

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 9, 2019

The Lincoln County Board of County Commissioners met on September 9, 2019, at the Commissioners Room, Administration Building, 353 N. Generals Blvd, Lincolnton, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chair
Richard Permenter, Vice Chair
Anita McCall
Milton Sigmon
Bud Cesena

Others Present:

Kelly G. Atkins, County Manager
Megan Gilbert for Wesley Deaton, County Attorney
Josh Grant, Programs Manager
Amy S. Atkins, Clerk to the Board

Planning Board Members Present:

Jamie Houser, Chairman
Matt Burton, Vice-Chairman
Doug Tallent, Secretary
James Dean
Matt Fortune
Keith Gaskill
Tracy Ledford
John Marino
Robert Shugarman

Planning Staff Present:

Andrew Bryant, Director
Randy Hawkins, Zoning Administrator
Jeremiah Combs, Planner
Amy Brown, Clerk to Planning Board

Call to Order: Chairman Mitchem called the September 9, 2019 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence and led in the Pledge of Allegiance.

Adoption of Agenda: Chairman Mitchem presented the agenda for the Board's approval.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, September 9, 2019
6:30 PM

James W. Warren Citizens Center
115 West Main Street

Lincolnton, North Carolina

Call to Order - Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 - VTS Refunds
 - Approval of Minutes - August 19, 2019
 - Tax Requests for Refunds - July 29 - August 11, 2019
3. Public Hearings - Legislative Cases

ZMA #663 Sara Thompson, applicant (Parcel ID# 34111) A request to rezone a 1.4-acre lot from CZ B-G (Conditional Zoning General Business) to R-SF (Residential-Single Family). The property is located at 3306 N. NC 16 Business Hwy., on the east side of N.C. 16 Business at its intersection with Denver Drive, in Catawba Springs Township.

PD #2019-3 Ryan Companies US, Inc., applicant (Parcel ID# 32630, 78190 and 93419) A request to rezone 26 acres from CU PD-MU (Conditional Use Planned Development-Mixed Use) to PD-MU (Planned Development-Mixed Use) to amend the master plan for The Villages of Cowans Ford planned mixed-use development to permit a charter school for grades K-8 and an early childhood learning center. The property is located on the northwest corner of N.C. 73 and Club Drive in Catawba Springs Township.

4. Adoption of a Resolution Providing for the Issuance and Sale of Enterprise System Revenue Bonds - Deanna Rios
5. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
6. Other Business
 - Commissioner McCall Travel Request

Adjourn

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to adopt the agenda as presented.

Consent Agenda: **UPON MOTION** by Commissioner Cesena, the Board voted unanimously to approve the Consent Agenda.

- VTS Refunds
- Approval of Minutes - August 19, 2019
- Tax Requests for Refunds - July 29 - August 11, 2019

Zoning Public Hearings:

New Business/Advertised Public Hearings: Wesley Deaton gave information on the legislative zoning cases including repetition and the narrow realm of conflict of interest on legislative cases.

ZMA #663 – Sara Thompson, applicant : Randy Hawkins presented the following:

Request

The applicant is requesting the rezoning of a 1.4-acre lot from CZ B-G (Conditional Zoning General Business) to R-SF (Residential-Single Family). This property and the adjoining 2.5-acre parcel to the north were rezoned from R-SF to CZ B-G in 2010 to permit a 16,500-square-foot commercial building that was proposed to be developed in two phases. A 9,267-square-foot Dollar General store was completed in 2011, but the second phase has not been carried out. A house is located on the property that is proposed to be rezoned back to residential.

Site Area & Description

The subject property is located at 3306 N. NC 16 Business Hwy., on the east side of N.C. 16 Business at its intersection with Denver Drive. It is adjoined by property zoned R-SF, CZ B-G and I-G (General Industrial). Land uses in this area include business, residential and industrial. This property is part of an area designated by the Lincoln County Land Use Plan as a Suburban Commercial Center, suitable for general commercial services.

Additional Information

Permitted uses

Under current CZ B-G zoning: Phase 2 of approved conditional zoning plan.

Under proposed R-SF zoning: single-family residence.

Adjoining zoning and uses

East: zoned R-SF, undeveloped lot in Pin Oaks subdivision.

South: zoned R-SF, residence.

West (opposite side of N.C. 16 Business): zoned I-G, auto service garage.

North: zoned CZ B-G, retail store.

Staff's Recommendation

Under state law, prior to adopting or rejecting a zoning amendment, the Board of Commissioners must adopt one of the following statements:

(1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

(2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

(3) A statement approving the zoning amendment and containing at least all of the following:

- a. A declaration that the approval is also deemed an amendment to the comprehensive plan.
- b. An explanation of the change in conditions the governing board took into account in amending the plan to meet the development needs of the community.
- c. Why the action taken is reasonable and in the public interest.

Staff recommends that the Board of Commissioners exercise Option 3.

Chairman Mitchem opened the public hearing for ZMA #663 – Sara Thompson, applicant.

Sara Thompson, applicant, said she purchased the property and wants to use it for a residence with a small, homebased bookkeeping business.

Being no additional speakers, Chairman Mitchem closed the public hearing.

Chairman Mitchem said repetitive statements will not be allowed on the next case.

PD # 2019-3 – Ryan Companies, US, Inc., applicant: Randy Hawkins presented the following information:

REQUEST

The applicant is requesting the rezoning of 26 acres from CU PD-MU (Conditional Use Planned Development-Mixed Use) to PD-MU (Planned Development-Mixed Use) to amend the master plan for The Villages of Cowans Ford planned mixed-use development to permit a charter school for grades K-8 and an early childhood learning center.

A site plan, a traffic impact analysis and minutes from a community involvement meeting have been submitted as part of this application.

The proposed school and day care center would be accessed off Club Drive via an existing road, Rivers Edge Drive. A new exit-only driveway to return to Club Drive would be located between Rivers Edge Drive and N.C. 73.

The proposed amended plan does not specify a use for a 4.35-acre portion of the property that fronts on N.C. 73. Future use of this area would have to be approved through a plan amendment/public hearing process.

Under the master plan for The Villages of Cowans Ford that was approved in a parallel conditional use rezoning (PCUR #89) in 2003, the subject property is currently zoned for up to 90,000 square feet of commercial space, including a 60,000-square-foot center and six outparcels. Residential portions of the planned mixed-use development have been completed, but only a small portion of the commercial area has been developed. It contains a self-storage facility.

In addition to the commercial area, The Villages of Cowans Ford development was approved for 201 single-family homes and 30 town houses. The completed residential areas include the Treetops and Ballentrae subdivisions. The Villas of Cowans Ford town houses are under construction now.

Instead of applying to amend the master plan under the same process in which it was approved, the applicant agreed to request a rezoning in order to make the process legislative instead of quasi-judicial.

SITE AREA AND DESCRIPTION

The subject property is located on the northwest corner of N.C. 73 and Club Drive. A portion of the property is located within a Duke Energy transmission right-of-way and is not proposed for development. This property is located in the WS-IV Protected Area of the Mountain Island Lake watershed. The applicant is proposing to develop it under the low-density option, which allows up to 36% impervious surface.

The subject property is adjoined by property zoned CU PD-MU, R-T (Transitional Residential), R-SF (Residential Single-Family) and I-G (General Industrial). Land uses in this area include residential, recreational and commercial. The Lincoln County Land Use Plan designates the subject property as part of a Suburban Commercial Center, which is described as a shopping center that serves the daily needs of surrounding residential areas.

ADDITIONAL INFORMATION

Permitted uses

Under current CU PD-MU: up to 90,000 square feet of commercial space.

Under proposed PD-MU zoning: K-8 charter school, early childhood learning center

Adjoining zoning and uses

East: zoned CU PD-MU, patio homes and town homes.

South (opposite side of Club Drive): zoned I-G (General Industrial), multi-tenant commercial building and self-storage facility.

South (opposite side of N.C. 73): zoned R-T (Transitional Residential), residence and undeveloped property.

West: zoned R-T, residence and undeveloped properties.

North: zoned CU PD-MU and R-SF (Residential-Single Family), self-storage facility and golf course.

STAFF'S RECOMMENDATION

Staff recommends approval of the proposed rezoning.

The Board discussed the fact that the traffic improvements are based on the future widening of NC 73, which is still many years out.

Chairman Mitchem opened the public hearing for PD #2019-3 – Ryan Companies, US, Inc., applicant.

Max Bosso, Director of Real Estate Development for Ryan Companies US, said they are

proposing a Charter School with an Early Learning Center. He introduced the team presenting tonight and said he is here to answer any questions.

Commissioner McCall asked how many snapshots of traffic were taken.

Jonathan Guy, Traffic Engineer with Kimley-Horn, said according to NCDOT guidelines, they have to count AM and PM peak hours that they define. They are required to collect counts on, Tuesday, Wednesday or Thursday at the peak hours specified and counted in 5 minute intervals for one day. He presented information from the traffic study concerning the counts and traffic impact. Mr. Guy discussed the traffic counts and staggered starts for the school.

There was discussion about access on Rivers Edge Drive, a public right of way.

Scott Woodrey, President of Red Apple Development, said he has built over 70 schools and there has been nothing more than a bump up at the schools and that has not happened often. There have been no significant accidents at any of the properties to his knowledge. He said teachers come in 30 minutes before school starts. He said they can move school hours to start at 8:30 and 9 to avoid the extra burden of traffic in that worst hour in the morning. He said you also have to factor in siblings and parents that carpool, which reduces overall trips.

Chuch Nusinov, State Director of the Carolinas for Charter Schools USA, said he is from Huntersville. He said they have nine other sites with stackable lanes where they allow 9 cars to come through at one time, children unload and no one takes off until all children are on the sidewalk. Dismissal is handled in a similar manner. He said he has been with the company 18 months and they have had no accidents. He said they offer afterschool care, sports programs and all students will not arrive or leave at the same time. He said it would be up to the parents and school if they will offer buses.

Chairman Mitchem asked if it could be added as a condition that buses are required. Mr. Hawkins said all conditions have to be agreed upon by the applicant.

There was discussion concerning the timeline of the widening of Highway 73.

Wayne Lewis spoke against the site for the proposed Charter School due to traffic and the amount of accidents at that intersection.

Joe Brady spoke against the site for the proposed Charter School due to traffic concerns.

Peg Brady spoke against the site for the proposed Charter School due to concerns about the road and their ability to handle this traffic.

John Forlindis spoke against the site for the proposed Charter School but asked if it is approved that an appropriate size retention basin be required and completed prior to a Certificate of Occupancy.

Marsha Jordan spoke against the proposed zoning change for the proposed Charter School,

representing the Lincoln County Board of Realtors. She said it will negatively impact the desirability of the area and the precedent this will set.

Cindy Forlindis passed the opportunity to speak since her concerns have already been addressed.

Paul Quinn spoke against the site for the proposed Charter School saying he is applying the Rotary 4 way test to this request. He spoke against the request due to traffic and narrow roads.

Marjorie Hedley spoke against the site for the proposed Charter School saying the school is currently renting space at the Holy Spirit Catholic Church. She said the small volume of students there, they had to change the time of Mass.

Charles McDonald spoke against the site for the proposed Charter School and voiced concerns about a school located so closely to a Nuclear Power Plant.

Mark Keever spoke against the site for the proposed Charter School since it is a Florida based for-profit company.

Maureen Collins spoke against the site for the proposed Charter School concerning the traffic.

Buddy Foster spoke against the site for the proposed Charter School, saying his concern is with the conformity of this proposed change with the comprehensive plan for the neighborhood. He said this will negatively impact their neighborhood.

Jeremy White spoke in favor of the proposed Charter School saying he is a Kindergarten teacher at the school.

Steve Marinelli spoke against the site for the proposed Charter School due to traffic.

Kim Lyndon, a 2nd grade teacher at Westlake Charter, read a letter from a parent who chose to put their grandson at the school.

Mike Rink spoke against the site for the proposed Charter School saying this decision will impact people in the area for a long time.

Ed Gorman spoke against the site for the proposed Charter School due to traffic concerns.

Phillip Cantelini said his office window is at that intersection and sees a lot of close calls and accidents. He said this is a concern with this intersection.

Steven Wright spoke in support of the proposed Charter School, saying he just enrolled his youngest in Kindergarten at WestLake and that school choices are needed.

John Griffith spoke against the site for the proposed Charter School saying the community is lacking in so many things, such as parks and retail. He said he cannot think of an advantage to putting the school there.

Eric Davidson spoke against the site for the proposed Charter School due to the traffic, the safety and the community.

Martin Oakes spoke against the site for the proposed Charter School saying that the school should go back to the original site at Rivercross Development.

Being no additional speakers, Chairman Mitchem closed the public hearing.

Adoption of a Resolution Providing for the Issuance and Sale of Enterprise System Revenue Bonds – Deanna Rios presented the following:

Commissioner Cesena introduced the following resolution, a copy of which had been made available to each Commissioner and which was read by its title:

**RESOLUTION RELATING TO THE AUTHORIZATION AND ISSUANCE OF AN
ENTERPRISE SYSTEM REVENUE BOND OF THE COUNTY OF LINCOLN, NORTH
CAROLINA**

WHEREAS, the Board of Commissioners the County of Lincoln, North Carolina (the “County”) has determined that it is necessary to issue a revenue bond of the County pursuant to Article 5 of Chapter 159 of the North Carolina General Statutes, as amended, for the purpose of (a) financing improvements to the County’s existing water system (b) paying certain costs and expenses incurred in connection with the issuance of such revenue bond; and

WHEREAS, it is necessary to take certain related actions at this time;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioner of the County, as follows:

Section 1. The County Manager, the Finance Director and the County Attorney are each hereby designated as a representative of the County to file an application for approval of such revenue bond with the Local Government Commission of North Carolina (the “Local Government Commission”) and are authorized to take such other actions as may be advisable in connection with the negotiation of such revenue bond and the development of the related financing; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed.

Section 2. The Board of Commissioner hereby requests the Local Government Commission to approve such revenue bond under Article 5 of Chapter 159 of the General Statutes of North Carolina, as amended, and to sell such revenue bond at private sale without advertisement to Branch Banking & Trust Company upon the terms stated in its proposal of August 20, 2019 (with principal amortization starting August 1, 2020), with such changes as the Local Government Commission determines to be in the best interest of the County, subject to the approval of the County.

Section 3. The Board of Commissioner recommends the selection of the following professionals to be on the financing team for the issuance of such revenue bond and that the Local Government Commission approve such professionals as members of such financing team:

Bond Counsel
Bond Purchaser
Financial Advisor

Robinson, Bradshaw & Hinson, P.A.
Branch Banking & Trust Company
Davenport & Company LLC

Section 4. The Board of Commissioner hereby finds, determines and affirms that (i) the issuance of such revenue bond is necessary for the County to finance improvements to its water treatment facilities, (ii) the amount of the proposed revenue bond will be sufficient but not excessive for its purposes, (iii) the proposed financing is feasible, (iv) the County's debt management procedures and policies are good and are managed in strict compliance with law and (v) under current economic conditions, the proposed revenue bond can be marketed at a reasonable interest cost to the County.

Section 5. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner McCall, seconded by Commissioner N/A the foregoing resolution was passed by the following vote:

Ayes: Commissioners Unanimously approved.

Noes: _____.

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Public Comments: Chairman Mitchem opened Public Comments.

Being no speakers, Chairman Mitchem closed Public Comments

Other Business: Commissioner McCall requested the Board's approval for her to attend the Know Yourself Understanding Leadership Preferences through the MBTI in Hickory, NC on October 11 2019. The registration cost is \$485.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the travel request as presented.

UPON MOTION Commissioner Permenter, the Board voted unanimously to approve the appointment of Commissioner Sigmon to the GCLMPO Alternate.

Adjourn: **UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners