



**5:00 PM- Quasi-Judicial Training Session*

**5:45 PM- Presentation by City Attorney Tim Swanson*

The Hickory Regional Planning Commission will hold its regular meeting on **Wednesday, May 22, 2024 at 6:00 p.m. in the City Council Chambers of City Hall**. The following will be the agenda for the Regular Meeting:

AGENDA

- Parliamentary Call to Order
- Welcome
- Roll Call
- Items of Correspondence
- City Council Action
- Approval and signing of minutes from the April 24, 2024 meeting.

PRESENTATIONS AND HEARINGS

1. Rezoning Petition 24-09. Request by the City of Hickory for the consideration of rezoning approximately 12.45 +/- acres of property owned by the City of Hickory, located at 2301 21st Avenue NE between 23rd Street Court NE and 21st Street NE, from Medium Density Residential (R-3) to Office and Industrial (OI). The subject property is shown as PIN 3713-08-97-7949 on the Catawba County Tax Map.
2. Special Use Permit 24-01. – Request by Jeff Allen, agent for One Eleven Main, LLC, for approval of a Drinking Establishment on property located at 131 Main Ave NE, and further identified as PIN 3702-07-69-5262 on the Catawba County Tax Map.
3. Special Use Permit 24-02. – Request by applicant Fong Lor for the consideration of operating a drinking establishment at 1811 1st Avenue SW. The property is shown as PIN 2792-07-68-4646 on the Catawba County Tax Map.

OTHER BUSINESS

1. **None**

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

Attendance Roster
FY 23-24

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

Hickory Regional Planning Commission

		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Appoint	Expire
Catawba County	Steve Mull	P	P	P	AX		AX	P	P		AX			Jul-22	Jun-25
Catawba County	William Pekman	P	P	P	P		P	P	P		P			Jul-21	Jun-24
Burke County	Vacant													Dec-19	Jun-26
Ward 1	Bill McBrayer	P	P	P	P		P	P	AX		P			Jul-22	Jun-24
Ward 2	Philip Reed	P	P	AX	P		P	P	P		P			Jul-21	Jun-25
Ward 3	Junior Hedrick	P	P	P	P		P	P	P		P			Jul-20	Jun-26
Ward 4	Sam Hunt	P	P	P	P		P	P	P		P			Jul-21	Jun-24
Ward 5	Robert Lelewski							AX	P		P			Jul-23	Jun-26
Ward 6	Anne Williams	P	P	P	P		AX	P	P		P			Jul-22	Jun-25

Hickory Regional Planning Commission
Wednesday, April 24, 2024, 6:00 pm

A regular meeting of the Hickory Regional Planning Commission (HRPC) was held on Wednesday, April 24, 2024, 6:00 pm, in Council Chambers of the Julian G. Whitener Municipal Bldg.

Members Present: Bill McBrayer, Bill Pekman, Junior Hedrick, Anne Williams, Philip Reed, Sam Hunt, and Robert Lelewski (arrived during the second hearing).

Members Excused: Steve Mull

Members Absent: None

Others Present: Planning Director Brian Frazier, Senior Planner Mike Kirby, City Planner Wilson Elliott, City Attorney Tim Swanson, Deputy City Attorney Arnita Dula, and Minutes Clerk Anne Starnes

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

Roll Call: Planning Director Brian Frazier said a quorum was present. Steve Mull was excused, and he expected Mr. Lelewski to attend the meeting.

Items of Correspondence: A letter dated April 22, 2024, was e-mailed to the Planning Commission, and forwarded to members by Mr. Frazier's staff. Printed copies were distributed to Commission members at their seats. Mr. Frazier said the letter referenced the proposed annexation and petition to rezone by the City of Hickory and was signed by three individuals at the end of the fourth page.

City Council Action: Mr. Frazier said the only action before the City Council was the current annexation, and there were no other actions since the last Planning Commission meeting.

Approval and Signing of Minutes from the February 28, 2024, Meeting: Minutes from the previous meeting in February were distributed to members in advance. Bill Pekman noted that City Attorney Swanson's name was spelled incorrectly throughout the minutes. No other changes or corrections were stated. Bill Pekman moved, seconded by Philip Reed, to approve the February 28, 2024, minutes as amended. The motion carried unanimously.

Reading of State Ethics Rules: Mr. McBrayer read the NC Ethics Rules aloud:

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

None of the members present stated a current conflict of interest or asked to be recused from a hearing on the agenda.

For the benefit of people in the audience and those planning to speak during a hearing, Mr. McBrayer explained the procedure for conducting the five (5) staff presentations and public hearings on the meeting agenda. During each public hearing, speakers will have a cumulative 15-minutes to present their testimony and concerns to the board, and at no time will anyone be allowed to speak from the floor. The proponents in favor and opponents against each of the five (5) hearings tonight will each be allowed a total of 15 minutes to speak. All your comments and concerns are important to the Commission members, but please use your time wisely and be respectful of other speakers' time. Please say, "Ditto what he or she said," instead of repeating a previous speaker's comments when it

is your turn to speak. There will also be a 5-minute rebuttal and surrebuttal for each side, and again, please be respectful of other speakers' time. Rezoning hearings are legislative and must be consistent with Hickory by Choice 2030 and in keeping with the Hickory Land Development Code. He reminded everyone this Commission has no jurisdiction concerning roads, school enrollment, storm water, property values, watersheds, municipal water and sewer connections, or specific designs for development of the plan. City, County, and State professional staff are charged with reviewing the development plans for all proposed rezonings. All City ordinances must be complied with, as well as all County and State requirements, including fire and building codes, and all other State and Federal laws. Tonight's decisions on the zoning are only recommendations from this board and will be passed on to City Council for their consideration and final decisions at an upcoming meeting in this chamber. However, the decision on tonight's Special Use Permit request will be final, and the applicant's only recourse will be to appeal it to the Superior Court in Newton to request the decision be reversed.

Mr. McBrayer requested that everyone present attending silence their cell phone. He asked if there were any questions, and there were none.

PRESENTATIONS & PUBLIC HEARINGS

1. Rezoning Petition 24-05.

Rezoning of property owned by Bowman Rentals, LLC, located at 2063 Startown Road, from R-20 Residential to Medium Density Residential R-2. The subject property is shown in more detail as PIN 3721-13-04-3211 on the Catawba County Tax Map.

Mr. McBrayer opened the public hearing for Rezoning 24-05.

Senior Planner **Mike Kirby** presented the staff report and referred to PowerPoint slides. He reviewed **slide #2** (Rezoning Petition 24-05).

- Property Owners: Bowman Rentals, LLC
- Applicant: City of Hickory
- Location: 2063 Startown Road
- Current Zoning: Catawba County R-20
- Property Size: +/- 30.80 acres
- Background: The property is currently zoned Catawba County R-20. The rezoning request is an indication that the owners desire to use the property for residential purposes.
- Request: Rezone the property to Planned Development

He said the applicant is the City of Hickory, as this is in reference to an annexation petition by the applicants. City Council has scheduled the annexation hearing for their next regular meeting on May 7, which coincides with the hearing for Rezoning Petition 24-05.

Mr. Kirby reviewed **slide #3** (Map 1. Hickory by Choice 2030, Future Land Use). He noted the subject property, hatched, and outlined in red. The area shaded in pink is Neighborhood Mixed Use, the orange area is High Density Residential, and the red area is Regional Commercial. He said the subject property converges in the middle of all these land use categories.

Slide #4 (Map 2. Current Zoning). Mr. Kirby said the areas shaded in green on the map are currently zoned Catawba County R-20. The orange area is Preston Ridge, an existing PD, and the blue OI area is under City zoning. The subject property, outlined in red, is located on Startown and Robinwood Roads.

Slide #5 (Map 3. Aerial). Mr. Kirby pointed out Preston Ridge to the west, CVCC to the north, and Trivium Industrial Park to the southeast on the aerial photograph.

Mr. Kirby reviewed **slide #6** (Site Plan), saying a sketch of the Planned Development was included in the agenda packet, but the applicant has since provided a more accurate site plan and it appeared on slide #6. He pointed out

the entrance from Startown Road, the location of the multi-family units, and the two (2) entrances from Robinwood Road, one into the multi-family units and one to the south that will access 75 townhomes.

Mr. Kirby reviewed slide #7 (Rezoning Petition 24-05).

- According to the HBC 2030 Plan, the area is classified as High Density Residential, Neighborhood Mixed Use, and Regional Commercial.
- The Hickory by Choice 2030 Comprehensive Plan states the following about Neighborhood Mixed Use areas: “A typical neighborhood mixed use district would have a mix of residential, retail and office space. The key elements for these districts include neighborhood scale commercial establishments such as grocery stores, pharmacies, banks, small scale office buildings, civic or institutional functions, residences, schools, and small parks.”
- The vicinity in which the property is located possesses most of these elements, except for a community park. The proposed Planned Development will include single and multi family residential uses, which are components of a Neighborhood Mixed Use area.
- A stated goal of the comprehensive plan is to support a network of mixed-use centers. These mixed-use centers are intended to be neighborhood scaled where residents have convenient access to goods and services. The proposed development is within a short distance of larger shopping areas along Catawba Valley Boulevard and U.S. 70 SE.

Mr. Kirby reviewed slide #8 (Rezoning Petition 24-05).

Recommended Action

- *Staff recommends the following:*
 - The adoption of a statement affirming the petition’s consistency with the Hickory by Choice 2030 Comprehensive Plan.
 - The development of the property shall adhere to the regulations provided in the Land Development Code and any other applicable standards.
 - Forward a recommendation of approval to the Hickory City Council.

He asked if there were any questions, and there were none.

Mr. McBrayer thanked him.

The staff report was entered into the record as Exhibit A.

PROPONENTS

• **Matt Campbell**, 2980 Grier Street, Newton NC, addressed Commission members, saying he was neither for nor against the project, that he a property owner on the southwest side of the development. He said a portion of his questions had already been answered, but asked if this Planned Development, or sale of the property, was contingent on the rezoning, and does the City of Hickory have any plans to annex the development that he lives in.

Mr. Frazier answered from his seat, saying North Carolina General Statutes do not allow the city to perform an involuntary annexation. A landowner, such as Mr. Campbell, would need to apply for an annexation; the City cannot force it upon someone, they would need to apply for it, to obtain water and/or sewer services.

Mr. Campbell said his main concern is that he does not want to be annexed. Mr. Frazier said he would not be annexed unless he requests such himself.

Mr. Campbell asked if the proposed development is contingent on the rezoning. Mr. Frazier said the City Council would meet on May 7 and there would be a public hearing for the annexation, followed by a hearing for the

rezoning. Once the rezoning is finalized, the applicant will need to come back for the planning and review process, which must also be approved.

Mr. Campbell said thank you for the information, and Mr. McBrayer thanked him.

• **Will Clayton**, 2080 Singer Drive, Hickory NC, addressed Commission members, saying he was attending as the design engineer. He said the project is not very far along, but he could address any concerns and answer members' questions.

There were no questions, and McBrayer thanked him.

No proponents were present.

OPPONENTS

No opponents were present.

Mr. McBrayer closed the public hearing. He asked for discussion or questions from members on Rezoning 24-05, or a motion to approve or deny the petition.

Sam Hunt moved, seconded by Bill Pekman, that the Planning Commission forward a recommendation of approval to City Council for Rezoning Petition 24-05. There was no discussion on the motion. By a show of hands, the motion was carried unanimously.

Mr. McBrayer said the motion passed.

Robert Lelewski was detained and did not participate in the first public hearing.

2. Rezoning Petition 24-06.

Rezoning of property owned by Boureanu and Creech Properties, LLC, located at 3940 River Road, from R-20 Residential to Medium Density Residential R-2. The subject property is shown in more detail as PIN 3710-09-17-5434 on the Catawba County Tax Map.

Mr. McBrayer opened the public hearing for Rezoning Petition 24-06.

Planning Director **Brian Frazier** said Commission members might remember hearing this petition during their September meeting last fall, when members sent a recommendation of approval to City Council for a project that, at the time, had much higher density. The annexation petition failed, so it never went before Council for a rezoning. NC State law and the local statute allow the applicant to come back, so they are here tonight seeking a recommendation of rezoning. In a couple of weeks, it will be going to the Council, seeking a recommendation for annexation approval and rezoning approval. He said because this is going to be an annexation, the applicant is the City of Hickory.

Mr. Frazier presented the staff report and referred to PowerPoint slides. He reviewed **slide #10** (Rezoning Petition 24-06).

- **Property Owners:** Boureanu and Creech Properties, LLC
- **Applicant:** City of Hickory
- **Location:** 3940 River Road
- **Current Zoning:** Catawba County R-20
- **Property Size:** +/- 49.21 acres
- **Background:** The property is currently vacant and zoned R-20 Residential by Catawba County, and is in the process of being annexed.

- Request: Rezone the property from Residential (R-20) to Medium Density Residential (R-2) to allow for the construction of a 99-lot single-family subdivision.

He expects the annexation petition will go to the City Council on May 7.

Mr. Frazier reviewed slide #11 (Map 1. HBC 2030 Future Land Use). He said the subject property was crosshatched on the map, and pointed out the location of River Road, City-owned property, and the Wastewater Treatment Plant, saying most everything around it is Low Density Residential.

Slide #12 (Map 2. Current Zoning). Mr. Frazier said the area of property highlighted in pale yellow is zoned County R-20, the brown area is a PD, and the blue area is zoned Hickory R-1, which is the Henry Fork Wastewater Treatment Plant. He pointed out the City Limits of Hickory and the area hatched in red, which is the area to be annexed and rezoned.

Slide #13 (Map 3. Aerial). Mr. Frazier said the subject area was outlined in red on the aerial photo. He pointed out the Henry Fork Wastewater Treatment Plant, River Road, and U.S. Highway 321 South.

Mr. Frazier reviewed slide #14 (Rezoning Petition 24-06).

- The HBC 2030 Plan identifies the area as Low Density Residential.
 - The HBC 2030 Plan recommends Low Density Residential areas be developed for housing at a **density of 2 to 4 dwellings per acre.**
- Low Density Residential is characterized by:
 - **Transitional areas** between higher density areas and more rural areas.
 - The current land use pattern of the larger area **consists mainly of lower density residential uses.** The rezoning of the property, as discussed, **maintains this current pattern,** but with smaller more compact lots.
- The proposed R-2 district will be composed of single-family residences, at approximately 2.07 units per acre.

Mr. Frazier said in this case, single-family detached.

Slide #15 (Rezoning Petition 24-06).

Recommended Action

- *Staff recommends the following:*
 - The adoption of a statement **affirming the petition's consistency** with the Hickory by Choice 2030 Comprehensive Plan.
 - The development of the property shall **adhere to the regulations provided** in the Land Development Code and any other applicable standards.
 - Forward a **recommendation of approval** to the Hickory City Council.

Mr. Frazier asked for questions from members.

Dr. Pekman asked Mr. Frazier to remind members about the petition from last fall, and asked how many units were proposed. Mr. Frazier believed it was 178 units. Dr. Pekman said this would be roughly half of that proposal. Mr. Frazier said yes, just about half.

There were no additional questions for staff. McBrayer thanked Mr. Frazier.

Deputy Attorney Dula requested slide 15 remain on the screen, which includes the recommendation.

The staff report was entered into the record as Exhibit A.

Mr. McBrayer said the proponents would speak first.

PROPOSERS

• **Dan Shabeldeen**, Shabeldeen Engineering, 3145 Tate Blvd. SE, Hickory NC, addressed Commission members, saying he was the design engineer for the project. As Mr. Frazier said, he has been here before to discuss this project. The project was not approved during the City Council meeting, but they had discussed some of the issues the City had with the project; several people attended who were in opposition to it, so he took good notes and identified some of their concerns.

Before continuing, Mr. Shabeldeen identified the current options for the property. He said it is heavily wooded and current zoning allows 2-units per acre, or 98-units on the site. They are currently proposing 99-units, which is 2.07 units per acre, and this is very consistent with County development and their requirements. Current options are to develop it under County zoning, which requires half-acre lots, similar to Melrose Place and some of the other developments in the area that have half-acre lots, houses and septic systems in the yards; much of the sites are timbered, and probably just about all of it except for about 8-acres is in the floodplain. The other option is not developing it and leaving it under County zoning; however, it is going to be timbered anyway, they get calls monthly from people about coming out to timber the property, due to the value of the timber. So those trees will end up being gone, which he knows was a major issue for some of the residents living nearby.

Mr. Shabeldeen believes what they are proposing is a much-improved plan, with the city annexation and rezoning. As Mr. Frazier was saying, it will be a cluster development with small lots, 99 lots clustered up by River Road. The real advantage of this is that it will be a much smaller footprint, one with about 20 undeveloped acres out of nearly 49-acres. He knew there had been some questions about what the total acres are, due to the measurement from the center of the road, plus an easement that the previous landowner had given to the city that backs up to the treatment plant. When you deduct those areas from the right-of-way and easement, it reduces it down to about 47-acres. But, nevertheless, the development they currently propose would preserve 27-acres of the wooded areas and the floodplain, which would remain undisturbed, and as he mentioned previously, the other option is keeping it under County zoning and it will all eventually be timbered, and there will be houses and septic systems throughout that property.

Mr. Shabeldeen said they had held numerous meetings with the city to discuss the project. Some of the issues identified during the City Council meeting were over-density, the environment and trees, school capacity, traffic and safety. They plan to preserve 27-acres of the property as a buffer, and the zoning they are requesting is City of Hickory Medium Density Residential, R-2, which requires 30% open space. The density they are proposing would leave about 58% of the property as open space. It a lot of land to give up, but it seemed like a good compromise, and they are willing to leave it as a buffer. Again, they clustered the houses along River Road and away from the wastewater treatment plant, with 27-acres of existing woods remaining. As far as the environment, obviously they are preserving quite a bit of the wooded acreage. An environmental study was conducted on the property, and it did not identify any invading or endangered species of plants or animals, but again, a large area of the property will remain undisturbed. He said the actual footprint of the development would only be on about 20-acres out of 47-acres, so there would be less disturbed area and less impact to the environment.

Mr. Shabeldeen said another issue mentioned was traffic. They held two (2) pre-application meetings on this project. NCDOT participated in the first one, and they had no issues with the 178 lots, they were not going to require either a turn lane or a deceleration lane and had no issue with the traffic count or any potential traffic issues on River Road. They had a second pre-application meeting for the 99 lots, and they (NCDOT) did not show up for the meeting, so he guessed they had even less concern, and traffic is obviously not an issue.

Mr. Shabeldeen said another concern expressed was school capacity, and they (the opponents) had said the schools are over-crowded, so he contacted the Catawba County Schools. The superintendent said they are not over-crowded

and, in fact, provided some numbers for Blackburn Elementary School, Jacobs Fork Middle School, and Fred T. Foard High School, which would be serving that area. They are at about 84%, 64% and 85% capacity (respectively). There are about 475 available seats in those three (3) schools, so school over-crowding is not going to be an issue.

Mr. Shabeldeen said another concern expressed was safety. During their two (2) pre-application meetings with the City, at no time did they express any concerns about providing services to a development in that area, including fire and waste management. They currently serve the nearby developments, and there are no issues with fire and safety.

Mr. Shabeldeen ended his presentation and asked if there were any questions from the members.

Ms. Williams asked how many acres were proposed to be in the floodplain. Mr. Shabeldeen said there would be about 8-acres in the floodplain, and it comes up on a bluff of the Henry Fork. The development sits about 50-feet above the wastewater treatment plant and the river. Of course, now that it is being pulled back closer to River Road, it is probably a half-mile to the river.

Mr. McBrayer said there would be 99 units and 47-acres in the proposal; the homes would be on 20-acres, with 27-acres left undisturbed, meaning 58% of open space, and Mr. Shabeldeen said yes. Mr. McBrayer said the original plan had proposed 178 lots and now it is 99, and Mr. Shabeldeen said yes.

Dr. Pekman said he might not have heard correctly, and asked to clarify that, if this were not in the city, it would obviously not have water and sewer, so was Mr. Shabeldeen suggesting that if the city does not approve this annexation, then this project could then be developed by the County, according to their standards, and Mr. Shabeldeen said yes. Dr. Pekman said, so in that situation, then you would have septic systems on half-acre lots, and Mr. Shabeldeen said yes. Dr. Pekman said that would not be desirable from an environmental health perspective. Mr. Shabeldeen said there is the potential for failed septic systems and leeching. With it being next to Hickory's wastewater treatment plant, it seemed like that would be more convenient. To serve the community with good sewer, it has to be annexed, even at the added cost. He said if it is developed in the County, the footprint of the development is going to be much more than 20-acres, it will probably be more like 40-acres, with less of a floodplain and everything else. He said that the whole site would end up being timbered for the yards, houses, roads, driveways, and drain fields for the septic systems. What they are proposing now is a much smaller footprint.

Dr. Pekman said that is the other issue, because if this remained in the County and the owner of this land wanted to clear it, then he could clear it and all the timber would be gone. Mr. Shabeldeen said yes, and people are interested in the timber now. Dr. Pekman said it is his land, and it is his right to do that.

There were no additional questions for Mr. Shabeldeen, and Mr. McBrayer thanked him.

No other proponents were present to speak.

OPPONENTS

• **Patrick Daily**, 3864 Serenity Drive, Hickory NC, addressed Commission members and thanked them for the opportunity to speak. He worked with the City's Historic Preservation Commission on the expansion of their National Historic District overlays for many years while he was Executive Director of the Hickory Landmark Society and recalls coming before this Commission a couple times regarding changes, particularly one to Maple Grove several years ago. He had dreams that he could quietly retire and fade away, but being active and involved in our city seems to draw him back in.

Mr. Daily said he did not know if Mr. McBrayer had received the letter they sent to him. Mr. McBrayer said yes, all of the members received the letter. Mr. Daily said they were here to oppose this petition to rezone the 47.8 acres of Catawba County land, so they can strip the tree canopy, as they would do, and build nearly 100 houses, at most, in a place that makes no sense to anyone but the property owner and builder. Of course, they want to build it next to a

wastewater treatment plant, and hook water and sewer pipes up to the system. That is the only viable way for them to build in this very rugged location. At best, without the rezoning, only about 33 houses, maybe less, could be built with septic systems, if at all, and so it is not going to be in their financial interest to do that. However, this company is not concerned with the long-term impact that land development would have on, 1) the people who live nearby, and 2) the impact it would have on the proximity to the Henry Fork Wastewater Treatment Plant, nor the native impact it would have on the environment and the ecosystem. It is too risky for the City of Hickory to let this happen next to one of the most important and precious industrial sites the city owns and needs to continue protecting. The Council recognized this on November 7 and voted the project out.

Mr. Daily said, so now, they return to you with a petition for an amended project and ask you to create a conditional zoning district. In September, you (Commission members) were unanimously in favor of rezoning, but he did not have a chance to attend. He lives in Melrose Place and, except for a small white sign posted on River Road that he could not read while driving by at 45 mph, maybe a bit more, he did not know what it was all about, and no one he knew living along River Road seemed to be aware. If they had attended back then, they would have shared important information with Commission members. This time, in addition to their detailed letter, they are present to speak.

Mr. Daily said an amended density project is not the answer; the zoning classification should remain R-20. Having realized the project would not work with Catawba County and the City of Hickory, and even trying to involve Brookford in something that does not fit, Mr. Shabeldeen is a highly respected former member of this Commission and a great engineer. He is sure Mr. Shabeldeen has made his case for the owners, but even he must be aware that water is going to be a precious commodity as Hickory and the region tries to accommodate tremendous growth. The existing Henry Fork plant is aging; it may need replacement and modernization, and beyond that, a treatment plant is under construction there. He has seen it, and knows what it is going to do, which is great. He would urge members not to risk the City's ability to expand to the southeast, where this vacant land and natural buffer are, because once a housing development with hook-ups is built, there is no reversal when it comes to physically expanding water reformation.

Mr. Daily said serious consideration should be given to protection of the Henry Fork River itself. Simply put, as they all heard, about 8-acres of this tract of land would be for floodplain, and it really does flood when it rains, they have seen it. It is not practical to use this as a required development recreation area. Furthermore, the altering landscape concept puts at risk the desire to protect the river watershed for water quality, recreation, wildlife habitation, and natural beauty. So, the staff is recommending this plan for the project, in part because it seems consistent with the Hickory by Choice plan, but in their view, it is not because this land is in the regulated Henry River Conservation District, and the plan calls for limiting the impact of development to the Henry River stream. How is this consistent with the plan? Air quality protection is also part of the plan, and with clear-cutting the tree canopy, whether it is done by the developer, or the owner just wants to sell it for the trees, the buffer reduces gas emissions in the air and that would be diminished. It is an air quality issue as well; the development has obvious impacts on the environment. Part of the Hickory by Choice Plan is to minimize environmental impacts, due to development; it also recommends keeping low-density, for that reason.

Mr. Daily said they are not against new housing, they know there is population growth in Hickory and the Unifour, but please do not develop housing on this site, it is too fragile for that type of land use. It is all about the future of water there, not housing, and thank you for your time.

Mr. McBrayer thanked him.

The letter to Mr. McBrayer, signed by the Serenity Drive residents Patrick Daily, Maria Araya and Michael Flanigan, was entered into the record as Exhibit B.

• **Maria Araya**, 3694 Serenity Drive, Hickory NC, addressed Commission members, saying Mr. Daily had covered most of what she had to say. Residents of the Mountain View community have come to this Commission at various times before, because all these houses keep coming. She knows that members, basically, cannot do anything about

the roads or schools, because that is other people's problems, but she believes they do have the responsibility to protect their amenities, which includes the natural environment, and the trees, water, and everything. And she does understand, like he said, that somebody could come and just take the timber, and make a lot of money. But they should emphasize that is why they want to do this project, because it is mainly based on money, which is why all these builders are coming into Hickory, wanting to buy all this farmland so they can build all these houses that will be profitable and make them money. That is the only reason they are doing it; it is not because any of them are going to live on that specific property.

Ms. Araya said her main concern is the water (treatment) plant. She has lived on Serenity Drive, next to that specific property by the plant, for 22 years, and nobody could come and tell her that the smell goes away; it does not, even with all the trees between them. They can smell the treatment plant from their neighborhood, and when it is hot, or humid, you get a smell. It is not as bad as it was in the very beginning, but now they are talking about more capacity on the plant, so it is probably going to get worse. And, if they remove everything and take all the timber, it is for the money. She mentioned the hundreds of houses around her now, and that he had said another 200 houses are coming soon, within a half-mile radius, but the members would make their decision. She honestly believes in building, but she believes in doing the right thing and being responsible. And she believes in planning, which means taking the surrounding area into consideration and the impact it is going to have on other developments. Thank you.

Mr. McBrayer thanked her.

No additional opponents were present.

Robert Lelewski arrived and took his seat.

Mr. McBrayer said there would now be 5 minutes for rebuttal for both the proponents and opponents, noting that it was optional.

PROPONENTS – REBUTTAL

• **Dan Shabeldeen** said it was interesting there was opposition to putting a development next to a development that has a larger footprint than what they are proposing. He was looking at a map, and their development appears to be even closer to Henry Fork (River) than the one they are proposing, so he would think this would have even less impact than the existing development does. And talking about him being all about money, people have the right to buy homes, and he cannot provide them without making a profit, that is what Habitat for Humanity does, and they cannot build hundreds or thousands of homes and meet the deficit that exists here. He could ask the residents of Melrose Place how many of them built their house so they could live there, but he doubts that many of them did. Also, if the wastewater plant odor is so bad, why would someone want to live there for 22-years? Likely, it is something people adapt to and learn to accommodate.

Mr. Shabeldeen said, again, it is a private use of property; it can be developed, and it will be. It will change. The proposal at hand right now, for the annexation and rezoning, preserves more than half of the property as is, and it is as far away from Henry Fork than you can possibly get; it is also 50 feet higher than the river. After hearing some of the issues and talking to the City, he thinks they have addressed all the concerns. It really is a good plan, considering how far they have come, from starting with 178-units and going down to 160-units, and eventually being at the current 99-units. He asked members to consider the potential of the development, and to approve the project. He offered to answer any questions members had, and there were none.

Mr. McBrayer thanked him.

The opponents were provided 5 minutes for rebuttal.

OPPONENTS – SURREBUTTAL

An additional resident requested to speak in opposition.

• **Jodie Davia**, 1238 Hidden Creek Circle, Hickory, NC, addressed Commission members, saying she lives right across from where the project would potentially be built. She teaches at Jacobs Fork Middle School, where all the students from this development would attend school, so that is a county issue. While they have reduced their numbers, which is great, she was not sure where he (Mr. Shabeldeen) got all of his numbers for class sizes, but she could assure members they do not have small class sizes. She has classes of 31-plus. They have an 8th grade math class of 40 students, and there is no cap for middle school class sizes. This is one project you are talking about and, right now, there are three (3) housing projects that will all feed into Jacobs Fork Middle School. So that is a county issue, and it will not affect Hickory City Schools at all. So, she would think members need to consider how it would affect them, unless they would think about sending some of Hickory's teacher allotments over to them. Class size is an issue and thank you.

McBrayer thanked her.

Deputy City Attorney Dula suggested Mr. McBrayer remind the audience that the Planning Commission has no jurisdiction over schools, class sizes, the number of pupils, or related issues. Mr. McBrayer said he had included this in his introduction, but repeated it again, saying this board has no jurisdiction concerning roads, school enrollment, storm water, property values, watersheds, municipal water and sewer connections, or specific designs for development of the plan. The Commission's purview is to approve or deny the rezoning, as presented.

• **Maria Araya** said they understand what she just said about the schools, but he (Mr. Shabeldeen) really talked fast, saying all those numbers about the schools and how many students there are. She knows members do not care about this, but if there is something she hears that she does not understand, she tends to ask. So, you plan, and you look at the area, and you decide if it is going to be annexed or not, just because it is going to be a fit, or not. If you look at that, they said they are building 100 or more houses, coming up, and she has e-mails with a superintendent's signature. It is very concerning, and her question is, why do the residents come to these meetings to voice their concerns, if the members do not have the same the same concerns the residents have. They have already been through all of this before, to start with, and here we go again. So, where do we go from here? Thank you.

Mr. McBrayer thanked Ms. Araya and asked her to correct one statement she had made. She said the Commission did not care about the schools, and he clarified that he never said the members do not care, he had stated they have no jurisdiction, and there is a big difference. Also, Mr. Daily had stated earlier that he knew nothing about the first hearing (held in September 2023). Mr. McBrayer said the city had advertised the hearing well in advance, including on signage, their website, social media, and in the *Hickory Daily Record*, so he was sorry Mr. Daily had not seen it prior to the first hearing.

Mr. McBrayer closed the public hearing. He asked questions from members, or discussion on the petition.

Ms. Williams asked for clarification, saying she understood Dr. Pekman had stated it would not be appropriate to have septic systems on lots this size. He said he had stated that, having served on the County Board of Health for 10-years, which governs environmental health. So, they are considering handling wastewater, providing water and sewer would be more efficient. In this county, they have problems on a continuing basis surrounding the failure of septic systems; it is a real problem that needs to be fixed. Anytime you are near a watershed area, it is even greater; you can build them on half-acre lots per federal regulations, but it is difficult to have a recovery area. So, what he was saying to Mr. Shabeldeen was that either they could either do it in the City, hooked up to a water treatment facility, or if the City turns them down, they are then within their rights to do it according to the County regulations. He had simply been pointing out that it would be much better if the wastewater from all these homes was being processed through the plant, which would be much more environmentally friendly than using septic systems.

Ms. Williams asked me to address a question to staff. She said Mr. Daily had mentioned the Henry Fork River Conservation Area, and asked staff to educate members on it. Mr. Frazier was not sure exactly what Mr. Daily was referring to, as he turned around to ask him if he was referring to the watershed or the County's Small Area Plan.

Mr. Daily spoke from his seat in the audience, saying the Henry Fork River and Jacobs Fork are in a conservation area. Ms. Williams asked Mr. Frazier whose plan it is, and he said it is a County Plan. From his seat, Mr. Daily said he believed the Western Piedmont Council of Governments was involved in preparing it. Mr. Frazier said it is a County Plan, not a city plan, so if the property is annexed into the City, then the City would have no jurisdiction regarding the Plan.

Ms. Williams clarified that Mr. Frazier said the Plan would have no jurisdiction over the annexed property, and Mr. Frazier said that was correct.

Mr. McBrayer asked if there were any further questions, or discussion.

Mr. Frazier said one of the things the County Plan talks about is protecting the natural environment, and they are looking at the difference in units between the City and County zoning. If the (proposed) plan was rejected, either at the rezoning or annexation phase by the City Council, and the developers decided to go with the County, their plan would be permitted as right, with absolutely no public hearing and no public input.

Mr. McBrayer said the adjustments made by the applicant, from the first hearing, were commendable in a multitude of ways, and he would entertain a motion to approve or deny the petition.

Deputy City Attorney Dula asked that the recommended standards appearing on slide #15 be included in the motion.

Bill McBrayer moved, seconded by Bill Pekman, that the Planning Commission approve Rezoning Petition 24-06, affirming the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan and the Land Development Code, and forward a recommendation of approval to the Hickory City Council. There was no discussion on the motion. By a show of hands, the motion passed. Voting in favor of the motion were Bill McBrayer, Bill Pekman, Philip Reed, Anne Williams, Junior Hedrick, and Sam Hunt; voting against the motion was Robert Lelewski.

Mr. McBrayer said the motion to recommend approval passed on a vote of 6-1. Rezoning Petition 24-06 will now go to the City Council for a final decision.

3. Rezoning Petition 24-07.

Rezoning of property owned by Jonathan and Mary Bonelli located on 5th Avenue NW, from General Business C-2 to Medium Density Residential R-2. The subject property is shown in more detail as PIN 3703-17-02-8192 on the Catawba County Tax Map.

Mr. McBrayer opened the public hearing for Rezoning Petition 24-07.

Planner **Wilson Elliott** presented the staff report and referred to PowerPoint slides. He reviewed slide #17 (Rezoning Petition 24-07).

- Property Owners: Jonathan and Mary P. Bonelli
- Applicant: Jonathan and Mary P. Bonelli
- Location: 5th Avenue NW (PIN: 370317028192)
- Current Zoning: General Business C-2
- Property Size: +/- 0.35 acres
- Background: The property is currently vacant and zoned General Business C-2.
- Request: The property owner requests that it be rezoned to R-2 Residential to accommodate further single-family residential uses.

He said no address had been assigned to the property, but it is located on 5th Avenue NW.

Mr. Elliott reviewed slide #18 (Map 1. HBC 2030, Future Land Use), saying the area in question was outlined in red. The Medium Density Residential area is shaded yellow, and the Revitalization Area is down below is tan.

Mr. Elliott reviewed Slide #19 (Map 2. Current Zoning), saying the subject area is outlined in red. It is currently zoned C-2, as is the entire area along 3rd Avenue Drive NW. Adjacent areas to the north and east, are zoned R-2, which is the majority, and R-3. An Industrial (IND) area is located to the southwest, with a small area of Office & Industrial (OI) to the east.

Slide #20 (Map 3. Aerial Photography). Mr. Elliott said the area in question was again outlined in red. He pointed out 3rd Avenue Drive NW, also known as Old Lenoir Road, the Century Furniture location to the southwest and the old Keever's Key business to the northwest.

Mr. Elliott reviewed slide #21 (Rezoning Petition 24-07).

- The HBC 2030 Plan identifies the area as Medium Density Residential and a Revitalization Area.
 - The HBC 2030 Plan recommends Low Density Residential areas be developed for housing at a density of 6 to 8 dwellings per acre.
- Medium Density Residential is characterized by:
 - Transitional areas between higher density areas and more rural areas.
 - The current land use pattern of the larger area consists mainly of medium density residential uses. The rezoning of the property, as discussed, maintains this current pattern.
- Additionally, R-2 Residential zoning is listed by the Comprehensive Plan as an implementing district for medium density residential areas.

Mr. Elliott reviewed slide #22 (Rezoning Petition 24-07).

Recommended Action

- *Staff recommends the following:*
 - The adoption of a statement affirming the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan.
 - The development of the property shall adhere to the regulations provided in the Land Development Code and any other applicable standards.

Forward a recommendation of approval to the Hickory City Council.

He said staff recommends forwarding a recommendation of approval of this request and asked for questions from members.

Mr. McBrayer said the staff report stated that no inquiries were received regarding the petition since April 10. He asked if any had been received since then, and Mr. Elliott said there had been one additional inquiry from a neighbor, who had asked about the sign.

Ms. Williams said the staff recommendation suggests members find it consistent with Hickory by Choice, so would they not also find it consistent with the Land Development Code? Mr. Elliott said they would not have to, no.

There were no additional questions for staff, and Mr. McBrayer thanked Mr. Elliott.

The staff report was entered into the record as Exhibit A.

PROPOSERS

• **Mary Bonelli**, 513 10th Street Place NW, Hickory NC, addressed Commission members, saying she and her husband own the property. She said that, while it is zoned Commercial, the property right next to it is a residential home located in the Hillcrest residential neighborhood. They would appreciate members' consideration to rezone it to residential, so they could build a small retirement home there for themselves. She has always wanted to have a house in the woods, and they have the woods but no house. She appreciated their consideration and would be happy to answer any questions.

There were no questions for Ms. Bonelli, and Mr. McBrayer thanked her.

There were no additional proponents.

OPPONENTS

No opponents requested to speak.

Mr. McBrayer closed the public hearing. He asked for discussion from members on Rezoning 24-07, or a motion to approve or deny the petition.

Bill Pekman moved, seconded by Philip Reed, that the Planning Commission affirms Rezoning Petition 24-07's consistency with the Hickory by Choice 2030 Comprehensive Plan and forward a recommendation of approval to the Hickory City Council. There was no discussion on the motion. By a show of hands, the motion passed unanimously.

The motion to recommend approval passed. Rezoning Petition 24-07 will go to the City Council for a final decision.

4. Rezoning Petition 24-08.

Rezoning of property owned by Donald C. Scronce, located at 2010 Startown Road, between Short Road and Robinwood Road, from Low Density Residential (R-1) to Regional Commercial (C-3). The subject property is shown in more detail as PIN 3721-09-05-4815 on the Catawba County Tax Map.

Mr. McBrayer opened the public hearing for Rezoning Petition 24-08.

Brian Frazier presented the staff report and referred to PowerPoint slides. He reviewed **slide #24** (Rezoning Petition 24-08).

- Property Owners: Donald C. Scronce
- Applicant: Sean Drum
- Location: 2010 Startown Road
- Current Zoning: Low Density Residential (R-1)
- Property Size: +/- .54 acres
- Background: The property is currently zoned R-1. The rezoning request is an indication that the owner desires to use the property for office use.
- Request: Rezone the property from Low Density Residential (R-1) to Regional Commercial (C-3).

He said R-1 is the lowest zoning density in Hickory.

Mr. Frazier reviewed **slide #25** (Map 1. Future Land Use), saying the subject property was hatched in red. The adjacent Neighborhood Mixed Use core is highlighted in purple. Regional Commercial is highlighted red, which is C-3, and members could see that it is contiguous across the street. The property directly behind the subject property is zoned Office and Institutional (OI).

Mr. Frazier reviewed **slide #26** (Current Zoning), noting the subject property of a half-acre, hatched in red. He pointed out Startown Road, Robinwood Road, Short Road, and Catawba Valley Blvd. He also pointed out the C-3

Commercial zoning in red and the Planned Development (PD) across the street. He said the area shown in green is currently under County zoning, but it could change to City zoning soon.

Mr. Frazier reviewed slide #27 (Map 3. Aerial). He noted the locations of CVCC and main campus, and the Short Road subdivision to the south. To the north are the Preston Ridge Apartments, a complex of 319 total apartments. He said they are currently finalizing the second phase.

Mr. Frazier reviewed slide #28 (Rezoning Petition 24-08).

- According to the HBC 2030 Plan, the area converges on three future land use categories.
 - These uses are Public/Institutional, Neighborhood Mixed Use, and Regional Commercial.
 - The C-3 zoning district implements the “Regional Commercial” policies of the Hickory by Choice 2030 Comprehensive Plan. The C-3 district is intended to provide a full range of retail and service businesses that serve both local and regional markets. The C-3 district permits a wide variety of uses including professional offices and personal services, retail sales and service, amusement, and institutional facilities.
 - Given these factors, the rezoning of the property to Regional Commercial (C-3) should be considered consistent with the findings and recommendations of the Hickory by Choice (2030) Comprehensive Plan.

Mr. Frazier reviewed slide #29 (Rezoning Petition 24-08).

Recommended Action

- *Staff recommends the following:*
 - The adoption of a statement **affirming the petition’s consistency** with the Hickory by Choice 2030 Comprehensive Plan.
 - The development of the property shall **adhere to the regulations provided** in the Land Development Code and any other applicable standards.
 - Forward a **recommendation of approval** to the Hickory City Council.

Mr. Frazier asked for questions from members.

Dr. Pekman said it is not a very deep lot. Mr. Frazier said no, it is not. Dr. Pekman said he understood Startown Road was being widened. Mr. Frazier said Startown is proposed to be widened; it was supposed to be done this year but was not, due to a lack of funding and some budgetary issues with the NCDOT out of Raleigh. They are looking at widening Startown Road on the northeastern side of Startown; DOT will not put anything in writing but said they will likely be taking some of this property, maybe making some friendly accommodation, so the staff will see how that works out. The site will not be served by City sewer, because it is some distance away. The applicant does have a letter from County Environmental Health that approves the upgrade of the existing septic system that exists there now. They would be able to expand the current building on that (system); they would not be able to add any accessory buildings on that system, or pave over it, so there are additional site plans the staff has seen where the parking area was moved backward, to the south and west. He said staff would have to see what the DOT is planning to do, and Dr. Pekman said yes. Mr. McBrayer repeated that the Commission has no jurisdiction over roads.

Mr. Lelewski asked if staff had heard any questions about or opposition to the petition. Mr. Frazier said, to the best of his knowledge, they had not received any questions regarding it. Staff have talked with the applicant and his professional engineer on several occasions, but no one else. There were initially several parties inquiring about purchasing the site, prior to this applicant, but they decided not to, so there is no one in opposition to this rezoning.

There were no further questions for staff, and Mr. McBrayer thanked Mr. Frazier.

The staff report was entered into the record as Exhibit A.

PROPONENTS

• **Sean Drum**, 3262 Sigmon Dairy Road, Newton NC, addressed Commission members, saying that as the applicant, he was obviously in favor of it. He appreciated the members' time and consideration.

McBrayer thanked him.

There were no additional proponents.

OPPONENTS

No opponents requested to speak.

Mr. McBrayer closed the public hearing. He asked for discussion by members or questions on Rezoning 24-08, and there was none.

Bill Pekman moved, seconded by Sam Hunt, that the Planning Commission affirms Rezoning Petition 24-08's consistency with the Hickory by Choice 2030 Comprehensive Plan and forward a recommendation of approval to the Hickory City Council. By a show of hands, the motion passed unanimously.

Mr. McBrayer said the motion had passed. Rezoning Petition 24-08 will go to the City Council for a final decision.

5. Special Use Permit 24-01.

Request by Jeff Allen, agent for One Eleven Main, LLC, for approval of a Drinking Establishment on property located at 131 Main Avenue NE, and further identified as PIN 3702-07-69-5262 on the Catawba County Tax Map.

- Applicant: Jeff Allen, Owner of Novel Taproom
- Request: The applicant requests a Special Use Permit to open a drinking establishment in the Central Business District (C-1) zoning district
- The subject property is part of the 111 Main development in the Downtown Area. The last tenant in the proposed space was The Hickory Soup Kitchen. The space has remained vacant for several years since.

Mr. McBrayer asked if anyone was present to speak for or against Special Use Permit 24-01. He said no one had signed in to speak or acknowledged they planned to, so there was no one to present evidence during the public hearing.

Bill McBrayer moved, seconded by Philip Reed, to table Special Use Permit 24-01 to the next regular meeting, as no one was present to speak on behalf of the petition. By a show of hands, the motion was carried unanimously.

Other Business:

Future Training Session – Mr. Frazier said that staff, Ms. Dula and Mr. Swanson had talked about holding a training session for Commission members, including discussion on the Board of Adjustment, administrative interpretations, and dimensional area variances, and both quasi-judicial hearings and legislative hearings. He said there was not enough time to do it tonight, but there was also a lack of consensus among Commission members on whether they prefer to hold it before a regularly scheduled meeting, after a regularly scheduled meeting, or as a special meeting. Under the statute, staff would need to advertise a special meeting as a public meeting. He said there are currently three (3) public hearings scheduled for the May meeting, and staff would not know until April 30th if any additional hearings will be on the agenda. He asked for members' input regarding when they would prefer to hold the training session.

Dr. Pekman asked if staff had to advertise a public meeting for the Commission to hold a training session. Mr. Frazier said yes if there will be a quorum present. City Attorney Swanson said one way to avoid that would be to have small group training sessions, less than a majority. So, they could hold a couple of separate training sessions if

that would be preferable. Dr. Pekman asked how long the session would last. Mr. Swanson said they could break it up into different topics so it would not take much time. He suggested having an initial session on what the members mainly address, with a discussion on quasi-judicial hearings and spending less time on legislative hearings, possibly 45 minutes to 1 hour for the entire session. Ms. Williams suggested it should be held before a regular meeting and should never be held after a meeting. Mr. McBrayer agreed. Dr. Pekman asked if they would receive written materials for reference. Ms. Dula said yes, written materials should be provided to each member.

Mr. Frazier proposed holding the training session for all Commission members on Wednesday, May 22, from 4:30 to 5:45 pm, which would give members a short break before their regular meeting begins at 6:00 pm. He said staff would confirm the training session with members in early May, regarding their attendance and what will be on the meeting agenda.

Meeting Notification Responses – Mr. McBrayer requested that members promptly respond to e-mails or calls from Mr. Frazier regarding their plans to attend all upcoming meetings. There must be a quorum present at meetings, or the Commission cannot conduct their business.

Member Term Expirations – Mr. Frazier said three (3) of the member appointments would expire at the end of June, specifically Mr. McBrayer, Mr. Hunt, and Dr. Pekman. He asked them to contact their City Councilmember regarding being re-appointed. Dr. Pekman clarified that he was appointed by the County Commission, and Mr. Frazier said yes, so they could send a recommendation to him or the City Manager.

Mr. Lelewski apologized that he was not able to arrive on time, due to an injured child at home.

Next Meeting: The next regular meeting is scheduled for Wednesday, May 22, 2024, 6:00 pm, at City Hall.

Adjourn: There being no further business, Mr. McBrayer declared the meeting adjourned at 7:35 pm.

Bill McBrayer, Chair
Hickory Regional Planning Commission

Anne Starnes, Minutes Clerk
City of Hickory

REZONING ANALYSIS

PETITION: 24-09

APPLICANT: City of Hickory

OWNERS: City of Hickory

PROPERTY LOCATION: 2301 21st Avenue NE, Hickory, NC 28601

PIN: 3713-08-97-7949

WARD: This property is located in Ward 1 (Councilman Wood).

ACREAGE: +/- 12.45 Acres

REQUESTED ACTION: Rezone the property from Medium Density Residential (R-3) to Office and Institutional (OI).

BACKGROUND: The property is currently zoned R-3. The rezoning request is an indication that the City desires to use the property for a public park.

DEVELOPMENT POTENTIAL: The subject property is currently zoned R-3 Residential and totals +/- 12.45 acres in total size. The current R-3 zoning district is primarily residential and permits one and two-family residential uses at a density of eight (8) dwelling units per acre.

The subject property is currently occupied by undeveloped land. The City's intention is to utilize the property as a public park, and as of 2022, parks are registered within the Office and Institutional (OI) designation.

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

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

The general area is made up of one of the uses listed in the Hickory by Choice 2030 Comprehensive Plan. This use, as listed in the plan, is as a Park. (Note: The Hickory by Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.) (Please refer to Map 1 for detail).

The Office and Institutional (OI) district implements the "Public/Institutional", "Mixed Use Neighborhood Center", "Community Center Commercial", and "General Business" policies of the Hickory by Choice 2030 Comprehensive Plan. The OI district is intended to provide locations for the development of institutions of higher learning and medical hospitals within "Public/Institutional" areas, as identified with the Hickory by Choice Comprehensive Plan. The OI district is also intended to provide for transitional land-uses between residential and commercial uses. OI districts providing transitional areas are generally characterized as smaller sites allowing for small-scale offices.

Given these factors, the rezoning of the property to Office and Institutional (OI) should be considered consistent with the findings and recommendations of the Hickory by Choice (2030) Comprehensive Plan.

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

- Implement the Hickory by Choice 2030 Comprehensive Plan.

The area under consideration for rezoning is indicated by the Hickory by Choice 2030 Comprehensive Plan as being a future open space area that is utilized as a park. This will keep in providing a balance between residential developments and open space.

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

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

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

The subject property has access to a city-maintained roadway (21st Avenue NE), and easily connects to Springs Rd and McDonald Parkway, as well as water and sewer infrastructure. The land-use pattern of the area, with the inclusion of the subject property, represents an efficient use of public services, and the wise use of public funding.

- Regulate the type and intensity of development; and

The current land use pattern of the larger area consists largely of residential uses. This development pattern will benefit from an open space and park, which are permitted under this zoning classification of Office and Institutional (OI). The future use of the property is best suited to further the existing development pattern of the area. Public resources to provide critical public services are in place to service the area. These include public water utilities and transportation infrastructure.

- Ensure protection from fire, flood and other dangers.

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

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

- **North:** The properties are zoned Medium Density Residential (R-3) and are occupied by residential homes.

- **South:** The properties are zoned Medium Density Residential (R-3) and are occupied by residential homes.
 - **East:** The properties are zoned Medium Density Residential (R-3) and are occupied by residential homes.
 - **West:** The properties are zoned Medium Density Residential (R-3) and are occupied by residential homes.
3. The suitability of the subject properties for the uses permitted under the existing and proposed zoning classification:

The current land use pattern of the larger area consists of residential uses between 24th Street NE (which runs into McDonald Parkway) and 20th Avenue Drive NE. The rezoning of the property to OI would allow for a useable open space/ park that acts to balance the residential area as seen throughout other neighborhoods in the City.

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

The requested Office and Institutional (OI) zoning will keep with the look of the current area. The permissible uses of OI zoning will aid in enhancing the existing uses of the neighborhood.

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

Public resources to provide critical public services are in place to service the area. These include public water utilities and transportation infrastructure, as well as police and fire protection. Septic is currently located on the property and has been approved by Catawba County Environmental Health for the use.

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

The subject property is located within an area where the Hickory by Choice 2030 Comprehensive Plan anticipated continued development. The use of the property is a Park, which are usually located within or near residential areas.

Any future development that occurs of the subject property as the result of the zoning map amendment, will be required to be adhere to regulations related to zoning, building and fire code, traffic, stormwater, etc.; which will work in conjunction with one another to ensure the health and safety of residents and visitors are properly protected. The property was known to be contaminated by an underground storage tank, but a "no further action" letter has been issued by NC DEQ.

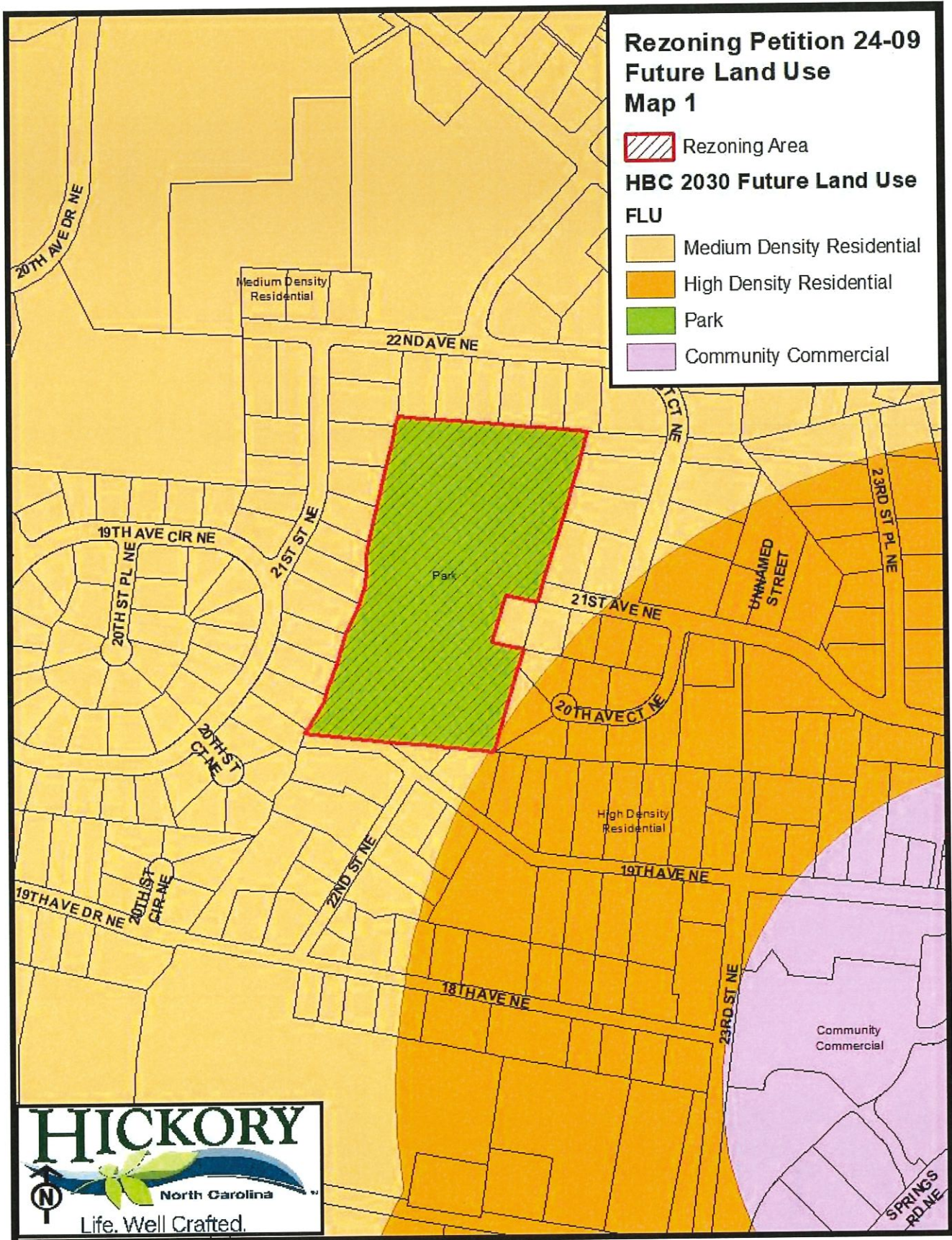
RECOMMENDED ACTION:

Staff finds Rezoning Petition 24-09 to be **consistent** with the Hickory by Choice 2030 Comprehensive Plan, and recommends the following:

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

CITIZEN INPUT:

As of May 15, 2024, staff has received one (1) inquiry regarding this petition.



**Rezoning Petition 24-09
Future Land Use
Map 1**

-  Rezoning Area
- HBC 2030 Future Land Use**
- FLU**
-  Medium Density Residential
-  High Density Residential
-  Park
-  Community Commercial



Rezoning Petition 24-09 Aerial Map Map 3

 Rezoning Area



SPECIAL USE PERMIT ANALYSIS

PETITION: SUP 24-01

OWNER: One Eleven Main, LLC

APPLICANT: Jeff Allen, operator of Novel Taproom

PROPERTY LOCATION: 131 Main Ave NE

PIN: 3702-07-69-6633

WARD: The subject property is located in Ward 5 (D. Zagaroli)

ACREAGE: 1.61 acres

REQUESTED ACTION: The applicant requests a Special Use Permit to open a drinking establishment in the Central Business District (C-1) zoning district.

BACKGROUND: The subject property is part of the One Eleven Main development in the Downtown Area. The last tenant in the proposed space was The Hickory Soup Kitchen. The space has remained vacant for several months since.

The Land Development Code defines a drinking establishment as: *an establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. This includes all bars, nightclubs, taverns, and other similar establishments. This excludes eating establishments where food sales exceed 30 percent of the facility's total sales. If the facility also sells food, and the sale of food products represents more than fifty percent of the facility's total sales, the facility shall be considered an eating establishment. Eating establishments are classified as Retail Sales and Service.*

DEVELOPMENT POTENTIAL: The existing structure is vacant and will be renovated. The building will be part of the One Eleven Main apartment complex that will be built on the same parcel.

LAND USE AND ZONING:

Please see Map below for a map of the area zoning.

Subject property: The property is zoned C-1 and is currently vacant.

North: The property to the north is zoned C-1, and is occupied by a Summit Credit Union and a parking lot.

East: The property to the east is zoned C-1, and is occupied by a craft beer and BBQ restaurant.

South: The property to the south is zoned C-1, and is occupied by a wedding and events venue.

West: The property to the west is zoned C-1 and is occupied by City Hall.

ACCESS: Access to the property will continue to be used from existing entrances on Main Ave NE and 2nd St. NE. Both streets are maintained by the City.

SPECIAL USE PERMIT REVIEW CRITERIA: Land Development Code Section 2.4, Special Uses, provides that special uses are those uses that require, because of their inherent nature, intensity, and external effects, special care in the control of their location, site design and methods of operation may be allowed if reviewed and approved in accordance with the Special Use procedures of Section 2.4.

1. The proposed use is consistent with the Hickory by Choice 2030 Comprehensive Plan and the stated Purpose and Intent of the Land Development Code;

The Comprehensive Plan indicates the subject property is located within the Central Business District classification.

The Comprehensive Plan describes the Central Business District thusly:

“The traditional downtown serves many functions of a neighborhood mixed use district as well as a regional service provider of banking and medical services. Residential neighborhoods within and surrounding the City Center not only provide the market for smaller neighborhood or convenience commercial services but these residential districts also provide a market for a variety of the Central Business District’s services which afford residents and visitors a vibrant, pedestrian rich atmosphere in the City’s downtown.

This district applies to the historic core, drawing attention to the need to ensure any new development in the area occurs in harmony with its historic surroundings and is designed to contribute to the area’s pedestrian environment. This designation anticipates that the work conducted by the City to update zoning in the Central Business District and the establishment of a boundary for this downtown district will lead to the implementation of specific development policies that apply to this area.”

A drinking establishment, while not explicitly mentioned in the Comprehensive Plan, could be considered consistent with the aforementioned retail operations associated with the Central Business classification.

Please see Map 1 for a map of the area’s Future Land Use classifications. (Note: The Hickory by Choice 2030 Comprehensive Plan’s Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.)

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

- Implement the Hickory by Choice 2030 Comprehensive Plan;

As outlined above, the subject property is located in an area classified as Central Business, by the Hickory by Choice 2030 Comprehensive Plan. A drinking establishment should be considered a consistent use with the Community Commercial designation.

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

The proposed establishment will be located in an existing building on the property. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.

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

The subject property is located in an area that provides services for downtown commercial operations. Public infrastructure currently in place in the area is sufficient to handle the proposed development in addition to the existing development.

- Regulate the type and intensity of development; and

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, including the North Carolina Alcoholic Beverage Control Commission.

- Ensure protection from fire, flood and other dangers.

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

2. The proposed use complies with all applicable provisions of this Land Development Code;

The proposed use appears to comply with all applicable provisions of the Land Development Code. Compliance will be affirmed during the administrative plan review and permitting process.

3. The proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

The proposal to open a drinking establishment on the subject property is compatible with the adjacent uses on the property.

Hours of operation are regulated by the State of North Carolina and are unable to be enforced at the local level.

A modest increase in traffic to the business will likely occur given the nature of the business, but not be high enough to warrant any traffic changes for the shopping center according to NCDOT. The last use of the property was also a modest traffic generating use. Pedestrian accessibility should offset many vehicular trips that may be necessary in a less centrally located district.

No outdoor lighting for the site's parking lot is existing, but any changes would be reviewed for compliance with the Land Development Code to ensure minimal glare onto neighboring properties and roadways.

Noise from the proposed use could be limited by a condition to prohibit outdoor music.

The downtown currently has City recycling and trash available, and this site has a dedicated disposal area to reduce odors.

There are plans to expand the footprint or alter the exterior of the building at this time according to the applicant by adding an outdoor patio area.

4. Any significant adverse impacts resulting from the use will be mitigated or offset;

No adverse impacts from the use of this property as a drinking establishment are anticipated. The project has been and will continue to be reviewed for compliance with all applicable development standards.

5. The proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;

No qualified information has been submitted that would indicate the proposed drinking establishment would have detrimental impacts on the values of properties in the vicinity.

6. Public safety, transportation and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;

The property is served by the Hickory Fire Department and is less than 500 feet from Fire Station 1. The Fire and Life Safety Division will review the business further during the plan review and inspection process. Police protection will be provided by Hickory.

Public water and sewer are available to adequately serve the property. The Public Utilities Division did not have any objection to the business.

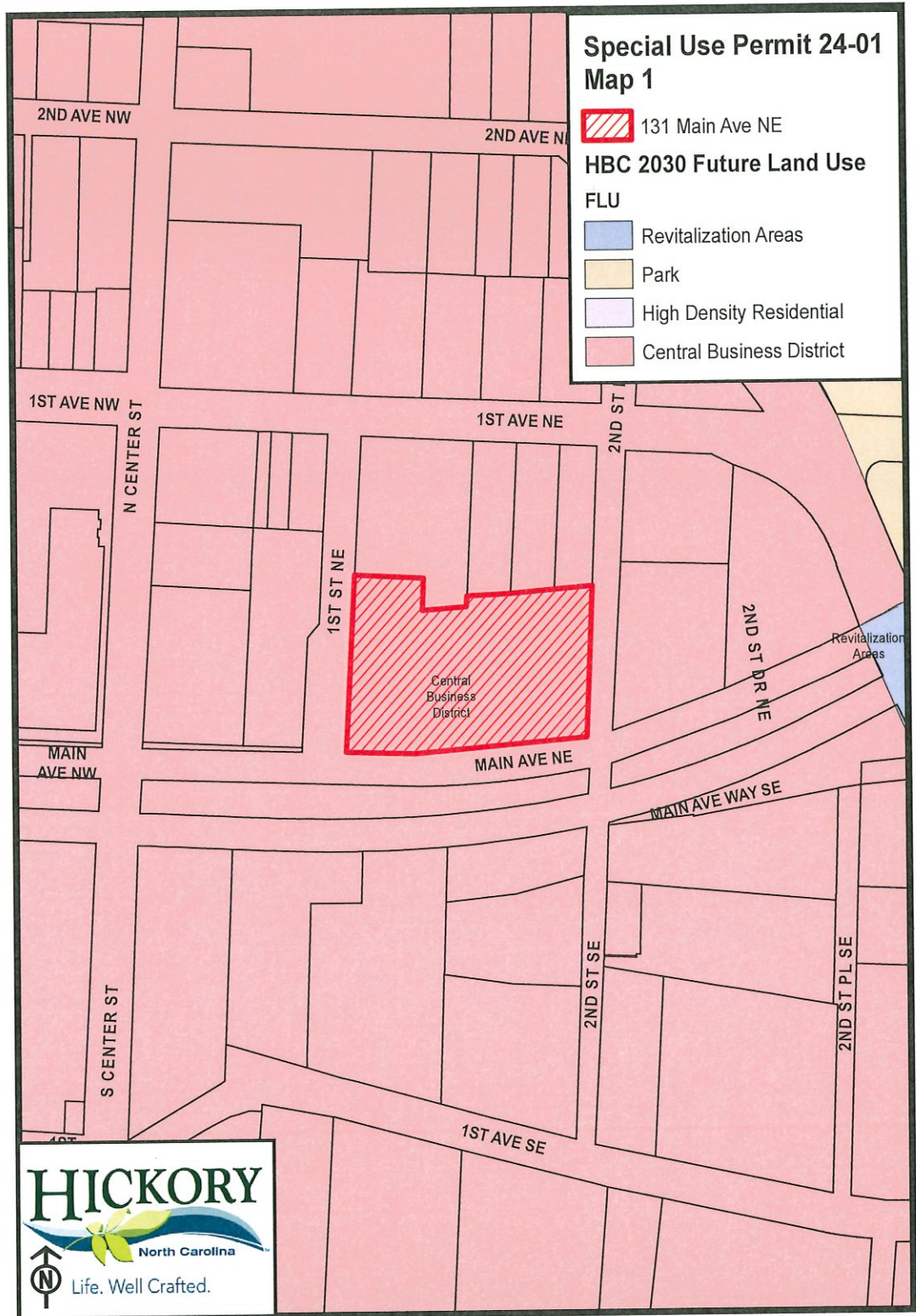
7. Adequate assurances of continuing maintenance have been provided;

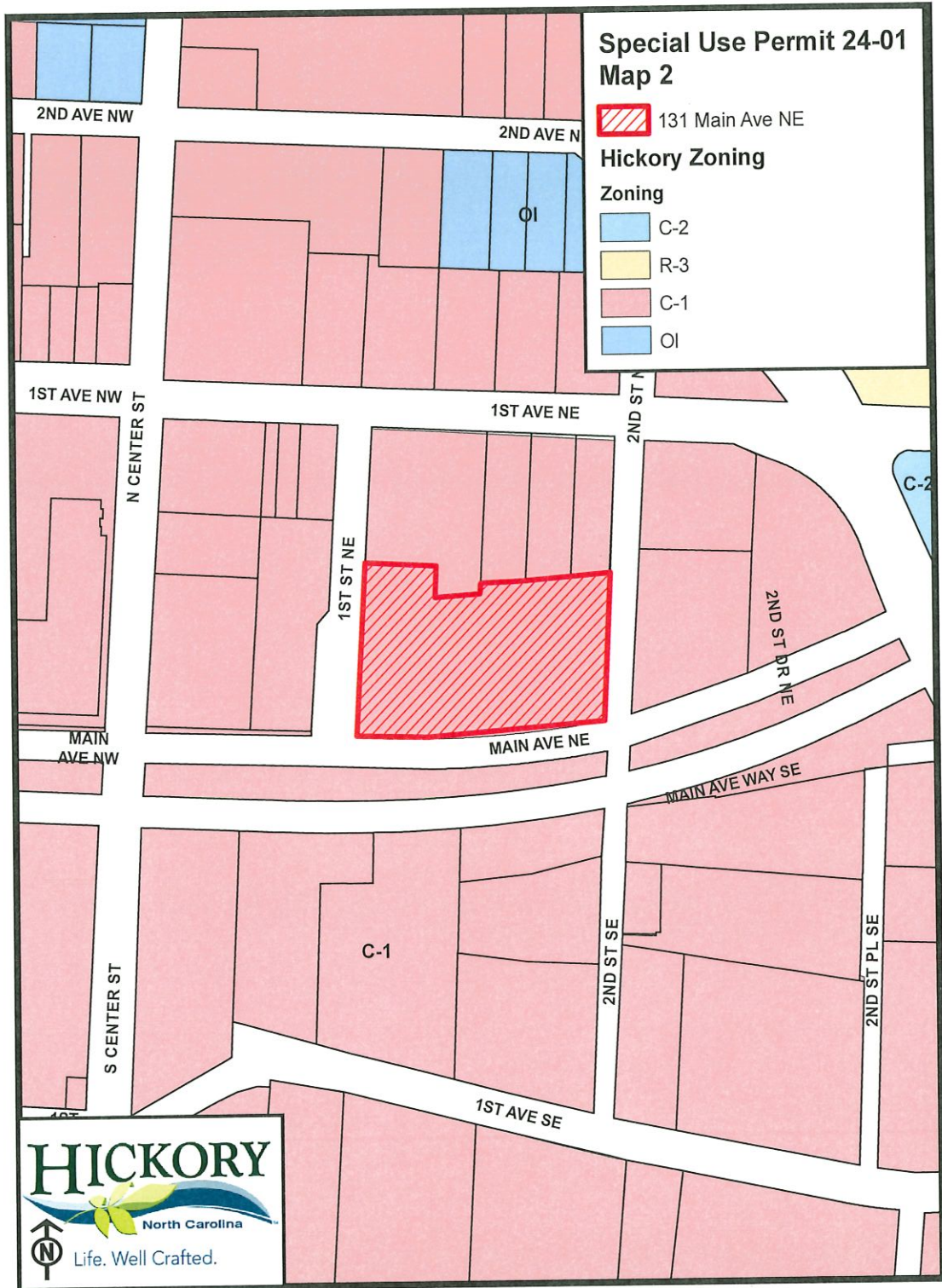
The applicant will be required, by city ordinance, to maintain all portions of the property.

RECOMMENDED ACTION: Staff recommends approval of the Special Use Permit subject to the following conditions:

1. All aspects of the project, and its subsequent improvements, shall comply with all applicable provisions of the City's Land Development Code, and the Building and Fire Codes of the State of North Carolina;
2. Prior to the occupancy of the space, any required construction plans must be submitted, reviewed, and approved by the City of Hickory and Catawba County;

CITIZEN INPUT: As of May 15,2024 there has been one inquiry from the public.







Special Use Permit 24-01
Aerial Map
Map 3

 131 Main Ave NE

City Hall

Summit Credit Union

Cranford Bros. BBQ



Pictometry International Corp.



SPECIAL USE PERMIT ANALYSIS

PETITION: SUP 24-02

OWNER: Lor Investments, LLC.

APPLICANT: Fong Lor

PROPERTY LOCATION: 1811 1st Avenue SW

PIN: 2792-07-68-4646

WARD: The subject property is located in Ward 5 (Zagaroli)

ACREAGE: 0.62 acres

REQUESTED ACTION: The applicant requests a Special Use Permit to open a drinking establishment in a General Business (C-2) zoning district.

BACKGROUND: The subject property is occupied by Intercrew Karaoke Bar and Lounge. The property has been operating as a restaurant/ bar venue, but the annual food sales have dipped below 30%, necessitating the issuance of a special use permit.

The Land Development Code defines a drinking establishment as: *an establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. This includes all bars, nightclubs, taverns, and other similar establishments. This excludes eating establishments where food sales exceed 30 percent of the facility's total sales. If the facility also sells food, and the sale of food products represents more than thirty percent of the facility's total sales, the facility shall be considered an eating establishment. Eating establishments are classified as Retail Sales and Service.*

According to the applicant's statement, the business will be primarily a social and music venue offering free open mic singing for patrons.

DEVELOPMENT POTENTIAL: The existing building has historically been used as a bar with off street parking. The property could be expanded for this use or redeveloped in a variety of other uses such as retail sales and service, office, small scale multi-family, and other uses.

LAND USE AND ZONING:

Please see Map 3 for a map of the area zoning.

Subject property: The property is zoned C-2 (General Business) and is occupied by a vacant building.

North: The properties to the north are zoned C-2, and are occupied by a single family house and a multi-tenant retail building.

East: The property to the east is zoned C-2, and is occupied by a car sales/storage lot.

South: The properties to the south are zoned R-4 (High Density Residential), and are occupied by residential houses.

West: The properties to the west are zoned C-2 and are occupied by a multi-tenant retail building.

ACCESS: Access to the property is available from two streets, 1st Avenue SW, which is an NCDOT maintained roadway and minor thoroughfare connecting Long View and Hickory, as well as, 18th Street SW, which is a city maintained street.

SPECIAL USE PERMIT REVIEW CRITERIA: Land Development Code Section 2.4, Special Uses, provides that special uses are those uses that require, because of their inherent nature, intensity, and external effects, special care in the control of their location, site design and methods of operation may be allowed if reviewed and approved in accordance with the Special Use procedures of Section 2.4 and subject to the specific Land Development Code standards, as applicable.

1. The proposed use is consistent with the Hickory by Choice 2030 Comprehensive Plan and the stated Purpose and Intent of the Land Development Code;

The Comprehensive Plan indicates the subject property is located within the Revitalization Area classification.

The Revitalization Area classification is characterized as an economically challenged area of the city that was once active with a mixture of light industrial, commercial, and residential uses. Years of disinvestment has necessitated revitalization efforts. Redevelopment is encouraged through flexible standards and incentive programs, but changes should respect the historic character of the area.

A drinking establishment, while not explicitly mentioned in the Comprehensive Plan, could be considered consistent with the aforementioned commercial services associated with the Revitalization Area classification.

Please see Map 1 for a map of the area's Future Land Use classifications. (Note: The Hickory by Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.)

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

- Implement the Hickory by Choice 2030 Comprehensive Plan;

As outlined above, the subject property is located in an area classified as a Revitalization Area, by the Hickory by Choice 2030 Comprehensive Plan. A

drinking establishment should be considered a consistent use with the Revitalization Area designation.

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

The proposed establishment will be located in an existing building on the property. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.

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

The subject property is located in an area that provides services for mixture of residential, commercial, and light industrial development. Public infrastructure currently in the area is sufficient to handle the proposed development in addition to the existing development.

- Regulate the type and intensity of development; and

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, including the North Carolina Alcoholic Beverage Control Commission.

- Ensure protection from fire, flood and other dangers.

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

2. The proposed use complies with all applicable provisions of this Land Development Code;

The proposed use will be required to comply with all applicable provisions of the Land Development Code. Compliance will be affirmed during the administrative plan review and permitting process.

3. The proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

The proposal to open a drinking establishment on the subject property should be considered compatible with adjacent uses.

Hours of operation of alcoholic beverage sales are regulated by the State of North Carolina and are unable to be altered at the local level. The applicant has stated that they would most likely operate until 12 am on weeknights and to 2 am

on weekends. According to the applicant, outdoor activities will cease around 10 pm. Staff believes the hours of the outdoor activities could be conditioned.

An increase in traffic to the site will occur given the nature of the business, but not be high enough to warrant any improvements to public roads. The last use of the property was also a bar. The applicants will be required to obtain a driveway permit. The applicant informed staff that they plan to improve the existing parking areas.

Outdoor lighting is currently limited to the parking lot. The applicant has proposed adding lighting to the property for the outdoor activities and to improve security. These changes would be reviewed for compliance with the Land Development Code to ensure minimal glare onto neighboring properties and roadways.

The applicant has stated that they will likely host live music and have karaoke as part of the business. Noise from the proposed use could be limited by a condition to prohibit outdoor music.

The building does not currently have a dumpster or dumpster enclosure. The applicants have stated they will coordinate with a solid waste provider for refuse and recycling that the enclosure will comply in accordance to the requirements of the Land Development Code and Engineering Manual of Practice.

There are no plans to expand the building. The only plans are to alter the exterior of the building to make cosmetic improvements.

4. Any significant adverse impacts resulting from the use will be mitigated or offset;

No significant adverse impacts from the use of this property as a drinking establishment are anticipated. The project will continue to be reviewed for compliance.

5. The proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;

No qualified information has been submitted that would indicate the proposed drinking establishment would have detrimental impacts on the values of properties in the vicinity.

6. Public safety, transportation and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;

The property is served by the Hickory Fire Department and is approximately one mile from Fire Station 3, which houses an engine and ladder truck. The Fire and Life Safety Division will review the business further during the plan review and inspection process.

Police protection will be provided by Hickory's Edward PACT. The Police Chief expressed concerns regarding potential noise complaints from nearby residential neighborhoods given the late operating hours. The Police Department also expressed concerns about the limited bar management experience of the applicants. The Police Department expects an increase in calls (specifically fights, littering, assaults, disorderly conduct, DWI, and drug cases) if the business is permitted and not managed properly.

Public water and sewer are available to adequately serve the property. The Public Utilities Division did not have any objection to the business.

Road access will be regulated by the City of Hickory and North Carolina Department of Transportation. According to NCDOT, a new driveway permit will be required for the use.

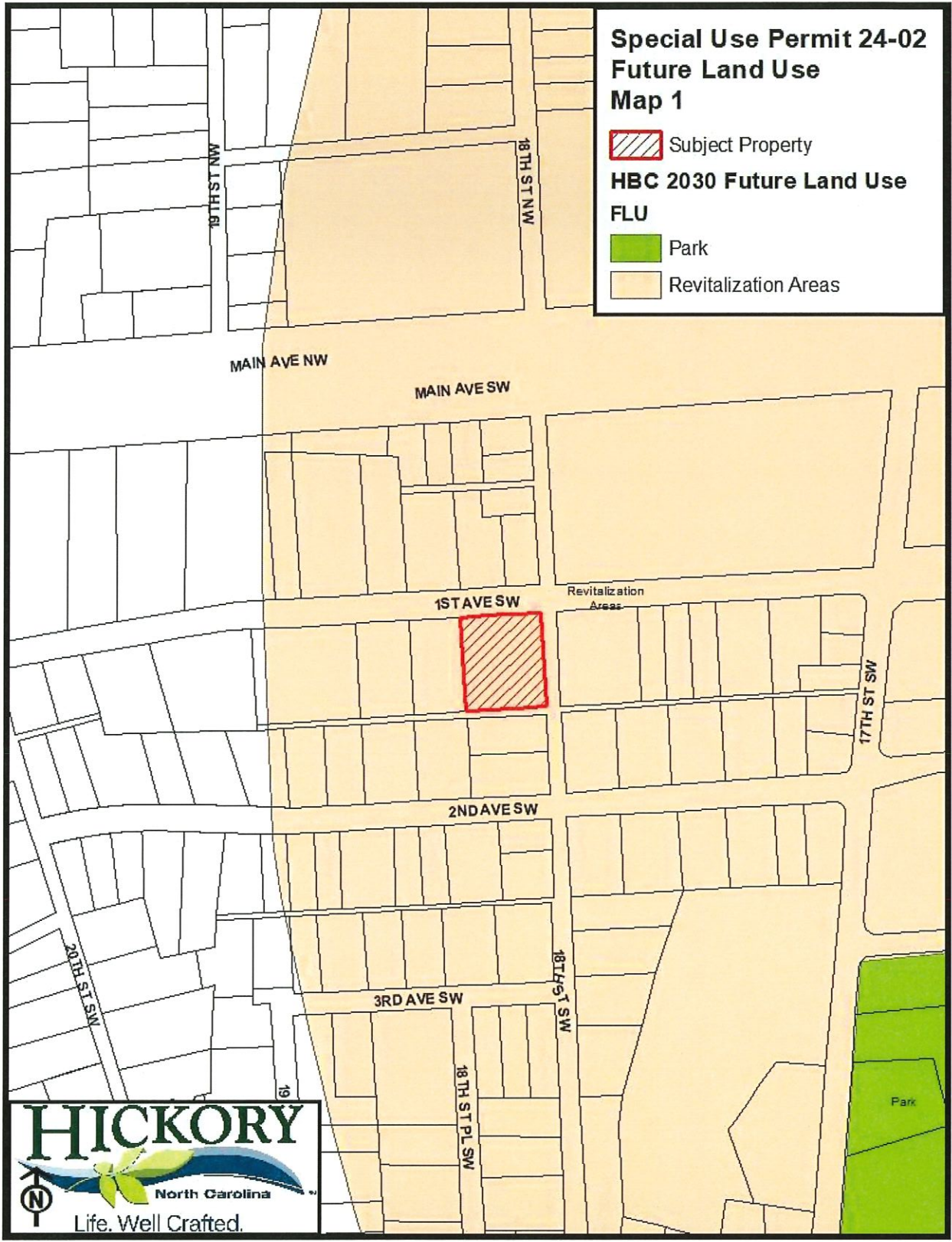
7. Adequate assurances of continuing maintenance have been provided;

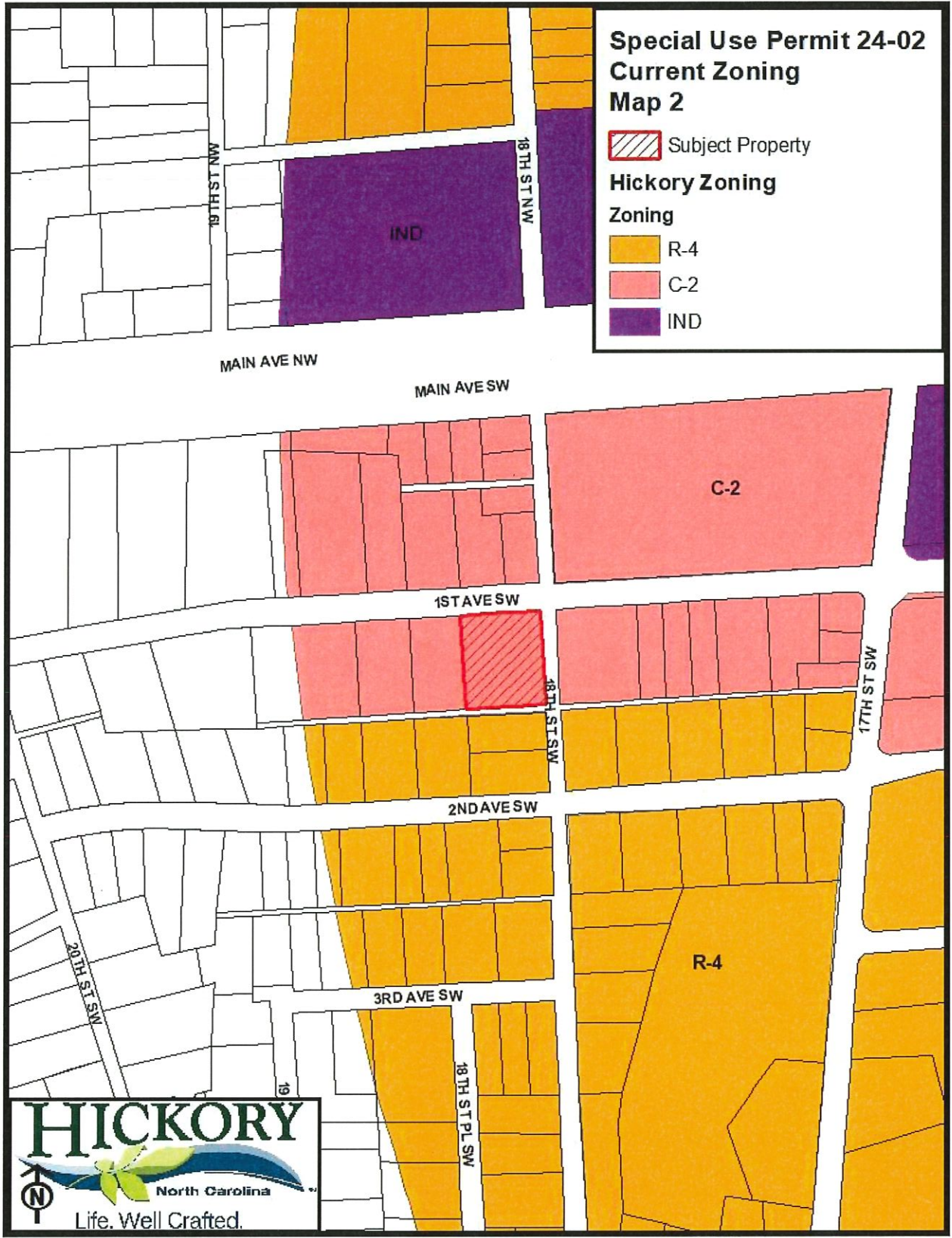
The applicant will be required, by city ordinance, to maintain all portions of the property.

RECOMMENDED ACTION: Staff recommends approval of the Special Use Permit subject to the following conditions:


1. All aspects of the project, and its subsequent improvements, shall comply with all applicable provisions of the City's Land Development Code, and the Building and Fire Codes of the State of North Carolina;
2. Prior to the occupancy of the space, any required inspections and/or construction plans must be submitted, reviewed, and approved by the City of Hickory;
3. Outdoor music and/or amplified sound is prohibited.

PUBLIC INPUT: As of May 15, 2024, there have not been any comments from the public.





**Special Use Permitt 24-02
Aerial
Map 3**

 Subject Property



Prestige Paint and Bodyworks

Bearing Distributors INC.

Canipe and Lynn Electric Motor

