

Memorandum

To: Morganton Planning & Zoning Commission Members
From: Jesse James, Senior Planner D&D Services
Date: January 7, 2021
Subject: P&Z meeting to be held January 14, 2021 5:15

The Morganton Planning & Zoning Commission will meet on **Thursday, January 14, at 5:15 pm** in the City Hall Council Chamber. Please contact Jackie Cain (828) 438-5260 to confirm your attendance

In response to the order issued by Governor Roy Cooper, and to help mitigate the spread of COVID-19, the Planning & Zoning Commission will hold a meeting January 14th, 2021 with the following guidelines. The Council Chamber will be open to the public with limitations. Listed below are ways to participate while remaining in compliance with the Governor's orders.

If citizens wish to address the commission during the meeting they may:

1. Send an email to: jcain@ci.morganton.nc.us
2. Send a letter to: City of Morganton, Attn: Jackie Cain, P.O. Box 3448, Morganton, NC 28680
3. Hand deliver a letter to City Hall: 305 East Union Street by 9:00 a.m. on Wednesday, January 13th, 2021.
4. If a citizen would like to address the commission in person, they may attend the scheduled meeting. Limitation of fifty (50) individuals are allowed in the council chamber. Additional seating and live feed will be available in the lobby of city hall. Masks will be required. Please contact Jackie Cain (828) 438-5260 with any questions. Speakers during any public hearing shall be limited to three (3) minutes each. Citizens will be allowed into Council Chamber.

**All comments (emails or letters) must be received by 9:00 a.m.
on Thursday January 14, 2021.**

Morganton Planning & Zoning Commission
Agenda: January 14, 2021
City Hall Conference Room 4
305 East Union Street (Suite A100)

I. OLD BUSINESS:

- Item 1: Election of Chairman/Vice Chairman**
- Item 2: Review and approval of the October 8, 2020 and December 10, 2020 minutes.**
- Item 3: Review of City Council action since last meeting.**
- Consideration of an application by Burke Development, INC. Alan Wood to re-zone the property identified as 115 Wamsutta Mill Road, PIN-1793478629, from its current Medium Intensity District (MID) to High Intensity District (HID).

II. APPEARANCES

This Agenda time is reserved to provide citizens an opportunity to appear before the Planning Commission about issues other than those appearing on the agenda. Citizens may present their planning ideas, opinions or concerns for Commission consideration and discussion. Anyone wishing to speak should come to the podium, state their name, and address for the record.

III. NEW BUSINESS

- Item 1:** Consideration for an application submitted by Bryan Beam for Maylenia LLC. to rezone the property listed as 410 E Hogan Street. The property is currently zoned High Intensity District (HID) and the application is to re-zone to Exclusive Industrial District (EID).

OTHER ITEMS OF DISCUSSION

IV. ADJOURN

**Next Scheduled P&Z Meeting: Thursday February 11, 2021 at 5:15 PM
City Hall Council Chamber**

Minutes
Morganton Planning & Zoning
October 9, 2020

Members Present:

Hank Dickens, Chairman
Bill Lennon, Vice-Chairman
Judy Francis
Rick Lingerfelt
Waits Gordon
Don Smith
Pete Wallace
Kevin Kee

Members Absent:

Eric Engstrom

Also present from the City staff were Phillip Lookadoo, Director Development Design Services; Louis Vinay, City Attorney; and Jackie Cain, Administrative Manager.

I. OLD BUSINESS:

Item 1: Review and approval of the July 9, 2020 minutes.

Mr. Dickens stated a copy of the minutes from the July 9, 2020 meeting were provided. Motion to adopt as submitted was approved unanimously (8-0).

Item 2: Review of City Council action since last meeting

Mr. Dickens stated Mr. Lookadoo would review action taken by city council. Mr. Dickens stated he would like to welcome Kevin Kee to the planning commission. City Council met in September and appointed Mr. Kee to vacant position on Planning & Zoning. This term will expire June 3, 2023.

Mr. Lookadoo stated City Council met in August and approved a map amendment for a proposed rezoning located at 107 Old Jamestown Road (PIN 1793137357 and (1793138261) to reflect the intent of the 2030 Land Use Plan and to also match adjacent land uses.

II. APPEARANCES:

Mr. Dickens stated this time is set-aside for individuals to come before the planning board to express any planning related concerns to the planning board.

None.

III. NEW BUSINESS:

Item 1: Application from William Andrews for consideration for an amendment to the Zoning Ordinance sections 3.2 Overlay Districts, 4.2 Density and Dimensional Standards, and 4.8 Building Design Standards. These changes are for the proposed addition of a new overlay zone "Restricted Residential Overlay (RR-O)" to the City of Morganton Zoning Ordinance.

Mr. Dickens asked Mr. James to review the request.

Mr. James presented the request from William Andrews for consideration of an amendment to the text of the Zoning Ordinance, specifically sections 3.2 Overlay

Districts, 4.2 Density and Dimensional Standards, and 4.8 Building Design Standards. These changes are for the proposed addition of a new overlay zone “Restricted Residential Overlay (RR-O)” to the City of Morganton Zoning Ordinance.

SUMMARY:

See Detailed Handout attached for text amendment as proposed by the applicant.

Current Zoning Ordinance Relevant Information

- Overlay Zoning- Subject to underlying base zone district, but also additional requirements or permissions of the overlay zone. This is a tool to apply additional development standards to a district as well as exclude uses that would otherwise be permitted with the underlying base zoning district.
- As proposed, the RR-O would serve to restrict uses in the district to residential and similar uses while allowing higher densities associated with MID, HID and CBD zoning districts.
- The existing Neighborhood Conservation Overlay does not permit multi-family housing and therefore would not achieve the intended purpose of higher density.
-

TABLE 4.2: BASE RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

District	A1 Base Max. Residential Density	A2 Residential Min. Lot Size (Square feet) ¹	B Min. Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
LID	2 DUA	20,000	80	30	10	25	35
MID	2 DUA	20,000	70	20	10	20	35
HID	4 DUA	6,000	60	20	10	20	35
CBD	4 DUA	N/A	N/A	0 min. 5 max.	N/A	N/A	35
EID	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SID	N/A	N/A	50	20	10	20	65

(See base maximum residential density, not much difference between LID to HID, a RR-O Overlay would allow a HID area to be set aside for housing only, with higher density)

- 4.3 Performance Standards-

TABLE 4.3: PERFORMANCE RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

District	A Performance Max. Residential Density ¹	B Residential Min. Lot Width (feet) ²	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
LID	6 DUA	60-detached 25-attached	25	5	20	35
MID	10 DUA	50-detached 25-attached	20	5-detached 0-attached	15	50
HID	20 DUA	40-detached 25-attached	20	5-detached 0-attached	5	65
CBD	N/A	N/A	0 min. 5 max.	N/A	N/A	65
EID	N/A	N/A	N/A	N/A	N/A	N/A
SID	N/A	40-detached 25-attached	20	5-detached 0-attached	5	65

Mr. James stated that part of amending any district is adding or excluding uses from the base zoning district. The intent of RR-O overlay is a housing opportunity for infill development with a half mile of civic, institutional, office, professional and retail uses. He stated this is a way to restrict a base zone to just residential zoning allowing the developer to gain the density of the base zone. Mr. James explained LID, MID, and HID each had different densities.

STAFF RECOMMENDATION:

Staff analysis shows that there are benefits to adding this overlay. Benefits include the ability of reserving some MID or HID districts for denser housing options by adding more units per acre. This gives landowners the option to rezone properties while reassuring neighboring properties and City Council that commercial uses will not be permitted where they otherwise would be with the underlying base district. The City of Morganton is in need of housing and this is a way to set aside more intense uses of land for dense housing and/or gives landowners a better chance of successfully rezoning because adding RR-O would create added protection for bordering districts that have less intense land uses.

NECESSARY COMMISSION ACTION:

Motion to recommend denial or approval of this amendment for the addition of a new overlay zone, "Restricted Residential Overlay (RR-O)" with standards.

Mr. Dickens asked for an example of performance residential density.

Mr. James explained performance density with performance points, thus allowing more density.

Mr. James provided an example: 5 acres in MID would allow 4 dwelling units per 1 acre thus yielding 20 units. Landscaping, infill development, etc...

Mr. Dickens asked could you have 2 overlays.

Mr. James stated no.

Ms. Francis stated there isn't anything illegal having two overlays and it could happen.

Mr. James stated yes it could be possible, such as flood plain overlay, watershed overlay etc.

Mr. Dickens opened for public comment.

Mr. Brian Golden, attorney speaking on behalf of William Andrews, addressed compliance with 160(D) and the comprehensive plan. Mr. Golden presented the request would be in keeping with the City's long range plan. He stated it accomplishes goals in accordance to long range plan. He added the benefits of the proposed overlay would provide higher density options while keeping Morganton's residential areas preserved.

Mr. Dickens closed public hearing.

Mr. Smith questioned the performance points and how it would affect West Union Street front lot development.

Mr. James stated the request for RR-O amendment and performance points wouldn't change the performance points with lower intensity on the front lot. Mr. James reminded commission this item was adding RR-O as an overlay within our ordinance and was not focused on a specific property.

Mr. Dickens questioned conditional use zoning and properties with conditional use would no longer be used.

Mr. James explained the state passed a new codification of zoning law in NC. Mr. James stated within the new changes conditional use permits are not allowed.

Mr. Dickens stated RR-O created a tool to restrict the use on a property and create a protection.

Mr. Lennon wanted to clarify with the state changes being enforced, would all conditional use be grandfathered.

Mr. James stated if the property was zoned with conditions and it was not built to the conditional standards then it would have to be rezoned.

Mr. Lennon questioned 4.2.7 speaks about setbacks and maximum height of buildings. He questioned the number of floors.

Mr. James stated these conditions are very similar to that of NC-O. Mr. James reviews the height could increase one foot for each foot of set back from the adjacent property.

Mr. Lennon voiced his concern of 5-story apartment building.

Mr. James stated generally you would not exceed 35 feet, because of lot size would not allow the height.

Mr. Gordon clarified location the RR-O would apply.

Mr. James stated the use of RR-O would apply for an infill lot which could be set aside for townhomes or such. RR-O is a tool which can be used for long range planning.

Mr. Lingerfelt made a motion to approve amendment to the Zoning Ordinance sections 3.2 Overlay Districts, 4.2 Density and Dimensional Standards, and 4.8 Building Design Standards. These changes are for the proposed addition of a new overlay zone "Restricted Residential Overlay (RR-O)" to the City of Morganton Zoning Ordinance, seconded by Ms. Francis approved unanimously (8-0).

Item 2: A public meeting will be held concerning a proposed rezoning of a 0.95+- acre tract (PIN# 2703156576), 0.44+- acre tract (PIN# 2703158591), 0.33+- acre tract (PIN# 2703159443) and 0.29+- acre tract (PIN#2703157369) located at 313 West Union Street, 101 Lyman Court, 103 Lyman Court and 104 Lyman Court from Conditional Use (CU) to Medium Intensity District & Restricted Residential Overlay (MID/RR-O) submitted by William F. Andrews.

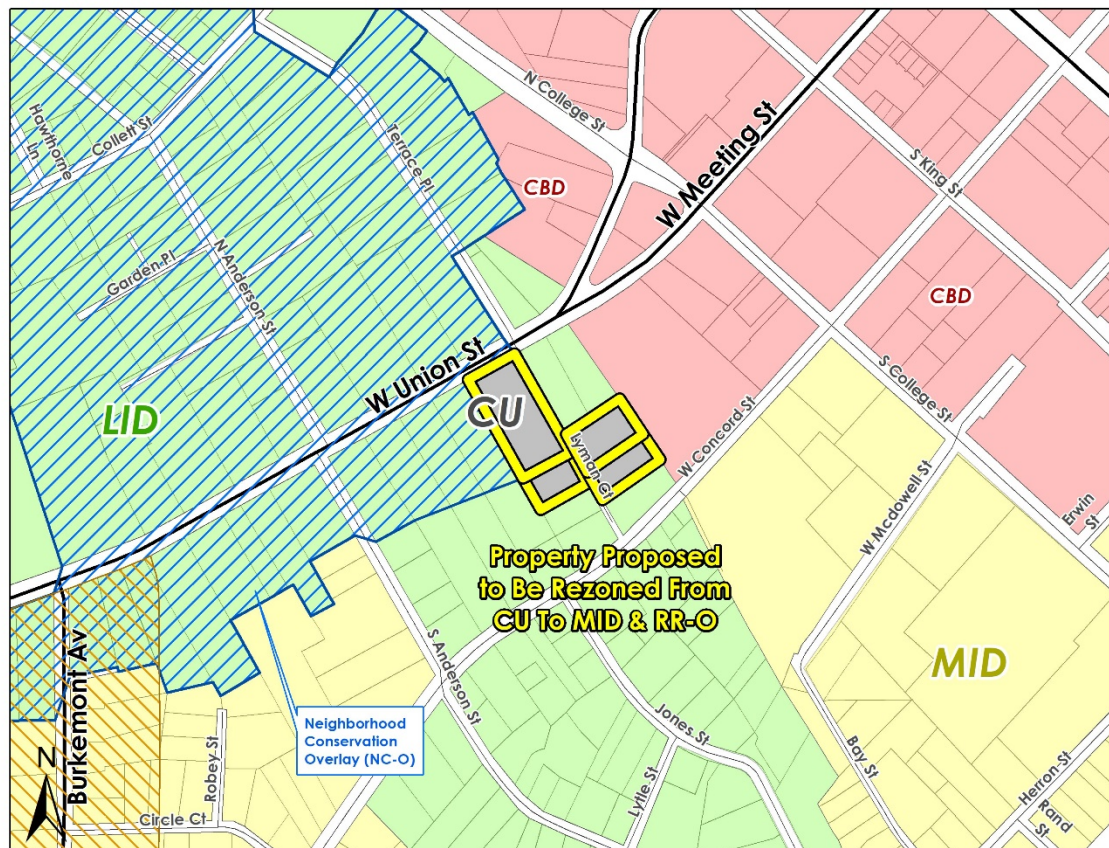
Mr. Dickens requested staff to review the request.

William Andrews Rezoning
Lyman Court

Parcel Information				
Address	PIN	Parcel Size	Current Zoning	Requested Zoning
313 West Union Street	2703156576	0.95	NC-O/RH-CU	NC-O/MID
104 Lyman Court	2703157369	0.29	RH-CU	MID
101 Lyman Court	2703158591	0.44	RH-CU	MID

The Conditional Use District was a zoning tool available in the previous zoning ordinance. Its intent was to allow zoning districts in certain locations that would, absent special conditions, be inappropriately zoned. The conditional use district was attached to a standing zoning designation so that a property could be developed, with special conditions that ensured the intent of the zoning ordinance was realized. The current zoning ordinance does not provide for conditional use zoning.

The Medium Intensity District (MID) is intended for a variety of medium to high density residential and low to medium intensity civic, institutional, office, service, and retail uses designed to keep the impact on adjacent residential areas at a minimum.

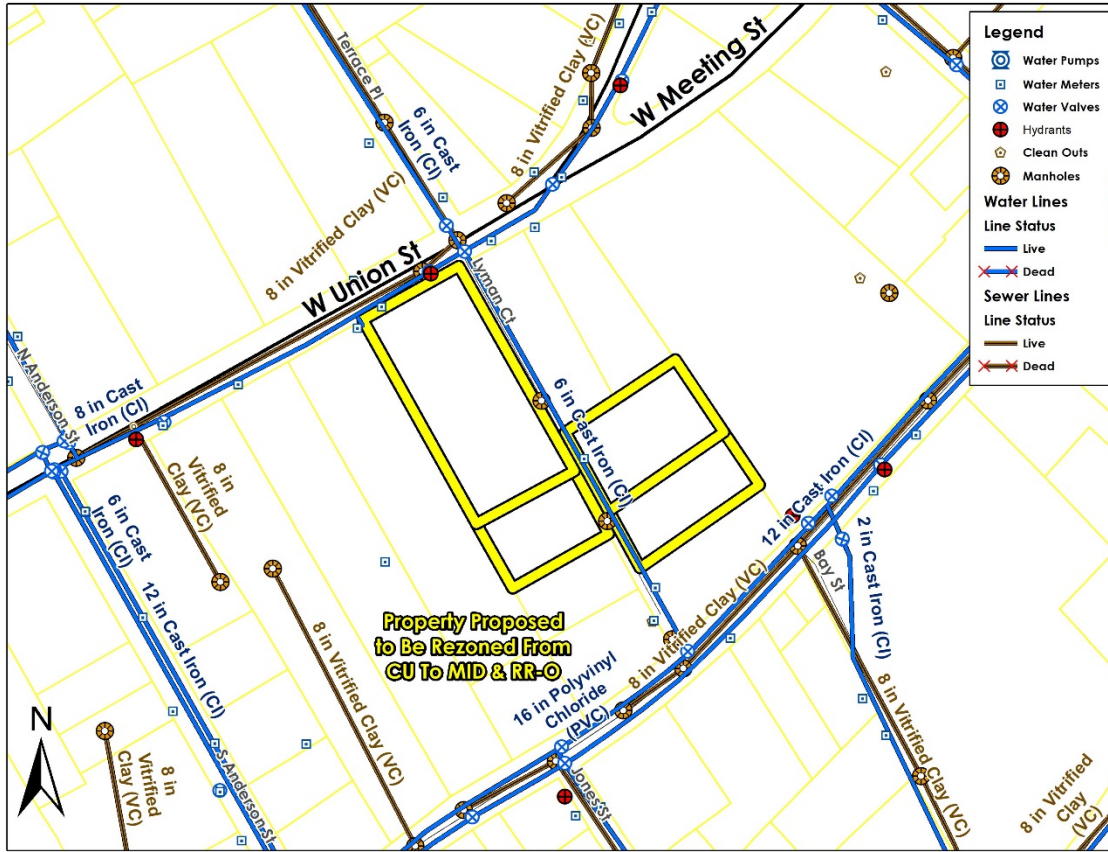


Public Services

Access – The property at 313 West Union Street can be accessed by either West Union Street, a minor arterial, or Lyman Court, a fourteen (14) feet wide road used for residential access to properties fronting its borders. The other three properties are accessed only by Lyman Court. Because Lyman Court is substandard according to City street standards, it would have to be improved for development to occur.

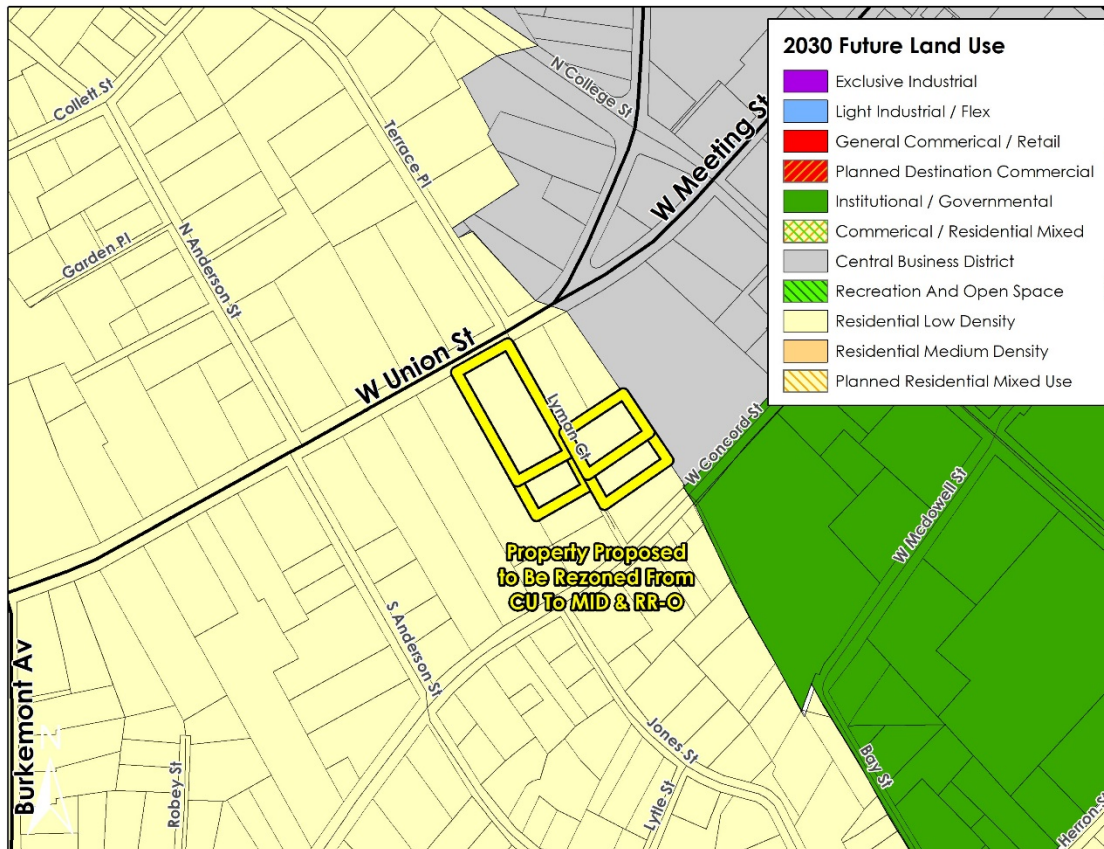
Water – A 6 inch cast iron pipe waterline currently connects from West Union Street towards West Concord Street and as such, water is available.

Sewer – Sewer flows in two directions along Lyman Court, towards West Union Street and West Concord Street, leaving approximately a 150 feet gap between manholes. Upgrades will be necessary to serve certain portions of the property.



Planned Land Use

The City’s 2030 Future Land Use map indicates Residential Low Density as the continued future use of the property. A review of the attached Future Land Use map illustrates that all the surrounding properties are designated for Residential Low Density.



Future Rezoning

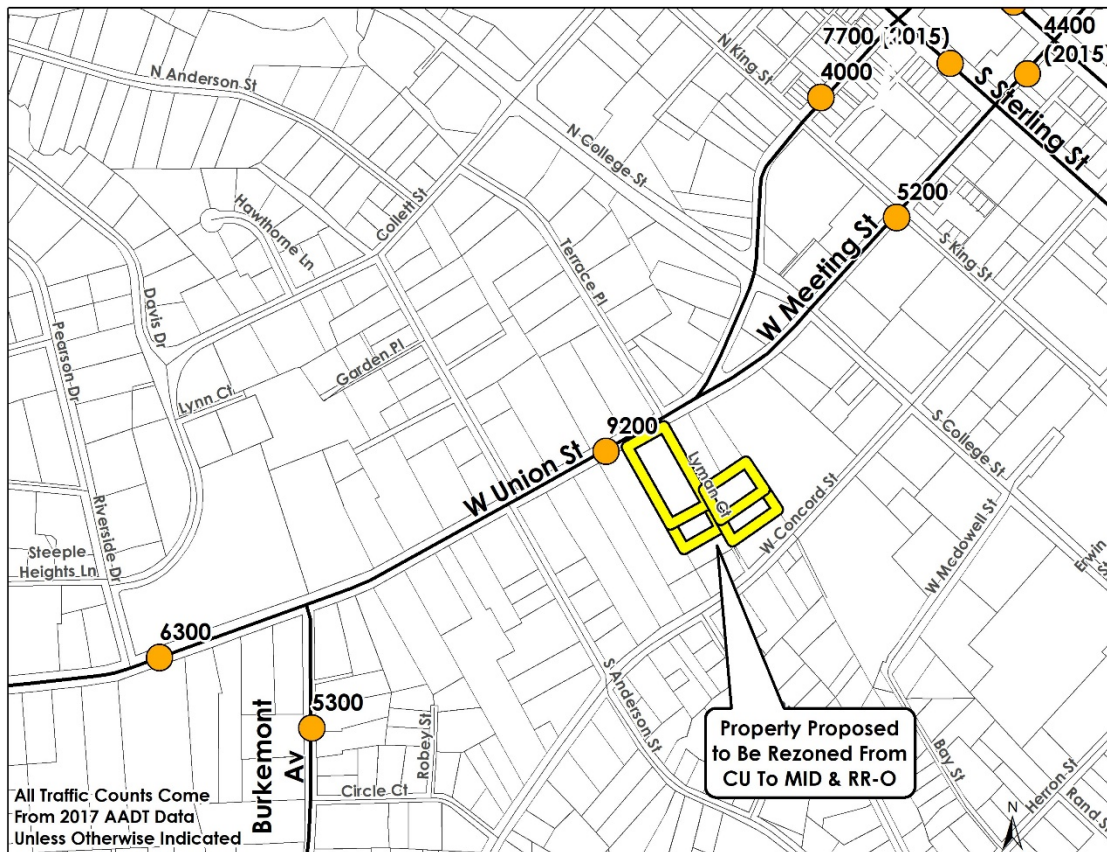
Future rezoning considerations should fully take into consideration the analysis considered in determining future land use as part of the Mission 2030 Plan as well as the recently adopted Downtown Master Plan. Should future rezoning occur, it should be considered concurrently with a review of all relative plans for this area as adopted by City Council.

Spot Zoning

This request will not constitute spot zoning since these properties are adjacent to a property zoned CBD and the MID zoning district by its definition exists to allow residential uses, and other uses in a way that they are appropriate adjacent to residential uses.

Impact to Surrounding Properties

The primary impact to the surrounding land would be the increase of traffic, particularly for those residences located on or adjacent to Lyman Court. Other impacts are possible depending on the development proposed for the properties. However, the current zoning ordinance does place conditions on most uses adjacent to residential to ensure compatibility, and in the case of the property with the NC-O overlay, it precludes many uses.



Staff Recommendation

This rezoning request is adverse to the goals as stated in the Mission 2030 Plan which, for these properties and their surrounding properties, is to maintain a rural and suburban character. The Mission 2030 Plan, to that end, suggests densities at no greater than two (2) dwellings per acre. Since the Mission 2030 Plan was adopted, a rewrite of the Downtown Master Plan has been adopted. This plan suggests there is a deficiency of housing units in the downtown area of 1,029 units. This rezoning request, while also allowing limited commercial and other uses, would seem to aid in furthering the goal of more housing in close proximity, walking distance, of downtown. Given the protections afforded by the zoning ordinance and provided that future development of the properties would be undertaken only in strict compliance with the current zoning ordinance, staff recommends approval of this request as submitted.

Mr. Dickens stated Jackie Cain, City of Morganton staff, had received a letter from property owner Kay N Dignam, 317 West Union Street. He stated a copy of the email was distributed to commission members for their review.

Kay N. Dignan
317 West Union Street
Morganton, NC 28655

October 5, 2020

City of Morganton
Attn: Jackie Cain
PO Box 3448
Morganton, NC 28680

Dear Mr. Lookadoo and Members of the Morganton Planning and Zoning Commission,

In response to your letter of September 29th alerting the neighborhood to a proposed rezoning of four tracts of land at 313 West Union and 101, 103, and 104 Lyman Court from Conditional Use (CU) to Medium Intensity District and Restricted Residential Overlay (MID/RR-O), my husband Mark and I pose the following questions and concerns. We recognize the need for housing in the downtown area and would welcome construction of single-family homes consistent with other homes in the neighborhood on the four vacant lots. However, we are concerned about any rezoning, such as Medium Intensity District Zoning, that would affect the traffic flow at what we consider to be an already busy, dangerous intersection.

We have lived at 317 West Union Street for almost three years. We enjoy the beauty of the area and appreciate its historic value and the care with which adjoining properties are maintained. We spend quite a bit of time walking with our dogs in the immediate vicinity of the area proposed to be rezoned, including West Union, Lyman Court and Terrace Place. It is important to us that the neighborhood remain as safe as possible, given its close proximity to downtown, the current traffic flow, and the numerous pedestrians, including neighbors with children and/or dogs, and those who frequent Burke United Christian Ministry who pass our house every day.

We are aware of the vehicular traffic patterns in front of our house and frequently find it challenging to cross the street, particularly at the intersection of Lyman Court/Terrace Place and West Union. When crossing West Union from Terrace Place, there is a blind curve to the left, with traffic heading west often with increasing speed. That is also where West Union splits as it enters the downtown area, with traffic heading east and traffic heading west becoming one-way in each direction. At the present time, we cross with great care. We are struggling to imagine what it might be like with additional housing, particularly multi-dwelling housing in the confined area of Lyman Court, a narrow street with only one way in and one way out.

We also question how this zoning change might impact the neighborhood over time. With more development in the downtown area, traffic is only going to increase. If the zoning proposal is approved, what are the chances of businesses being built on the properties mentioned above?

Mr. Smith asked if there would be an exit on Lyman Court to West Concord Street.

Mr. Lookadoo stated it was not proposed.

Mr. Dickens stated he imaged the topography would prohibit that exit.

Ms. Francis asked if there were discussions regarding traffic control for West Union Street. She discussed the need of housing and control of traffic was needed.

Mr. Dickens stated the letter sent to planning commission from Kay Dignam questioned traffic concerns also.

Mr. Gordon commented concern of higher traffic on West Union would steer individuals to find another route and he didn't want West Concord Street to be used as a cut through. He said he didn't think West Concord Street was capable to handle the extra traffic.

Mr. Lennon questioned speed, perhaps a 4-way stop, College Street project upcoming and street specifications for Lyman Court. He discussed all these items as they related to the area and would affect the project and vice a versa. He reminded commission that this was a NCDOT roadway.

Mr. Lookadoo stated he had spoken with NCDOT reference signage which would be available to alert heavy traffic ahead.

Mr. Dickens asked for traffic capacity study.

Mr. Lookadoo stated we can request a study from NCDOT which would include the assessment for a signal light. Mr. Lookadoo spoke about street width for Lyman Court.

Mr. Dickens opened for public comment.

Mr. William Andrews, applicant, stated he wanted to provide a high class neighborhood. He stated it is unfortunate plans could not be considered.

Mr. Brian Golden, attorney speaking on behalf of William Andrews, provided history of the project discussing the intent was to provide residential housing use into the downtown area. Mr. Golden reviewed 160(D) and bringing the property into compliance. He stated the approval of RR-O overlay was the first step towards beginning development for the Lyman Court property.

Dr. Ken Bonfield, 315 W Union Street, discussed the RR-O overlay Stabilizes the neighborhood, bringing in tax value and solidify the neighborhood. Mr. Andrews stated 14 homes were proposed originally. Dr. Bonfield stated he was concerned with the set back on 313 W Union Street lot and would like to see the plans for the development.

Mr. Andrews discussed (from the audience) with Dr. Bonfield reference plans.

Mr. Dickens stated rezoning decisions could not be based upon plans or designs.

Mr. Lookadoo referenced set back requirements for RR-O reference 4.2.7.

Ms. Leanne Brittain, 103 Terrace Place, disagreed with Mr. Golden and stated the proposed

rezoning was not in line with Mission 2030 plan. She stated Mr. Andrews had an approved plan for 14 units for 15 years and he hasn't done anything. Ms. Brittain she was also concerned with the order of request and how could RR-O request and rezoning request be made at the same meeting.

Mr. Dickens closed public portion of meeting.

Mr. Wallace questioned the setbacks.

Mr. Lookadoo stated MID allows 20 rear, 20 front and 10 side.

Mr. Smith voiced his concern of increased traffic on West Union.

Ms. Francis made a motion to approve the proposed rezoning of 0.95 +-acre tract (PIN# 2703156576), 0.44+- acre tract (PIN# 2703158591), 0.33+- acre tract (PIN# 2703159443) and 0.29+- acre tract (PIN#2703157369) located at 313 West Union Street, 101 Lyman Court, 103 Lyman Court and 104 Lyman Court from Conditional Use (CU) to Medium Intensity District & Restricted Residential Overlay (MID/RR-O) submitted by William F. Andrews, seconded by Mr. Smith and passed unanimously (8-0).

Item 3: Application submitted by Nancy VanNoppen for consideration for an amendment to the Zoning Ordinance, Table of Permitted Uses, to allow Body Art Establishments (tattoos & body piercing) as a permitted use in the Central Business District with conditions.

Mr. James stated an application submitted by Nancy VanNoppen for consideration of an amendment to the text of the Zoning Ordinance, Table of Permitted Uses, to allow Body Art Establishments (tattoos & body piercing) as a permitted use in the Central Business District with conditions.

SUMMARY:

Applicant Proposal- Add "P" for Permitted Use for Body Art Establishment (tattoos & body piercing) under CBD with Conditions under 3.4.4, add new subsection 3.4.4 (D) Tattoo & Body Piercing within CBD.

Conditions-

- 1) Business occupies either a back space not on street level (upper or lower floor).
- 2) Business has no marketing materials or signage on front of building or storefront windows (Primary Façade) beyond directional sign or incidental signage (business name/logo and where they are located in the building).
- 3) Business services no more than one customer at a time ("service" meaning actually having a customer in a chair and performing a service).

STAFF RECOMMENDATION:

Staff recommends that the use is permitted in the CBD as a permitted use outright without additional conditions. If P&Z chooses to approve the text amendment with conditions as proposed by the applicant; staff recommends adding the following:

- 4) Permitted as a secondary/accessory use to the existing or proposed principle use.

NECESSARY COMMISSION ACTION:

Options:

1. Motion to recommend approval or denial of proposed text amendment.
2. Motion to recommend to approval with additional conditions

3. Motion to recommend approval as a permitted use with no conditions.

Staff provided a letter from Marcus McCarthy Board member of the Main Street Advisory Board.

To whom it may concern:

Thank you for taking the time to read this letter. I wish I could be there to speak in person.

Tattoo culture has been developing rapidly over the past decades. It is becoming more common and more acceptable to have these works of art displayed on our bodies. Many people including business owners, doctors, teachers, and police officers have beautiful tattoos on full display and wear them with pride. Many tattoos take hours to complete, sometimes with multiple visits to the artist, and can cost thousands of dollars. Often someone getting a tattoo will bring more people for support with them. During those hours that group will have a few hours to explore the town. I know this because I have gone with friends' multiple times and discovered some great places. It is how I discovered Boone, which in turn led me to Morganton. Visitors coming for tattoos will see that our town is full of local artists and their studios and that we have a vibrant downtown full of breweries, restaurants, and small businesses. I have no doubt everyone who comes to Morganton will be come back for more visits. Word spreads fast these days- having a great local tattoo artist would be a draw to our community and another way to showcase our town. Bringing in a younger generation of citizens and businesses should be a priority in Morganton. I fully support this amendment to allow a tattoo artist downtown. The benefit will be both short and long term. I believe continuing on our current path supporting a vibrant Local art and Music scene downtown is the only way forward.

Thank you.
 Marcus McCarthy
 210 Forest Hill Street
 Morganton, NC 28655

Board member of the Main Street Advisory Board

Mr. Dickens opened public hearing.

Ms. Nancy Vanoppen, 103 Hemlock Drive, stated creative director at Vanoppen. She stated where she uses paint and canvas, Cutting Page uses skin and ink. She stated she wanted all artist to feel welcome in downtown Morganton.

Ms. Abby Gentry, 509 Alexander Ave Main Street manager, stated downtown Morganton has storefronts with vibrant owners, it is a center of arts with painters, chefs , sewers and potters to name a few. She stated neighboring towns like Newton, Rutherford, Shelby, and Lenoir allow tattoo artistry in their downtown.

Mr. Dickens asked if there were conditions placed upon the businesses in other towns.

Mrs. Gentry stated she asked if there issues with this use. She stated property owners took care of their properties and handled any rental problems.

Mr. Keith Suttles stated he supported the request. He stated tattoo artistry is required to meet state licensing and he felt there was a stigma regarding tattoo artist. He stated he was in support of this business in our downtown area.

Ms. Casey Mode, stated she was in favor of the request. She stated supporting the economic increase was positive.

Mr. Bill Steiner stated creation of a creative and cultural vibe was a positive draw for downtown areas. He stated he supported the business use in our downtown area!

Ms. Cutting Page stated she was currently a resident of Boone, NC. She stated she was drawn to downtown Morganton and saw downtown full of opportunity. She said she thought Morganton was an artistic city. She stated she wanted to relocate her business to the downtown area.

Mr. Dickens closed public hearing.

Mr. Smith made a motion to recommend that the use is permitted in the CBD as a permitted use without conditions seconded by Mr. Kee and approved (7-1 Pete Wallace abstain)

OTHER ITEMS OF DISCUSSION

ADJOURN

Next Scheduled P&Z Meeting: **Thursday November 12, 2020 at 5:15 PM**
City Hall Council Chamber

Minutes
Morganton Planning & Zoning
December 10, 2020

Members Present:

Hank Dickens, Chairman
Bill Lennon, Vice-Chairman
Judy Francis
Rick Lingerfelt
Waits Gordon
Don Smith
Pete Wallace
Kevin Kee

Members Absent:

Eric Engstrom
Pete Wallace

Also present from the City staff were Phillip Lookadoo, Director Development Design Services; Louis Vinay, City Attorney; and Jackie Cain, Administrative Manager.

I. OLD BUSINESS:

Item 1: Review and approval of minutes.

Mr. Dickens stated a minutes from the October 9, 2020 meeting would be provided at the next meeting.

Item 2: Review of City Council action since last meeting

Mr. Dickens stated Mr. Lookadoo would review action taken by city council.

Mr. Lookadoo stated City Council met in November and approved multiple items commissioned recommended. He stated:

- Approved amendment to the Zoning Ordinance sections 3.2 Overlay Districts, 4.2 Density and Dimensional Standards, and 4.8 Building Design Standards. These changes are for the proposed addition of a new overlay zone “Restricted Residential Overlay (RR-O)” to the City of Morganton Zoning Ordinance.
- Approved a proposed rezoning of a 0.95+- acre tract (PIN# 2703156576), 0.44+- acre tract (PIN# 2703158591), 0.33+- acre tract (PIN# 2703159443) and 0.29+- acre tract (PIN#2703157369) located at 313 West Union Street, 101 Lyman Court, 103 Lyman Court and 104 Lyman Court from Conditional Use (CU) to Medium Intensity District & Restricted Residential Overlay (MID/RR-O) submitted by William F. Andrews.
- Approved amendment to the Zoning Ordinance, Table of Permitted Uses, to allow Body Art Establishments (tattoos & body piercing) as a permitted use in the Central Business District with conditions.

II. APPEARANCES:

Mr. Dickens stated this time is set-aside for individuals to come before the planning board to express any planning related concerns to the planning board.

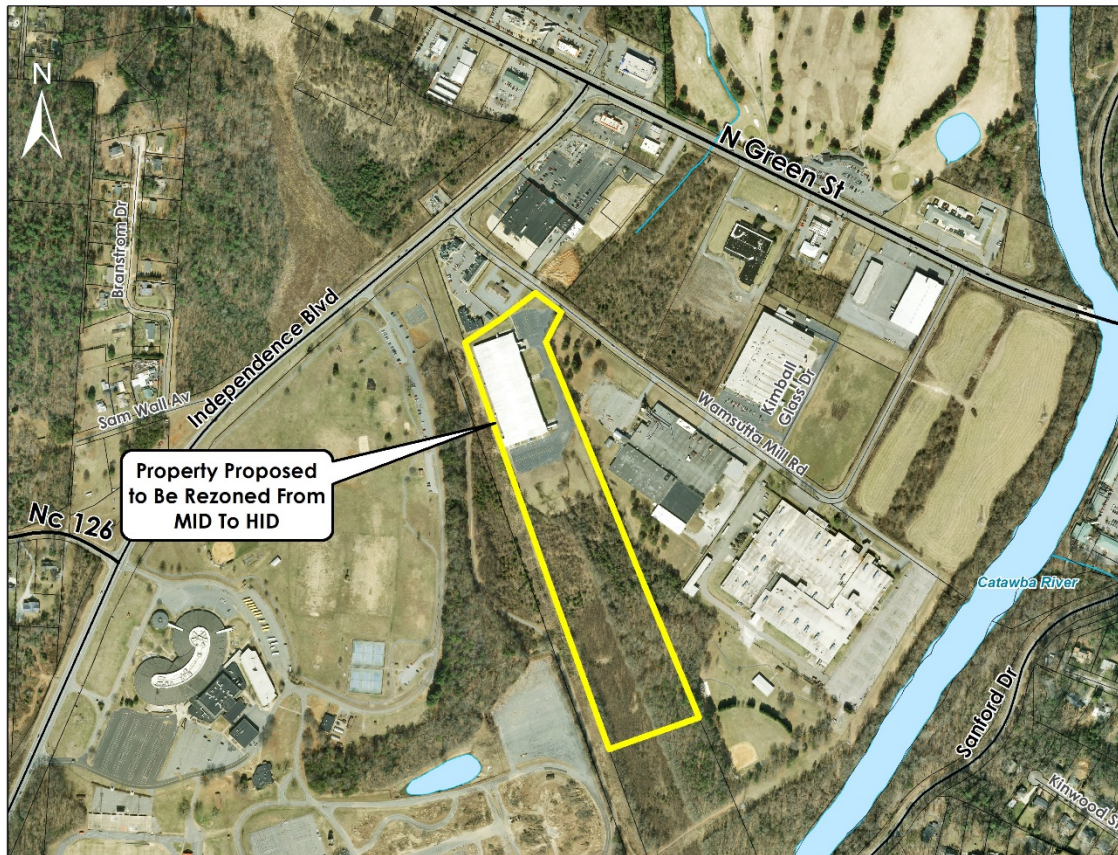
None.

III. NEW BUSINESS:

Item 1: Consideration of an application by Burke Development, INC. Alan Wood to re-zone the property identified as 115 Wamsutta Mill Road, PIN-1793478629, from its current Medium Intensity District (MID) to High Intensity District (HID).

Mr. Dickens asked Mr. Lookadoo to review the request.

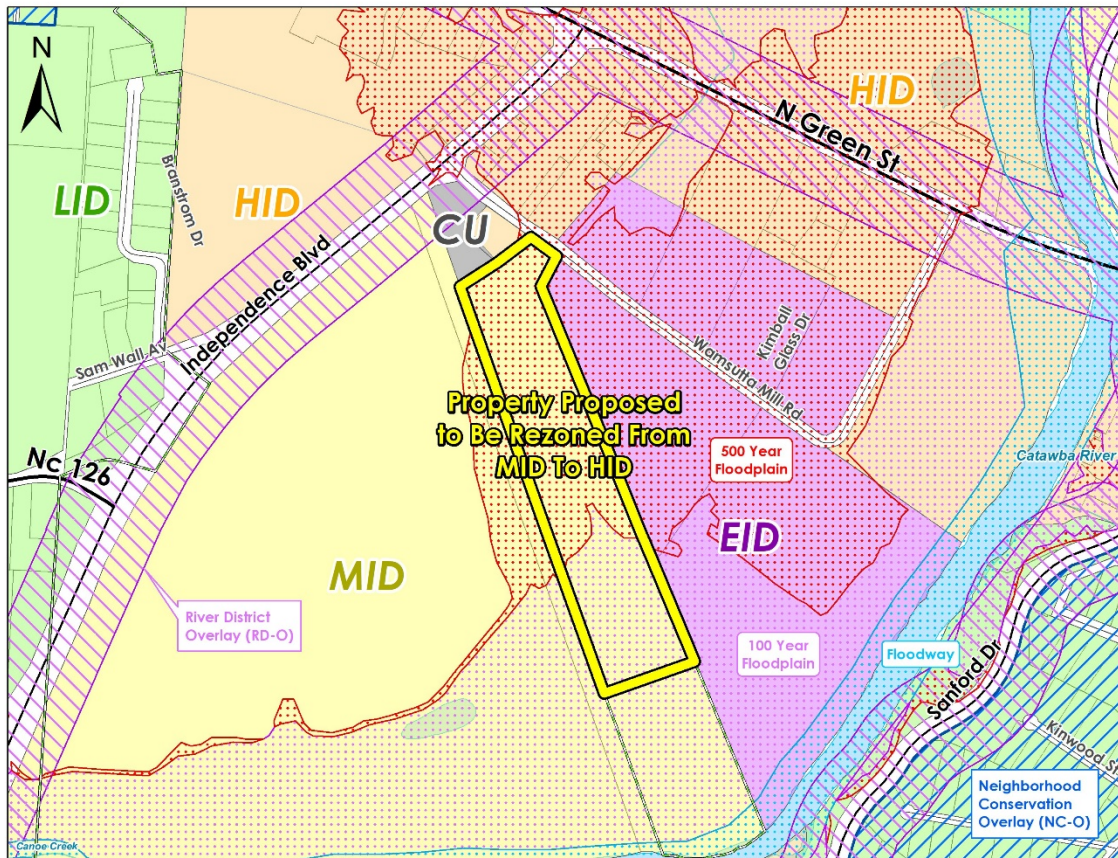
Mr. Lookadoo stated an application has been submitted by Alan Wood for Burke Development, Inc. to rezone the property listed as 115 Wamsutta Mill Rd. The property is currently zoned Medium Intensity District (MID) and the application is to re-zone to High Intensity District (HID).



Mr. Lookadoo discussed the current zoning Medium Intensity District is intended for a variety of medium to high density residential and low to medium intensity civic, institutional, office, service, and retail uses designed to keep the impact on adjacent residential areas at a minimum.

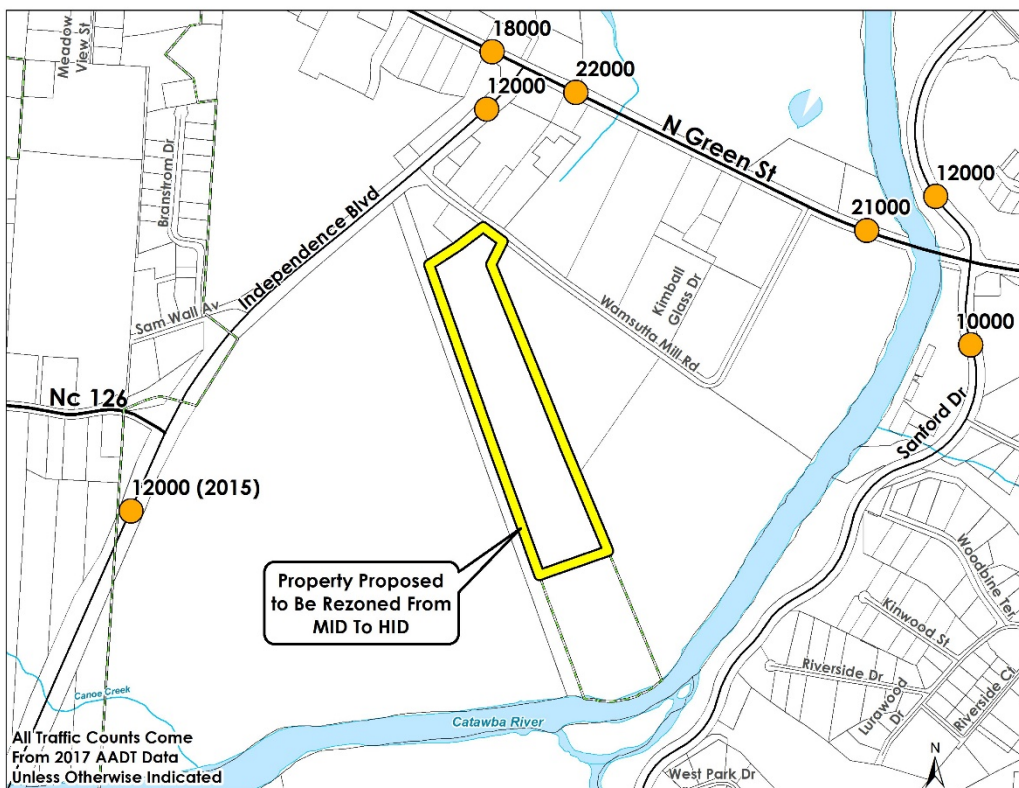
The High Intensity District is established to accommodate high density residential and a wide variety of civic, institutional, retail, service, and office uses along major arterials within the City and to ensure these uses are attractive, functional, and do not have a harmful effect on adjacent neighborhoods or other commercial areas of the City. HID does

accommodate light manufacturing as a land use in the zoning ordinance.



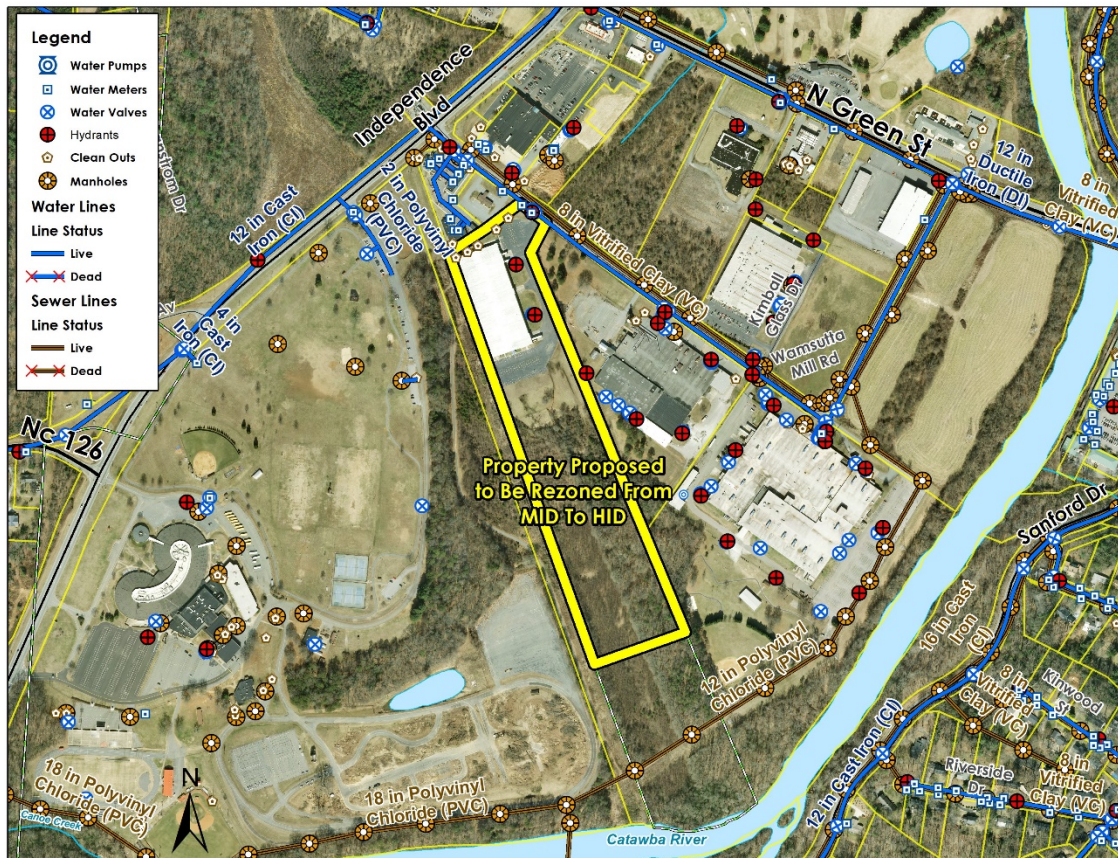
Mr. Lookadoo provided utility access:

Access – The property currently has direct access off of Wamsutta Mill Road (Paved City Street) which connects to both Independence Boulevard to the North and North Green Street to the East.



Water – Property is tapped into the public water system.

Sewer – Property is tapped into the public sewer system.

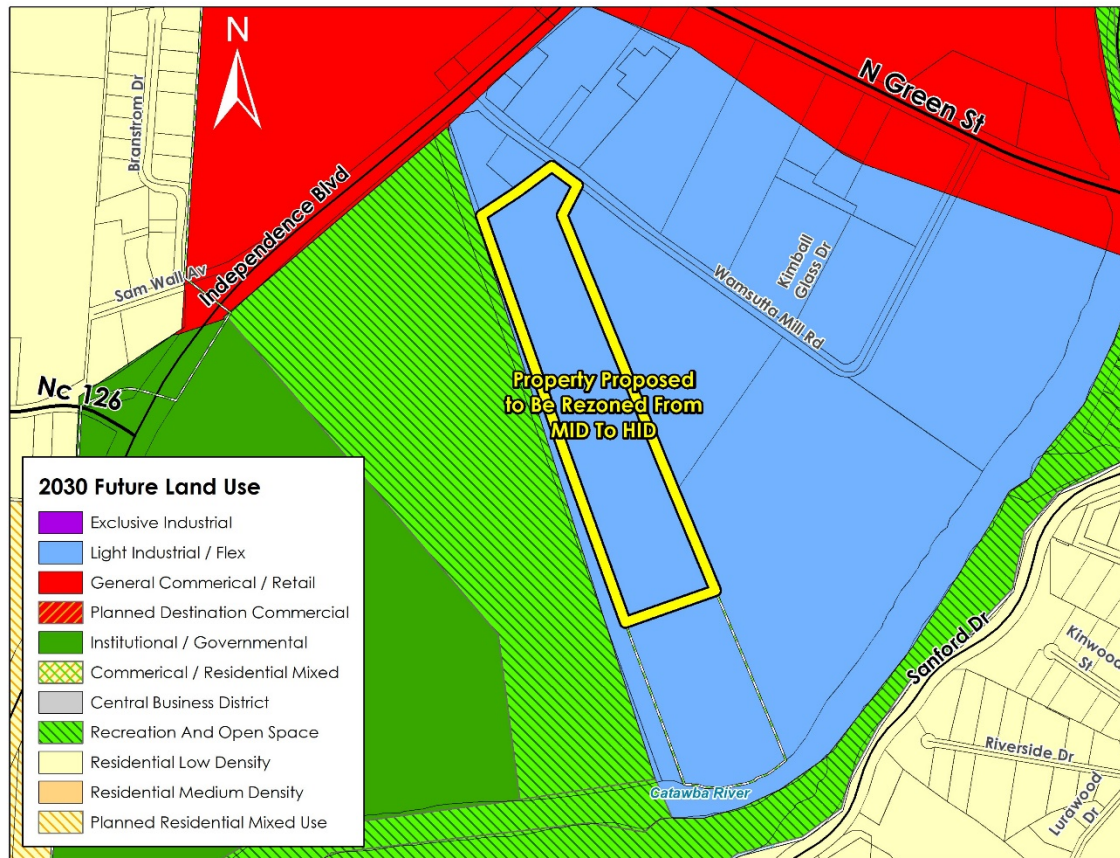


Planned Land Use

The City's 2030 Future Land Use map indicates that the subject parcel's future land use would be best suited as Light Industrial or Flex Space which are defined as scattered light industrial sites with active manufacturing and assembly operations.

The property is currently home to JE Ekornes USA Inc. which is a furniture manufacturer. In regards to land use, this is classified as manufacturing or assembly in the City of Morganton Zoning Ordinance, which is consistent with the 2030 Land Use Map, but not the current Zoning Designation of Medium Intensity District. Medium Intensity District

does not allow for Light Manufacturing.



Future Rezoning

Future rezoning applications should fully take into consideration the analysis considered in determining future land use as part of the Mission 2030 Plan. Analysis shows that the best use of this subject parcel is for light manufacturing which is consistent with either HID or EID zoning districts in the City of Morganton Zoning Ordinance.

Spot Zoning

This request will not constitute spot zoning since this property is adjacent to properties zoned HID and is 20.08 acres in size.

Impact to Surrounding Properties

Rezoning this property from MID to HID would not have any major impacts to surrounding properties being that the current use is vested as light manufacturing.

Staff Recommendation

The current zoning base district of MID is not consistent with the current use of the subject property, nor does it match the Mission 2030 Land Use Plan described previously. Staff recommends that the Planning and Zoning Commission approve this rezoning to HID based on the information provided in this report.

Mr. Lennon questioned why this area wasn't zoned HID with the adjoining properties.

Mr. Lookadoo stated he wasn't clear on previous rezoning.

Mr. Dickens opened for public comment.

None

Closed public hearing

Mr. Lennon made a motion to re-zone the property identified as 115 Wamsutta Mill Road, PIN-1793478629, from its current Medium Intensity District (MID) to High Intensity District (HID) being consistent with the Mission 2030 comprehensive plan, seconded by Mr. Wallace and passed unanimously.

OTHER ITEMS OF DISCUSSION

ADJOURN

Next Scheduled P&Z Meeting: **Thursday January 14, 2021 at 5:15 PM**
City Hall Council Chamber

Rezoning Evaluation

Case # PZ-1-21
410 E Hogan Street Re-Zoning
Pin#- 2703569030

Background

An application has been submitted by Bryan Beam for Maylenia LLC. to rezone the property listed as 410 E Hogan Street. The property is currently zoned High Intensity District (HID) and the application is to re-zone to Exclusive Industrial District (EID). Historically this property has been light industrial, as it remains today.

Zone Comparison

The High Intensity District is established to accommodate high density residential and a wide variety of civic, institutional, retail, service, and office uses along major arterials within the City and to ensure these uses are attractive, functional, and do not have a harmful effect on adjacent neighborhoods or other commercial areas of the City. HID does accommodate light manufacturing as a land use in the zoning ordinance.

The Exclusive Industrial District is established as a district intended to provide for manufacturing, warehousing, transportation, utility, and similar uses. The further growth of non-industrial development is prohibited to preserve land for industrial purposes.

Public Services

Access – The property currently has direct access off of E Hogan Street. Hogan Street leads to Valdese Ave to the north and the property fronts E Fleming Drive to the East.

Water – Property is tapped into the public water system.

Sewer – Property is tapped into the public sewer system.

Planned Land Use

The City's 2030 Future Land Use plan indicates that the subject parcel's future land use would be best suited as Planned Destination Commercial which is designed to include shopping, services, recreation, employment and institutional facilities serving the region.

Future Rezoning

Future rezoning applications should fully take into consideration the analysis considered in determining future land use as part of the Mission 2030 Plan. The current use of the property as light manufacturing/industrial is consistent with the current zoning of HID, however there are several uses within the industrial land use category that cannot be permitted on this site due to its current zoning status and would benefit from EID zoning. See attached Land Use Table.

Spot Zoning

This request will not constitute spot zoning with its parcel size listed as 26.83 acres.

Impact to Surrounding Properties

As stated previously, the current, and historical land use of this property has been and is light industrial/manufacturing. There are railroad tracks to the north property line, vacant abandoned industrial property to the east, vacant property to the west and W Fleming Drive to the south. Residential properties are within 600 feet to the north and approximately 350 feet to the south.

Some potential impacts resulting from a change from HID to EID are more intensive industrial land uses, noise, environmental impacts, and possible increase in truck traffic. There are no vulnerable lower intensity land uses in regards to these impacts currently located on any adjacent parcel so the impacts are potentially minimal.

The most immediate potential impact is traffic in the form of industrial and or commercial trucks using Hogan Drive to access Valdese Ave to Fleming Drive or vice versa. The Valdese Avenue quadrant of this road is comprised of vacant land to the west and single family housing to the east.

Staff Recommendation

Staff recommends approval under advisement that The City of Morganton take action to restrict traffic on Hogan Street from Valdese Avenue to the railroad tracks, North of 410 Hogan Street, to through truck traffic (i.e. local delivery traffic only). This recommendation is based on the analysis conducted into potential impacts and limiting the main potential impacts due to increased commercial/industrial truck traffic through a residential district.

Furthermore, staff recommends updating the Mission 2030 Comprehensive Plan to reflect this re-zoning change. The current use of the property, as well as the historic usage of it lead us to believe that the highest and best use of this property are within the permissible uses listed with the EID zoning designation.



City of Morganton PETITION FOR REZONING

Date Filed _____

TO: CITY PLANNING AND ZONING COMMISSION AND CITY COUNCIL,
MORGANTON, NORTH CAROLINA: I (we), the undersigned, do hereby respectfully
make application and request the City Planning and Zoning Commission and the City
Council to amend the Zoning Ordinance and change the Zoning Map of the City of
Morganton as hereinafter requested, and in support of this application, the following facts
are shown:

- 1) It is desired and requested that the following property be rezoned from:
HID _____ to: EID _____
- 2) The property sought to be rezoned is located at (street address or description of
location) 410 E Hogan Street _____

Parcel #1 (You may access City of Morganton at <http://bit.ly/mzoning> in order to
obtain the following information.)

Size of tract 26.83 _____

Deed Book 002282 _____ page 00313 _____

Tax parcel # Map _____ Block _____ Lot # _____

PIN # 2703569030 _____ Record # 31636 _____

The property sought to be rezoned is owned by:
Owners name(s) and address Maylenia LLC _____
Mailing address (if different than above) 501 Hoyle St Valdese NC 28690 _____

**(For additional tracts to be rezoned please attach additional sheets with the
same information as for parcel 1.)**

3) Attach a legal description of all property for which rezoning is requested. (*Copies of
deeds are available from the Burke County Register of Deeds Office located at the
Burke County Courthouse on South Green Street.*)

4) An application fee of **\$750.00** must be submitted with this application.

5) Applicant Information

Applicant's Name (please print) Bryan Bean _____

Mailing Address 501 Hoyle St Valdese, NC 28690 _____

Telephone Number 704-682-5913 _____

Signature [Signature] _____

**If you have questions about this form or the rezoning process, please contact City
of Morganton, Development & Design Services Department at (828) 438-5260.**

FOR REGISTRATION REGISTER OF DEEDS
Stephanie A. Norman
Burke County, NC
March 10, 2017 01:50:23 PM
Book 2282 Page 313-316
FEE: \$26.00
NC REVENUE STAMP: \$2,400.00
INSTRUMENT # 2017002165



INSTRUMENT # 2017002165

Recording Time, Book and Page

Excise Tax \$2,400.00

Tax Lot No. _____ Parcel Identifier No. 2703569030
Verified by _____ County on the _____ day of _____, 2017
by _____

Mail after recording to: _____

This instrument was prepared by H. Dockery Teele, Jr., Esq., 122 West Union Street, Morganton, NC 28655

Brief Description for the index

28.17 Acres - Hogan Street

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED made this 26 day of February, 2017, by and between

GRANTOR	GRANTEE
FURNITURE STREET 60, LLC, a North Carolina limited liability company 351 King Road, NW Atlanta, Georgia 30342	MAYLENIA, LLC, a North Carolina limited liability company 501 Hoyle Street Valdese, North Carolina 28690

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Morganton, Burke County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2186, Page 467-470, of the Burke County, North Carolina Registry.

All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book _____, Page _____ of the Burke County, North Carolina Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the exceptions listed on Exhibit B attached hereto and incorporated herein.

IN WITNESS WHEREOF, the Grantor has hereunto caused this instrument to be signed by its duly authorized Manager by authority of its sole Member, the day and year first above written.

FURNITURE STREET 60, LLC
a North Carolina limited liability company

By: Charles N. Hart
Charles N. Hart, Manager

State of Georgia - County of Fulton

I, the undersigned Notary Public of the County and State aforesaid, certify that Charles N. Hart personally came before me this day and acknowledged that he is the Manager of Furniture Street 60, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 23 day of February, 2017.

My Commission Expires: 1/19/21
(Affix Stamp or Seal)

Sharon Brown Morris
Sharon Brown Morris, Notary Public
Notary's Printed or Typed Name

Notary Public, Fulton County, Georgia
My Commission Expires:
January 19, 2021




EXHIBIT A

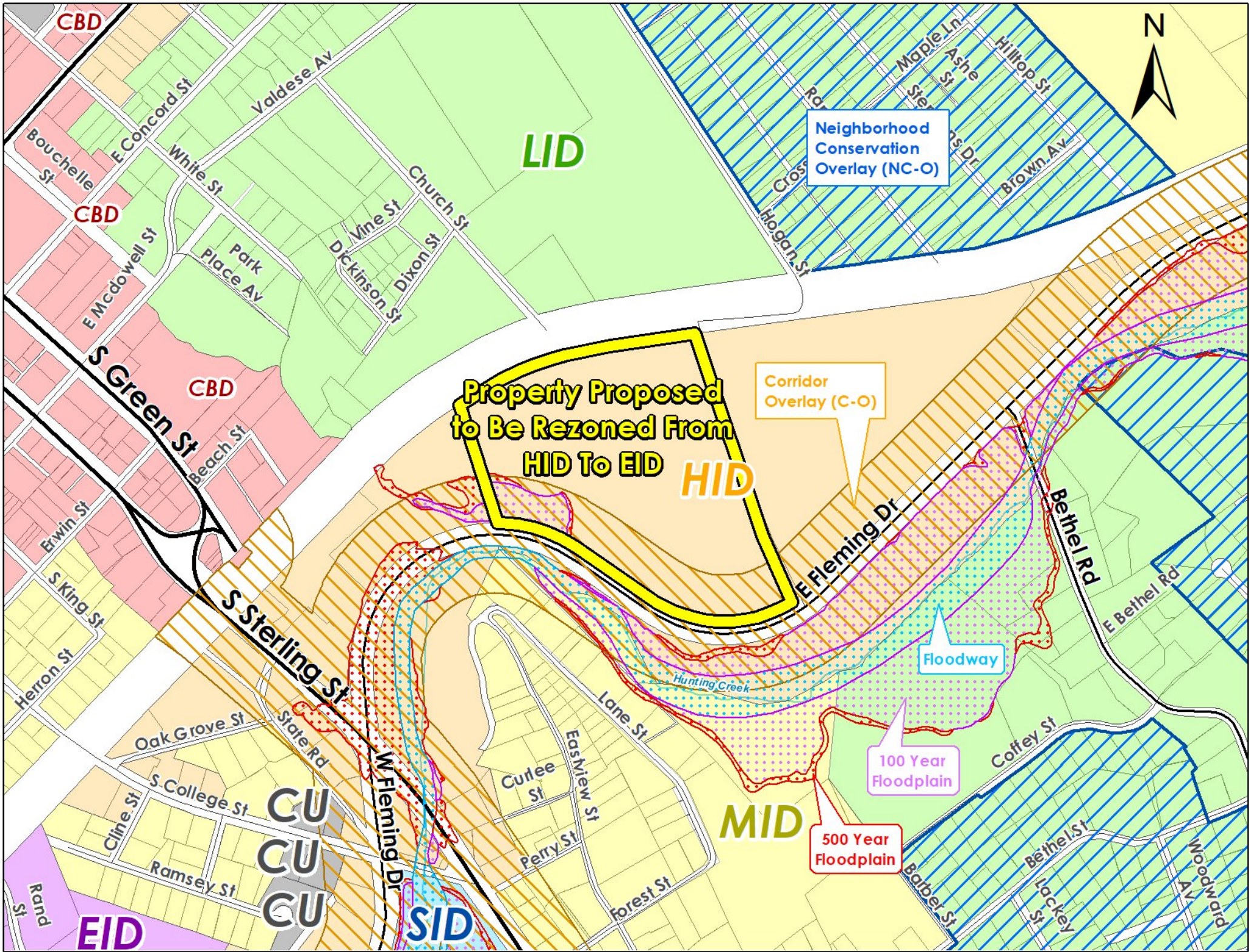
Legal Description of the Property

Beginning on a railroad spike set in the centerline of Church and Hogan Street a new line and runs South 18 degrees 05 minutes 40 seconds East for a distance of 469.23 feet to a point in the centerline of Hogan Street, Thence continuing with the centerline of Hogan Street a new line the following courses and distances: South 18 degrees 48 minutes 23 seconds East for a distance of 200.75 feet to a point, South 18 degrees 21 minutes 45 seconds East for a distance of 146.53 feet to a point, South 22 degrees 37 minutes 29 seconds East for a distance of 214.31 feet to a point, South 25 degrees 51 minutes 37 seconds East for a distance of 279.32 feet to a railroad spike set in the centerline of Hogan Street and Fleming Drive, Thence running with the centerline of Fleming Drive a new line the following courses and distances 699.96 feet along the arc of a curve to the right, having a chord bearing of South 88 degrees 13 minutes 02 seconds West, a chord distance of 658.70 feet, a tangent distance of 398.50 feet, and a radius of 585.04 feet to a point in the centerline of Fleming Drive, North 55 degrees 40 minutes 18 seconds West for a distance of 404.03 feet to a point, North 61 degrees 44 minutes 38 seconds West for a distance of 120.07 feet to a point, North 73 degrees 16 minutes 21 seconds West for a distance of 131.67 feet to a point; Thence leaving the centerline of Fleming Drive North 67 degrees 44 minutes 21 seconds West for a distance of 140.00 feet to a 1 inch iron pipe set; thence North 67 degrees 44 minutes 21 seconds West for a distance of 657.03 feet to a railroad spike set in the centerline of the Southern Railroad tracks, Thence running with the centerline of the Southern Railroad tracks the following courses and distances North 44 degrees 29 minutes 45 seconds East for a distance of 147.62 feet to a railroad spike set in the centerline of the railroad tracks in the place of the 7th corner of Deed Book 533, Pages 297-307, North 50 degrees 41 minutes 15 seconds East for a distance 306.31 feet to a 1 inch iron pipe set, 8th corner of Deed Book 533, Pages 297-307, North 60 degrees 17 minutes 05 seconds East for a distance of 356.62 feet to a railroad spike set, 9th corner of Deed Book 533, Pages 297-307, North 69 degrees 18 minutes 55 seconds East for a distance of 234.08 feet to a cotton gin spike set, 10th corner of Deed Book 533, Pages 297-307, North 76 degrees 38 minutes 45 seconds East for a distance of 247.22 feet to a railroad spike set, 11th corner of Deed Book 533, Pages 297-307, North 81 degrees 39 minutes 05 seconds East for a distance of 258.11 feet to a cotton gin spike set, 12th corner of Deed Book 533, Pages 297-307, North 82 degrees 12 minutes 25 seconds East for a distance of 120.52 feet to a 1 inch iron pipe set, 13th corner of Deed Book 533, Pages 297-307, Thence leaving said railroad tracks South 18 degrees 05 minutes 40 seconds East for a distance of 52.17 feet to The Point of Beginning, Containing 33.76 acres as shown on an unrecorded plat by Suttles Surveying, P A Dated 18 June 1996 map file number 12077A2, and being the property known as Plant #60 Less and Except all of Lot 2 as shown on Plat Book 40, Page 89 of the Burke County, North Carolina Registry.

EXHIBIT B

Permitted Encumbrances

1. Taxes for the year 2017, and subsequent years not yet due and payable.
2. Easement(s) in favor of Southern Railway Company as recorded in Book Z, Page(s) 461 of the Burke County Registry, reference being made to the records thereof for the full particulars.
3. Easement(s) in favor of Southern Bell Telephone and Telegraph Co., as recorded in Book C4, Page(s) 227 of the Burke County Registry, reference being made to the records thereof for the full particulars.
4. General Permit in favor of Southern Bell Telephone and Telegraph Company as recorded in Book 60, Page(s) 101 of the Burke County Registry, reference being made to the records thereof for the full particulars.
5. Easement(s) in favor of Duke Power Company as recorded in Book 117, Page(s) 578 of the Burke County Registry, reference being made to the records thereof for the full particulars.
6. Right(s) of way in favor of Duke Power Company as recorded in Book 275, Page(s) 163 of the Burke County Registry, reference being made to the records thereof for the full particulars.
7. Easement(s) in favor of the City of Morganton, as recorded in Book 433, Page(s) 57; and Book 649, Page 28, all of the Burke County Registry, reference being made to the records thereof for the full particulars.
8. Easement(s) in favor of the State Highway Commission as recorded in Book 417, Page(s) 200 of the Burke County Registry, reference being made to the records thereof for the full particulars.
9. Notice as recorded in Book 1495, Page(s) 900 of the Burke County Registry, reference being made to the records thereof for the full particulars.
10. Easements, Setback Lines, and any other facts shown on that Plat in Book 7, Page(s) 59 and 63; and Book 13, Page 55, all of the Burke County Registry, reference being made to the records thereof for the full particulars.
11. Lease by and between Drexel Enterprises, Inc., Lessor, and Duke Power Company, Lessee, recorded in Book 352, Page 185, of the Burke County Registry, reference being made to the records thereof for the full particulars.



Property Proposed to Be Rezoned From HID To EID

Neighborhood Conservation Overlay (NC-O)

Corridor Overlay (C-O)

Floodway

100 Year Floodplain

500 Year Floodplain

HID

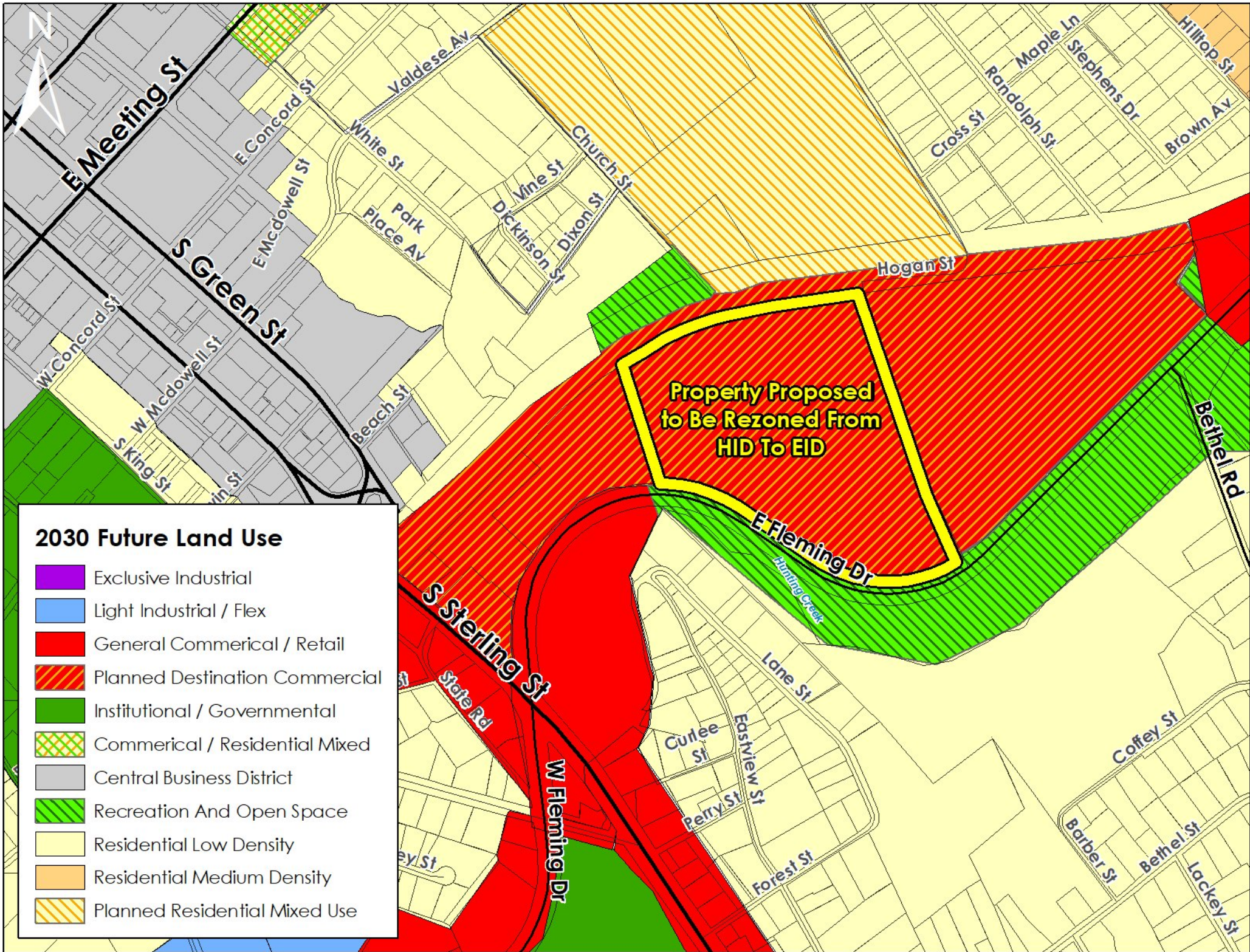
MID

SID

CU
CU
CU

EID





Legend

- Water Pumps
- Water Meters
- Water Valves
- Hydrants
- Clean Outs
- Manholes

Water Lines

Line Status

- Live
- Dead

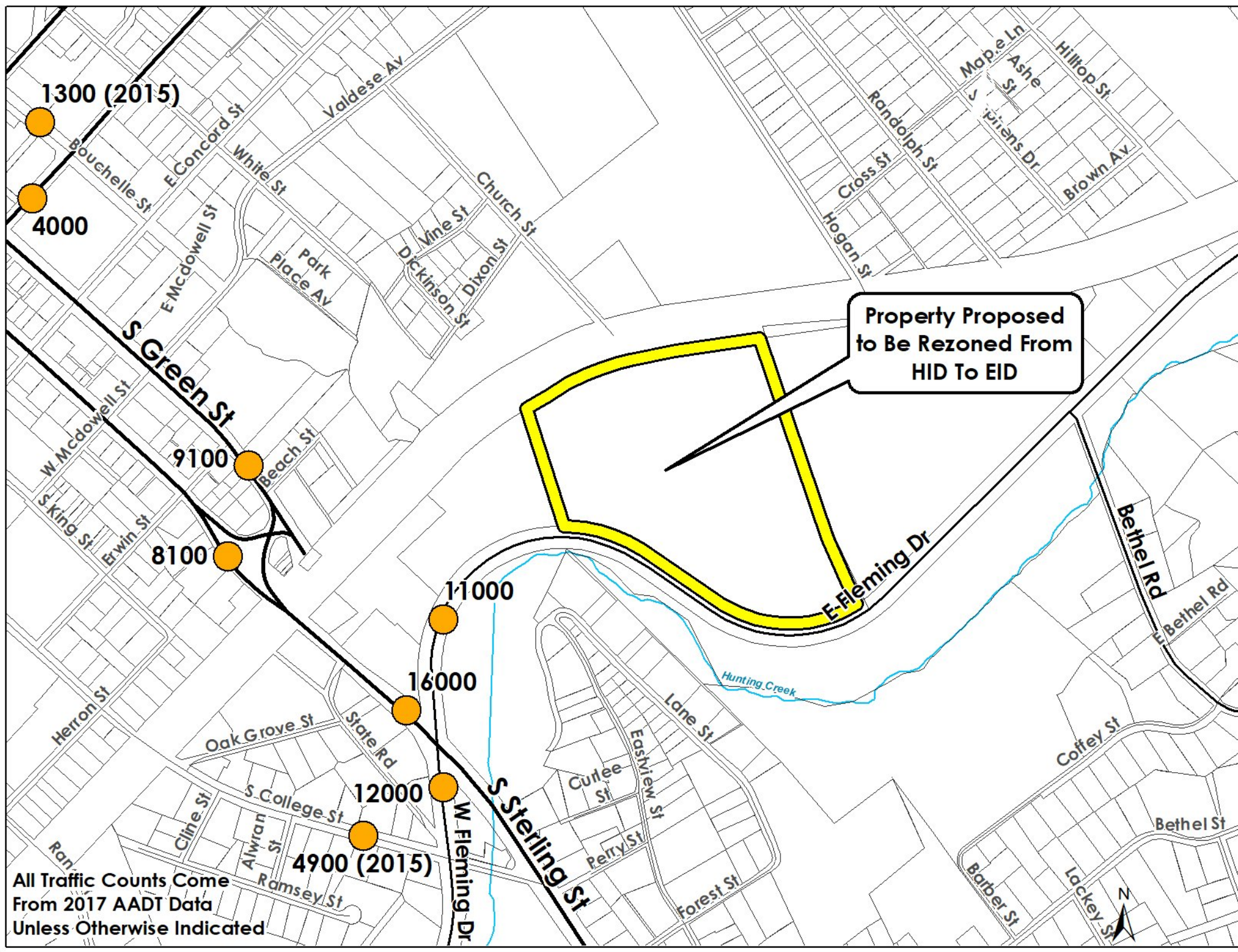
Sewer Lines

Line Status

- Live
- Dead

**Property Proposed
to Be Rezoned From
HID To EID**





Property Proposed to Be Rezoned From HID To EID

All Traffic Counts Come From 2017 AADT Data Unless Otherwise Indicated



**Property Proposed
to Be Rezoned From
HID To EID**