The densities and lot dimensions in R-3 and R-4 were increased to match the Comprehensive Plan, and the minimum lot width increased from 40 to 60 feet in R-4. They deleted footnotes 2 and 3, and the requirements do not appear to have any positive effect on attached housing. They deleted the requirement that 20% of parking be located behind building lines for apartment complexes, and reduced the minimum lot size for C-3 to 15,000 sqft, to align C-3 districts with C-2 districts, which possess similar characteristics. He said they reduced the minimum lot width for C-1 to 25 feet in the downtown area. The permissible density in all office and commercial districts, except for C-1, was increased from 0.85 to 2. FARS. He they have never really had any problems with density, but increasing it would allow for greater opportunities. When abutting R-1 and R-2, he said the maximum height for non-residential development was increased from 30 feet to 35 feet.

Mr. Overby reviewed slide #13 (Article 7. Intensity, Dimensional, and Design (all staff recommended) & Article 8 – Subdivisions):

- Article 7 – Intensity, Dimensional, and Design (continued)
  - Increase the maximum building height in OI from 50 feet to 55 feet.
  - Eliminate the size limitations for accessory structures for industrial uses in IND.
  - Increases permissible intensities for colleges, universities, and medical centers located within OI.
  - More clearly define where and how front building setbacks are measured.

Mr. Overby said they recommended increasing the maximum building height for the OI district to 55 feet, which would allow for greater use of smaller properties and accommodate larger development projects, and eliminated the size and height restriction of accessory structures for industrial uses within IND districts. The permissible intensities were increased for colleges, universities, and medical centers located within the OI district, and they more clearly define where and how front building setbacks are measured.

- Article 8 – Subdivisions
  - Amended to reflect exemption of property line manipulations that do not constitutes a property division.
  - Amended the standards for conservations subdivisions as follows:
    - Increase minimum area from 2 acres to 10 acres;
    - Only allow access from newly constructed streets; and
    - Conservation areas must be largely contiguous, commonly maintained by a HOA/POA, and not a portion(s) of any individually-owned building lot.

For subdivisions, Mr. Overby said it clarified that manipulation of property lines are not subdivisions; also, the acquisition of right-of-way is not a subdivision. They also amended their conservation subdivisions. He said it is basically 2-acres now and they suggested going up to 10-acres, as it had been 10-acres at one time, but was reduced down, and they are looking to put it back where it was previously. He said it only allows access from new roadways; and, the conservation areas must be largely contiguous.

Dr. Pekman asked why the standard was amended from 2- to 10-acres. Mr. Overby said that with 10-acres you could logically build in a road and driveway, and make that work; with 2-acres, you would not. He said open space is also required for these to be set aside, so when that is done, 10-acres is on the lower end; realistically, 20-30 acres would be set aside. He said the minimum standard is not the maximum standard.

Mr. Overby reviewed slide #14 (Article 8 – Subdivisions):

- Article 8 – Subdivisions (continued)
  - Amended to reflect NC Session Law 2020-25. Local Governments no longer have the authority to require the burial of existing overhead utility lines, or any overhead utility lines outside the parcel's boundary.
  - Revision of language regarding performance guarantees as required by NCGS 160D – 804, and NC Session Law 2019-79.

Mr. Overby said overhead utility lines were addressed earlier, and that performance guarantees were amended.

Mr. Overby reviewed slide #14 (Article 9 – Standards of General Applicability):

- Article 9 – Standards of General Applicability (most staff recommended)
  - Amended to reduce the required parking for senior housing from 0.6 to 0.3 spaces per dwelling unit.
  - Amended to include fast-food restaurants under the heading for retail for the purpose of calculating required parking.
  - Amended to reference Engineering Manual of Practice regarding intersection visibility.
  - Amended to set maximum intensity limits for tube lighting.

Mr. Overby said they amended their code to reduce the required parking for senior housing from 0.6 to 0.3 spaces per unit, as found in several engineering manuals for parking and other case studies. They amended their parking definitions to include fast-food restaurants under retail and amended code regarding intersection visibility. He said the intersection visibility the City now uses is not one-size-fits-all – it may be one thing for one intersection and different for another one. It had previously worked great if the topography was flat and everything was straight, but if you have curvatures, and uphill and downhill areas, it is a very different situation.

Mr. Overby said tube lighting and neon lighting in windows, etc. became an issue about 6-months ago; all of a sudden, this form of lighting was everywhere. Staff reviewed different standards for lighting, and looked at different examples of lighting from organizations and also other government entities. He said they developed intensity limits for tube lighting, similar to what you might see for the electronic billboards or electronic signs.

Mr. Overby reviewed slide #14 (Article 10 – Signs):

- Article 10 – Signs
  - NCGS 160D – 908 prohibits local governments from regulating fence wraps with advertising which surround construction sites.

- Amended to delete provision for signs on properties without buildings. Basically, off-premise signs are prohibited by the ordinance.

Mr. Overby said local governments are prohibited from regulating fence wraps around construction sites. Also, they had code where it contradicted itself, so they deleted the provision for signs on properties without buildings, since it was worded inappropriately.

Mr. Shabeldeen asked what the outcome had been a few months ago, regarding Winkler’s Grove Baptist Church and the electronic sign they wanted to put on their property. Mr. Overby said they never appealed it, so the decision of the Board of Adjustment stood. Also, staff has not any inclinations from City Council to proceed with an amendment.

Mr. Overby reviewed slide #15 (Article 13 – Violations, Penalties, and Enforcement & Article 14 – Definitions):

- Article 13 – Violations, Penalties, and Enforcement
  - NCGS 160A – 403 amends the process for the revocation of development approvals. Unlike in previous iterations, development approvals must be revoked in the same manner for which they were issued, including required notice and public hearing.
  - NCGS 160D – 404 amends the requirements for providing notice of stop work orders. Part of the current section was deleted and moved to Article 2, while another part was amended to clearly indicate notice requirements apply to stop works orders. Order must be delivered to permit holder.
  - Deletion of redundant sections previously covered within Article 2.
  - Amended to provide civil penalty must be paid within 30 days, not ten, which aligns with the period to appeal actions to the Board of Adjustment.
  - NCGS 160D – 404 reworks administrative staff’s ability to inspect work being conducted as part of a development approval. Consent must be given, and if not, an administrative warrant must be obtained to inspect areas not open to the public.

Mr. Overby said that when a development approval is granted, in order to revoke it, unless it is a stop work order for something that was dangerous, it must be done in the same manner in which it was issued. So for a Special Use Permit, a public hearing would be needed to revoke it, unless it goes outside the established vested rights. He said the City could start enforcement action, but in order to fully revoke it, the permit must go through the same process for which it was approved, so it could be a lengthy process. Again, a notice of stop work order must be either hand-delivered or sent electronically, and the sender must attest that it was sent or delivered to that person.

Mr. Overby said they deleted some redundant sections that were actually covered in other Articles. Regarding civil penalties, the current code requires the fines be paid in 10-days; this was amended to 30-days, which matches the appeal period of the Board of Adjustment. He said staff must receive consent in order to inspect an area that is not open to the public; if consent is not given, then an administrative warrant is needed. Mr. Overby said that, to his knowledge, this has never come up in the past.

Mr. Overby reviewed slide #16 (Article 13 – Violations, Penalties, and Enforcement):

- Article 13 – Violations, Penalties, and Enforcement (continued)
  - Amended to clarify the methods for which notices of violation for non-emergency matters are provided.
  - Amended to eliminate redundancies already covered in Article 2.

- NCGS 1-49 and 1-51 have long contained verbiage regarding statutes of limitation regarding land-use. Legal counsel recommended adding the verbatim language.
- NCGS 160D – 1405 carries over an existing statute of limitation found in NCGS 1-56. Legal counsel recommended adding the verbatim language.

Mr. Overby said they clarified the methods for providing notices of violation for non-emergency matters, which include hand-delivery, certified mail, and several other methods. It also eliminates several redundancies. He said this section has long contained this language regarding land-use statutes of limitation, and legal counsel advised that it be included in the ordinance for clarification purposes.

Mr. Overby reviewed slide #16 (Article 14 – Definitions)

- Article 14 – Definitions
  - Definitions were modified or added to reflect new terms defined in NCGS 160D.

Mr. Overby said a number of definitions were outlined earlier, such as what an evidentiary hearing is, etc.

Mr. Overby reviewed slide #17 (Findings & Recommendation):

- Findings
  - The NC General Assembly has passed legislation intended to modernize statutes outlining local government’s authority to implement land use regulations. While the legislation was made effective on January 1, 2021, local governments were given until August 1, 2021 to update their ordinances.
  - In addition to the statutorily required amendments, staff conducted its annual review of the Land Development Code, and provided amendments deemed necessary to continue the document’s purpose as an implementation tool for the City’s comprehensive Plan.
- Recommendation
  - Staff has found Text Amendments 21-01 necessary to comply with the NC General Statutes, and other amendments to be consistent with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:
    - The Planning Commission move to affirm the text amendment’s consistency with the North Carolina General Statutes, and the Hickory by Choice 2030 Comprehensive Plan; and
    - Forward a recommendation of approval to Hickory City Council.

In closing, Mr. Overby said staff recommends approval of Text Amendment 21-02. He asked if members had any further questions.

Mr. McBrayer asked if anything had transpired here that would be of concern to the citizenry of Hickory, anything that would cause major heartburn in some way, especially to a certain population. Mr. Overby said not really, that the changes made by staff do not make a great amount of difference in the scheme of things. However, he said a couple items he had discussed, from an esthetics standpoint, such as the overhead power lines and manufactured homes, those might be of concern to some people; some of the items, like these, could have a visual impact, especially the overhead power lines.

Mr. Mays said they had also taken the appeal action away from the Board of Adjustment and sent directly it to Superior Court. Mr. Overby noted this seemed strange, since it could even be for a minor sub-division.

Mr. Shabeldeen asked if Text Amendment 21-01 would now go to City Council for approval, if HRPC members recommend it tonight, and when it would be implemented and take effect. Mr. Overby said City Council would review it on May 18, and then on June 1, most likely. He said that, again, most of it is already in effect, except for the items he had pointed out regarding staff.

There were no further questions, and Mr. Mays thanked Mr. Overby for his presentation.

Mr. Mays said this would be a quasi-judicial hearing. The standard policy is for proponents to speak first and the opponents speaking second, followed by rebuttal time.

Mr. Mays opened the public hearing for Text Amendment 21-01.

**PROPOSERS**

None

**OPPOSERS**

None

There being no speakers, Mr. Mays declared the Public Hearing was closed.

There was no further discussion on Text Amendment 21-01.

Bill McBrayer moved, seconded by David Deal, that the Hickory Regional Planning Commission affirms Text Amendment 21-01 as being consistent with the NC General Statutes and the Hickory by Choice 2030 Comprehensive Plan, and forwards a recommendation of approval to Hickory City Council. By a show of hands, the motion carried unanimously.

Mr. Mays said a recommendation of approval would be forwarded to Hickory City Council.

**Other Business:** Mr. Mays asked staff and legal counsel if they had any further business for the Planning Commission, and there was none.

Mr. McBrayer asked when members would receive a final copy of the revised Land Development Code, after it goes to Hickory City Council. Mr. Overby said that as soon as the revisions are made and he re-formats the document, he would provide a final copy to members.

**Next Meeting:** The next meeting is scheduled for Wednesday, May 26, 6:00 pm, in Council Chambers.

**Adjourn:** Dan Shabeldeen moved, seconded by Robert Weaver to adjourn. There being no further business, the meeting adjourned at 7:10 pm.

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Randall Mays, Chairman  
Hickory Regional Planning Commission

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Anne Starnes, Minutes Clerk  
City of Hickory

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

DATE SUBMITTED: May 28<sup>th</sup>, 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 Eller Drive terminus, between Short Road terminus and Lutz Blvd terminus.

PIN NO. (S): 371116844173, 371119615646, 371119622278, 371119628108,  
371116726809, 371116837965, 371116849988

Physical (Street) Address: 3350 Eller Dr., Newton, NC 28658

The property is owned by: (please print) REC Group, LLC & RECL NC, 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: J. Clayton Neill

Address: PO Box 3916 Hickory, NC 28603

Phone Number: 828-244-6265

Email Address: clay@neillinc.com

2. The petition is submitted by: Eric Yeargain

(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: Eric Yeargain

Address: 3050 1<sup>st</sup> Ave Ct SE, Hickory, NC 28602

Phone Number: 828-324-6774 Ext 14

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

FROM: R-1 & R-20 TO: R-2 Conservation

4. Please list the current use(s) of the property: Farmland

**Applicant's Affidavit**

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

Cheryl Neill  
Signature of Applicant

Sworn and subscribed to before me this 24th day of May, 2021.

(SEAL)

Susan J Wilson  
Notary Public Susan J Wilson

08-02-2025  
My Commission Expires

SUSAN J WILSON  
Notary Public  
North Carolina  
Catawba County

**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.**

**NOTICE TO APPLICANTS AND/OR AGENTS REGARDING ADVERTISING FEES**

In addition to the application fees required at the time of application submittal, the applicant and/or agents is responsible for remitting payment to the City of Hickory to cover legal advertising/notices costs. Advertising costs are billed by the City of Hickory after the rezoning process concludes.

Requests for rezoning require two public hearings (Hickory Regional Planning Commission and Hickory City Council). State law and the Hickory Land Development Code requires specific notices of public hearing be provided prior to the public hearing. These requirements are necessary for each of the two public hearings. The notices required by law include the following:

- Posting of property (sign);
- First class mailed notices sent to all property owners within 500 feet of the subject property; and
- A legal notice published in the local newspaper (the notice must run two consecutive weeks).

The average costs of such required legal advertising range from \$400.00 to \$700.00 depending on the size of the property and the complexity of the request.

## REZONING ANALYSIS

**PETITION:** 21-02

**APPLICANT:** Eric Yeargin / City of Hickory

**OWNERS:** REC Group, LLC / RECL NC, LLC

**PROPERTY LOCATION:** Between the terminus of Short Road and the terminus of Eller Drive, including 2205 and 2120 Markland Drive and 3350 Eller Drive.

**PIN:** 3711-16-84-4173, 3711-19-61-5646, 3711-19-62-2278, 3711-19-62-8108, 3711-16-72-6809, 3711-16-83-7965, 3711-1684-9988

**WARD:** Upon annexation, the properties will be located in Ward 3 (Councilman Seaver).

**ACREAGE:** 137.229 acres

**REQUESTED ACTION:** Rezone the properties from Catawba County R-20 and a small area of R-1 Residential to City of Hickory R-2 Residential. The subject properties are currently in the process of being annexed.

**BACKGROUND:** The property owners has filed a petition to annex the properties into the City of Hickory to gain access to city utilities. Upon annexation, the zoning of the properties must change from Catawba County to City of Hickory.

**DEVELOPMENT POTENTIAL:** Under the current city and county zoning the properties can be developed for single and two-family residential uses at a density of two (2) dwelling units per acre. Given the current zoning, the properties could theoretically yield 270 dwelling units. The subject properties are currently vacant; however, the owners intend to develop the properties as a single-family residential subdivision.

The owners, pending annexation, have requested the properties be zoned Residential – 2 (R-2). The density and uses in R-2 are different than R-1 and R-20. The maximum R-2 density is 4 units per acre; however, R-2 does not permit duplexes or manufactured homes as the R-1 and R-20 districts. Given the area, 137.299 acres, the properties could theoretically yield 549 single-family lots under R-2 zoning.

**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 properties to R-2 Residential should be considered to be 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 properties 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 properties have access to a state-maintained roadway, 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 properties. The land-use pattern of the area, with the inclusion of the subject properties, 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 properties 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 properties 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 properties (**Please refer to Maps below for more detail**):

- **North:** The properties are zoned R-20 Residential by Catawba County, and are occupied by single-family residences or vacant.
- **South:** The properties are zoned R-20 Residential by Catawba County. These properties are either occupied by a single-family residence, or vacant.;
- **East:** There is one PD to the east of this property occupied by apartments. The other properties are zoned R-20 Residential by Catawba County. These properties are occupied by single-family residences, one mobile home park, and some vacant land.
- **West:** The property is zoned R-20 Residential by Catawba County, Highway Commercial by Catawba County, and some R-1 Residential by Hickory. These properties are occupied by single-family residences, and an auto collision repair shop.

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 properties 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 current zoning and prior use of the properties likely had, or could comparable impacts on the surrounding neighborhood. The requested Medium Density Residential (R-2) zoning is similar to the existing zoning. The permissible uses of R-2 zoning will aid in 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 properties are located within an area where the Hickory by Choice 2030 Comprehensive Plan anticipated continued residential development. The future use of the properties is residential.*

*Any future development that occurs of the subject properties 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 21-02 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 June 14, 2021, staff has received two (2) inquiries regarding this petition.





