Memorandum

To: Morganton Planning & Zoning Commission Members

From: Phillip Lookadoo, Director D&D Services

Date: June 11th, 2020

Subject: P&Z meeting to be held June 18th, 2020

The Morganton Planning & Zoning Commission will meet on **Thursday**, **June 18th at 5:15 pm** in the City Hall Council Chamber. Please contact Jackie Cain (828) 438-5260 to confirm your attendance

Morganton Planning & Zoning Commission Agenda: March 12th, 2020 City Hall Conference Room 4 305 East Union Street (Suite A100)

I. OLD BUSINESS:

Item 1: Review and approval of the March 12, 2020 minutes.

Item 2: Review of City Council action since last meeting.
April 6, 2020 City Council

Add to Table of Permitted Uses (Table 3.1) a new line under heading Agricultural Uses, to be called "Timber Harvesting"; mark that use as permitted only in HID and EID zones; under Overlay Exceptions note "Not permitted" in C-O, NC-O or RD-O; and reference under Conditions a new Section 3.4.1 (E).

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

Rezoning request for 32 +/-acres of property located at 665 Kirksey Drive, 0 Kirksey Drive and 0 Old Rock Quarry Road reference record #'s 6172, 50158 and 37877 from Exclusive Industrial District (EID) to Low Intensity District (LID) has been submitted by Scott Blake.

Item 2: Review proposal to rezone a parcel located at 107 Old Jamestown Road (PIN 1793137357) to reflect the intent of the 2030 Land Use Plan and to also match adjacent land uses.

OTHER ITEMS OF DISCUSSION

IV. ADJOURN

Next Scheduled P&Z Meeting: Thursday July 9, 2020 at 5:15 PM City Hall Council Chamber

Minutes Morganton Planning & Zoning March 12, 2020

Members Present:
Hank Dickens, Chairman
Bill Lennon, Vice-Chairman
Judy Francis
Rick Lingerfelt
Marc Sholar
Waits Gordon

Members Absent:
Eric Engstrom
Don Smith
Pete Wallace

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

I. OLD BUSINESS:

Item 1: Review and approval of the February 13th, 2020 minutes.

Mr. Dickens stated a copy of the minutes from the February 13th, 2020 meeting were provided. Motion to adopt as submitted was approved unanimously (6-0).

Item 2: Review of City Council action since last meeting

Mr. Dickens asked Mr. Lookadoo to update commission on actions taken by city council.

Mr. Lookadoo stated planning commission had met in February and approved a rezoning request. City Council reviewed the rezoning at their March meeting and approved unanimously. Mr. Lookadoo reviewed items:

- Mr. Lookadoo stated consideration of a Zoning Ordinance Text Amendment application from Scott Blake to remove the 35-foot maximum residential height requirement within section 4.2.2 "Base Density and Dimensional Standards", and replace with a 40-foot maximum height was not approved by planning commission and the applicant did not appeal to city council.
- Consideration of zoning request submitted by Mosaic Development Group, James Royster, for 1.7 acres of property located at 105 White Street and 403-415 East Meeting Street was approved by City Council and rezoned from Conditional Use (CU) to Central Business District (CBD).
- Consideration of zoning request submitted by Chick-fil-A, Inc. and Interplan LLC for .4 acres of property located at 103 Conley Street PIN# 2702-08-2789 from Medium Intensity District (MID) with a Neighborhood Conservation Overlay (NC-O) to High Intensity District (HID) with the removal of the Neighborhood Conservation Overlay (NC-O). Interplan LLC requested to continue their rezoning request at our last meeting. Since then they have withdrawn their request.

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.

Mr. Lookadoo addressed planning commission and introduced Michael Kirby, Code Enforcement Officer, he stated Mr. Kirby was hired last month.

Mr. Kirby stated he was eager and expressed his gratitude for joining this team.

III. NEW BUSINESS:

Item 1: Consideration of a Zoning Ordinance Text Amendment application from City Council for the ordinance to allow timber harvesting as a permitted use within the City's zoning jurisdiction.

Mr. Dickens asked Mr. James to review the proposed amendment

SUMMARY:

Current Ordinance-

Timber Harvesting is not a permitted use under table 3.1 of the City of Morganton Zoning Ordinance. Research into ordinances throughout the state indicates that timbering, as a permitted land use, is not common within municipalities. The use is more commonly allowed in county jurisdictions, however, of the municipalities that did allow timbering, most placed conditions on the use.

Proposal-

Add to Table of Permitted Uses (Table 3.1) a new line under heading Agricultural Uses, to be called "Timber Harvesting"; mark that use as permitted only in HID and EID zones; under Overlay Exceptions note "Not permitted" in C-O, NC-O or RD-O; and reference under Conditions a new Section 3.4.1 (E).

Mr. James stated in late 2019 city council asked staff to research the use of "timber harvesting". He stated researching other ordinances and planning officials across the state. Compiling the information found from responses enabled staff to put together a plan with conditions that would best fit Morganton and our land plan. Mr. James stated that research revealed this was not a common use in municipalities. It was found in rural areas and counties. Mr. James stated he sent a survey out to planners and results revealed erosion issues, wear and tear of rode ways, visual blight, and negative environmental impact. Furthermore, looking at this use and where it would best fit in the table of permitted use and zones it could fall under were best suited to HID and EID. These districts would be least impacted and corridor overlays, river district overlays and neighborhood district overlays would be excluded as well. Mr. James stated there would be conditions for the use as follows:

Add a new Sub-Section 3.4.1 (E), to read as follows:

(E) Cutting or harvesting of standing timber

The cutting or harvesting of standing timber, other than in connection with construction or development, shall only be permitted under the following conditions:

- (1) Timbering shall only be permitted on property, whether one or more tracts, of at least ten (10) acres in size.
- (2) No timber shall be cut within one hundred (100) feet of the boundary line of any property used for residential purposes, any property within a Neighborhood Conservation overlay, or within fifty (50) feet of the right-of-way margin of any street or highway designated as a major or minor arterial.
- (3) An appropriate erosion control plan, in accordance with State requirements, must be prepared and placed into effect, and such plan filed with the City's Department of Development & Design Services.

- (4) Upon completion of the timber cutting, all timber debris shall be removed, or the property otherwise cleaned or restored.
- (5) Where as a result of timber harvesting any vegetative matter, mud or other debris is deposited upon any public street or road, or any damage caused to such street or road by vehicles engaged in timber harvesting; the persons harvesting timber, and the owner of property upon which such timber is harvested, shall be fully responsible for cleaning, clearing and repairing of any such public street or road located within one-half (1/2) mile of the property where timber is being harvested.
- (6) No timbering shall be allowed hereunder until a forestry management plan from an appropriately certified forester is filed with the City's Department of Development & Design Services.

This Sub-section shall not apply to, nor be enforced as to, any activity which is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statute, nor any activity conducted in accordance with a forestry management plan filed under Chapter 89B of the General Statutes.

Mr. James provided a map which included HID and EID districts. He stated there a few properties within the county that have recently been cleared. Mr. James stated along I-40 at Jamestown Road and Hwy 126 have timbering projects ongoing and forest management plans have been filed for each. He provided photos of the clearing.

NECESSARY COMMISSION ACTION:

Motion to recommend approval or denial of this amendment to allow Timber Harvesting as a permitted use under Table 3.1 of City of Morganton Zoning Ordinance.

- Mr. Dickens asked if commission had questions for Mr. James.
- Ms. Francis asked if the map showing HID and EID areas was all vacant land?
- Mr. James stated no, it indicated the zoning of HID and EID only and not vacancy.

Ms. Francis stated your survey was from the planners list serve...she stated one of the points to focus upon is the 10 acre minimum lot. She stated this is really a set up as it is denoting forestry as a practice for financial gain which would indicates that it would be included as bonafide agriculture. She continued to say she understood that bonafide agriculture in North Carolina is exempt from zoning.

- Mr. Jesse stated it is.
- Ms. Francis asked then why would this not be exempt from zoning.

Mr. James stated if the property owner had their tax exemption as a bonafide farm, then zoning could not regulate. He stated this would regulate the 15 acre vacant property that was not tax exempt status as a farm.

Ms. Francis stated this would apply to those timbering their property that is 10 acres + and have a forest management plan and for some reason are not classifying it as a bonafide farm...she said that would be just a few...

Mr. James stated they were few, but the potential was there.

- Ms. Francis asked if this had been requested and if the properties in Morganton are Government owned.
- Mr. James stated some of the 10 acre lots are government owned.
- Ms. Francis stated that forest management could not be counted on for protection.
- Mr. James stated adding the extra precautionary conditions will add protection.
- Mr. Gordon stated she remembered a location in the South Forest area off Bethel Road. He said he thought they were tree farming and questioned if this was the same. He added the trucks entering and exiting the property were creating a mess in the road area.
- Mr. James stated yes that would apply.
- Ms. Francis stated a clear definition of timbering would be necessary.
- Mr. Lennon questioned size of lots.
- Mr. Lookadoo stated a map could be generated locating these areas.
- Ms. Francis stated adding a time frame for removal of debris.
- Mr. James stating the enforcement of an ordinance has to be thought of when creating the ordinance.
- Ms. Francis stated forest management does not enforce clear cutting or selective cuts.
- Restoring and replanting, standard of selective cuts etc...all discussion items.
- Mr. Dickens stated he wanted to look at the semantics of timber harvesting and timber harvesting as an activity and not a land use. He stated this was something done every 25 years. He stated there are 3 types of timber harvesting: clear, strip and selective. He also spoke about permit process...
- Mr. James questioned development permitting processing and how to link to the table of permitted use.
- Mr. Gordon questioned protection of a water way on a site.
- Mr. James the erosion control plan can protect some...
- Mr. Lookadoo stated timber harvesting is different than if it is a land development project clearing. Our storm water ordinance provides guidelines if it is going to exceed 24% or 36% impervious surface. It will give buffers for the stream on the properties according to the density.
- Mr. Gordon questioned the tree farm located on North Green Street.
- Mr. James stated due to the water shed status.
- Mr. Dickens opened public comment.

Mr. Isaac Crouch, 213 Lenoir Street, stated our open landscape and open spaces, on principle that we would be against timbering with our city limits set. We pride our self as Natures Playground. Mr. Crouch stated this might not apply to many parcels and we must preserve the green space and what money is made off of small tracts. He feels there is no rationale for this request and would like an explanation for this policy change. Mr. Crouch stated at an October 2019 city council meeting this was discussed and still he feels there is no rationale behind the discussion.

Mr. Robbie Lacombe, 118 Laurel Hills Drive, discusses purchasing a home which had acres of trees surrounding his home. He stated the property was cut and now there was waste land as his view. He stated there were voices that can't be heard and greed can take over. He stated he moved here because of the nature and wanted to keep it like that.

Mr. Ed Gildea, 108 Oak Wood Street, he stated in his experience that follow up is difficult and sometimes not done. He feels that if the burden of following up with a timbering project is an undertaking.

He added be practical in obligation.

Mr. Michael Lowther, 519 Lenoir Street, He stated he was the owner of the bike shop in town. He stated his shop focuses on off road biking. He stated if the clearcutting is done, then from the benefits then perhaps it could be invested in trails or green space development. There is economic data on trial bike trail development and how it brings economy to cities.

Mr. Dickens closed public hearing.

Mr. Dickens questioned new development and clearing property.

Mr. James stated new development clearing was monitored via permitting.

Mr. Dickens discussed timber harvesting (activity) verses timber farming (land use). He questioned if this is needed in the city limits. Mr. Dickens said if he had a neighbor that had a 1 acre lot which was 75% hardwood. He stated selling the wood off this lot would not be controlled by or ordinance.

Mr. James stated no, focus was upon the larger lots.

Mr. Lennon stated he would not in support of timbering in the city, however a scenario of pine trees with beetle infestation which needed to be cleared for control.

Mr. James addressed Mr. Lennon's concerns and stated that would be beyond zoning.

Mr. Lookadoo stated it sounds like Chairman Dickens feels this is a matter of interpretation. And if we decide it does need to be included as a land use, then definition and conditions would be needed.

Mr. James stated allowing it as a secondary use would require additional research and perhaps meeting again with new information.

Mr. Lookadoo stated staff would need to look at this from chairman's dickens perspective and that it was not a land use, but a one-time event.

Mr. Lookadoo stated looking at the definition of use and look at this discussion as such...

Mr. James stated he did not know how we can add conditions to a secondary use or to an allowable one-time event.

Mr. Dickens stated he felt strongly about regeneration.

Mr. Lingerfelt stated could the people that owns the lots not designate them as agricultural and cut them anyway.

Mr. James stated yes, owners could obtain tax exempt status and claim agricultural use and timber harvesting would be allowable.

Ms. Francis stated she would like to see:

- Parcels, acres 10+ within EID and HID and the ownership
- Definition of timber harvesting with clear cutting, strip and selective
- DFR-Forest Management plan
- Remove debris from cutting within 60 days

Ms. Francis stated there were some benefits to selective succession plan for wild life and trails and parks.

Mr. Lennon made a motion for staff to gather additional information, providing listed items which Ms. Francis discussed, seconded by Ms. Francis and approved unanimously (6-0).

OTHER ITEMS OF DISCUSSION

Discussion regarding April meeting date

ADJOURN

Next Scheduled P&Z Meeting: Thursday April 9th, 2020 at 5:15 PM

City Hall Council Chamber

Rezoning Evaluation

Case # 002-2020 Scott Blake PIN-2714124245 and 2714122099

REIDs- 50158, 6172 and 37877 Cumulative Tract size: 32+ acres

Current Zoning: Exclusive Industrial District (EID) Requested Zoning: Low Intensity District (LID)

JUNE 2020

Description

The property proposed for rezoning is located at the intersection of Kirksey Drive and Amherst Road (See attached location map). Surrounding properties include vacant land, an active rock quarry, Burke County's Emergency Management Center and the City of Morganton Fire Training Center.

Zone Comparison

The current zoning designation EID is 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.

The LID was established primarily for single-family residential uses at a variety of densities depending on location and proximity to transportation corridors and services. It was also the intent of this district to allow for certain types of nonresidential community facilities and services that would not be detrimental to the residential character of the district.

Public Services

Access – This property can be accessed by Kirksey Drive or Amherst Road. Kirksey Drive currently has 5,000 vehicles traveling this portion of the road per day and Amherst Road has 1,900 vehicles per day on this section of the road.

Water – The water line is available on Kirksey Drive with a 12-inch line. Along Amherst Rd is an 8-inch line.

Sewer – There is a 21-inch sewer line available on the subject property. A preliminary utility design is needed for review to confirm access to the proposed lots.

Planned Land Use

The City's Land Development Plan indicates Exclusive Industrial land use for this property. Properties to the west and north are proposed to be "Exclusive Industrial" and "Light Industrial" while adjacent properties to the east and south are proposed to be "Residential/Mixed Use" and "Light Industrial" (see attached 2030 Future Land Use Map). The request does not comply with the 2030 planned land use. For the Commission to recommend rezoning as requested; a finding must be made that there has been a shift in need for the requested type of land use and that this property, while recommended to be industrial, is suitable for residential land use.

Future Rezoning

Future rezoning should only be considered concurrently with consultation of the Mission 2030 Land Use Plan map for this area and any due consideration to amending of such plan.

Spot Zoning

This request will not constitute spot zoning with the proposed LID as its size is sufficient to create its own zoning district.

Impact to Surrounding Properties

Impact to adjacent properties will be minimal and primarily associated with increased traffic on each access street and the nearby intersection. It should be noted that there will likely be impacts from adjacent properties to any potential residents of this property were it to be developed for residential purposes. The City has, in the past, received complaints from neighborhoods in the vicinity of Vulcan (rock quarry) as well as Sieren manufacturing which is approximately ½ mile from this property.

Staff Recommendation

While this parcel is zoned in compliance with the Mission 2030 Comprehensive Plan for Exclusive Industrial Use, there is a recognized need for residential development in the City. A recommendation to approve would need to consider this as well as compatibility with the adjacent land uses and carry with it the recommendation to amend the Mission 2030 plan as required by state law. Any recommendation therefore should be made recognizing that accompanying amendment.

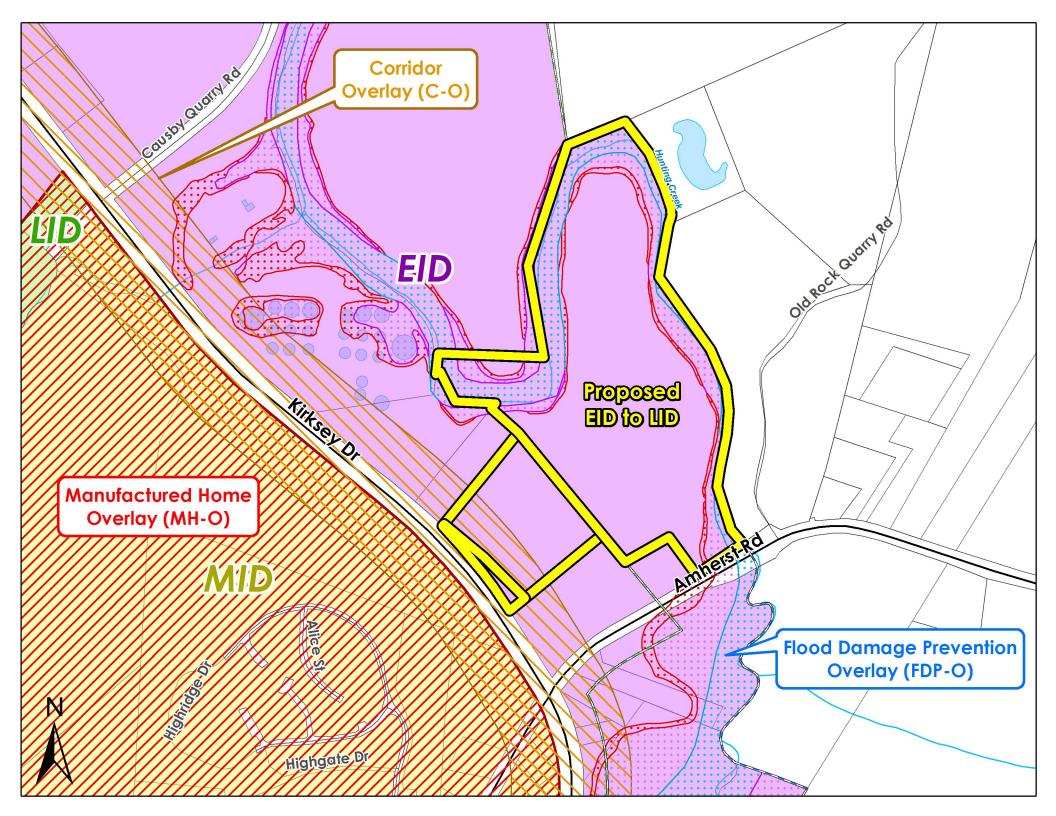


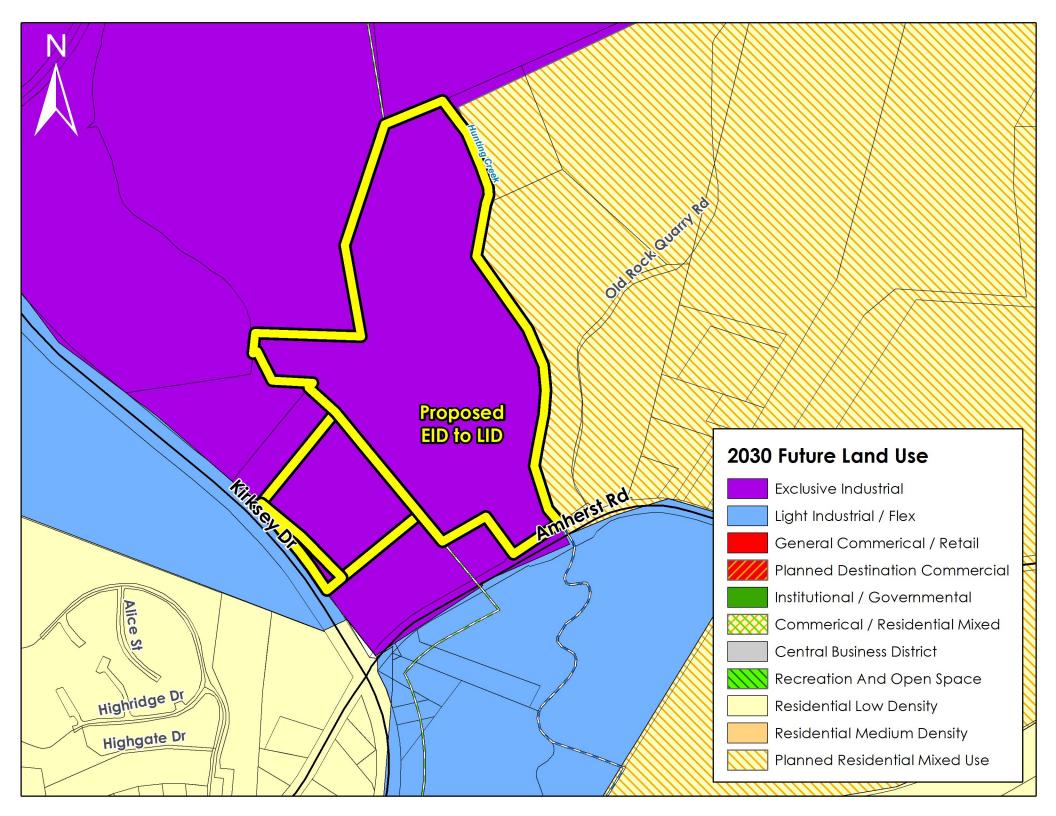
City of Morganton PETITION FOR REZONING

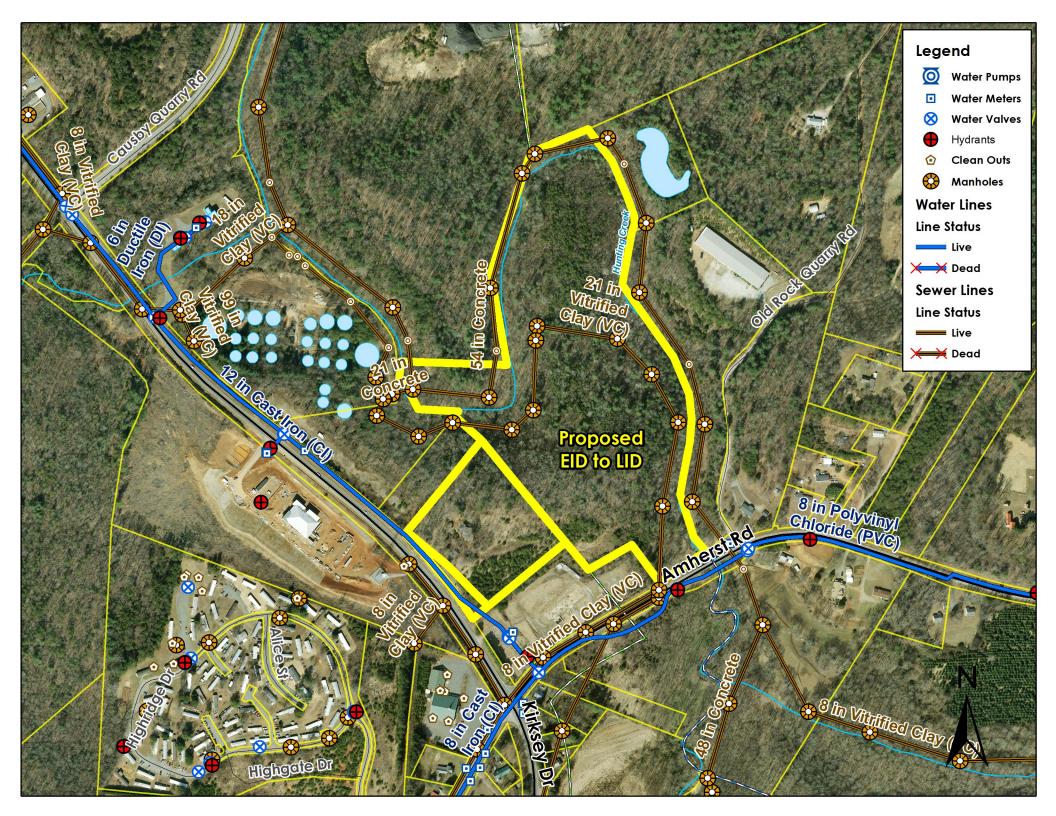
Date Filed 3-10-20

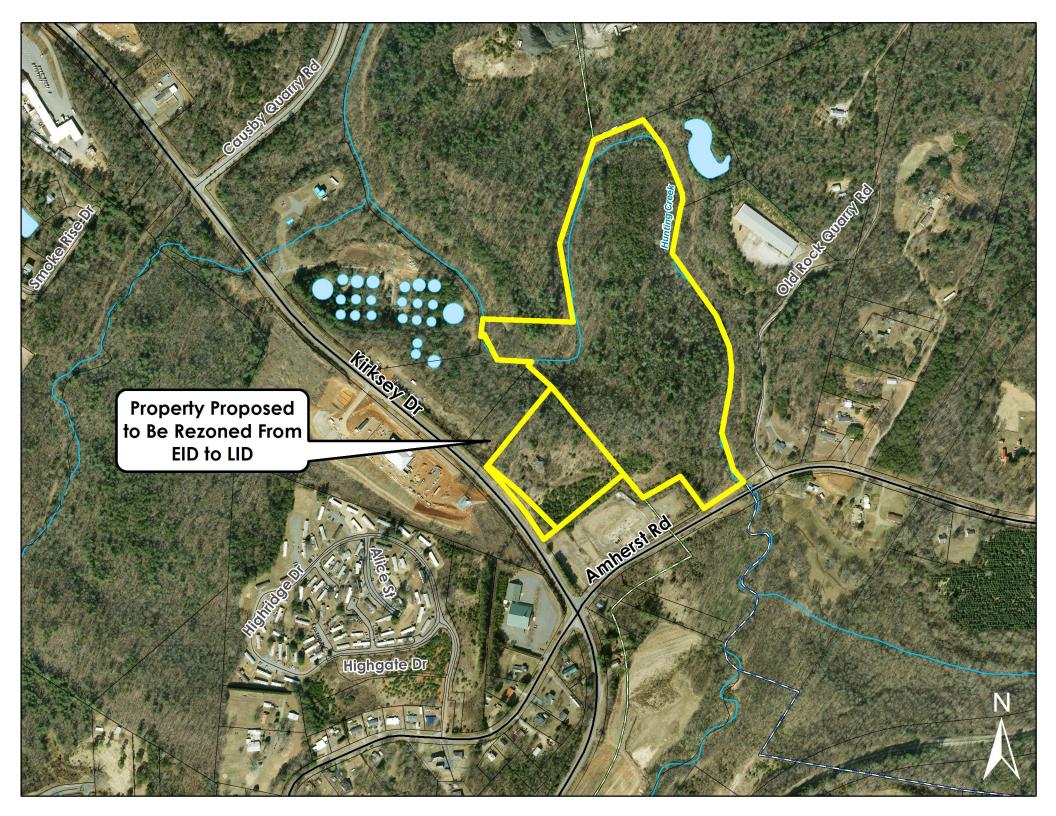
TO: CITY PLANNING AND ZONING COMMISSION AND CITY COUNCIL, MORGANTON, NORTH CAROLINA: I (we), the undersigned, do hereby respectfully make application and request the City Planning and Zoning Commission and the City Council to amend the Zoning Ordinance and change the Zoning Map of the City of Morganton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

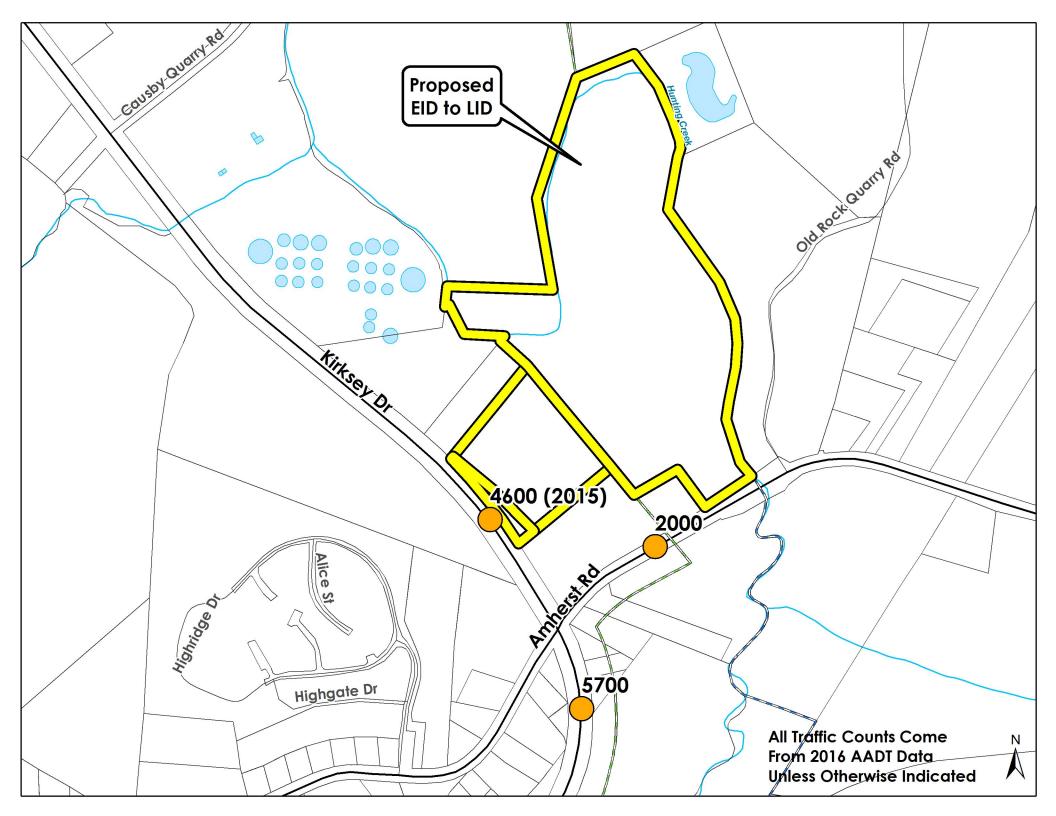
1)	It is desired and requested that the following property be rezoned from: to: to:	
2)	The property sought to be rezoned is located at (street address or description of location) Lalos KIRNSEY DV2.	
	Parcel #1 (You may access City of Morganton at http://bit.ly/mzoning in order to obtain the following information.)	
	Size of tract 37 ACRES	REID #
	Deed Book 75 page 86200	50158
	Tax parcel # Map Block Lot #	37877
	PIN# 2714124245 Record # 6172,37877 50158 2714122099 The property sought to be rezoned is owned by: Owners name(s) and address MINTA PHILIDS Mailing address (if different than above) 107 Brianstriam DD Morganitan NC 28655	
	(For additional tracts to be rezoned please attach additional sheets with the same information as for parcel 1.)	
dee	Attach a legal description of all property for which rezoning is requested. (Copies of eds are available from the Burke County Register of Deeds Office located at the rke County Courthouse on South Green Street.)	
4)	An application fee of \$750.00 must be submitted with this application.	
5)	Applicant Information	
Sign If y	plicant's Name (please print) Scott Blake pliling Address 1224 E 140500 BLUD, GASTONIA, WC 28054 pephone Number 704-906-8596 prature pour have questions about this form or the rezoning process, please contact City	
of	Morganton, Development & Design Services Department at (828) 438-5260	











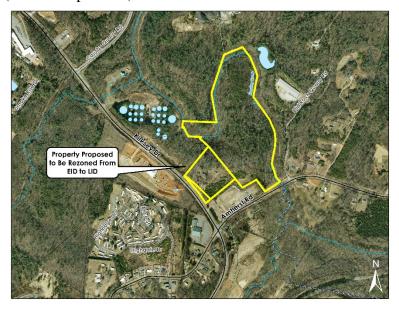
CITY OF MORGANTON NORTH CAROLINA

June 8th, 2020

Dear Property Owner:

Public Notice

The Morganton Planning and Zoning Commission will hold its monthly meeting on Thursday, **June 18th, 2020** at **5:15 p.m.** in the City Hall Council Chambers located at 305 East Union Street Suite A100. A public meeting will be held concerning a proposed rezoning for 32.14 acres of property located at 665 Kirksey Drive, 0 Old Rock Quarry Road, and 0 Kirksey Drive (REID#'s 6172, 50158 and 37877 from Exclusive Industrial District (EID) to Low Intensity District (LID) has been submitted by Scott Blake. (see the map below)



In response to the stay-at-home order issued by Governor Roy Cooper, and to help mitigate the spread of COVID-19, the Planning Commission will hold a meeting June 18, 2020, remotely/electronically. The Council Chamber will not be open to the public, except as provided below, in order to remain 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 Thursday June 18, 2020.
- 4. If a citizen would like to address the commission in person, they must make an appointment by calling Jackie Cain (828) 438-5260 by 9:00 a.m. on Thursday

June 18, 2020. Speakers will be allowed into Council Chamber one at a time during Public Comment and asked to leave the room immediately after speaking.

All comments must be received by 9:00 a.m. on Thursday June 18, 2020.

For more information please call the City's Development & Design Services Department at (828) 438-5260. Interpreter services for the hearing impaired will be provided upon request. Please call TDD at 1-800-676-3777 at least seventy two (72) hours prior to the scheduled meeting. For other special needs services please call (828) 438-5260 at least 48 hours prior to the scheduled meeting.

Sincerely,

Phillip Lookadoo

Director Development & Design Services
City of Morganton

Rezoning Recommendation

Case # PZ-?-20

107 Old Jamestown Road Rezoning Recommendation

NCPINS: 1793137357, 1793138261

Background

To cause the principles and goals, relative to a conducive and friendly environment to economic development, of the Mission 2030 Plan to be implemented; the City of Morganton redrafted and adopted its zoning code. Along with the new code came new and more simplified zoning districts from what was in place. It was therefore necessary to assign a new zoning designation to every parcel of property within the City's zoning jurisdiction.

To assign zoning districts to parcels of land correctly, and part of the comprehensive planning process contained in the Mission 2030 plan, an evaluation had to take place. This evaluation involved an inventory of land uses (existing land use) for each parcel and the subsequent assigning of a proposed land use (future land use) to be consistent with the goals of the Mission 2030 plan. With the adoption of the Mission 2030 plan, the future land use for each parcel was assigned. New zoning designations for each parcel were then based on the parcel's future land use.

In the case of the parcels associated with 107 Old Jamestown Road, identified as NC PINS: 1793137357, 1793138261, the future land use of "General Business/Commercial" was assigned. This was appropriate as all the parcels in that block were designated as such. These two parcels and two others owned by SGL Carbon, LLC; however, were zoned "Exclusive Industrial District (EID)." Staff cannot verify but, it appears that the ownership of the parcels caused them to mistakenly be zoned EID as opposed to the "General Business/Commercial" zoning district of "High Intensity District (HID)."

Zone Comparison

EID zoning designation provides for industrial development only while HID provides for an array of general commercial, high density residential, and light industrial uses.

Public Services

Access – Through Old Jamestown Road to Carbon City Road.

Water – Lines are in Old Jamestown Road

Sewer – Lines are in Old Jamestown Road

Planned Land Use

As stated above, the future land use designation for these parcels is "General Business/Commercial."

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.

Spot Zoning

This request will not constitute spot zoning as adjacent parcels are currently zoned HID.

Impact to Surrounding Properties

The re-zoning consideration would allow for compatible uses to the adjacent parcels and the district.

Staff Recommendation

Staff recommends that the Planning and Zoning Commission adopt a motion directing staff to prepare a rezoning application, initiated by the Planning and Zoning Commission, for the parcels associated with 107 Old Jamestown Road and identified as NC PINS: 1793137357 and 1793138261, to be submitted for the next available Planning and Zoning Commission and City Council meetings.

