

## Memorandum

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To: Morganton Planning & Zoning Commission Members  
From: Jesse James, Senior Planner  
Date: March 12th, 2020  
Subject: P&Z meeting to be held March 12th, 2020

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The Morganton Planning & Zoning Commission will meet on **Thursday, March 12<sup>th</sup> 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 February 13, 2020 minutes.**

**Item 2: Review of City Council action since last meeting.  
March 2<sup>nd</sup> 2020 City Council**

- Mr. Lookadoo stated consideration of a Zoning Ordinance Text Amendment application form 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).

**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:** 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).

**OTHER ITEMS OF DISCUSSION**

**IV. ADJOURN**

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

Minutes  
Morganton Planning & Zoning  
February 13, 2020

Members Present:

Hank Dickens, Chairman  
Bill Lennon, Vice-Chairman  
Judy Francis  
Rick Lingerfelt  
Don Smith  
Marc Sholar  
Waits Gordon  
Eric Engstrom  
Pete Wallace

Members Absent:

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 November 14, 2019 minutes.**

Mr. Dickens stated a copy of the minutes from the November 14, 2019 meeting were provided. Mr. Dickens stated error to the minutes had been found by staff and commission has been given these changes. He stated under Item 2 September would replace the word November and October would replace the word December. Motion to adopt as submitted with changes was approved unanimously (9-0).

**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 November and approved three amendments to the zoning ordinance. City Council reviewed the amendments at their December meeting and approved those unanimously.

- **Consideration for an amendment to the Zoning Ordinance section “4.4 Landscaping and Screening Standards” for minor changes throughout and moving the required planting list to a separate landscape standards manual.**
- **Consideration for an amendment to the Zoning Ordinance section “4.7.4 Sidewalks” to offer Payments in Lieu of sidewalk construction.**

**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 a Zoning Ordinance Text Amendment application from Scott Blake to remove the 35-foot maximum residential height requirement within section 4.2.2 “Base Residential Density and Dimensional Standards”, and replace with a 40-foot maximum height.**

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

Mr. James explained this consideration for an amendment to the Zoning Ordinance,

Under section 4.2.2 of the City of Morganton Zoning Ordinance titled “ Base Residential Density and Dimensional Standards” the maximum height for structures is 35 feet. The applicant is seeking to have this amended to 40 feet. \*See application materials attached.\*

City of Morganton Table 4.2 Base Residential Density and Dimensional Standards Research was conducted on residential building height within the region and in North Carolina in general. An inquiry was sent to planning offices throughout the state and results showed that the majority of municipalities hold a 35-foot maximum height. See the chart below:

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

Mr. James explained a minimum of four permits have been issued homes to the applicant under the current standards. The City of Morganton Zoning Ordinance also allows an administrative alteration for dimensional standards of up to 10 percent. “4.1.5 Flexibility in Administration reads “In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Article serve no meaningful purpose or would make it physically impossible to install and maintain the required improvements, the Development and Design Services Department may alter the requirements of this Section up to 10 percent less than the minimum requirement or 10 percent more than the maximum requirement, provided the spirit and intent of the Section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Development and Design Services Department showing existing site features or alternative improvements that would achieve the intent of the requirements of this Article. The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the requirements contained in this Article. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the requirements.”

Basically, if an applicant needs up to an additional 3.5 feet of height to make their design work, staff may grant this given the evidence shows the intent of the code is met. Staff Recommendation: Ultimately, each municipality must set regulations to create or maintain a certain character. Because the current zoning code was written as an outflow of the Mission 2030 plan, it would appear that a height restriction of 35 feet was purposeful for doing so in Morganton. Some municipalities, based on their own objectives, choose to have a different character and therefore allow higher residential structures which should be the case.

Based on information available relative to the Mission 2030 plan; it is recommended by staff to maintain the current standards for residential building maximum height unless the Planning and Zoning Commission or City Council find just cause for an amendment.

Mr. Dickens asked if commission had questions for staff.

Mr. Smith asked if the lot is not level then is the measurement made from the high or low end of the lot?

Mr. James stated it is the average grade of the lot.

Mr. Lingerfelt stated the developer wants to do high pitched rooves, and it can be difficult to meet the guidelines, but also not obstruct views.

Mr. James stated that this is the first request he has reviewed for this height.

Mr. Gordon asked if the 10% would be left in if the height were increased.

Mr. James stated yes.

Ms. Francis reviewed the research list provided with other municipalities within the region and their maximum heights. She committed that most have 35 feet as their heights.

Mr. James stated the higher density municipalities tend to have the higher height.

Mr. Dickens asked about building on a sloop and how that is determined.

Mr. James stated the highest grade is the point of measurement.

Mr. Dickens opened public hearing.

None

Motion was made by Mr. Wallace to deny the request, seconded by Ms. Francis and approved unanimously (9-0).

**Item 2:** Consideration of zoning request submitted by Mosaic Development Group, James Royster, for 1.7 acres of property located at 105 White Street, 403-415 E Meeting Street (PIN# 2703376975, 2703376835, 2703376941, 2703375857, 2703388131 and 2703387042) from Conditional Use (CU) to Central Business District (CBD).

Mr. Dickens asked Mr. Lookadoo to present the requested rezoning evaluation.

Mr. Lookadoo stated the property proposed for rezoning is located in Morganton's downtown. It is bounded by Union Square Drive, White Street, East Meeting Street and Church Street (See Location Map). The property approximately 1.7 acres. It slopes to the north towards Union Square Drive.

This property was rezoned from General Business (GB), along with an additional 2+- acres within the 400 Block of East Meeting Street, to General Business-Conditional Use (GB-CU) in June of 2004. The purpose of this rezoning was to create a Planned Commercial Development (PCD). The property was again rezoned from GB-CU to Central Business-Conditional Use (CB-CU) in January of 2012 for the same purpose of constructing a PCD.

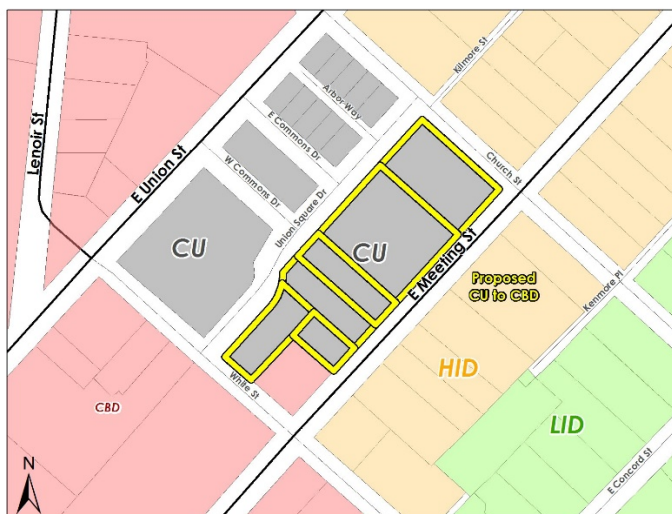
Mr. Lookadoo provided a photo of the property.



Mr. Lookadoo stated this property is presently zoned CB-CU and as such is only developable per the plans submitted and approved in conjunction with that zoning request approved on January 9, 2012. The current rezoning proposal would allow the property to be developed according to the current zoning standards including building and site standards as well as other applicable zoning standards.

The CBD is established to protect and promote the continued vitality of downtown Morganton. It is the intent of this district to provide a concentration of activities in a pedestrian-oriented setting. These activities include retail trade, office, and professional service uses as well as high density residential.

Mr. Lookadoo provided a map of the current zoning.



The City’s Land Development Plan indicates Central Business Use for this and adjacent properties on the same side of the block (see attached 2030 Future Land Use Map). The request therefore does comply with the 2030 planned land use.

Future rezoning should only be considered concurrently with consultation of the Mission 2030 Land Use Plan map for this area.

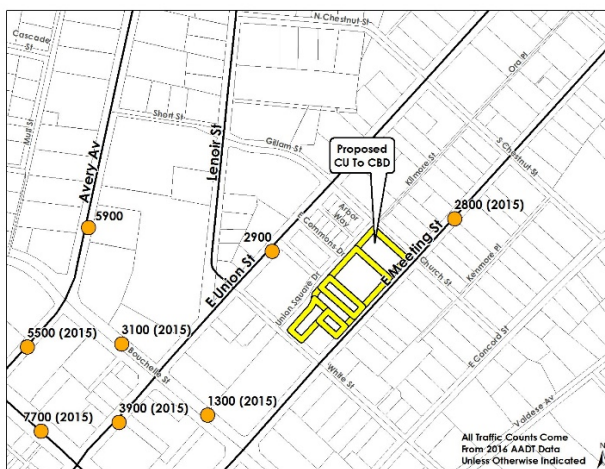
Mr. Lookadoo provided a map of Land Use.



Mr. Lookadoo reviewed public services to the property.

He stated the property is directly accessed from any of the streets which bound its borders, of which Meeting Street is classified as a Minor Arterial carrying between 2,700 – 3,000 vehicles per day, well below its design capacity.

Traffic count map provided





Mr. Lookadoo stated the water line for E. Meeting St. is an existing 12-Inch line and there is capacity for additional development.

He stated the sewer line for E. Meeting St. is an existing 8-Inch line with capacity for additional development.

Map provided for water and sewer



Mr. Lookadoo stated this request will not constitute spot zoning with the proposed CBD zoning as the adjacent parcels are zoned CBD. He discussed the impact to surrounding properties. He stated there will be some impact on traffic related to development of these parcels, however, because of the close proximity to goods and services associated with being located in the Central Business District, traffic impact will be minimized.

These parcels, as assembled by the RDC a number of years ago, have for years been contemplated as being developed as part of the CBD. In fact, the current zoning district CB-CU had the effect of placing the property in the Downtown Special Purpose District as well as the fire district. It is therefore, to allow development consistent standards as promulgated under the current zoning, the recommendation of staff that these parcels be rezoned to Central Business District.

Mr. Dickens asked commission if they had any questions for Mr. Lookadoo.

Mr. Dickens opened public hearing.

Mr. Omar Barrera Morales, 110 Ross Street and 621 E Meeting Street, expressed his concern over children in the neighborhood. He stated he was representing his neighbors in the area and would like additional information on the building and what to expect.

\*After speaking with Mr. Morales it was understood he was questioning Item 3 on our agenda.

Mr. John Hipple, 108 Church Street and Guodo Sampaola, 100 Church Street expressed their concern for their property value. Mr. Sampaola expressed his concern for the children's safety with low income housing.

Mr. Dickens stated he was not aware of low income housing being built. He stated development of senior housing was discussed previously.

Mr. James reminded commission members rezoning consideration was not based upon use and that use could not be a factor.



Mr. Lookadoo stated currently there is a plan approved for that location as multifamily use.

Mr. Wallace questioned if retail was allowed at this location currently.

Mr. Lookadoo stated yes, retail was allowed in CBD.

Mr. Lookadoo stated staff does not do a study on value impact.

Mr. Sampaola questioned if plans were submitted.

Mr. Lookadoo stated a plan was required when option to purchase was approved by city council. He stated these plans are preliminary and not approved plans for construction.

Mr. Wallace clarified the previous zoning plan approved for this location specified as multifamily and rezoning would allow retail and restaurants etc..

Mr. Hipple asked if this was assisted living.

Mr. Lookadoo asked medically assisted?

Mr. Hipple said, no income assisted.

Mr. Lookadoo stated this is income based.

Mr. James Royster, Mosaic Development Group 4600 Park Road Suite 390 Charlotte NC, stated due to the conditional use restrictions upon the zoning it does not meet their plan needs. He stated they plan on working with staff to provide housing which fits well in the community.

Mr. Dickens asked if anyone else would like to comment.

Public comment was closed.

Mr. Gordon stated there was an assisted living located across the street Millside Manor. He questioned if it was in CBD.

Mr. Lookadoo stated yes.

Ms. Francis made a motion to recommend rezoning request submitted by Mosaic Development Group, James Royster, for 1.7 acres of property located at 105 White Street, 403-415 E Meeting Street (PIN# 2703376975, 2703376835, 2703376941, 2703375857, 2703388131 and 2703387042) from Conditional Use (CU) to Central Business District (CBD) seconded by Mr. Smith and passed (8-1 Wallace abstain).

**Item 3:** 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).

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

Mr. James stated an application has been submitted by Interplan LLC for Chick-fil-A Inc. to rezone the property listed as 103 Conley Street. The property is currently zoned Medium Intensity District (MID) with a Neighborhood Conservation Overlay (NC-O)

and the application is to re-zone to High Intensity District (HID) and remove the Neighborhood Conservation Overlay (NC-O).

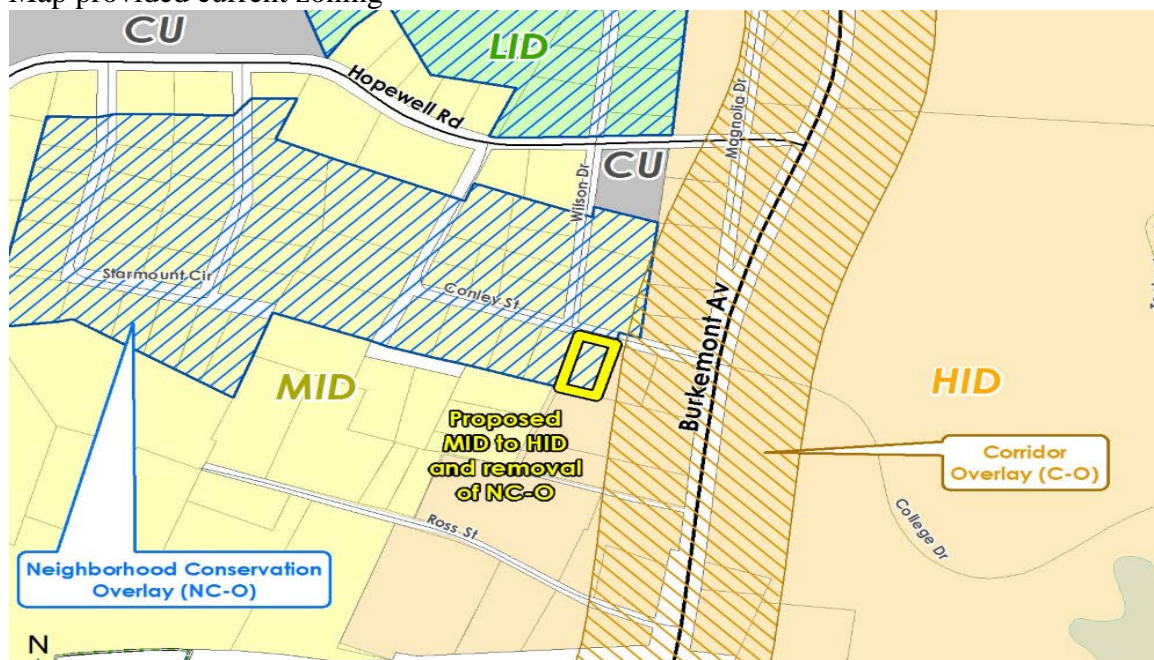
Mr. James directed commission to their package and stated with the application staff received a letter of authorization for Chick-fil-A, Inc and Interplan LLC to act as agent for property owners Daryl R. Carswell and Penny L. Carswell.

Mr. James discussed the zoning of the properties surrounding. The 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 intent of the Neighborhood Conservation overlay is to protect and conserve established neighborhoods within the Low Intensity and Medium Intensity districts from more intensive or incompatible uses. Uses in the Neighborhood Conservation Overlay are primarily single-family residential.

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.

Map provided current zoning



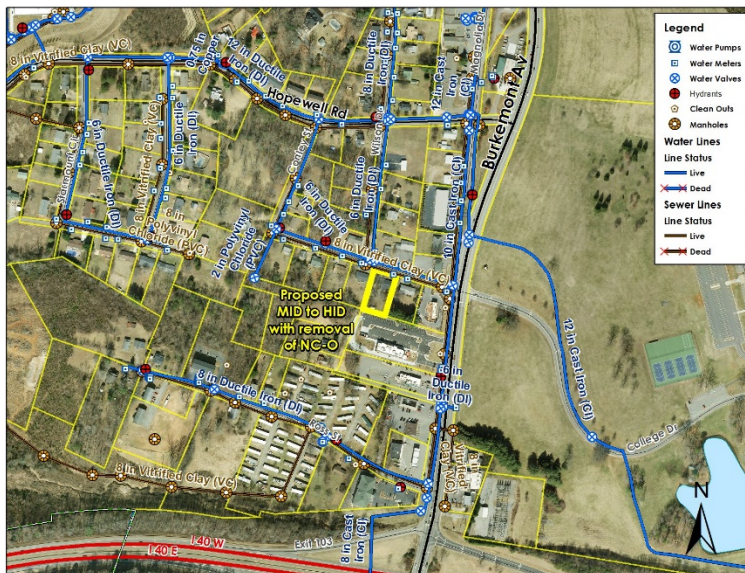
Mr. James provided commission with public services available at the location.

Access – The property currently has direct access off of Conley Street which intersects Burkemont Avenue.

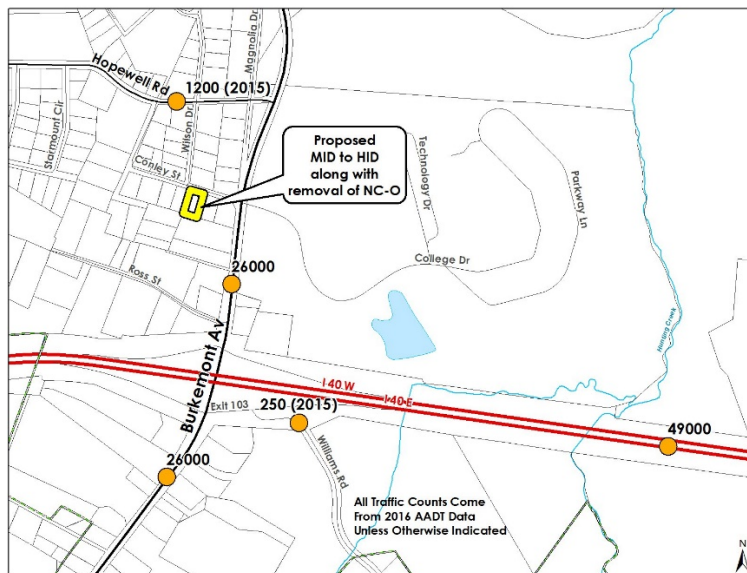
Water – Property is tapped into the public water system. There is currently a six-inch water line and availability for an increased volume for future development.

Sewer – Property is tapped into the public sewer system. There is currently an eight-inch sewer line and availability for increased volume for future development.

## Utility Map



## Traffic Map

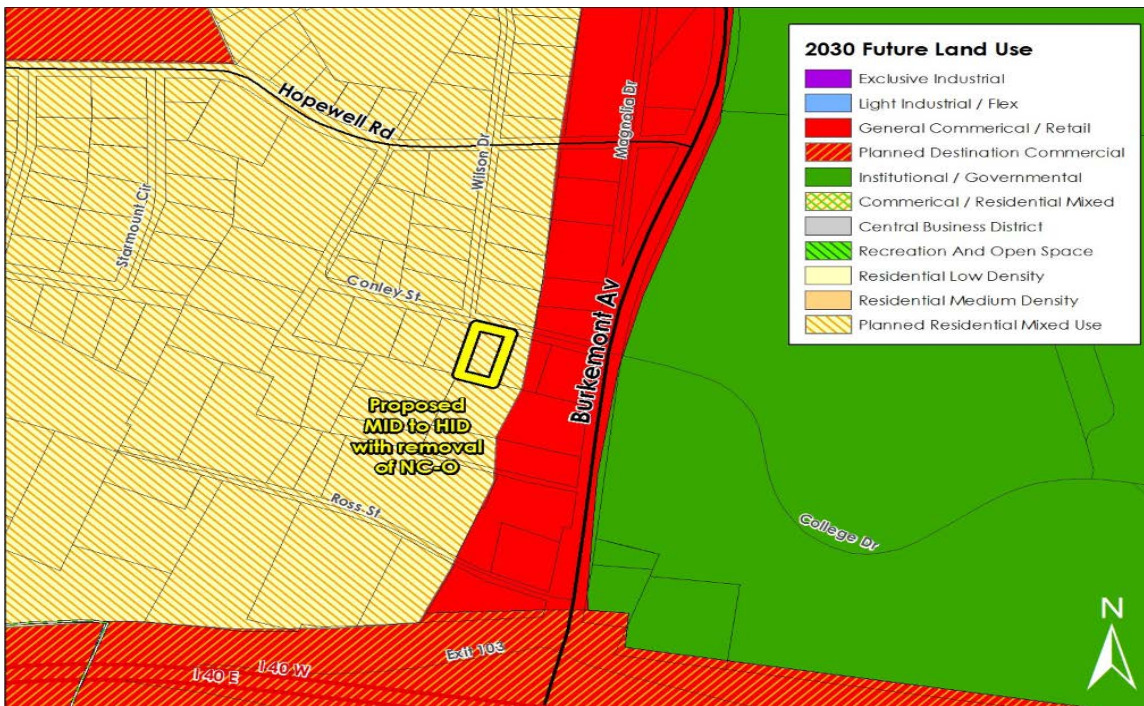


The City's 2030 Future Land Use map indicates that the subject parcel's future land use would be best suited as Planned Residential Mixed Use. Planned Residential Mixed Use Planning areas will have a range of densities from three to eight dwelling units per acre. The majority of planned residential mixed-use developments will occur on the edges of the City and in the ETJ where larger tracts of land are available.

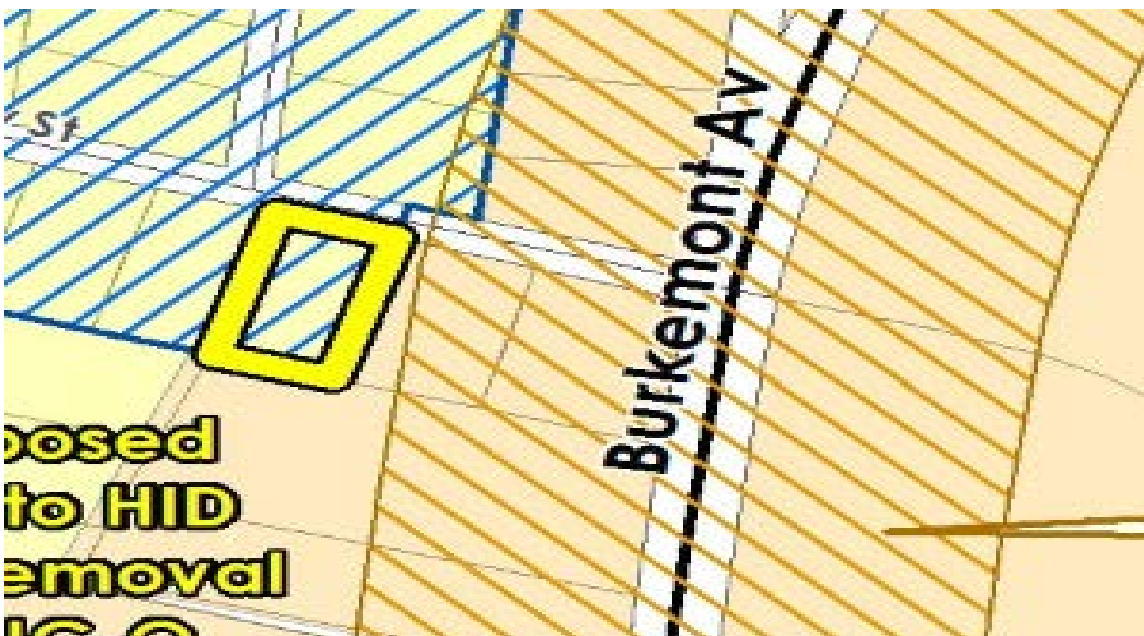
Mixed use residential areas are planned residential neighborhoods with a diversity of housing types and styles, a range of lot sizes and common open space. The neighborhood transportation network will be designed to encourage walking with internal pedestrian sidewalks and paths, neighborhood streets will be appropriately scaled and connecting to the main entrance corridor. Small appropriately scaled commercial development may be located in a planned residential neighborhood.



Future rezoning applications should fully take into consideration the analysis considered in determining future land use as part of the Mission 2030 Plan.

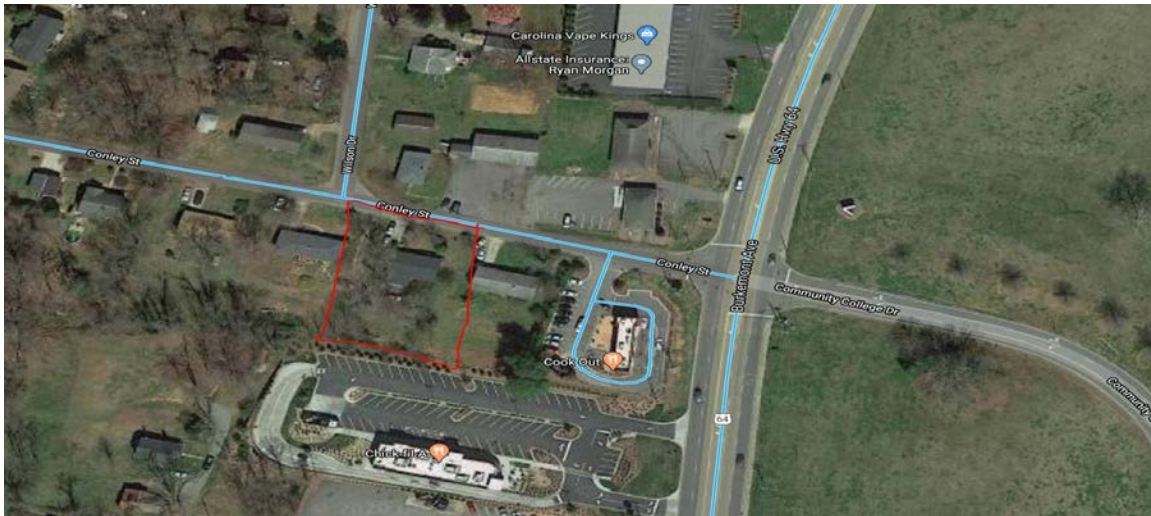


This request will not constitute spot zoning since this property is adjacent to properties zoned HID.



(Peach colored area is HID)

Rezoning this property from MID and NC-O to HID could result in several impacts to the surrounding properties including traffic, noise, and aesthetics resulting from a commercial use being allowed to locate closer to the neighborhood. Currently, the use of the property is a single family dwelling, and conforms to the current zoning. If this rezoning does occur there could be a substantially different land use than what is currently allowed, and certainly have an impact on neighboring properties and the integrity of the neighborhood as a whole.



Mr. James provided a photo of the neighborhood for commission.



The current zoning base district of MID supports the concept of Planned Residential Mixed Use as recommended in the future land use map. The NC-O District, as stated above, was designed to protect the character of established residential neighborhoods from more intensive or incompatible land uses. A review of the Zoning Map along the Burkemont Drive Corridor indicates the purposeful creation of a commercial corridor essentially one lot deep on either side of the street. Also evident, upon reviewing the same area of the zoning map, the purposeful protection of established neighborhoods is evidenced by the application of the NC-O zoning district to those properties. It is therefore the recommendation of staff that, absent a shift in vision for development along this corridor, the zoning designation of this parcel remain MID with the NC-O as designated by City Council in 2014.

Mr. Smith questioned if there was a home separating Cook Out and the requested rezoning property.

Mr. James stated yes. Mr. James stated it was already zoned HID with no overlay.

Mr. Engstrom questioned if plans were submitted for use of the property.

Mr. James stated no, adding the applicant was present to answer any questions. Mr. James stated if this is rezoned to HID, then anything within the HID table of permitted uses is allowable.

Mr. Dickens opened for public comment.

Mr. Sean Hickman, Interplan 604 Courtland Street # 100 Orlando Fl., stated the applicant would like to defer to the next planning & zoning meeting.

Ms. Kathy Morrison, 200 Conley street Morganton NC, stated she and the neighbors had met with Mr. Hickman last night. She said Interplan could not provide exact use for the property, she stated they mentioned parking. She stated the neighbors thought there were other options surrounding the area for parking. Ms. Morrison stated the small neighborhood was afraid of the effect of decreased property values. She was concerned of the impact of traffic and emergency response to the neighborhood.

Mr. Omar Morales, 110 Ross Street Morganton NC, represents his community and would like to know what Chick-Fil-A is going to do. Mr. Morales voiced his concern regarding being informed.

Ms. Francis questioned how he received a letter.

Mr. James stated staff sends out letters to the vicinity alerting them to the impact of a rezoning. Mr. James explained to Mr. Morales the location rezoning and provided him with mapping details.

Mr. Norman McCall, 207 Wilson Street Morganton NC, stated he thought there was a driveway between Alisons and Tobacco Barn. He stated the property behind Chick-Fil-A could be used for parking and this driveway as the access.

Mr. James stated he thought it was a dedicated easement.

Mr. McCall stated council felt a conservation overlay was needed in 2014 when the ordinance was adopted to protect the neighborhood.

Mr. Dickens questions if this was tabled or new application?

Mr. Lookadoo stated commission would need to do a continuance.

Mr. Dickens asked for staff to provide additional information from NCDOT on road improvements and to table the item.

Mr. Lookadoo stated NCDOT project's date was 2024.

Mr. Gordon referenced the NCSSM project road and clarified the road being graded will connect into the red light at Hopewell Road/Burkemont Avenue.

Ms. Francis stated she was fine with tabling the item, but was reluctant to remove an overlay.

Mr. Lookadoo questioned if the item was tabled or defer?



Mr. Vinay stated tabling the item would demand the item be heard at the next planning meeting. Mr. Vinay stated technically continuance would be the correct term to use. Mr. Vinay stated he advised continue the item.

Mr. Dickens stated he would like to change his motion to reflect the item would be continued to the next planning and zoning meeting, Mr. Smith seconded the motion to continue and passed unanimously (9-0).

#### **OTHER ITEMS OF DISCUSSION**

#### **ADJOURN**

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

**SUBJECT:**

City Council has requested staff draft an ordinance allowing timber harvesting as a permitted use within the City's zoning jurisdiction.

**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).

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.

**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.