

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, October 4, 2022 at 7:00 p.m., with the following members present:

Tony Wood	Hank Guess	David L. Williams
Charlotte C. Williams	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also present were City Manager Warren Wood, Deputy City Manager Rodney Miller, Assistant City Manager Rick Beasley, Deputy City Attorney Arnita Dula, City Attorney John W. Crone, III, Deputy City Clerk Crystal B. Mundy and City Clerk Debbie D. Miller

- I. Mayor Guess called the meeting to order. All Council members were present.
- II. Invocation by Reverend Christy Lohr Sapp, St. Andrews Lutheran Church
- III. Pledge of Allegiance
- IV. Special Presentations

Mayor Guess welcomed Lenoir-Rhyne University students from Dr. Stokes class, a Community Services Class. He imagined that their professor was going to give them some extra credit or something for attending. He asked them to stand up. Everyone could attest to Dr. Stokes that they were present. Alderwoman Williams had recently spoke to their class and challenged them to come to a City Council meeting. Probably when she left the professor turned it into a mandatory, maybe you would get extra credit if they came.

- A. Proclamation for Fire Prevention Week Presented to Hickory Fire Department Staff

Mayor Guess recognized Battalion Chief Jason Lowrance and Fire Marshal Stephen Craig. He asked them to the podium for the presentation. He commented on behalf of Council, on how much they appreciated the City's Fire Department Staff. He knew that it was Fire Prevention Week, but obviously these gentlemen and all of their cohorts were on duty 24/7 365 and they certainly do appreciate their dedicated service and their commitment to making all of the citizens in the City of Hickory and surrounding area safe. He thanked them for their service. Mayor Guess read and present the Proclamation for Fire Prevention Week to staff in attendance.

- V. Persons Requesting to Be Heard

- VI. Approval of Minutes

- A. Regular Meeting of September 20, 2022.

Alderwoman Patton moved, seconded by Alderman Zagaroli that the Minutes of September 20, 2022 be approved. The motion carried unanimously.

- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.

Alderwoman Patton moved, seconded by Alderwoman Williams that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

- A. Budget Revision Number 6. (First Reading Vote: Unanimous)

- B. Rezoning Petition Number 22-07 for Property Located at 432 Catawba Valley Boulevard SE from R-1 Residential to R-2 Residential. (First Reading Vote: Ayes: Mayor Guess, Alderman Wood, Alderwoman Williams, Alderman Seaver, Alderman Zagaroli, Alderwoman Patton; Nay: Alderman Williams)

- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.

Mayor Guess moved, seconded by Alderman Seaver approval of the Consent Agenda. The motion carried unanimously.

- A. Approved a Cemetery Deed Transfer from Robert L. Johnson, Jr. to Audrey Webber Esposito, Oakwood Cemetery, Plot J, Lot No. 10, Section 48, Grave Space No. 1, and No. 2. (Prepared by Attorney John G. Fuller).
- B. Approved a Cemetery Deed Transfer from Audrey Webber Esposito to Robert L. Johnson Jr., Oakwood Cemetery, Plot J, Lot No. 9, Section 48, Grave Space No. 1, and No. 2. (Prepared by Attorney John G. Fuller).
- C. Approved the Skybox Lease Agreement with Merchant Distributors Inc.

Staff requests City Council's approval of the contract between Merchants Distributors, Inc., and the City for the use of a suite at L.P. Frans Stadium. As part of their original contribution to the L.P. Frans Stadium project Merchant Distributors, Inc. has access to a suite at the stadium. The contract for use of the suite is currently up for renewal. The new agreement is for a term of nine-years, 11-months with a total lease amount of \$18,875. Staff recommends approval of the Skybox Lease Agreement with Merchant Distributors Inc.

Legal Notice was advertised in a newspaper having general circulation in the Hickory area on September 2, 2022.

- D. Approved Supplemental Agreement Number 1 with Gannett Fleming, Inc. in the Amount of \$199,926.19 for CEI Services Related to the Riverwalk Project.

Staff requests Council's approval of Supplemental Agreement Number 1 for Professional Services with Gannett Fleming, Inc. for CEI Services related to the Riverwalk Project (EB-5939) in the amount of \$199,926.19. The Riverwalk Bond Project is one of the core projects of the Bond Referendum and the third to move forward in construction. The Riverwalk will offer on-land connections to existing and future amenities, including the Lake Hickory Trails, paved greenway, the Boy Scout Cabin at Rotary-Geitner Park, the future Deidra Lackey Memorial Park, and the future pedestrian bridge across Lake Hickory. The funding for this project is apportioned 80/20, North Carolina Department of Transportation (NCDOT) and City respectively. NCDOT requires that recipients hire an engineering firm separate from the design firm to perform construction engineering and inspection services for oversight, materials testing, and record keeping. Gannett Fleming, Inc. was selected based on qualifications-based proposals with NCDOT concurrence. In November 2020, City Council approved the original agreement with Gannett Fleming for the project. Due to unforeseen conditions during the bridge construction and the 6-month extension with the contractor, Gannett Fleming is also requesting an extension of their agreement. Staff recommends Council's approval of Supplemental Agreement Number 1 for Professional Services with Gannett Fleming, Inc. for CEI Services related to the Riverwalk Project (EB-5939) in the amount of \$199,926.19.

- E. Called for a Public Hearing for Consideration of Preliminary Assessment Roll No. 21-01, for Curb and Gutter Constructed along a Portion of 621 and 623 8th Street Drive NW. (Authorized Public Hearing for October 18, 2022, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building).

RESOLUTION NO. 22-58

RESOLUTION AUTHORIZING PREPARATION OF ASSESSMENT ROLL AND PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL NO. 21-01

WHEREAS, the curb, and gutter project along a portion of 621 and 623 8th Street Drive NW, Hickory has been completed and it has been determined that the project consisted of 253 linear feet of curb and gutter at \$28.50 per linear foot and 16 linear feet of driveway at \$57.25 per linear foot for the property located at 621 and 623 8th Street Drive NW, Hickory.

NOW, THEREFORE, BE IT RESOLVED:

THAT, the property whose owners that have not paid their proportionate part of the project shall be assessed at the rate of \$28.50 per linear foot of curb and gutter, and \$57.25 per linear foot of driveways;

THAT, the Clerk be, and she is hereby ordered to prepare an assessment roll or ledger to show the names of persons assessed as far as they can be ascertained, the amount assessed against them, respectively, with a brief description of the lots or parcels of land assessed, and

THAT, the clerk shall file the Preliminary Assessment Roll in the City Clerk's Office available for public inspection and shall publish and notify property owners of the public hearing as required by North Carolina General Statute 160A-227.

THAT, a public hearing will be held at 7:00 p.m. in the Council Chamber of the Municipal Building, located at 76 North Center Street, Hickory, North Carolina, on the 18th day of October, 2022, for the purpose of hearing all interested persons who appear with respect to any matter covered by the Preliminary Assessment Roll.

- F. Called for a Public Hearing for Consideration of Preliminary Assessment Roll No. 22-02, for Curb and Gutter Constructed along a Portion of 623 8th Street Drive NW. (Authorized

Public Hearing for October 18, 2022, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building).

RESOLUTION NO. 22-59

RESOLUTION AUTHORIZING PREPARATION OF ASSESSMENT ROLL AND PUBLIC HEARING ON PRELIMINARY ASSESSMENT ROLL NO. 22-02

WHEREAS, the curb, and gutter project along a portion of 623 8th Street Drive NW, Hickory has been completed and it has been determined that the project consisted of 181 linear feet of curb and gutter at \$28.50 per linear foot for the property located at 623 8th Street Drive NW, Hickory.

NOW, THEREFORE, BE IT RESOLVED:

THAT, the property whose owners that have not paid their proportionate part of the project shall be assessed at the rate of \$28.50 per linear foot of curb and gutter;

THAT, the Clerk be, and she is hereby ordered to prepare an assessment roll or ledger to show the names of persons assessed as far as they can be ascertained, the amount assessed against them, respectively, with a brief description of the lots or parcels of land assessed, and

THAT, the clerk shall file the Preliminary Assessment Roll in the City Clerk's Office available for public inspection and shall publish and notify property owners of the public hearing as required by North Carolina General Statute 160A-227.

THAT, a public hearing will be held at 7:00 p.m. in the Council Chamber of the Municipal Building, located at 76 North Center Street, Hickory, North Carolina, on the 18th day of October, 2022, for the purpose of hearing all interested persons who appear with respect to any matter covered by the Preliminary Assessment Roll.

- G. Approved a Resolution Accepting the Offer of \$250,000 from BCORE Hickory Owner, LP for the Purchase of the City-Owned Property Located at 1860 Amity Street SE, being Identified as PIN 3721-20-81-7553, Containing Approximately 24.30 Acres, and Authorize the Advertisement for Upset Bids.

The City owns the property located at 1860 Amity Street SE, PIN 3721-20-81-7553. BCORE Hickory Owner LP has offered the City \$250,000 to purchase the property. The current tax value of the property is \$235,400. The potential buyer owns the land immediately to the north of the property and intends to expand the parking lot of the existing facility to the south. FedEx Ground, the current tenant, has outgrown the space, and the land will allow them to expand their parking and remain at that location. City Council hereby authorizes staff to proceed with the upset bid process for the sale of this property and allow other interested parties to bid on the property after the City Clerk places a public notice in the newspaper. Staff recommends that City Council adopt a Resolution accepting the offer from BCORE Hickory Owner LP for the property located at 1860 Amity Street SE and authorize staff to advertise for upset bids.

RESOLUTION NO. 22-60

RESOLUTION AUTHORIZING THE ADVERTISEMENT OF AN OFFER TO PURCHASE CERTAIN PROPERTY

WHEREAS, City Council of the City of Hickory desires to dispose of certain surplus properties of the City of Hickory.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The following described property is hereby declared to be surplus to the needs of the City of Hickory:

Being the parcel located at 1860 Amity Street SE, Newton, PIN #3721-20-81-7553, Containing 24.30 Acres, more or less, and being a portion of the property as recorded in Deed Book 2367 at Page 601, Catawba County Registry.
2. City Council has received an offer to purchase for the sum of \$250,000 the property located at 1860 Amity Street SE, Newton, North Carolina. The person

making the offer must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer in the form of cash or cashier's check.

3. City Council proposes to accept the offer unless a qualifying upset bid shall be made.
 4. The City Clerk shall cause a notice of such offer to be published in accordance with G.S. 160A-269.
 5. Persons wishing to upset the offer must submit a sealed bid to the City Clerk within ten (10) days after publication of the notice. The person making the bid must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer in the form of cash or cashier's check. At the conclusion of the ten (10) days, the City Clerk shall open the bids, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
 6. If a qualifying upset bid is received, the City Clerk is directed to re-advertise the offer at the increased upset bid amount, and to continue with this process until a ten (10) day period has passed without receipt of a qualifying upset bid.
 7. If no upset bid(s) are received, City Council authorizes the City Manager to execute the contract and all documents associated with the sale of the subject property.
- H. Approved the Master Plan/Site Plan for Miracle of Hickory Park Improvement Project Contingent Upon Securing of Funding from Grants and Additional Sponsors and Approval of Grant Submission.

Staff requests Council approval of the master plan/site plan for Miracle of Hickory Park Improvement Project contingent upon the securing of funding from grants and additional sponsors. Approval of the pursuit of reimbursable Accessibility for Parks Grant, including local match of funds. Approval of the grant package with permission for staff to make edits, with staff leadership approval, prior to submission if needed. Approval of the certification on "2022 Basic Facts and Assurances". Miracle of Hickory Park improvements are projected for FY 23/24 in the City's 5-year CIP. The City is eligible to apply for a reimbursement grant known as the Accessibility for Parks Grant to help transform the park into one that meets the needs of veterans with disabilities who wish to interact with their children at the park. By using universal design concepts, park improvements would also meet the needs of adults and children with disabilities through features such as durable play equipment, sensory-friendly amenities, shade, and highly accessible routes. Aesthetics of the park would overtly honor our armed services while uniquely creating a "Miracle...Military...Music" themed experience. Proposed improvements are supported by findings from the Community Enhancement Project for Individuals with Disabilities (CEPID) as well as current public input from the parks and recreation master plan update and support via a unanimous vote from the Parks, Recreation & Sports Tourism Commission. The Army Reserve Center would like to enter into a Memorandum of Understanding to create additional parking opportunities and has expressed interest in increased community involvement as well. The Miracle of Hickory Park Improvement Project received unanimous support during a series of meetings with community groups/representatives such as the Hickory Disabled Veterans Chapter 34, Special Olympics, Foothills Veterans Helping Veterans, Parents Encouraging & Empowering Parents, Walkin' Roll Activities League and the Catawba County Veteran Services Office. It meets needs identified in last year's CEPID and is compatible with the master plan and project public input. Staff recommends approval of the requests as stated above.

- I. Accepted the Bulletproof Vest Grant in the Amount of \$18,060 to Assist in Funding for the Purchase of Bulletproof Vests for Police Officers.

Hickory Police Department requests permission to accept the grant in the amount of \$18,060 to assist in funding the purchase of bulletproof vests for police officers. The City of Hickory will receive up to 50% reimbursement for each vest purchased. Since 1999, the Bulletproof Vest Grant program has provided an opportunity for law enforcement agencies to apply for a grant to receive up to 50% funding on the purchase of ballistic vests. In order to be eligible, the agency must have a policy in effect making it mandatory for uniformed officers to wear the vests while on duty. Hickory Police Department has the mandatory wear policy in effect and has been a recipient of this grant for numerous years. Monies are placed in the police department budget uniform line item annually to purchase vests for police officers. Life expectancy of each vest is approximately five years. The Police Department recommends the acceptance of this grant to receive up to 50% funding to purchase bulletproof vests for police officers.

- J. Accepted the State Capital & Infrastructure Fund Grant Awarded by the North Carolina Department of Transportation – Division of Aviation in the Amount of \$700,000 for Airport Improvements.

Staff requests City Council's acceptance of the State Capital & Infrastructure Fund (SCIF) Grant 36244.33.16.1 awarded by the North Carolina Department of Transportation – Division of Aviation (NCDOT-DOA) in the amount of \$700,000 for airport improvements. Ten airports were appropriated grant funding as part of S.L. 2022-74, including Hickory Regional Airport. These State Capital & Infrastructure Funds (SCIF) are available to be used for any capital improvement project at the airport. Eligible projects include real property acquisition, new construction or rehabilitation of facilities, and repairs and renovations. The NCDOT-DOA, by letter dated September 1, 2022, has allocated the SCIF grant in the amount of \$700,000, with no local match required. This grant will assist in the continuation of the airfield improvement program as recommended by the Airport's Task Force and go towards Hickory Regional Airport improvements. Staff recommends City Council's acceptance of Grant 36244.33.16.1 in the amount of \$700,000 from the North Carolina Department of Transportation – Division of Aviation.

- K. Approved on First Reading Budget Revision Number 7.

**ORDINANCE NO. 22-33
BUDGET REVISION NUMBER 7**

BE IT ORDAINED by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2023, and for the duration of the Project Ordinance noted herein.

SECTION 1. To amend the General Fund within the FY 2022-23 Budget Ordinance, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Culture & Recreation	118	-
Public Safety	-	18,060
Other Financing Uses	18,060	-
General Government	10,000	-
TOTAL	28,178	18,060

To provide funding for the above, the General Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Miscellaneous	10,118	-
TOTAL	10,118	-

SECTION 2. To amend the Urgent Repair Program Fund within the FY 2022-23 Budget Ordinance the expenditures shall be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Economic & Community Development	80,000	-
TOTAL	80,000	-

To provide funding for the above, the Urgent Repair Program Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental	80,000	-
TOTAL	80,000	-

SECTION 3. To establish the Bulletproof Vest Partnership 2022 (#G51108) Grant Project, the expenditures shall be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Public Safety	36,120	-
TOTAL	36,120	-

To provide funding for the above, the Bulletproof Vest Partnership 2022 (#G51108) revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental	18,060	-
Other Financing Sources	18,060	-
TOTAL	36,120	-

SECTION 4. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

IX. Items Removed from Consent Agenda – None

X. Informational Item

XI. New Business:

A. Public Hearings

1. Approved the Voluntary Non-Contiguous Annexation of 158.8 Acres of Property Located at 3820 Hickory Lincolnton Highway and Surrounding Area, Owned by Michael Wyant, et. al. – Presentation by Planning Director Brian Frazier.

Consideration of the voluntary non-contiguous annexation of 158.8 acres of property located at 3820 Hickory Lincolnton Highway and surrounding properties. These properties are identified as PINs 3618-01-19-6254, 3618-01-08-7291, 3618-01-18-7760, 3618-01-17-4011, and 3618-01-37-2692. The applicants have petitioned for the voluntary non-contiguous annexation of 158.8 acres of property located at 3820 Hickory Lincolnton Highway and surrounding properties. The annexation is being requested to obtain city services. The subject properties are unincorporated and within Catawba County's jurisdiction. The subject properties are currently zoned 321 ED(I), which is an industrial district. The annexation area totals 158.8 acres. If annexed, the properties would subsequently be zoned Industrial (IND). One of the subject properties is occupied by a single-family residence, while the remainder are used for agricultural purposes or wooded. Future development plans are currently unknown. The value of the properties, as shown by Catawba County tax records, is \$2,308,800. However, the current assessed tax value of the properties is \$211,300. This is due to reductions from either homestead or agricultural programs. At the current assessed value, annexation of the properties would generate additional tax revenues of \$1,326. If the properties were to be removed from the deferment program, they are part of, annexation of the properties would generate \$12,793 in additional tax revenues. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary non-contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2022.

City Manager Warren Wood asked the City's Planning Director Brian Frazier to the podium to present Council with a voluntary non-contiguous annexation of 158.8 acres of property located at 3820 Hickory Lincolnton Highway and surrounding area, owned by Michael Wyant, et. al.

Planning Director Brian Frazier presented a PowerPoint presentation. He commented as City Manager Warren Wood indicated this was the first hearing of eight this evening. He would present the first seven and try not to be too long. He advised the current development was both single family and vacant. The future development at this time was unknown. Annexation was being requested to obtain City municipal services. He referred to the PowerPoint and pointed out the subject property, the annexation area. He pointed out the property located in Hickory's extra-territorial jurisdiction (ETJ), the City's current municipal limits, and the area located in Catawba County, or other municipal zoning such as Newton. He referred to the PowerPoint and noted the annexation area in question. He pointed out to the east the Target Distribution Center. He displayed another map and pointed out the annexation area. He pointed out the current County zoning, and Newton's 321 EDI industrial area. This went hand in hand about a month or so ago when Council approved an annexation and boundary agreement with Newton and the County. He discussed staff findings and recommendations. The voluntary annexation petition complied with all applicable State annexation statutes. There were adequate public services available in sufficient quantities and the annexation of the property in question would not cause available public services to fall below acceptable levels. Based upon these findings staff recommended approval of the requested annexation. He asked for any questions.

Mayor Guess asked for any question from Council or staff. He explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in

favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Aldерwoman Patton moved, seconded by Alderman Zagaroli approval of the voluntary non-contiguous annexation. The motion carried unanimously.

ANNEXATION ORDINANCE NO. 481

VOLUNTARY ANNEXATION ORDINANCE (NON-CONTIGUOUS)

Michael S. Wyant, Dana W. Wyant, Gregory Wyant, Jeffrey Wyant Revocable Trust, Whitener Family Trust FBO Susan W. Denning, and Whitener Family Trust FBO Michael J. Whitener

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO GENERAL STATUTES 160A-58.1, AS AMENDED (NON-CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory desires to annex the area described herein, under G.S. 160A-58.1, as amended; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said annexation; and

WHEREAS, the City Clerk has certified to the sufficiency of said request, and a public hearing on the question of this annexation was held in the Council Chamber of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina, at 7:00 p.m. on the 4th day of October 2022; and

WHEREAS, the City Council of the City of Hickory further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Hickory.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Hickory.
- c. The areas described are so situated that the City will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council of the City of Hickory does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1, as amended have been complied with; and

WHEREAS, the City Council further finds that the annexation is otherwise valid, and that the public health, safety, and welfare of the City of Hickory and of the areas proposed for annexation will be best served by annexing the area herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following-described non-contiguous territory is hereby annexed and made a part of the City of Hickory as of the 31st day of October 2022:

LEGAL DESCRIPTION

THAT 160.129 ACRE PORTION OF LAND, BEING COMPRISED OF CATAWBA COUNTY TAX PARCELS: 361801196254, 361801187760, 361801174011, 361801087291 AND 361801372692, SITUATED IN JACOBS FORK TOWNSHIP, CATAWBA COUNTY NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND NCGS MONUMENT "TARGET", SAID MONUMENT HAVING NORTH CAROLINA STATE PLANE GRID COORDINATES (NAD83) OF N: 691,425.34, E: 1,312,547.16;

THENCE S 41° 12' 20" W A DISTANCE OF 3,351.97 FEET TO A FOUND IRON PIN, SAID IRON PIN MONUMENT HAVING NORTH CAROLINA STATE PLANE GRID COORDINATES (NAD83) OF N: 688,903.48, E: 1,310,339.00, SAID IRON PIN ALSO BEING ON THE SOUTHERLY LINE OF JERRY ABERNATHY WHISNANT AND MARGARET K. WHISNANT (DEED BOOK 1109-816 OF THE CATAWBA COUNTY PUBLIC REGISTRY), SAID IRON PIN ALSO BEING THE POINT AND PLACE OF BEGINNING;

THENCE ALONG THE SOUTHERLY LINE OF WHISNANT N 60° 14' 10" E, PASSING THROUGH A FOUND AXLE AT 282.33 FEET FOR A TOTAL DISTANCE OF 1,296.44 FEET TO A FOUND IRON PIN, SAID IRON PIN BEING ON THE SOUTHERLY LINE OF TKC CCXLIX LLC (DEED BOOK 3399-1894 OF SAID PUBLIC REGISTRY);

THENCE LEAVING THE SOUTHERLY LINE OF WHISNANT N 60° 01' 16" E ALONG THE SOUTHERLY LINE OF TKC CCXLIX LLC FOR A DISTANCE OF 923.65 FEET TO A FOUND ANGLE IRON, SAID ANGLE IRON BEING ON THE WESTERLY LINE OF TARGET CORPORATION (DEED BOOK 2933-1546 OF SAID PUBLIC REGISTRY);

THENCE ALONG THE WESTERLY LINE OF TARGET CORPORATION THE FOLLOWING NINE (9) CALLS:

(1) S 86° 07' 00" E FOR A DISTANCE OF 798.13 FEET TO A FOUND AXLE;
(2) S 04° 03' 40" W FOR A DISTANCE OF 145.41 FEET TO A POINT ON A FOUND REBAR; (3) S 04° 00' 51" W FOR A DISTANCE OF 278.69 FEET TO A SET REBAR; (4) 48.67 FEET ALONG THE CURVE TO THE LEFT, HAVING A RADIUS OF 58.57 FEET, A CHORD BEARING OF S 53° 46' 06" E FOR A DISTANCE OF 47.28 FEET TO A SET REBAR; (5) S 04° 00' 51" W FOR A DISTANCE OF 556.26 FEET TO A SET REBAR; (6) S 59° 08' 51" E FOR A DISTANCE OF 390.23 FEET TO SET REBAR; (7) S 14° 53' 20" E FOR A DISTANCE OF 477.82 FEET TO A FOUND REBAR; (8) N 64° 39' 46" E FOR A DISTANCE OF 111.11 FEET TO A SET REBAR; (9) S 20° 55' 26" E FOR A DISTANCE OF 1,118.91 FEET TO A POINT ON A FOUND ANGLE IRON, SAID ANGLE IRON BEING ON THE NORTHERLY LINE OF RONALD D. JOHNSON AND PATRICIA E. JOHNSON (DEED BOOK 2015-996 OF SAID PUBLIC REGISTRY); THENCE LEAVING THE SOUTHERLY LINE OF TARGET CORPORATION S 66° 06' 42" W ALONG THE NORTHERLY LINE OF JOHNSON FOR A DISTANCE OF 1,199.12 FEET TO A FOUND AXLE, SAID AXLE BEING ON THE EASTERLY LINE OF DAVID WARLICK O HEIRS (DEED BOOK 2002-468 OF SAID PUBLIC REGISTRY); THENCE LEAVING THE NORTHERLY LINE OF JOHNSON AND WITH THE LINE OF DAVID WARLICK THE FOLLOWING SIX (6) CALLS: (1) N 16° 20' 45" W FOR A DISTANCE OF 1,101.46 FEET TO A FOUND ANGLE IRON; (2) S 85° 45' 39" W FOR A DISTANCE OF 864.42 FEET TO A FOUND REBAR; (3) S 54° 46' 43" W FOR A DISTANCE OF 197.41 FEET TO A FOUND IRON PIPE; (4) S 14° 47' 53" E FOR A DISTANCE OF 256.70 FEET TO A FOUND REBAR; (5) S 14° 48' 46" E FOR A DISTANCE OF 634.59 FEET TO A FOUND REBAR; (6) S 66° 03' 23" W FOR A DISTANCE OF 233.59 FEET TO A FOUND AXLE, SAID AXLE BEING ON THE NORTHERLY LINE OF RODNEY D. WARLICK AND CHRISTIE LYNN WARLICK (DEED BOOK 3433-1051 OF SAID PUBLIC REGISTRY); THENCE LEAVING THE LINE OF DAVID WARLICK AND WITH THE NORTHERLY LINE OF RODNEY D. WARLICK THE FOLLOWING TWO (2) CALLS: (1) S 66° 26' 50" W FOR A DISTANCE OF 319.32 FEET TO A FOUND AXLE; (2) S 66° 26' 50" W FOR A DISTANCE OF 30.03 FEET TO A COMPUTED POINT, SAID POINT BEING IN THE CENTER OF HICKORY LINCOLNTON HIGHWAY; THENCE LEAVING THE NORTHERLY LINE OF RODNEY D. WARLICK AND ALONG THE CENTER OF HICKORY LINCOLNTON HIGHWAY THE FOLLOWING EIGHT (8) CALLS: (1) N 25° 24' 57" W FOR A DISTANCE OF 37.71 FEET TO A COMPUTED POINT; (2) 534.67 FEET ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 7,248.83 FEET, A CHORD BEARING OF N 27° 31' 44" W FOR A DISTANCE OF 534.55 FEET TO A COMPUTED POINT; (3) N 29° 51' 44" W FOR A DISTANCE OF 32.89 FEET TO A COMPUTED POINT; (4) N 29° 51' 44" W FOR A DISTANCE OF 360.70 FEET TO A COMPUTED POINT; (5) N 28° 19' 42" W A DISTANCE OF 581.23 FEET TO A COMPUTED POINT; (6) 194.27 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 2,269.72 FEET, A CHORD BEARING OF N 24° 54' 28" W FOR A DISTANCE OF 194.21 FEET TO A COMPUTED POINT; (7) 132.48 FEET ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 1,183.42 FEET, A CHORD BEARING OF N 18° 58' 39" W FOR A DISTANCE OF 132.41

FET TO A COMPUTED POINT; (8) 132.33 FEET ALONG CURVE TO THE RIGHT, HAVING A RADIUS OF 2,467.57 FEET, A CHORD BEARING OF N 14° 24' 28" W FOR A DISTANCE OF 132.31 FEET TO A COMPUTED POINT;

THENCE LEAVING THE CENTER OF HICKORY LINCOLNTON HIGHWAY N 86° 00' 03" E FOR A DISTANCE OF 31.31 FEET TO A SET REBAR, SAID REBAR BEING ON THE SOUTHERLY LINE OF RHONEYS CHAPEL AME ZION CHURCH (DEED BOOK 1705-532 OF SAID PUBLIC REGISTRY);

THENCE ALONG THE LINE OF RHONEYS CHAPEL AME ZION CHURCH THE FOLLOWING THREE (3) CALLS: (1) N 86° 00' 03" E FOR A DISTANCE OF 304.17 FEET TO A FOUND REBAR; (2) N 13° 19' 41" W FOR A DISTANCE OF 453.80 FEET TO A FOUND IRON PIPE; (3) S 81° 13' 45" W FOR A DISTANCE OF 254.06 FEET TO A FOUND AXLE; THENCE LEAVING THE LINE OF RHONEYS CHAPEL AME ZION CHURCH N 00° 17' 28" E FOR A DISTANCE OF 100.01 FEET TO THE POINT AND PLACE OF BEGINNING, HAVING AN AREA OF 160.129 ACRES (6,975,236 SQUARE FEET) OF LAND MORE OR LESS.

Section 2. Upon and after the 31st day of October 2022, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hickory and shall be entitled to the same privileges and benefits as other parts of the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10, as amended.

Section 3. The newly annexed territory described herein shall become part of Ward No. 3 of the City of Hickory.

Section 4. The Mayor of the City of Hickory shall cause to be recorded in the Office of the Register of Deeds of Catawba County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with duly certified copy of this Ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

2. Approved on First Reading Rezoning Petition 22-08 for Property Located at 3820 Hickory Lincolnton Highway and Surrounding Properties from 321 EDI to City of Hickory Industrial (IND) – Presentation by Planning Director Brian Frazier.

Consideration of rezoning petition 22-08. Michael Wyant, Jeffery Wyant, Gregory Wyant, Dana Wyant, and Whitener Family Trust (FBO Susan Denning and Michael Whitener) have submitted a petition requesting consideration of rezoning property located at 3820 Hickory Lincolnton Hwy, and other surrounding properties, from Catawba County 321 EDI to City of Hickory Industrial (IND). The subject properties are unincorporated and within Catawba County's jurisdiction. The subject properties have an area of 158.8 acres, and are currently zoned 321 ED(I), which is an industrial district. The subject properties are currently in the process of being annexed into the City of Hickory, as such the city is statutorily required to rezone the properties. Should the rezoning petition be approved, the density and use types would not change, as the existing zoning classification is also an industrial district. The Hickory Regional Planning Commission conducted a public hearing on September 28, 2022, to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition's consistency with Catawba County's long-range plans for the area and recommended approval. As of September 21, 2022, staff has received two (2) inquiries regarding this petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, and 30, 2022.

City Manager Warren Wood asked the City' Planning Director Brian Frazier to the podium to discuss rezoning petition 22-08 for property located at 3820 Hickory Lincolnton Highway and surrounding properties from 321 EDI to City of Hickory Industrial (IND).

Planning Director Brian Frazier presented a PowerPoint presentation. He advised this was the property described by City Manager Warren Wood that was just annexed by Council. The current zoning 321 EDI Catawba County. The property size was just under 160-acres. The subject properties that were currently unincorporated within Catawba County's jurisdiction and zone 321 EDI which was an industrial zoning classification. The properties had been annexed into the City tonight and under State statute required rezoning upon annexation. The property owner had requested to rezone the properties to City industrial IND.

He referred to the PowerPoint and pointed out the subject properties in question about 158-acres, some of the City of Hickory's low density residential area, and the area of the City of Newton or predominantly Catawba County's zoning jurisdiction. He displayed another map and pointed out the subject area, some of the City of Hickory area, and the rest of this was either Newton or unincorporated Catawba County. He displayed another map and pointed out the subject area. He displayed a map of the 321 eco-tech development plan that the County put out. He pointed out the County area on the map and the area being discussed. This was done by Catawba County several years ago. The next slide showed the basic rezoning area outlined and the various zoning districts whether they be County, Newton, or City towards the north. He displayed an aerial photo of the subject property. He pointed out City limits proper, the Target Distribution Center, and Highway 321 South. The property was currently zoned 321 EDI and occupied by one residence with the vast majority of the property vacant. The general area was classified as EDI by Catawba County's Startown small area plan, and manufacturing industrial by the County's 321 eco-tech plan. The County's Startown small area plan, as previously shown, stated pursue a high-quality attractive business, and light industrial park along NC Highway 10 near U.S. Highway 321 interchange on currently zoned EDI land. The 321 eco-tech development plan further stated pursued development of business and light industrial with emphasis upon transportation and distribution facilities centered around the existing Target, west of US Highway 321 interchange along Highway 10. The goal was reiterated several other times within the plan and was also depicted on several current and future land use maps, some that he previous showed. The prior planning studies conducted by the County indicated that the subject area was envisioned to be industrial in nature. That was what they were looking at and what staff had recommended. Given the plans previously outlined narratives, the rezoning of the properties to City of Hickory IND should be considered to be consistent with the findings and recommendations of the Startown small area plan and the 321 eco-tech plan. The Regional Planning Commission had a public hearing last week to consider such petition. During the hearing, a representative for the applicants spoke in favor of the petition, while no one spoke in opposition of the petition. There were some folks in audience that were interested in what was occurring. Upon closing the hearing, the Planning Commission acknowledged the petitions consistency with the County Startown small area and 321 eco-tech plans. Based upon its findings the Regional Planning Commission voted unanimously, last week, 8 to 0 to recommend approval of the petition. Staff concurred with the recommendation of the Planning Commission from last week. He asked for any questions.

Mayor Guess asked if there were any questions from Council or staff for Mr. Frazier. He explained the rules for conducting the public hearing applied. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Alderman Patton moved, seconded by Alderman Seaver approval of rezoning petition 22-08. The motion carried unanimously.

ORDINANCE NO. 22-34

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 158.8 ACRES OF PROPERTY LOCATED AT 3820 HICKORY LINCOLNTON HIGHWAY, AND SURROUNDING PROPERTIES, FROM CATAWBA COUNTY 321 ED(I) TO CITY OF HICKORY INDUSTRIAL (IND).

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the City has been petitioned to rezone +/- 158.8 acres of property located at 3820 Hickory Lincolnton Highway, and surrounding properties, more particularly described on Exhibit A attached hereto, to allow an Industrial (IND) district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on September 28, 2022, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 22-08 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Hickory, North Carolina, THAT THE REZONING OF PROPERTIES located AT 3820 HICKORY LINCOLNTON HIGHWAY, AND SURROUNDING PROPERTIES, DESCRIBED IN EXHIBIT A is approved.

SECTION 1. Findings of fact.

1. The subject properties are located at 3820 Hickory Lincolnton highway, and surrounding properties, and identified as PINs 3618-01-19-6254, 3618-01-08-7291, 3618-01-18-7760, 3618-01-17-4011, and 3618-01-37-2692.
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is consistent with Catawba County's long-range plans for the area.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

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 area under consideration is not within the study area of the Hickory by Choice 2030 Comprehensive Plan, so consistency with such is not available for discussion.

The area is discussed in the Startown Small Area Plan (2005), as well as the 321 Eco Tech Development Plan (2011). Both plans were produced by Catawba County's Planning and Parks Department.

The Startown Small Area Plan, page 41, states the following: Pursue a high-quality, attractive business and light industrial park along NC Highway 10 near the US Highway 321 interchange on land currently zoned ED-I.

The 321 Eco-Tech Development Plan furthers Catawba County's intension for the area. Within chapter 2 of this plan, a goal for the future of the area identifies this area for future industrial growth by including the following plan goal: Pursue the development of a business and light industrial park with emphasis upon transportation and distribution facilities centered around Target, west of the US Highway 321 interchange along NC Highway 10. This goal is reiterated several other times within the plan and is also depicted on several current and future land use maps.

Given these factors, the rezoning of the properties to Industrial (IND) should be considered consistent with the findings and recommendations of the previously referenced plans.

2. Industrial (IND) districts are intended to provide locations for the establishment of industrial uses and further economic development.
3. Industrial (IND) zoning district's permissible density adheres to the recommendations of Catawba County's long-range plans for the area.
4. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and

7. 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 owners are properly protected as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 22-08 to be reasonable, but inconsistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

3. Approved the Voluntary Contiguous Annexation of 26.672 Acres of Property Located at 1459 and 2819 Robinwood Road and a Vacant Parcel Fronting Robinwood Road, Owned by Brooks Furniture Xpress Inc. – Presentation by Planning Director Brian Frazier.

Consideration of the voluntary contiguous annexation of 26.672 acres of property located at 1459 and 2819 Robinwood Road, as well as a vacant parcel fronting Robinwood Road. These properties are identified as PINs 37112090923, 371120909532, and 371120909062. The applicants have petitioned for the voluntary contiguous annexation of 26.672 acres of property located at 1459 and 2819 Robinwood Road, as well as a vacant parcel fronting Robinwood Road. The annexation is being requested to obtain city services. The subject properties are unincorporated, under the jurisdiction of Catawba County, and zoned R-20 Residential. The current district permits one and two-family residential development at a maximum density of two units per acre. Should the properties be annexed, the petitioner has requested the properties be rezoned to Industrial (IND), which has no intensity limitations. One of the properties is occupied by a trucking / logistics business, while the other two remain vacant. The petitioner has indicated the company's desire to expand its current operations. The properties to the north, west and south are zoned R-20 residential by Catawba County. These properties are occupied by residences or vacant. The properties to the east are zoned IND-CZ by the City of Hickory and are part of the Trivium Business Park. These properties are occupied by industrial uses or vacant. The value of the properties, as shown by Catawba County tax records is \$982,500. In their current state, annexation of the properties would generate \$6,165 in additional tax revenues. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2022.

City Manager Warren Wood asked the City's Planning Director Brian Frazier to the podium to present Council with the voluntary contiguous annexation of 26.672 acres of property located at 1459 and 2819 Robinwood Road and a vacant parcel fronting Robinwood Road, owned by Brooks Furniture Xpress, Inc.

Planning Director Brian Frazier presented a PowerPoint presentation. He advised the property had two specific addresses as City Manager Warren Wood indicated on Robinwood Road. The acreage was just under 27-acres. It was Ward three. The current development of the site which was basically three parcels that they were looking at was an existing trucking and logistics company. That was located on the middle parcel and then there was a parcel that was vacant to the north and another single parcel that was vacant to the south. The future development was to be a trucking logistics company. Annexation was being requested to obtain municipal services. He referred to the PowerPoint and pointed out the subject site, Hickory's extra-territorial jurisdiction (ETJ), Hickory limits proper, and Catawba County zoning. He pointed out the existing trucking company and advised other parcels which were vacant that were owned by the trucking company. He thought the trucking company had been there since 1971 under maybe three different owners. He pointed out a parcel that was also vacant. He pointed out additional parcels that were owned by the applicant that were vacant and would either be accessed along Robinwood or the small cul-de-sac off of Cochrane. He displayed a map of the annexation area. He pointed out County R-20, City R-1 and R-2, and Trivium which was industrial conditional zoning IND-CZ. which Council was more than familiar with. The voluntary annexation petition complied with all applicable annexation statutes; adequate public services are available in sufficient quantities. The annexation of the property would not cause available public services to fall below acceptable levels. Based upon these findings staff recommended approval to Council for the requested annexation. He asked Council for any questions.

Mayor Guess asked if there were any questions for Mr. Frazier. He advised the rules for conducting the public hearing applied. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal.

OPPONENTS

Mr. Dan Wallace, 3049 Cochran Street, thanked Council for allowing him to speak. He had lived in that area for 36-years. This was the fourth time they had come to the zoning board to stop this trucking company from expanding. They were a small community. He asked for the PowerPoint map to be displayed. He advised that lower lot at the south end was where they were talking about putting additional buildings and trucks. Connected to that, which they could hardly see, there was a little cul-de-sac. In that cul-de-sac was homes with people in them, and children. His property was just a little further down, but he did not think anybody in here would want those trucks in their backyard. That was basically where they would be. Nothing had changed in their area with the exception of Trivium. The road was still small, it was 18-feet wide. Most tractors and trailers are 10-feet wide, 9 to 10-feet. He asked the board to consider the people in the community, not just the tax dollars that they were going to get. If need be, they could pass the hat in their community and pick up that \$6,000. He thanked Council.

Mr. Lewis Ogle, 1790 Franklin Drive, Newton, had been there for 26-years. He referred to the PowerPoint and pointed out the location of his property on the north end just behind the four acres. He pointed out the property lines and advise his south property line was probably even with his. All of this had been undeveloped ever since he had been there, and he had bought his property in 1996. He was a first-time homebuyer. He wished he could have afforded to go over there to the golf course, but it was not in his cards at the time. He had to buy something affordable for him and his future wife. He was born and raised in Catawba County. He was proud to be in Catawba County because he had a deep history in Catawba County. His ancestors were the Winklers. He was sure everybody present was familiar with the Winklers. He hoped they would not hold that against him if they did not like the Winklers. There were the Settlemyers and the Winklers. He believed that he heard the Settlemyers owned the MDI land where that sits. His great, great grandpa was Roland Winkler. His grandma and his great grandma were raised on the Hickory Airport. He believed, if his history was correct, the Alexander's used to own the Hickory Airport. He wished he could ask for it back but that was another day. His concerns with the trucking company for one was the noise. He had 26-years of experience living there. The trailers were being dropped. He was not saying this was happening 20 times a day, but at least probably 5 to 10 times a week. He was not there because he works four 10-hour shifts Monday through Thursday. He was only there about half the time, and he works the night shift. He works from 3:00 p.m. to 1:00 a.m. In the morning. He was sleeping from 3:00 a.m. probably until sometimes 12 o'clock. Over the years the trailers had been dropped and it vibrates your house like a thunderstorm. Sometimes they were drug, he thought it was because they have concrete pads there at the doors, the loading docks, it was concrete so the trucks would not sink into the ground. Sometimes they get drug and that creates more of a shock than them being dropped. It had been manageable. He had never called the trucking company and complained in 26-years. Never. He only went to one rezoning hearing with Ray DeHart, and it started out good and it ended up bad. He called the community to tell them what he wanted to do. Well, it started out with an olive branch and ended up like he wanted to cut their heads off with a machete. That was the only dealings he ever had with Ray DeHart. He did not hold it against his family or anything. He knew his family and had worked for one of his family members. That being said, the four acres had definitely been there since his lifetime of living there and it was a buffer for him to Trivium or traffic coming down Robinwood. Four acres of wooded lot. So that had been helpful. He was worried that when that four acres gets rezoned, the trucks were going to go into his backyard. He did not particularly like the sight of seeing the back of a truck against his property line. Whether he cuts it down, it would be great, or if it stayed level, but the land slopes to his property. He actually has some issues with flooding when they get torrential rainfalls coming off Beck Street and through a couple of their yards. The contamination to his well was a concern, there could be fluids dropping off the ground of the trucks. The gravel parking lot versus a paved parking lot was a concern. The biggest thing was the noise, plus if he plans to expand. He had some good conversations with Mr. Brooks, and he had asked him some questions and he had answered them, and he appreciated that. He understood why he wanted to expand, but he told them last week that he does not plan on adding any more trailers. He had been in the business manufacturing for 35-

years. If a guy puts an investment into a piece of property, for example \$1 million dollars, he wants a quick return on that investment and that was understandable. If he had 150 trailers now and he doubles, he wants to put another 78 terminals, he could very well have 300 trailers around that property. That was just going to exasperate the noise issue. That was a concern. For now, they run one shift which was great because they were usually done by five o'clock. They could go to two shifts and that would be concerning. He talked to some of his neighbors, and they were concerned about something, especially the well water because they definitely had some of the best well water in the County. His neighbor across the street had his tested and it came back very good. He was asking Council to consider what they were all saying. He probably had the most experience out of any of them that were talking with the trucking company because a lot of the people to the south of him had an eight-acre buffer zone right there per se where the original trucking company was now. He asked Council to vote no and thanked them for their time.

Mayor Guess advised there were four more people signed up and there was six minutes left. He asked for them to be careful and not repeat anything that had been said.

Ms. Gretchen West, 1782 Franklin Drive, she was the next-door neighbor to Mr. Lewis Ogle. She was downhill from him. She advised she lived just one lot down. She pointed out her property on the PowerPoint. She commented the addition of many trailers, that area cleared out and many trailers put in there, her biggest concern was security. She advised she was the daughter of a Washington D.C. Policeman and had a little bit of a background around that. This was her first house that she had ever bought in her whole life and bought on her own. She loved it and her neighbors. It was a wonderful area, but she was concerned about security. They currently have about a six-foot-high chain link fence with three barbed wire strands going across the top between the trucking industry and their lots. She was very glad that it was there. Especially if they were going to increase the shift work and increase the volume of trailers and that kind of thing. She was concerned about other persons that do not belong in that area wandering around there in the middle of the night, that kind of thing. And being able to come into her backyard with no barrier whatsoever. She was happy to have the six-foot chain-link fence. She could make it pretty. She was a fine arts major. She reiterated she could make it pretty. She could put up a reed fence, something on the back side of it. She could paint it and make it pretty. She would love to see a nice big solid barrier up there. That would be her highest choice. Security, she thought, would benefit both parties. The trucking industry as well as their neighborhood. She thought that it was absolutely paramount. She thanked Council.

Mr. Thomas Jones, 2955 Sandy Ford Road. His concern was there already a lot of the trucks using Sandy Ford Road as a shortcut. It was a collector road. It was not a secondary road. It was too small for these trucks. He was worried with the expansion there was going to be more traffic. They built an intersection at Robinwood and Startown to improve that intersection for that trucking company years ago. He was told then they were all going out that way to I-40 and Startown to 321. He was concerned about the traffic on Sandy Ford. There were two churches, a school, and four housing developments. It was a neighborhood road, not a thoroughfare for trucks. That was his concern.

Mr. Mark Gerson, 1726 Franklin Drive, at the last meeting he asked why he could not move right across the street to Trivium. He said he tried but he was turned down because apparently Trivium does not want trucks, warehouses, and forklifts in an industrial zoned area, yet the Community Planning Board felt that it was okay to take away their backyards in a residential area for his expanded trucking. He asked if they did not see the unbelievable irony of that. And how unfair it was and that it was wrong. He suggested first that Trivium would be a better option to look at. Let him in there, and to his credit, he was willing to move. There had to be other locations in this area if they would not let him in Trivium for the same reason why they do not want him in their backyard. He commented let's help him find a different place that could solve a good compromise. They want to keep their quality of life. He moved here for that. You buy a property, the backyard was zoned for residential, there was some expectations that was going to mean residential, maybe worst-case scenario, an apartment, but trucks would literally be in his backyard where this expansion would be. He could go 24/7, maybe two shifts, beep, beep, beep, and other things backing up at two in the morning or whatever. That was not good. He was not opposed to growth. He was a businessman, a firm capitalist. He thought that was why there were boards like them to find a compromise that could hopefully help everybody instead of just one man with a very successful business of 150 trucks, 248 employees. So instead of helping him get even

more wealthy, which he had no problem with, but there were other solutions. Let's try to think of the little people who really want to have their backyards and their neighborhoods survive the way they paid for it. If Council votes for this, he promised them, he will file a lawsuit for a diminished value claim on the house and he would make sure that every neighbor that owned property would sign that. Only a few of them could speak, only a few of them could come, but they would all sign this because they could not lose. Any arbiter, and appraiser would say you have got a nice forest in your backyard, and now you have got trucks, forklifts, and whatever. That was diminished value and that could be 20, 30, 40 houses, hundreds of thousands of dollars that the taxpayers were going to have to pay, that was them. He guessed them too. He did not want to put a threat out there, but he was just saying there had to be better solutions that could meet everyone's needs than put it in their backyard. He reiterated to his credit, he was willing to move, which he thought was great. Let's find a better location. He thanked Council for their time.

Mr. Kenyan Kelly, 2943 Sandy Ford Road, had signed up to speak but declined.

Mayor Guess asked if anyone else wished to speak in opposition. No one else appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal.

PROPONENT

Mr. Anthony Brooks confirmed this was the annexation portion and not the zoning section.

Mayor Guess advised it was the annexation.

Mr. Anthony Brooks advised he and his wife were the owners of Brooks Furniture Xpress at 1459 Robinwood Road, Newton. He was present tonight to answer some questions. He knew there were a few neighbors who spoke out against them, and they understood that. They started this business in 2011. They have 248 employees and it had been a very successful business. They were a real success stories if you get down to it. He corrected Mr. Frazier regarding three lots that he had referenced and advised they did not own those lots. He referred to the PowerPoint and pointed out the three lots which were against Cochran Street and Jung Court. He reiterated they did not own those three lots. He wished to make that clear that they do not own those and had no plans on purchasing those lots. There would be a buffer there for the neighbors. He pointed out the lot where they were looking to build an 80,000 to 100,000 square foot facility to replace the facility they have now. It would be a concrete tilt building, just like across the street in Trivium, the industrial park there. If they ride up and down Robinwood Road, they will see they probably have the nicest landscaped facility on that street. He did not think anybody would question that. They had taken care of their property. They had heard a lot of talk about lowering values, they actually had upped the values if they really think about how nice their property looks.

Mr. Brooks advised that David Looper Construction in Hickory would be doing the construction on the site. They were a locally owned company and hire local people. They had talked to Catawba County Economic Development Corporation and the average pay in Catawba County was \$48,000. Their average employee made \$79,174 a year. They could do the math, that was like 164% of the average salary in Catawba County. They were not asking for any tax incentives or tax breaks from the City of Hickory or Catawba County. Their company would fund this project 100%. This would be a \$15 million project they were looking to do. He wished it was just a million dollars like the one guy said. It would save them a lot of money. This would be a great tax base for the City of Hickory and Catawba County. They were not asking for the road to be widened. The road had been there, and the trucking company had been here since 1971. Not them but W&L Motor Lines built this facility. The road had not changed in 51 years. They would be using the same driveway. They did not have to apply for a new DOT permit. It was the same driveway that would be in place. They were going to go to the extra expense. He noted the location where a driveway would be built at the facility so they could still use the same exit on Robinwood Road. Nothing would change. There would not have to be a turning lane put in. Nothing would change as far as that.

Mr. Brooks advised at the planning meeting on Thursday night, he learned a lot. You live and you learn. They said that this has been applied for three other times before this one. He was never a part of those. He understood there was some. They would not have applied for this application tonight if it was not for Trivium across the street. Once Trivium was built, they saw that was zoned Hickory City

then they knew this would work, because this was the same type of structure they wanted to build on their property. It was being built right directly across the street. He thought there were already five structures there and he thought there were three or four more that were planned to be built very soon.

Mr. Brooks advised there was no night shift. He did not know where some of these people got their information. They could barely find people to work until 5:00 in the afternoons nowadays. There was no night shift. There would not be a gravel parking lot. The whole facility would be paved on both sides of the upper part and the lower part for trailer parking and the building. The building would actually have no more dock doors than what they currently have. They were not looking to expand this facility. The reason why they want to build was they have a 20,000 square foot building in Conover, and then they have another 20,000 square foot building in Hildebrand. The traffic that everyone talks about was they have to run more loads. They pick up 150 furniture manufacturers a day. He was picking up freight and dropping it. They call their place warehouse one, warehouse two was Conover, warehouse three was Hildebrand. When they pick up 150 different manufacturers, being that they have three different warehouses, they run 14 States. Each warehouse services certain States. They were having to run extra trips to keep these other warehouses running because their freight was the main hub, but they have to take freight to warehouse two, and warehouse three. They know that 15 to 20 loads a day, and it may be more, would be taken off this highway by their company having everything under one roof. Traffic would actually decrease. They were not looking to add a second shift, or to grow per se. They want everything under one roof. They have 75,000 feet between the three facilities. They were looking to build an 80,000 square foot building, maybe 100,000 if Council approved it. Obviously, they have to follow the rules and the guidelines between the aesthetics, the buffer zones and whatever. The County might even say they could not build a 60,000-foot building. They do not really know what they could build they could not even talk to the architects or do anything until this gets zoned because it was a waste of everyone's time.

Mr. Brooks addressed security. Like the lady said they had never had a break-in in 11-years. They had a security system. They have a fence. Whatever the Planning Commission said or whatever Council decides, they were willing to fence it, landscape it, put buffers around it, any of that stuff that was required they had no problem with that. They felt like that them taking traffic off of the highway instead of adding traffic to the highway should be a major plus for them to get rezoned tonight. He would think that the neighbors would be happy about that. He pulled from the Catawba County GIS all the deeds for all the properties that surrounded them on both sides of the street. Their building was built in 1971, and not one person surrounding their building had been there before 1980. When all these people here bought their property around their facility, they knew what they were buying when they got it. They knew a trucking company was there. They thought that was a big deal. They did not feel like they had hurt the value in the area at all. He pulled the permits for Robinwood Road, Beck Street, Franklin Drive, McDaniel Street, Cochran, and Jung Court. All the current owners had moved into this area after this trucking company was already built. He advised he would be glad to answer any questions Council might have.

Mayor Guess asked if there were any questions for Mr. Brooks.

Alderwoman Patton asked if they were going to tear down the current building and build this 100,000 square foot, larger facility.

Mr. Brooks advised right now they do not have any plans for that, but they would not need that facility. It would really depend on what kind of square footage they were allowed to build on that property. If they only approve a 60,000 square foot facility and they need 80,000, then obviously they would have to use some of that. They may have to leave their corporate offices in the older building where they could have more warehouse space.

Mayor Guess asked if anyone else wished to speak in favor. No one appeared. Mayor Guess asked if anyone wished to rebuttal. He advised there would be 5-minutes total for rebuttals.

REBUTTAL

Mr. Lewis Ogle commented some of this information would have been more helpful last week. He thought that it was suggested by one of the Planning Committee members that Mr. Brooks had a meeting with the community and kind of give them an idea of what exactly they were looking at. The 80,000 to 100,000, was concerning, if he had known that last week. He was sure Mr.

Brooks wants to hold his cards to his chest. The current facility was about 40,000 square feet and had about 78 loading docks. His concern was depending on what was designed, he could double the size. They were looking at instead of 78 additional loading docks they could get 156. That was very concerning. He advised he forgot to mention in his earlier presentation that there was a contamination spill on that site not long after he came there in early 2000. The EPA got involved, but it did not concern him because his well was so much further away from the mechanical area of it. He did not know if they stored diesel fuel there, he was not sure if they had tanks. He had only been on the property three times. He did not have his well-tested. They sent him a letter regarding getting the well tested. He chose not to because of the proximity of his house to the mechanical area. He thanked Council for their time.

Mr. Mark Gerson asked for clarification. He was told this was still a rezoning decision. That was what his letter said from the City of Hickory.

Mayor Guess advised this public hearing was for annexation. The next public hearing was for rezoning.

Mr. Gerson advised the letter it received from the City of Hickory, said the meeting they had last week was with the County Board for rezoning and they voted. They were told to come in today for rezoning.

Mayor Guess advised that would be the next public hearing.

Mr. Gerson advised they were not even informed, he understood now that they were trying to annex their neighborhood into City limits. He asked if that was what he was hearing.

Mayor Guess responded this public hearing was for the annexation.

Mr. Gerson advised they were never even informed of this, because that was going to double their taxes. They have no chance to comment on this. This is ridiculous. He asked was he saying that they were literally taking their property now and make it into the City limits of Hickory.

Mayor Guess advised it was item number 3, 26.672 acres.

City Manager Warren Wood commented only the property specified.

Mayor Guess responded not his property. It was outlined.

Mr. Gerson commented it still comes down to the rezoning situation and it was still the main topic they were talking about. All the topics they had been talking about was rezoning.

Mayor Guess reiterated this public hearing was for annexation. The next public hearing would be for rezoning.

Mr. Gerson responded he would love to show Council this, because that was the paper they got.

City Attorney John Crone advised they would have a full opportunity to speak again.

Mr. Gerson commented while they were generally on the topic again, the main issue was whether he thinks there may be a few less trucks or whatever, it was still in their backyard. The potential for him to grow was still there. Nothing could stop him from having 300 trucks, whatever. No matter what kind of nice trees and nice landscaping he puts in the noise and disruption was literally in their backyard, where right now it was residentially zoned and that was what they bought for. He still seemed to be part of the factor on this. He thanked Council.

Mayor Guess asked if anyone else wished to speak.

Mr. Dan Wallace commented Mr. Brooks mentioned that they all bought their property with the trucking company there and that was correct. They did. All the property around it was zoned residential. Not commercial. That was why they bought their property. That was why they were here tonight to try to stop this. He thanked Council.

Mayor Guess asked if anyone else wished to rebuttal. He asked for surrebuttal.

SURREBUTTAL

Mayor Guess asked if Mr. Brooks wished to surrebuttal.

Mr. Brooks declined.

Mayor Guess asked if anyone else wished to surrebuttal. No one else appeared. Mayor Guess closed the public hearing. He asked for any discussion or a motion from Council considering the annexation of this property.

Alderman Wood had a question for Planning Director Brian Frazier. He asked if the plan was to pave the property. The stormwater had to be managed in such a way that there was not additional runoff with it paved as what they have now.

Planning Director Brian Frazier advised if there was additional, they would have to kick into Phase 2 Federal Stormwater. They had not discussed this with the applicant in any detail because as the applicant said he had not hired any design professionals. In most cases it would have to be paved but several years ago the Federal government, followed up by the State of North Carolina, specifically DEQ was that gravel was considered the same as asphalt in terms of being impervious. Yes sir, stormwater would have to be addressed by the applicants Professional Engineer.

Mayor Guess asked Mr. Frazier, if the fact that those three vacant properties were not a part of this did that change anything.

Mr. Frazier responded no, that was totally not part of the rezoning or annexation. He did not mean to infer it was, he was checking the County tax records and it seemed to be that those three were under the same name but maybe that was his mistake. Those three parcels would not be affected by either the annexation or the rezoning.

Alderman Wood asked about the cul-de-sac. There would be no access to the property in question via the cul-de-sac.

Mr. Frazier replied that was correct. No sir.

Mayor Guess asked for any further discussion or questions from Council regarding the annexation of this property. He asked for a motion.

Alderman Patton moved, seconded by Alderman Wood approval of the voluntary contiguous annexation of the 26.672-acre property located on Robinwood Road, owned by Brooks Furniture Xpress, Inc. The motion carried unanimously.

ANNEXATION ORDINANCE NO. 479

VOLUNTARY ANNEXATION ORDINANCE (CONTIGUOUS)
Brooks Furniture Xpress, Inc., fka Brooks-Dehart Furniture Xpress, Inc.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO
GENERAL STATUTES 160A-58.1, AS AMENDED (CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory desires to annex the area described herein, under G.S. 160A-58.1, as amended; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said annexation; and

WHEREAS, the City Clerk has certified to the sufficiency of said request, and a public hearing on the question of this annexation was held in the Council Chambers of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina, at 7:00 p.m. on the 4th day of October 2022; and

WHEREAS, the City Council of the City of Hickory further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Hickory.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Hickory.

- c. The areas described are so situated that the City will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council of the City of Hickory does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1 as amended, have been complied with; and

WHEREAS, the City Council further finds that the annexation is otherwise valid, and that the public health, safety, and welfare of the City of Hickory and of the areas proposed for annexation will be best served by annexing the area herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following-described contiguous territory is hereby annexed and made a part of the City of Hickory as of the 31st day of October 2022:

Contiguous Annexation
by the City of Hickory
of the Brooks-Dehart Furniture Xpress, Inc. Property

That certain parcel or tract of land lying and being about 4.55 miles southeast of the center of the City of Hickory. Bounded on the north by the lands of Luis G. Castillo, Deed Book 1656 at page 415 and Deed Book 3718 at Page 1447; William Hicks Deed Book 1906 at Page 1283; Charlie W. McReynolds Deed Book 1264 at Page 761; on the east by the right-of-way of Robinwood Rd. (S.R. 1148); on the south by the lands of Dehart Enterprises, Inc., Deed Book 2011 at Page 557; on the west by the lands of Kenneth Allmon, Deed Book 2233 at Page 1353; Dehart Enterprises, Inc., Deed Book 2601 at Page 449; Revolution Prop. Investments, LLC, Deed Book 3487 at Page 1989; Brooks-Dehart Furniture Xpress, Inc., Plat Book 12 at Page 117; Roger Wurth, Deed Book 3310 at Page 925; the unopened 60' right-of-way of Samuel Street; Dehart Enterprises, Inc.; Deed Book 2810 at Page 1301; Maria L. Cruz, Deed Book 3305 at Page 1009; Gretchen West, Deed Book 2867 at Page 854; J. Lewis Ogle, Deed Book 1977 at Page 670; LGL Investments, LLC, Deed Book 3713 at Page 507 and Deed Book 1496 at Page 031; Linda G. McGee, Deed Book 1781 at Page 233 and more particularly described as follows, to wit.

Beginning at a ½" rebar, said rebar having N.C. grid coordinates (NAD 83-2011) of N 709,779.3732, E 1,320,170.2609 and being located a grid bearing and distance of South 26 degrees 39 minutes 51 seconds West 199.66 feet from NCGS Monument "Cochrane", said monument having N.C. grid coordinates (NAD 83-2011) of N 709957.8000, E 1,320,259.8611 and running thence, as new City of Hickory city limits lines and with the north line of the Dehart Enterprises, Inc. lands, Deed Book 2011 at Page 557 the following calls: North 85 degrees 21 minutes 31 seconds West 274.56 feet to a ¾" pinch top; thence North 85 degrees 20 minutes 49 seconds West 249.56 feet to nail at the base of a ½" pipe; thence North 85 degrees 20 minutes 49 seconds West 280.23 feet to a ¾" pipe in the east line of Allmon; thence with the east line of Allmon and Dehart Enterprises, Inc., North 03 degrees 49 minutes 48 seconds East 180.06 feet to a 1" pipe, the southeast corner of Dehart Enterprises, Inc.; thence, with the east line of Dehart Enterprises, Inc., North 03 degrees 54 minutes 08 seconds East 173.21 feet to a nail at the base of a leaning 1" pipe, the southeast corner of Revolution Prop. Investments, LLC; thence, with the east line of Revolution Prop. Investments, LLC, the same bearing, a distance of 101.91 feet to a ½" rebar, the southeast corner of Brooks-Dehart Furniture Xpress, Inc.; thence, with the east line of Brooks-Dehart Furniture Xpress, Inc., Roger Wurth, crossing the east terminus of the unopened 60' right-of-way of Samuel Street, Dehart Enterprises, Inc and Maria L. Cruz North 03 degrees 54 minutes 08 seconds East, passing a 1 ½" pipe at 357.78 feet, a total distance of 455.40 feet to a point; thence, the same bearing, 2.37 feet to a ½" pipe, the southeast corner of Gretchen West; thence, with the east line of West, J. Lewis Ogle and LGL Investments, LLC North 03 degrees 57 minutes 30 seconds East 333.59 feet to a 1" square tube, in the east line of LGL Investments, LLC and the southwest corner of Luis G. Castillo; thence, with the north right-of-way of Beck Street, a private street, and the south line of Castillo, William Hicks and Charlie W, McReynolds South 86

degrees 07 minutes 53 seconds East, passing a ½” solid rectangular rod at 250.07 feet, a total distance of 947.67 feet to a ½” rebar in a paved drive; thence, continuing the same bearing, a distance of 31.25 feet to a point in Robinwood Rd. and in the existing City of Hickory city limits as shown in Plat Book 80 at Page 38; thence, with the existing City of Hickory city limits and in Robinwood Rd. the following calls: South 06 degrees 22 minutes 40 seconds West 108.03 feet to a point; thence South 06 degrees 28 minutes 08 seconds West 241.21 feet to a point; thence South 06 degrees 48 minutes 21 seconds West 131.70 feet to a point; thence, with a convex curve to the right, said curve having a radius of 1750.05 feet and a chord bearing and distance of south 09 degrees 21 minutes 18 seconds West 154.31 feet to a point; ; thence, with a convex curve to the right, said curve having a radius of 5085.80 feet and a chord bearing and distance of South 12 degrees 50 minutes 33 seconds West 170.56 feet to a point; thence South 13 degrees 59 minutes 43 seconds West 396.37 feet to a point; thence, leaving the existing City of Hickory city limits and as new City of Hickory city limits, South 13 degrees 53 minutes 42 seconds West 50.35 to a point; thence North 85 degrees 21 minutes 31 seconds West 30.61 feet to the point of beginning. Containing 26.672 acres more or less.

This description was drawn from a map by Darrin L. Reid. PLS entitled “Contiguous City of Hickory Annexation in Accordance with N.C.G.S. 160A-029 of an existing parcel of land entitled: City of Hickory “Brook-Dehart Furniture Xpress, Inc.” Property”.

Section 2. Upon and after the 31st day of October 2022, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hickory and shall be entitled to the same privileges and benefits as other parts of the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10, as amended.

Section 3. The newly annexed territory described herein shall become part of Ward No. 3 of the City of Hickory.

Section 4. The Mayor of the City of Hickory shall cause to be recorded in the Office of the Register of Deeds of Catawba County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with duly certified copy of this Ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

4. Approved on First Reading Rezoning Petition 22-09 for Property Located at 1459 and 2819 Robinwood Road, and Vacant Parcel Fronting Robinwood Road from Catawba County R-20 Residential to City of Hickory Industrial (IND) – Presentation by Planning Director Brian Frazier.

Anthony Brooks, of Brooks Furniture Xpress, has submitted a petition for consideration of rezoning property located at 1459 and 2819 Robinwood Road, and surrounding properties from Catawba County R-20 Residential to City of Hickory Industrial (IND). The property is currently within the jurisdiction of Catawba County. The owners’ intention is for the property to continue its current use as a trucking business, The subject properties are currently zoned R-20 Residential by Catawba County, and totals 26.672 acres in total size. The current R-20 zoning districts permits one and two-family residential uses at a density of two dwelling units per acre. The Hickory Regional Planning Commission conducted a public hearing on September 28, 2022, to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition’s consistency with the Hickory by Choice 2030 Comprehensive Plan and recommended approval.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, and 30, 2022.

City Manager Warren Wood asked the City’s Planning Director Brian Frazier to the podium to present Council with rezoning petition number 22-09 for property located at 1459 and 2819 Robinwood Road, and a vacant parcel fronting Robinwood Road from Catawba County R-20 residential to City of Hickory Industrial (IND).

Planning Director Brian Frazier presented a PowerPoint presentation. He discussed the rezoning for Brooks Furniture Xpress. The current zoning was County R-20, and the property size was just under 27-acres. The subject properties were currently unincorporated within the County’s jurisdiction. The properties were previously annexed by City Council this evening. Now under

State statute they had to be rezoned into the City of Hickory. The property owner had requested to rezone the properties to industrial IND, which was the City's base industrial district. He referred to the PowerPoint and pointed out the three properties in question. He displayed the future land use map and pointed out the area which was low density residential, and the area, which was for future land use industrial, which was Trivium Corporate Park. The current zoning designation for the Brooks three parcels were R-20, R-20 surrounded it by Catawba County, and he noted the IND conditional zoning district for industrial, that was the City of Hickory, which was Trivium Corporate Park. He referred to another map on the PowerPoint and pointed out the subject three parcels. He noted that Mr. Brooks intends to build a warehouse. He pointed out Robinwood Road, and Trivium. He reiterated the property was currently zoned R-20 by Catawba County. The general area was classified as industrial by the Hickory by Choice 2030 plan, which Council adopted earlier this evening. The requested industrial zoning district was listed as the implementing district for the industrial classification. Given these factors, IND should be considered consistent with the findings and recommendations of Hickory by Choice 2030. The Planning Commission conducted a hearing on September 28th to consider the petition. During the hearing, the applicant Mr. Brooks spoke in favor and three persons spoke in opposition to the petition. Concerns cited by those in opposition included traffic buffering, loss of open space, also noise, and property values. Upon closing the public hearing, the Planning Commission acknowledged the petitions consistency with the comprehensive plan. The Commission voted 5 to 3 to recommend approval of the rezoning petition. Staff concurred with the recommendation of the Hickory Regional Planning Commission. He asked Council for any questions they may have regarding the rezoning application.

Mayor Guess asked if there were any questions for Mr. Frazier from Council.

City Attorney John Crone asked Mayor Guess to repeat the rules for the rezoning in case there were people that had come in after the annexation hearing.

Mayor Guess explained the rules for conducting the public hearing again. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal.

OPPONENTS

Mr. Lewis Ogle, 1790 Franklin Drive commented he knew their time was up because of Trivium. He was not going to beat a dead horse. The neighborhood, Startown did not want Trivium and that was well documented. He had read the requirements as far as the regulations and setbacks with Hickory. He appreciated Mr. Frazier's willingness to show him on the website where to find all this information and it was good information. He appreciated that. The only thing that he was concerned about after learning some things about Trivium, and he was the one that fought for this, was the setbacks at Trivium were originally 300 off Startown and 100 off Robinwood. That was what he thought they had agreed to. He found out now, he thought there might have been a discrepancy, now it was like 260 and 60. He was not sure and was going to have to do some follow up about that. He did not have any problems as long as everything was followed by regulations about it. If there was a 35-foot buffer off the property line, he did not want to end up having it to be 20-foot. That was concerning to him. If he would not have found out this information about Trivium, he would not even bring this up. He wanted Council to know if somebody says that something was going to be 300 and 100, he expects it. He was not going to go out to Trivium and pull a tape measure. He did not have time. He advised he had a digital range finder that he used for hunting, and he could go over there but it was useless for him to do that. He was not going to pull a tape. He thought that there was going to be some investigations as far as why the off sets were not what they were. He had talked to Mr. Scott Millar, and he said something about the road being moved. He was not sure. He concluded his concerns. He thanked Council for their time.

Mayor Guess called Ms. Gretchen West.

Ms. Gretchen West commented she did not have anything further to add.

Mayor Guess asked if there was anyone else present that would like to speak in opposition.

Mr. Mark Gerson, 1726 Franklin Drive, commented that was the property he owns. He was not going to go on. Pretty much what he said before was more on the rezoning issue. He was sorry for his confusion. The same issues that he was willing to move into Trivium which seemed like a good option. He was willing to move. There had to be better options in the area that could please

everybody and even keep their tax base, and great jobs and all that and not put it in their backyard. A 30-foot buffer zone was not going to hack it. They would not want to have trucks and forklifts and stuff 30-feet from their backyard either. They would not. They were asking for a compromise that could work for everybody, in the sense of fairness. He reiterated he was willing to move. It was not like he has to be in this location. It was not like there were natural resources here and they were trying to move a quarry. He was willing to move across the street and it seemed like that was a perfect option or other places. He thanked Council.

Mayor Guess asked if anyone else would like to speak. Ms. Gretchen West wished to be heard. He asked her to approach the podium and state her name and address.

Ms. Gretchen West, 1782 Franklin Drive, advised her concerns were also water runoff. She did not know how that upper section where they were going to park the additional trailers, that concerned her, that backs up right to her home. About three or four years ago they had 13" of rain in 24-hours and water came down that property, which was higher than Mr. Lewis Ogle's or her backyard. That hump there, that happens to be that part where they want to put the trailers, she was curious about what they were going to do with that. Are they going to dig it all out and make it level so the trailers could easily transition from the central part into the new section. Were they going to leave it? The water ran off and ran a river into her property and flooded her basement. She had to redo the entire duct work in her her house, etc. from the water that ran off from that hump there on that piece of property. She was very concerned with water runoff and how that was going to be dealt with in that section.

Mayor Guess asked if anyone else wished to speak in opposition. No one else appeared. He asked if anyone wished to speak in favor of.

PROPONENT

Mr. Anthony Brooks, 1459 Robinwood Road, Newton wanted to answer any questions Council may have. He thought everything have been discussed. He advised whatever building specification the County has they would adhere to them. Whether it was water runoff, or security, buffer zones, landscaping, whatever. He knew each area had their own different set of rules and they were willing to follow and do whatever, above and beyond what they call for. He asked for any questions from Council.

Alderman Williams asked what the buffer specifications would be.

Planning Director Brian Frazier responded first of all, and in this case, if Council voted for this tonight, it would fall under City zoning. It would fall under State DOT (Department of Transportation) for the roadway. They may still require a permit just because there was a slight change of use. That would be up to DOT. County Building Services would be looking at this to issue any building and trade permits. County utilities and engineering would be looking at this in terms of erosion control and sediment. City zoning would be looking at everything else basically between the IND under City zoning and the County, just because it was County, it did not make any difference, there would be a minimum of a 30-foot manmade or natural/vegetative buffer or combination thereof around the perimeter that borders the residentially zoned areas.

Alderman Patton asked Mr. Brooks if his intent would also be to fence his entire property.

Mr. Brooks responded yes ma'am.

Alderman Patton commented as far as security of someone going onto another piece of property would not be an issues.

Mr. Brooks replied no, ma'am they would have the whole area secured with a fence.

Alderman Patton commented the chain link and barbwire above.

Mr. Brooks responded yes, whatever was required, they were willing to that or even more and better. Whatever they say because they want to be safe and secure as well.

Mayor Guess asked for any further questions.

Planning Director Brian Frazier interjected as a point of recognition that the City does not allow by the code, chain link fences anymore. There would be other alternatives that could be reached.

Mayor Guess closed the public hearing and asked if there was any further discussion from Council or if there was a motion.

Alderman Wood commented he would like to make one point. He had listened to everyone here and it sounded like it had been a good relationship between Brooks and the neighbors up to this point. He had not heard any complaints about the relationship to date. If he was hearing everybody correctly. Mr. Brooks has made a comment that, he did not have the authority to hold him to it, but he was going to ask him to do it and that was to go above and beyond. He thought that recognizing this business bordered a residential neighborhood he hoped that he would embrace that thought and really work with people and get them in there and make it fit into this area. He appreciated him making that statement.

Mayor Guess asked if there were any further comments.

City Manager Warren Wood advised Mayor Guess that they did not have the rebuttal and surrebuttal.

Mayor Guess asked City Attorney John Crone if he needed to reopen the public hearing.

City Attorney John Crone advised if anyone wished to speak, they could.

REBUTTAL

Mr. Lewis Ogle, 1790 Franklin Drive, commented he should have asked this question earlier, it just popped into his mind. They talked about the chain link fence, and he had looked at the Ordinances of Hickory and they were not allowed. He probably would have to ask Mr. Brian Frazier this later on, what could be grandfathered in. He was concerned. Mr. Frazier had informed him that sometimes this was a work in progress. He makes some decisions on some things. He thought, he could correct him if he was wrong, that he could make the decision whether it was a gravel parking lot versus a paved. He understood that. There was a lot of work to it. He had made his expressions to Mr. Brooks already about the fence and he knew where he stood and he knew where he stood, as far as security. His concern was what could be grandfathered in. He did not know what the setbacks were now. Was it R-20 now? He was not sure what the setbacks were. He thought they were 30 off the back or 15 for residential. If this was Hickory, were any of the setbacks going to be like where the trucking company was now, was it going to grandfathered in? They did not want to have to cheat the setbacks a little bit they want that to be followed. The fencing and stuff he understood and everything else was a work in progress when Mr. Brooks submits a design plan to the City. He concluded his comments and thanked Council.

Mayor Guess asked if anyone wished to speak in rebuttal. He asked if Mr. Brooks wished to surrebuttal or if anyone else wished to surrebuttal.

Mr. Brooks declined.

City Attorney John Crone advised Mayor Guess to close the public hearing again and move on.

Mayor Guess closed the public hearing. He asked for any further discussion from Council.

Alderman Wood requested clarification on the setbacks. He asked Planning Director Brian Frazier when this property was rezoned, the entire property was subject to the setbacks, there was no grandfathering in of setbacks under County zoning or anything like that. He asked if that was correct.

Planning Director Brian Frazier replied yes and no because the property lines were not going to move. They were not increasing the property that was owned. Mr. Brooks would have to comply with all City setbacks, but if the rear setback line for the County and City were different, they have to basically go with what was there. He did not mean to be facetious, but they could not get them to move the building or the parking lot. Basically, that rear setback, the current one or the middle parcel, that would most likely be grandfathered if you want to use the terminology. The rest of the property would be under the City's setbacks. He was not sure if the City's or the County's were stricter between industrial and R-

20 to know exactly but in terms of an industrial use the setbacks would be wider and broader than R-20.

Alderman Wood commented he did not explain himself well, they were not going to take existing buildings and set them back of course, but any new construction would have to abide by the stricter of the two.

Mr. Frazier confirmed that was correct.

Alderman Wood thanked Mr. Frazier for the clarification.

Mayor Guess asked for any other questions or discussion. He asked for a motion for the rezoning.

Alderman Seaver moved, seconded by Alderwoman Williams approval of rezoning petition 22-09 for property located on Robinwood Road. The motion carried unanimously.

ORDINANCE NO. 22-35

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 26.672 ACRES OF PROPERTY LOCATED AT 1459 AND 2819 ROBINWOOD ROAD, AND SURROUNDING PROPERTIES, FROM CATAWBA COUNTY R-20 RESIDENTIAL TO CITY OF HICKORY INDUSTRIAL (IND).

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the City has been petitioned to rezone +/- 26.672 acres of property located, more particularly described on Exhibit A attached hereto, to allow an Industrial (IND) district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on September 28, 2022, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 22-09 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HICKORY, NORTH CAROLINA, THAT THE REZONING OF PROPERTY AT 1459 AND 2819 ROBINWOOD ROAD, AND SURROUNDING PROPERTIES, DESCRIBED IN EXHIBIT A IS APPROVED.

SECTION 1. Findings of fact.

1. The subject property is located at 1459 and 2819 Robinwood road, and surrounding properties, and identified as PINs 3711-20-90-9532, 3711-20-90-9923, and 3711-20-90-9062.
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is consistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

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 Industrial by the Hickory by Choice 2030 Comprehensive Plan. The IND zoning district is listed as the implementing zoning district for the Industrial classification.

Given this factor, the rezoning of the property to IND should be considered consistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

2. Industrial (IND) districts are intended to provide area for industrial growth and further economic development.
3. Industrial (IND) zoning district's permissible density adheres to the recommendations for areas classified as Industrial by the Hickory by Choice 2030 Comprehensive Plan.
4. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and
7. 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 owners are properly protected as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 22-09 to be reasonable, but inconsistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

5. Approved the Voluntary Contiguous Annexation of 15.49 Acres of Property located on Tate Boulevard SE South of 31st Street Place SE, Owned by CCF Fuller Family Holdings, LLC, and Whitener Family Trust FBO Susan Denning and FBO Michael J. Whitener – Presentation by Planning Director Brian Frazier.

Consideration of the Voluntary Contiguous Annexation of 15.49 acres owned by CCF Fuller Family Holdings, LLC, and the Whitener Family Trust FBO Susan Denning and FBO Michael J. Whitener. The applicants have petitioned for the voluntary contiguous annexation of 15.49 acres of property located on Tate Boulevard SE south of 31st Street Place SE. The annexation is being requested to obtain city services. The subject properties are unincorporated and within Hickory's extra-territorial jurisdiction (ETJ). The subject properties are currently zoned Industrial (IND). This zoning district does not have intensity limitations. The subject properties are currently vacant. Future development plans are not currently known. The surrounding properties are also zoned industrial and used for such purposes or vacant. The value of the properties, as shown by Catawba County tax records is \$549,300. In their current state, annexation of the properties would generate \$3,446 in additional tax revenues. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2022.

City Manager Warren Wood asked the City's Planning Director Brian Frazier to the podium to present Council with the voluntary contiguous annexation of 15.49 acres of property located on Tate Boulevard SE south of 31st Street Place SE, owned by CCF Fuller Family Holdings, LLC, and Whitener Family Trust FBO Susan Denning and FBO Michael J. Whitener.

Planning Director Brian Frazier presented a PowerPoint presentation. He discussed the voluntary contiguous annexation of 15.49 acres of property. He advised the property was located on the corner of Tate Boulevard and McDonald Parkway SE, 15.5 acres in Ward three. The current property was totally vacant. The future development under this annexation was unknown. The annexation

was being requested to obtain City services. He referred to the PowerPoint and displayed a map. He pointed out the subject property, Tate Boulevard, the area in the City's extra-territorial jurisdiction (ETJ), and the City municipal limits. He displayed another map and pointed out the subject property and Tate Boulevard SE. He pointed out the current zoning which was City IND and City O&I, so it was zoned correct, it was never annexed into the City proper. The voluntary annexation petition complied with all applicable State annexation statutes. Adequate public services were available. The annexation of the property would not cause available services to fall below acceptable levels. Based upon these findings staff recommended approval of the requested annexation. He asked for any questions from Council.

Mayor Guess asked for any questions for Mr. Frazier concerning this annexation. He thanked Mr. Frazier. He explained the same rules for conducting the public hearing applied. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing and asked for any further discussion or a motion concerning the annexation.

Alderman Seaver moved, seconded by Alderwoman Patton approval of the voluntary contiguous annexation of 15.49 acres of property located on Tate Boulevard. The motion carried unanimously.

ANNEXATION ORDINANCE NO. 480

VOLUNTARY ANNEXATION ORDINANCE (CONTIGUOUS)
CCF Fuller Family Holdings LLC, and
Whitener Family Trust FBO Susan W. Denning

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF HICKORY, NORTH CAROLINA, PURSUANT TO
GENERAL STATUTES 160A-58.1, AS AMENDED (CONTIGUOUS)

WHEREAS, the City Council of the City of Hickory desires to annex the area described herein, under G.S. 160A-58.1, as amended; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said annexation; and

WHEREAS, the City Clerk has certified to the sufficiency of said request, and a public hearing on the question of this annexation was held in the Council Chambers of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina, at 7:00 p.m. on the 4th day of October 2022; and

WHEREAS, the City Council of the City of Hickory further finds that the area described therein meets the standards of G.S. 160A-58.1(b), to wit:

- a. The nearest point on the proposed satellite corporate limits is not more than three miles from the corporate limits of the City of Hickory.
- b. No point on the proposed satellite corporate limits is closer to another city than to the City of Hickory.
- c. The areas described are so situated that the City will be able to provide services on the same basis within the proposed satellite corporate limits that it provides within the primary corporate limits.
- d. No subdivision, as defined in G.S. 160A-376, will be fragmented by this proposed annexation.

WHEREAS, the City Council of the City of Hickory does hereby find as a fact that said petition has been signed by all the owners of real property in the area who are required by law to sign and all other requirements of G.S. 160A-58.1 as amended, have been complied with; and

WHEREAS, the City Council further finds that the annexation is otherwise valid, and that the public health, safety, and welfare of the City of Hickory and of the areas proposed for annexation will be best served by annexing the area herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

Section 1. By virtue of the authority granted by G.S. 160A-58.2, as amended, the following-described contiguous territory is hereby annexed and made a part of the City of Hickory as of the 31st day of October 2022:

Contiguous Annexation

From the Point of Commencement, an one inch iron pipe along the southern right of way line of Tate Boulevard, said point having a coordinate location of northing 724,049.05 and easting 1,325,057.42 and being located S64°48'48"W a distance of 3,160.16 feet from NGS monument FA0635; thence, leaving said right of way S51°27'22"W a distance of 27.68 feet to the place and point of beginning; thence along a the existing City of Hickory limit line S51°27'22"W a distance of 363.72 feet to a half inch iron pipe, thence along the new City of Hickory limit line, S59°58'47"W a distance of 82.49 feet to a #5 rebar set; thence, S02°08'47"W a distance of 45.18 feet to #5 rebar set; thence, N84°50'13"W a distance of 27.00 feet to a 2" axle found; thence, N84°50'13"W a distance of 383.00 feet to a #5 rebar; thence, N84°50'13"W a distance of 12.26 feet to the centerline of the branch; Thence along the centerline of the branch the following (16) calls: (1) N07°04'20"E a distance of 11.38 feet to a point, (2) N27°16'56"W a distance of 117.98 feet to a point, (3) N20°08'50"E a distance of 53.87 feet to a point, (4) N09°09'04"W a distance of 114.89 feet to a point, (5) N34°26'48"E a distance of 55.14 feet to a point, (6) N24°55'19"W a distance of 105.20 feet to a point, (7) N75°16'47"W a distance of 98.01 feet to a point, (8) N44°29'15"W a distance of 87.69 feet to a point, (9) N83°41'56"W a distance of 42.74 feet to a point, (10) S39°12'44"W a distance of 44.53 feet to a point, (11) N84°35'14"W a distance of 36.52 feet to a point, (12) N51°26'01"W a distance of 118.58 feet to a point, (13) N76°56'26"W a distance of 90.76 feet to a point, (14) N61°40'36"W a distance of 59.04 feet, to a point, (15) N35°38'26"W a distance of 79.09 feet, to a point, (16) N58°24'44"W a distance of 57.27 feet to a point. Thence leaving the centerline of the branch along the existing City of Hickory limit line a N16°03'34"E a distance of 17.50 feet to a 2" iron pipe; thence N16°03'34"E a distance of 178.18 feet to a point; thence N16°03'34"E a distance of 274.62 feet to the to a point; Thence along the existing City of Hickory line the following (12) courses: (1) S51°58'43"E a distance of 327.15 feet to a point, (2) S52°24'43"E a distance of 277.66 feet to a point, (3) S53°45'43"E a distance of 28.06 feet to a point, (4) S53°45'43"E a distance of 37.55 feet to a point, (5) S53°45'43"E a distance of 53.64 feet to a point, (6) S55°12'43"E a distance of 103.84 feet to a point, (7) S56°17'43"E a distance of 134.22 feet to a point, (8) S57°59'43"E a distance of 154.72 feet to a point, (9) S59°24'43"E a distance of 104.35 feet to a point, (10) S60°51'43"E a distance of 144.50 feet to a point, (11) S62°22'43"E a distance of 129.70 feet to a point, (12) S63°57'43"E a distance of 79.85 feet to the place and point of beginning, containing 14.588 acres more or less.

Section 2. Upon and after the 31st day of October 2022, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Hickory and shall be entitled to the same privileges and benefits as other parts of the City of Hickory. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10, as amended.

Section 3. The newly annexed territory described herein shall become part of Ward No. 3 of the City of Hickory.

Section 4. The Mayor of the City of Hickory shall cause to be recorded in the Office of the Register of Deeds of Catawba County, and in the Office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with duly certified copy of this Ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

6. Approved on First Reading Rezoning Petition 22-10 for the Property Located at 669 21st Street Drive SE, 729 21st Street Drive SE, and an Adjacent Lot Fronting Tate Boulevard SE from Industrial (IND) to General Business (C-2) – Presentation by Planning Director Brian Frazier.

Breakwater Development, LLC has submitted a petition for consideration of rezoning property located at 669 21st Street Drive SE, 729 21st Street Drive SE and an adjacent lot fronting Tate Boulevard SE from Industrial (IND) to General Business (C-2). The subject properties are unincorporated and within Hickory's extra-territorial jurisdiction. According to tax records, the subject properties have an area of 73.38 acres, and are zoned Industrial (IND). The subject properties are vacant, but the applicant has expressed interest in constructing residential townhomes on the properties, which is permitted by-right within General

Business (C-2) districts. The current zoning allows for properties to be used primarily for industrial, distribution and office uses. This district does not have limitation on development intensity. The requested General Business (C-2) district allows properties to be used for retail, service, office, and some light manufacturing. This district also permits for single-family attached (townhome) development. That maximum intensity for non-residential development is a floor area ratio of 2:1, while residential development is thirty dwelling units per acre. The Hickory Regional Planning Commission conducted a public hearing on September 28, 2022, to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan and recommended approval.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, and 30, 2022.

City Manager Warren Wood asked the Planning Director Brian Frazier to the podium to present Council with rezoning petition 22-10 for the property located at 669 21st Street Drive SE, 729 21st Street Drive SE, and an adjacent lot fronting Tate Boulevard SE from Industrial (IND) to General Business (C-2).

Planning Director Brian Frazier presented a PowerPoint presentation. He discussed rezoning petition 22-10. The property owners were Shuford Development. The applicant was Breakwater Development. The zoning was IND, and the property was just under 74-acres in size. The subject properties were unincorporated within Hickory's extra-territorial jurisdiction (ETJ). According to the tax record the subject properties had an area of about 74-acres and were zoned IND. The properties were vacant, but the applicant had expressed interest in constructing residential townhomes on the subject properties which was permitted by right within the general business C-2 district. The property owner had requested to rezone the properties to general business C-2. He referred to the PowerPoint and displayed a map. He pointed out the subject properties. He displayed the future land use map and pointed out the area which was high density residential, and the area which was located all in the City of Hickory. He pointed out industrial areas which was general business in the City's future land use plan, again that Council readopted this evening. The current zoning was IND. He referred to the PowerPoint and pointed out the zoning which was IND and advised they were looking to rezone it to C-2. He pointed out the areas which were currently R-4 high density residential and the area to the north by northeast was R-1 low density residential, again all City of Hickory. He displayed an aerial ortho of the property and pointed out the subject properties in question, McDonald Parkway, and Tate Boulevard. The area in question was designated as general business by Hickory by Choice. The general business C-2 zoning district was listed as the implementing district for the plan's vision for the area. He referred to the PowerPoint which was the quote for the general business designation; provides for a diverse set of commercial in office uses. The district accommodates shopping, services, and professional offices. It was also intended to capture the diversity of uses along thoroughfares while also providing a predictable set of standards. Though the designation included some residential areas, its primary focus was for commercial development access primarily by automobile. Screening and landscaping standards were generally more relaxed than they were in other places, given the proximity to similar use types. But residential was considered, at least for townhome development, was considered a permitted by right use. Given these factors, the rezoning of the properties, the general business should be considered consistent with the findings and recommendations of the comprehensive plan. The Planning Commission conducted their hearing on the 28th of September. The applicant spoke in favor of the petition while one citizen spoke in opposition. Concerns cited were uncertainty of future uses of the property as well as the proximity of the property to the existing Martin Marietta Quarry which was slightly to the southwest. Upon closing the hearing, the Planning Commission acknowledged the petitions consistency with the comprehensive plan and based on its findings, the Planning Commission voted 7 to 1 to recommend approval of the petition. Staff concurred with the recommendation of the Planning Commission. He asked Council for any questions.

Mayor Guess asked for any questions for Mr. Frazier.

Alderman Wood asked what was in the high-density residential area to the southwest of McDonald Parkway.

Mr. Frazier believed that was predominantly single-family homes in there. He did not believe there were any apartments. There maybe a few trailer homes, but he was not sure.

Mayor Guess asked if there were any other questions. He thanked Mr. Frazier. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing and asked if there was any further discussion or a motion from Council.

Alderman Patton moved, seconded by Alderman Seaver approval of rezoning petition 22-10. The motion carried unanimously.

ORDINANCE NO. 22-36

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 73.38 ACRES OF PROPERTY LOCATED AT 669 21ST STREET DRIVE SE, 729 21ST STREET DRIVE SE AND AN ADJACENT LOT FRONTING TATE BOULEVARD SE, FROM INDUSTRIAL (IND) TO GENERAL BUSINESS (C-2).

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the City has been petitioned to rezone +/- 73.38 acres of property located at 669 21st Street Drive SE, 729 21st Street Drive SE and an adjacent lot fronting Tate Boulevard SE, more particularly described on Exhibit A attached hereto, to allow a General Business (C-2) district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on September 28, 2022, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 22-10 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HICKORY, NORTH CAROLINA, THAT THE REZONING OF PROPERTY AT 669 21ST STREET DRIVE SE, 729 21ST STREET DRIVE SE AND AN ADJACENT LOT FRONTING TATE BOULEVARD SE, DESCRIBED IN EXHIBIT A IS APPROVED.

SECTION 1. Findings of fact.

1. The subject property is located at 669 21st Street Drive SE, 729 21st Street Drive SE and an adjacent lot fronting Tate Boulevard SE, and identified as PINs 3722-08-06-2615, 3722-09-05-2133 and 3722-09-05-6984.
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is consistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

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 area in question is designated as General Business by the comprehensive plan, and the General Business (C-2) district is listed as the implementing district for the plan's vision of the area. The following quoted text outlines the Hickory by Choice 2030 Comprehensive Plan's description of the General Business designation: "The general business designation provides for a diverse set of commercial and office uses. The

district accommodates shopping, services, and professional offices. It is intended to capture the diversity of uses along thoroughfares, while also providing a predictable set of standards. Though the designation does include some residential uses, its primary focus is for commercial development accessed primarily by the automobile. Screening and landscaping standards are generally more relaxed than they are in other places given the proximity to similar use types.”

Given these factors, the rezoning of the properties to General Business (C-2) should be considered consistent with the findings and recommendations of the plan.

2. General Business (C-2) districts are intended to provide areas for a diverse mixture of uses.
3. General Business (C-2) zoning district's permissible density adheres to the recommendations for areas classified as Industrial by the Hickory by Choice 2030 Comprehensive Plan.
4. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and
7. 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 owners are properly protected as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 22-10 to be reasonable, and consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

7. Approved on First Reading Rezoning Petition 22-11 for Property Located at 1060 Southgate Corporate Park SW from Regional Commercial (C-3) to Industrial (IND) – Presentation by Planning Director Brian Frazier.

R.H. Barringer, Inc. has submitted a petition for consideration of rezoning property located at 1060 Southgate Corporate Park SW from Regional Commercial (C-3) to Industrial (IND). The property is undeveloped, and according to tax records, is 31.95 acres in size. The applicant has expressed interest in constructing a distribution facility, which is permitted by-right within Regional Commercial districts (C-3) but is limited to 50,000 ft² in total area. Rezoning the property to Industrial (IND) would eliminate the size cap, as IND districts do not have intensity limits. The current zoning allows for properties to be used primarily for retail/commercial uses but does permit for limited distribution operations. The maximum non-residential intensity for the C-3 district measured by a floor area ratio, which is 2:1. Individual properties, subject to their individual size, can potentially be developed for distribution uses but are limited to a maximum area of 50,000 ft². If rezoned to Industrial (IND), the property could be used for manufacturing warehousing, distribution and office uses. Industrial (IND) districts do not have limitation on development intensity. The Hickory Regional Planning Commission conducted a public hearing on September 28, 2022, to consider the petition. Upon closing the public hearing, the Hickory Regional Planning Commission acknowledged the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan and recommended approval.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, and 30, 2022.

City Manager Warren Wood asked the City's Planning Director Brian Frazier to the podium to present Council with rezoning petition 22-11 for property located at 1060 Southgate Corporate Park SW from Regional Commercial (C-3) to Industrial (IND).

Planning Director Brian Frazier presented a PowerPoint presentation. He discussed rezoning petition 22-11. The property owner was the Walter Stephen Ikerd Revocable Trust. The applicant was R.H. Barringer Inc. The property was located at 1060 Southgate Corporate Park SW as City Manager Warren Wood indicated. Current zoning, also as he indicated, was regional commercial, and the property size was 31.95-acres. The property was currently undeveloped and according to County tax records was 31.95-acres in size. The subject property was currently zoned regional commercial C-3 which took in quite a bit of land uses. The applicant expressed interest in constructing a distribution facility which was permitted by right within the regional commercial district C-3 but was limited to a maximum square footage area of 50,000 square feet. Rezoning the property to industrial IND would eliminate that size square footage cap as industrial districts do not have intensity limits. They could go over that 50,000. The property owner requested to rezone the property to City base industrial IND. He referred to the PowerPoint and displayed a map. He pointed out the subject property in question, Highway 70 SW, and US Highway 321. He displayed the map which was the future land use plan and pointed out the regional commercial designations, the revitalization area, the URA, the medium density residential, and office and institutional, medium density residential, high density residential along 7th Avenue SW, neighborhood mixed use, a park, high density residential mostly zoned R-3 and R-4. He displayed another map and pointed out the subject property, R-3 residential, medium density residential, high density residential in the R-4 areas, the area located in C-3, and the industrial area. He reiterated that all this was within the City of Hickory municipal limits. He displayed the aerial ortho of the property and pointed out Highway 321 running north and south, US 70 SW running east and west, and the zoning area in question. He pointed out Corporate Drive heading towards the south. The area in question was designated regional commercial and revitalization by Hickory by Choice. Regional commercials were currently focused on the I-40/US 70 corridor area and the plan recommended continuation of this development pattern. Basically, the surrounding communities due to the nature in the proximity of I-40 US 321 and US Highway 70. Another advantage of this location for big box or superstores, and regional shopping malls was their minimal opportunities for land use conflicts with existing single family residential. While the description of the classification did not discuss industrial uses, sizes of the big box stores were as large if not larger than many industrial uses in the area. Including the one proposed for the shopping center to the northeast which contained a Big Lots which was undergoing revitalization as they speak, that contained more than 150,000 square feet of floor area. This proposal was definitely less than that. Part of the site and the larger area to the north were classified as the revitalization under the URA by the comprehensive plan. The intent of this classification was to provide areas where development standards were slightly relaxed and efforts to spur redevelopment and reinvestment in areas along overlooked by current trends. On the map of the parcel that he showed Council previously, most of this property was not in the revitalization, URA, just a portion of it. Given these factors, the rezoning of the property to IND should be considered consistent with the findings of Hickory by Choice, consistent because the potential development on this site would mean significant reinvestment in the area and that was a major strategy of the Revitalization Land Use classification that does take in a portion of this property. The Planning Commission held their public hearing last week. During the hearing the applicant spoke in favor of the petition while one gentleman spoke in opposition. Concerns cited included traffic, noise, buffering, use compatibility, street with tree canopy, etc. Upon closing the hearing, the Planning Commission acknowledged the petitions consistency with Hickory by Choice. Based on the findings the Planning Commission voted 6-2 to recommend approval of the rezoning petition. Staff concurred with the recommendation of the Planning Commission. He asked Council for any questions.

Alderwoman Patton asked what else would be allowed in C-3.

Mr. Frazier commented basically in C-3 you could have professional offices, just about any type of retail, some very light manufacturing, warehouse space, big box stores, most of the shopping malls and strip centers that we see in the City, especially in the southeast part of town were located in the C-3. Some of those became planned developments but it was a large swath of what could be there. Automotive repair shops could be there, gas stations could be there, open principal storage could be in the area, recycling centers. All of that would be allowed within the C-3.

Mayor Guess asked for any further questions for Mr. Frazier. He thanked Mr. Frazier. He advised this was a public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal.

OPPONENTS

Mr. Charlie Rogers, 2145 9th Street NW, Hickory advised he was here with his business partners L.T. Thompson and Stephen Sparks representing Capital Concepts Financial Group and Capital Concepts Properties. Capital Concepts Financial Group was an independent financial planning firm based here in Hickory and the Capital Concepts Properties they owned the building that they were in. Their address was 1155 Southgate Corporate Park, which was right across the street from the property requesting the rezoning. They share this neighborhood with the church, the Chamber of Commerce, the Realty Executives building, an extended stay, and a pediatric clinic. As business owners, they want to, and have supported local business community in every way possible. They were good neighbors in the community. They understood and supported the need to keep businesses in Hickory for a variety of reasons and the overall goals of Hickory by Choice 2030. He commented that Billy Truitt of R.H. Barringer was a friend of theirs and they really appreciated him reaching out to them and being willing to discuss their concerns around this issue. They had several main issues.

- 1) It was a Corporate Park, not an Industrial Park. He was going to describe that. He commented that hopefully some of them had had a chance to go and see the location. If they had been in the Chamber, they knew the street he was talking about. Most of them had seen that. They were the very next building on the left. It was quiet, and it was tree lined. The trees, over the past 20-years since they had been there, the trees had overgrown the street. It was a really nice area. The City, within the last couple of years, had revitalized the median with replanting from the start of the street to the back. There was a median now that befits this area. It was not designed for larger warehouses, distribution centers that do not fit in with the existing buildings and the character.
- 2) The road design and a lot of people acknowledged that this was an issue, and even Billy Truitt acknowledged this, this was an issue. He explained to accommodate tractor trailer trucks, something was going to have to happen. He asked for the aerial view on Mr. Frazier's PowerPoint to be displayed. They would hate to see the trees cut down. They would hate to see the median have to be removed. If they were going back out towards Highway 70, right now it was perilous, a little bit at certain times of the day to turn left across three lanes of traffic. It was very wide, right there, three lanes of traffic coming into the City and there was no intermediate. You could turn into a lane and then work your way in. You would have to go across both ways to get back to Highway 321 and I-40. They see that really as a concern. The other thing about this area was from time to time there were people working on the street, there were vehicles pausing to drop mail off. It was not built, it was difficult in some cases for a passenger vehicle to maneuver around that, much less a tractor trailer. That was number two, road design.
- 3) The noise. Everybody was talking about noise, they talked about noise in the earlier discussions, but think about tractor trailers rumbling down the street where they were operating a financial planning firm, where people were coming and talking with them about their future, things that concern them. It would be disruptive because the quiet environment was most conducive to their business. Billy Truitt had said, and they believed him on this, that he would do everything he could to buffer the noise once they get on the property. However, there was no getting around the fact that there was noise from trucks pulling in and coming down the street, and the timing of their entry. By timing of their entry, he meant his team was dispersing early in the morning and not impacting them and coming back at a variety of times during the day. Again, not all at one time. That was good, but there were his suppliers that were coming at multiple times during the day and there was just no way really around controlling that from a noise standpoint from a backup standpoint. If they get two tractor trailer trucks trying to turn left out of here, it was going to be really difficult to do. They were going to back up the right-hand lane, and people were not going to be able to turn right around them and it was just going to be basically like water backing up all the way back towards their building.
- 4) The Chamber of Commerce was really the gateway to the City. Right. He asked Council to consider what visitors of the Chamber see today with tree lined streets and the nice median versus one where the trees were cut down or pared back and that median taken up to accommodate industrial traffic. This area allowed for a distribution warehouse space up to 50,000 as Mr. Frazier had already said, Billy Truitt, and R.H. Barringer want to go over that amount. If everything goes well to plan, be closer to a 100,000 square feet, that was a 100% increase over what it was designed for today. They realized also that the development of this area had been a little bit slow over the past 20-years, but they strongly feel that rezoning to industrial would just wildly change the character of this Corporate Park. They had concerns that the rezoning would make it hard for them to conduct their business and potentially damaging their real estate value. They certainly support growth but not at the cost to their business. His partners may have something to say that he might have missed. He appreciated Council's time and their willingness to consider their voice in this matter.

Mayor Guess asked if anyone else wished to speak in opposition.

Mr. Lawrence Thompson, 1155 Southgate Corporate Park SW, thanked Council for their service to the City. He reiterated and agreed with everything that Mr. Charlie Rogers said. He advised he had pictures if they were interested of the street. If they had not had a chance to see it, it was a beautiful street. The City does a wonderful job. The point that he wanted to clarify, the proposed property was not just across the street, it was on their southern border. It was kind of along the side of their building. Due to the topography of the building and he understood and had discussions with Mr. Frazier, about the setbacks and discussions with Billy Truitt about his promise to do everything he could, but they knew the concern they were talking about moving the cul-de-sac up to the very edge of their property and due to the contours of the land, he was a little bit constrained with where he could put that building. It was going to be kind of sitting right on top of them. Beyond the concerns that they obviously have about their business and their location, he thought that the big picture that Council had to consider. They obviously want growth for the City, but they saw on Mr. Frazier's maps that this was a commercial area, this was designated commercial all the way from here down to Highway 70. He thought it was designated commercial for a reason. It was the proximity for the citizens getting in and out the stores, etc. He thought the big picture of the City that Council had to think about was they do not have a ton of corporate office base on this side of town. Right. He thought they valued having that located there and it was a little bit of a different place. Was it discouraging that type of development, those types of businesses from being in this section of town when they were willing to rezone commercial into industrial?

Mayor Guess asked if there was anyone else who wished to speak in opposition. No one else appeared. He asked if anyone present wished to speak in favor of the proposal.

PROPONENT

Mr. Billy Truitt, 178 17th Avenue NW, Hickory, thanked Council for their time. He advised he was the General Manager of the Hickory Branch of R.H. Barringer. They were based out of Greensboro. They were looking to build a new warehouse. They want to keep one here in Hickory. They had been here for a while and would like to stay there. The reason they were looking at moving and rezoning this property, was they were current residents of Hickory, just one exit up 321 from where they were proposing to rezone. The building they were currently in was getting old and it does not allow them to grow the way they would like to. They got to find somewhere new to go. This property meets their land requirements, and transportation requirements because it was right there with 321, Highway 70, and I-40, they use all those. This was kind of a unicorn deal for them. Their goal, if this were to go through, was to be good neighbors. Like the gentleman mentioned, they had been talking since these had been posted, trying to figure out an amicable way to go through this process. R.H. Barringer prides itself on its image. They pride themselves on the business they conduct. They do not have bad equipment. They do run trucks and they were noisy. They could not change that. That was the nature of their business. They run 11 routes out of R.H. Barringer daily. Sometimes one spare out, depending on how heavy they were. Their trucks were not the over the road, 53-foot tractor trailers, they were usually cut down to a smaller size. The largest one they run was a 48-foot trailer, still pretty large, but for the most part, it was a 36-foot trailer that they run. They leave out in the morning between four and six. then they return, as they said, throughout the day at different times depending on where they were coming from. They were based in Hickory. They run from Burnsville down to Denver. They cover a pretty large area. Everybody comes back in at different times. One unknown piece of the trucking portion was they do receive inbound loads from their supplier brewers. Depending on where they were coming from depends on when they get there that day. They were also allowed a pretty wide window. They get an appointment time and a pretty wide window to make that. He could not help them out there, but that was the nature of their business. With the noise concerns, they have a site plan and were currently looking at adding any kind of berms, or any kind of noise reduction that would be allowed for the property. Most of the tractor and trailers would be parked on the far side of the property that would not be facing any other businesses. R.H. Barringer tries not to run their trucks if they were not getting ready to leave, but a lot of their source brewers do not do the same, they do have idling trucks, but they would have those on the far side of the building trying to keep those noise concerns at bay. He had spoken with Capital Concepts, the Chamber, and Realty Executives. The Chamber was in support of them being neighbors and so was Realty Executives. He thanked Council for their time and asked for any questions.

Alderman Zagaroli asked how many trucks they had that they would be using out of this facility.

Mr. Truitt advised 11 every day, and then they run one spare one depending on the volume. They have four spare trucks but those were mainly to swap in and out as they have problems. They also have sales representatives, but they rarely come back to the warehouse, they were assigned a territory and they pretty much stay in that territory. They would come back maybe once a month for a meeting. During his time at R.H. Barringer he did not think there was a time that he had employees at the warehouse at one time to create some kind of traffic issue. Everyone was just kind of in and out when they need to be.

Alderwoman Patton questions his suppliers. He had said they have suppliers throughout the day, did he have an estimate of the number of trucks.

Mr. Truitt responded it just depends, they could have seven and they could all be there before 7:00 a.m. They could have two and they could all be there after lunch. The way they control that was they open receiving at 4:00 a.m. and close receiving at 2:00 p.m. After 2:00 p.m. they turn the truck away unless there was some dire situation, but most of the time if they get there after 2:00 p.m. they would have to wait until the next morning and find somewhere else to do it. They do not allow them to do it on their lot or anywhere near their lot.

Alderwoman Patton confirmed he was saying it would be only between 7:00 a.m. and 2:00 p.m. and they might have two of five trucks come.

Mr. Truitt commented possibly, he could not speak to the number, it just depends on how the brewery sees fit to send the beer.

Alderwoman Patton commented if it was two to five truck plus his 11, he was talking about 16 trucks a day.

Mr. Truitt responded it could be. It just depends. Anheuser-Busch was his largest brewer. They have breweries in Williamsburg; Cartersville, Georgia; and Jacksonville. It just depends on where those were coming from, and he could not answer when or how they were going to get there.

Alderman Wood commented turning left from this area on to Highway 70, was the time of the day of the departures, was that what was making them comfortable with making that left turn onto Highway 70 from there. He thought between four and six the traffic was not that bad.

Mr. Truitt responded speaking from his trucks, his delivery manager and he went down and looked at it. That was one of the first things they looked at. It was the departure of when they leave. They would have one truck, their bar truck, and he may leave out around seven, but most of the time he was going to be gone earlier than that. They were not worried because of the time of day. The source brewery thing could be an issue.

Alderwoman Williams questioned the entrance and exit from their location. She asked if it was a necessity that it pulls out into that corridor there with the median. She asked if that was the only way.

Mr. Truitt advised currently that was the only way in and out that he knew of.

Alderwoman Williams asked if there would be any possibility of having another location.

Mr. Truitt commented it would be hard. It was right off of Highway 321, and they were at the back of the property. There was a Duke right of way that goes through the back of it that they were going to have to allow access for as well. He commented being a beer man and not a site planner he did not think that would work out very well.

Mr. Chris Spencer, 785 Highway 70 SW, pointed out their location on the corner where Southgate Corporate met Highway 70. That was the Realty Executives building. For full disclosure he advised that he was acting as the listing agent, the buyer's agent, and a neighbor in this property. From their perspective, he shared a lot of the concerns the Capital Concepts guys had. As neighbors they agreed with the street being tight, and the medians, and the general atmosphere of the property. At the same time, they were being realistic at this point. They had this property listed for 10-years now. Mr. Steve Ikerd who owned the property was in his eighties now. He was going to sell this property. They had

been gatekeepers to this property for quite a while and they had tried to control it to an extent. Probably against Mr. Ikerd's wishes. They would like to have 10 buildings just like their three-story brick buildings that his dad invested millions of dollars into 25-years ago. The realist in them now realized that was not going to happen in this area. A development like Mr. Truitt was proposing here, they thought was a compromise at this point. They would love to have 10 buildings just like theirs, and like these guys would as well. They would love not to have the trucks. He referred to the map on the PowerPoint and pointed out another property previously owned by Mr. Steve Ikerd which they sold a couple of years ago. The City approved it. It was a lower income development. It was kind of proposed as firefighters, and policemen, and folks with not huge incomes could afford. He pointed out another property that Mr. Ikerd owned. He used to own the furniture mall there as well. He reiterated that Mr. Ikerd was in his eighties. It would be awesome if these were all commercial buildings, it was not going to happen. He pointed out the Duke Power right of way and noted that it eats up a lot of the acreage and makes a lot of this property dead in the back. He pointed out there was a creek that flows along the side of the property that did not allow another way to access it. He pointed out a piece of property that the City of Hickory owned. At this point they were getting other folks inquiring about putting housing developments back there and bringing that to Council. They do not want that. They had been a gatekeeper to an extent trying to talk Mr. Ikerd out of something like that because they do not want that kind of car traffic on the road. The same thing with this right now, C-3 allows 20, he thought he was correct, 20 apartments per acre. There could be up to 600 apartment units back there. They were getting those phone calls now about this property. They do not want that either. At this point they were becoming realist, Mr. Ikerd was in his 80s, and he was calculating up the other day when they brought this to him, he had paid almost \$500,000 in taxes in this property since he had owned it. He was looking towards the end at this point in all honesty and at this point he was going to sell it one way or another. They were looking at it as a compromise. These guys were going to be out of there earlier in the day. They do not love the trucks. They would love it to be something else. It was going to get sold one way or another. They would much rather see this than some of the alternatives. They were on board as neighbors here as a compromise. He asked for any questions for him as a listing agent or neighbor.

Mayor Guess asked for any questions. He thanked Mr. Spencer. Mayor Guess asked for rebuttal or surrebuttal. No one appeared. He closed the public hearing.

City Manager Warren Wood addressed Public Works Director Steve Miller and asked if the planted medians in the right of way were maintained by the City of Hickory.

Public Works Director Steve Miller confirmed that was correct.

City Manager Warren Wood wanted to go on the record as saying oftentimes trucks and planted medians, he was not trying to dissuade them, the City and the City's staff could not perpetually be repairing the damage that may or may not occur from trucks in those medians. It could not be every time something happens, they were out there. That might be something if it was approved that they may have to develop some sort of plan for.

Alderwoman Patton commented but the plan was not to take out the medians. But there was a plan to trim back the trees that had overgrown.

City Manager Warren Wood responded yes. Every time a truck, if that was the case, damages a median they City could not do that perpetually.

Alderwoman Patton questioned if currently the roads were wide enough.

City Manager Warren Wood was not suggesting that was going to be the case, but there had been concerns by both parties on the width of the road and all that.

Alderwoman Patton asked again if the width of the road was large enough.

Public Works Director Steve Miller advised the current width of the road travel lanes was 15-feet each way so that would support this. Department of Transportation's minimum was 12-foot wide, so it would support truck traffic.

Mayor Guess commented ultimately the company would be responsible for any damage.

City Manager Warren Wood responded assuming someone confessed.

Mayor Guess commented ultimately the company would be responsible for any damage done to the median or the landscaping. That was understood.

Alderman Wood commented they could get creative with maybe some rock work out there. He thought that had been done to keep them out of their medians in other places.

City Manager Warren Wood commented it was a nice street.

Mayor Guess asked for any further discussion from Council or staff.

Alderman Wood commented that Alderwoman Patton had asked a good questions. Mr. Frazier had said one of the things that was possible on this property was auto repair shops. He works in a professional building on Highway 127 where there was tremendous traffic, fire truck, etc. What he would not want was a repair shop outside his office with his clients.

Planning Director Brian Frazier advised that C-3 was all encompassing.

Alderman Wood responded that would scare him a little bit, thinking that was a possibility.

Mayor Guess asked for any other comments or discussion. He asked for a motion.

Alderwoman Williams moved, seconded by Alderman Seaver approval of rezoning petition 22-11 for property located at 1060 Southgate Corporate Park SW. The motion carried unanimously.

ORDINANCE NO. 22-37

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 31.95 ACRES OF PROPERTY LOCATED AT 1060 SOUTHGATE CORPORATE PARK SW, FROM REGIONAL COMMERCIAL (C-3) TO INDUSTRIAL (IND).

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the property owner has been petitioned to rezone +/- 31.95 acres of property located at 1060 Southgate Corporate Park SW, more particularly described on Exhibit A attached hereto, to allow an Industrial C-3) district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on September 28, 2022, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 22-11 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HICKORY, NORTH CAROLINA, THAT THE REZONING OF PROPERTY AT 1060 SOUTHGATE CORPORATE PARK SW, DESCRIBED IN EXHIBIT A IS APPROVED.

SECTION 1. Findings of fact.

1. The subject property is located at 1060 Southgate Corporate Park SW and identified as PIN 3703-13-14-4561.
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is consistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

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 area in question is designated as Regional Commercial and Revitalization by the comprehensive plan. The following quoted text outlines the Hickory by Choice 2030 Comprehensive Plan's description of the Regional Commercial designation:

"Regional commercial is currently focused on the I- 40/U.S. 70 corridor and this plan recommends the continuation of this development pattern. The I- 40/U.S. 70 corridor provides the most convenient access for city residents as well as persons living in the surrounding communities due to the proximity of I-40, U.S. 321, and U.S. 70. Another advantage to this location for "big-box" or superstores, and regional shopping malls is that there are minimal opportunities for land use conflicts with single family residential."

While the description of this classification does not have discussion about industrial uses, sizes of the discussed big-box stores are as large, if not larger, than many industrial uses. The shopping center to the northeast, which contains a Big Lots, contains more than 150,000 ft2 of floor area.

Additionally, part of the site and a larger area to the north are classified as Revitalization by the comprehensive plan. The intent of this classification is to provide areas where development standards are relaxed in efforts to spur redevelopment or reinvestment in areas long overlooked by current trends.

Given these factors, the rezoning of the property to Industrial (IND) should be considered consistent with the findings and recommendations of the comprehensive plan. Consistent, because the potential development of the site will mean significant reinvestment in the area, which is a major strategy of the Revitalization land use classification.

2. Industrial (IND) districts are intended to provide areas industrial uses and further economic development.
3. The area in question is designated as Regional Commercial and Revitalization. The strategies and recommendations associated with both classifications demonstrate the rezoning of the property to Industrial (IND) is in keeping with the intent of the comprehensive plan
4. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and
7. 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 owners are properly protected as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 22-11 to be reasonable, and consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

8. Approved the Joint Economic Development Agreement with Southeastern Industrial Solutions, LLC for Property Located in Fairgrove Business Park – Presented by Business Services Manager Dave Leonetti.

Staff requests Council's consideration of a Joint Economic Development Agreement to convey two parcels of City-Owned property located in Fairgrove Business Park to Southeastern Industrial Solutions, LLC. The subject property is located at 2084 Fairgrove Church Road SE and 20th Avenue SE. The property contains 16.61 acres and identified as Catawba County GIS PINs 3721-16-83-3563 and 3721-16-73-9055. The property is currently undeveloped, and the buyer seeks to develop two industrial buildings on the site. The conveyance would be subject to a Joint Economic Development Agreement. The buyer estimates private investment of at least \$16,500,000 in the development of two industrial buildings and the creation of 25 jobs at the site. The estimated market value of the land is \$332,200 (\$20,000 per acre). The buyer seeks to purchase the land for \$83,050 (\$5,000 per acre). The sale of the property will stimulate and stabilize the local economy and result in the creation of a substantial number of new, permanent jobs in the county. Staff recommends City Council approve a Joint Economic Development Agreement for the conveyance of property in Fairgrove Business Park to Southeastern Industrial Solutions, LLC.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 23, 2022.

City Manager Warren Wood asked the City's Business Services Manager Dave Leonetti to the podium to present Council with a Joint Economic Development Agreement with Southeastern Industrial Solutions, LLC for property located in Fairgrove Business Park.

Business Services Manager Dave Leonetti presented a PowerPoint presentation. He discussed an economic development agreement related to a property sale of City-owned property in Fairgrove Business Park. There was roughly 16.6 acres of undeveloped land near the southern terminus of Fairgrove Church Road. Southeastern Industrial Solutions had approached the City with a proposal to purchase the land to construct two industrial buildings on the site. The first would be a 50,000 to 100,000 square foot building that would allow an existing business that was located in Hickory to expand. The second would be a shell building for a future tenant. He referred to the PowerPoint and displayed the existing aerial photography related to the property. He pointed out the end portion of Fairgrove Church Road SE. To the southeast of the property was the FedEx ground facility and the FedEx freight facility. The properties were located immediately to the east of the City's biosolids compost facility. He pointed out the Humane Society building a little bit further to the east there as well. North Carolina General Statutes, the local development statute, authorized cities to convey property at below market value for economic development purchases if certain conditions were met. The general conditions were the tax revenue generated by the project would exceed the reduction in the value, and that the project would create a substantial number of jobs that pay at or above the average County wage. Currently for Catawba County it was roughly \$48,000 per year. In terms of this project, the proposed purchase price of the property was \$83,050, roughly \$5,000 per acre. The purchaser through the economic development agreement was agreeing to invest at least \$16.5 million dollars to construct the two industrial buildings on the property. This would create an estimated 25 jobs that pay an average of \$55,000 per year. The business looking to expand would also retain 30 jobs in Hickory. The estimated market value would be roughly \$20,000 per acre. The agreement also contained an option for the developer to construct a third building on a nearby property. That was the property immediately to the north of the two subject properties. Staff recommended approval of the Joint Economic Development Agreement. He asked for any questions.

Mayor Guess asked for any questions for Mr. Leonetti.

Alderman Wood asked if the City owned the property to the north where they have the option to build the third site.

Mr. Leonetti replied yes. There were two parcels that were kind of to the north of this. The property on the corner was owned by Turbo Tech and then there was eight acres to the west of that that was owned by the City of Hickory. The 8.8-acre site was the area that would have the option.

Alderman Wood asked if it would be the same terms of sale or be from scratch on that one.

Mr. Leonetti advised the terms were in the agreement. They would agree to construct a building of roughly 40,000 square feet and invest, he thought at least \$4.5 million dollars in that purchase and the price on that one would be \$10,000 per acre.

Mayor Guess asked for any other questions for Mr. Leonetti. He thanked Mr. Leonetti. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing. He asked for any other discussion or a motion.

Alderwoman Patton moved, seconded by Alderman Zagaroli approval of the Joint Economic Development Agreement with Southeastern Industrial Solutions, LLC. The motion carried unanimously.

B. Departmental Reports:

1. Appointments to Boards and Commissions

<u>COMMUNITY APPEARANCE COMMISSION</u>	
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)	
At-Large (Outside City but within HRP) (Council Appoints)	VACANT
<u>COMMUNITY RELATIONS COUNCIL</u>	
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)	
Other Minority (Council Appoints)	VACANT
Other Minority (Council Appoints)	VACANT
Other Minority (Council Appoints)	VACANT
<u>HICKORY REGIONAL PLANNING COMMISSION</u>	
(Term Expiring 6-30; 3-Year Terms With Unlimited Appointments) (Appointed by City Council)	
Burke County Representative (Mayor Appoints with Recommendation from Burke County) Robert Weaver Resigned 9-26-2022	VACANT
<u>HISTORIC PRESERVATION COMMISSION</u>	
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)	
Licensed Architect (Council Appoints)	VACANT
<u>PUBLIC ART COMMISSION</u>	
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)	
Ward 4 (D. Williams Appoints)	VACANT
<u>RECYCLING ADVISORY BOARD</u>	
(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)	
Ward 6 (Patton Appoints)	VACANT
<u>UNIVERSITY CITY COMMISSION</u>	
(Terms Expiring 6-30; 2-Year Terms) (Appointed by City Council)	
At-Large Not Including ETJ (Council Appoints)	VACANT
At-Large Not Including ETJ (Council Appoints)	VACANT

Alderwoman Patton nominated Taylor Newton as an At-Large Representative on the University City Commission. She gave Ms. Newton kudos for sitting through this meeting. She thought she would be a wonderful addition, very interested.

Mayor Guess commented she was obviously dedicated.

Mayor Guess moved seconded by Alderman Zagaroli approval of Ms. Newton as an At-Large Representative on the University City Commission. The motion carried unanimously.

Mayor Guess welcomed Taylor Newton and thanked her for serving.

C. Presentation of Petitions and Requests

- XII. Matters Not on Agenda (requires majority vote of Council to consider)
- XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature
- XIV. Closed Session Per NC General Statutes 143-318.11(a)(1)(3) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

Mayor Guess moved that Council go into closed session to consult with the attorneys to discuss the items below, seconded by Alderwoman Patton. The motion carried unanimously.

October 4, 2022

1. Approval of Closed Session Minutes of September 20, 2022 - NCGS §143-318.11(a)(1)
2. Discussion of Potential Litigation - NCGS §143-318.11(a)(3)

Council convened to closed session at approximately 9:07 p.m.

Council reconvened to open session at approximately 9:16 p.m.

No action was taken upon return to open session.

- XV. There being no further business, the meeting adjourned at 9:16 p.m.

Mayor

City Clerk