

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 10, 2001

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on September 10, 2001 at the Citizens Center, Commissioner's Room, Third Floor, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Jerry W. Cochrane, Chairman
Beth H. Saine, Vice Chair
Thomas R. Anderson, PE
Larry S. Craig
David P. Choate

Planning Board Members Present:

Jerry Geymont, Chairman
Mike Baker, Vice Chairman
Dean Lutz, Secretary
James Funderburk
Eddie Sigmon
Terry Whitener
Phil Hunt

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Cheryl Baxter, Assistant Clerk to the Board
Kelly Atkins, Director of BALD
Nadine Bennett, Interim Zoning Administrator
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Cochrane called the September 10, 2001 meeting of the Lincoln County Board of Commissioners to order and welcomed everyone present.

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

UPON MOTION by Commissioner Choate, the Board voted unanimously to adopt the agenda adding Item 8 – Letter of Credit for Triangle Plaza Subdivision.

AGENDA
LINCOLN COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARINGS
SEPTEMBER 10, 2001

- | | | |
|----|---------|---|
| | 6:30 PM | Call to Order |
| 1. | 6:31 PM | Adoption of Agenda |
| 2. | 6:32 PM | Approval of Minutes
- June 11, 2001
- August 20, 2001 |
| 3. | 6:35 PM | New Business/Advertised Public Hearing |

CUP #192 Duke Communication Services, applicant: The applicant is requesting a Conditional Use Permit in order to accommodate a 190-foot telecommunication tower on a 156-acre parcel zoned General Industrial (I-G). The property is located off N.C. 73 and Club Drive and includes a hydroelectric generating plant and dam.

PCUR # 81 Piedmont Companies, applicant: The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 40.1 acres from Residential Suburban (R-S) to Conditional Use Planned Residential (CU P-R) to accommodate a major subdivision with 55 lots proposed for Class B mobile homes. The property is located off Bethel Church Road in the Lincolnton and Irononton Townships.

ZTA #386 Lincoln County, applicant: Amend Section 2.4 of the Lincoln County Zoning Ordinance to include a definition for "tattoo parlor/body-piercing studio". Amend sections 10.10.2 and 10.11.2 of the ordinance to include "tattoo parlors/body piercing studios" as a use permitted in Neighborhood Business (B-N) and General Business (B-G) districts subject to the issuance of a Conditional Use Permit.

ZTA #387 Lincoln County, applicant: Amend Section 10.11.2 of the Lincoln County Zoning Ordinance to include "Laboratories: dental, medical, optical and research" as a use permitted in the General Business (B-G) District subject to the issuance of a Conditional Use Permit.

4. 7:35 PM Conditional Use Permit No. 190 - Martin Marietta, applicant
5. 7:50 PM Resolution Supporting the Certified Industrial Site Designation for the Lincoln County Industrial Park
6. 8:00 PM Public Hearing on Proposed Amendments to the Lincoln County Animal Control Ordinance
7. 8:30 PM Space Needs Assessment
8. 9:00 PM Other Business

Adjourn

Approval of Minutes – June 11, 2001 & August 20, 2001: Chairman Cochrane presented the minutes of the June 11, 2001 and August 20, 2001 meetings for the Board's approval.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the June 11, 2001 minutes as presented.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the August 20, 2001 minutes as presented.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, September 10, 2001 and the time, which was advertised in the *Lincoln Times-News* on Friday, August 31, 2001 and Friday, September 7, 2001.

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing at 6:30 P.M. on Monday, September 10, 2001, to consider the following zoning related matters:

CUP #192 Duke Communication Services, applicant: The applicant is requesting a Conditional Use Permit in order to accommodate a 190-foot telecommunication tower on a 156-acre parcel zoned General Industrial (I-G). The property is located off N.C. 73 and Club Drive and includes a hydroelectric generating plant and dam.

PCUR # 81 Piedmont Companies, applicant: The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone 40.1 acres from Residential Suburban (R-S) to Conditional Use Planned Residential (CU P-R) to accommodate a major subdivision with 55 lots proposed for Class B mobile homes. The property is located off Bethel Church Road in the Lincolnton and Ironton Townships.

ZTA #386 Lincoln County, applicant: Amend Section 2.4 of the Lincoln County Zoning Ordinance to include a definition for “tattoo parlor/body-piercing studio”. Amend sections 10.10.2 and 10.11.2 of the ordinance to include “tattoo parlors/body piercing studios” as a use permitted in Neighborhood Business (B-N) and General Business (B-G) districts subject to the issuance of a Conditional Use Permit.

ZTA #387 Lincoln County, applicant: Amend Section 10.11.2 of the Lincoln County Zoning Ordinance to include “Laboratories: dental, medical, optical and research” as a use permitted in the General Business (B-G) District subject to the issuance of a Conditional Use Permit.

The public is invited to attend this meeting which will be held in the Commissioners’ Board Room on the third floor of the Citizens Center, 115 W. Main Street in Lincolnton, NC. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Conditional Use Permit No. 192 – Duke Communications, applicant: Having been sworn by the Clerk, Amy S. Long, the following individuals spoke on Conditional Use Permit No. 192 – Duke Communications, applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Conditional Use Permit No. 192 – Duke Communications, applicant.

The applicant is requesting a Conditional Use Permit to accommodate a 190-foot telecommunication tower on a 156-acre parcel zoned General Industrial (I-G).

The parcel is located off N.C. 73 and Club Drive and includes a hydroelectric generating plant and dam. It is joined on the north by properties zoned Residential Single-Family (R-SF), on the west and south by properties zoned Residential Transitional (R-T), and on the east by the Catawba River. A telecommunication tower over sixty (60) feet requires the issuance of a Conditional Use Permit in the I-G zoning district.

Chairman Cochrane opened the Public Hearing concerning Conditional Use Permit No. 192 – Duke Communications, applicant.

Bill Amann, presented information concerning the request by Duke Communications. He stated that there was an effort to co-locate on different towers, but they were not able to and achieve the level of service they were aiming for.

Butler Fervier stated that the tower will not interfere with any television broadcasting system. He presented coverage maps for the area.

Bill Amann gave the Board information concerning his conversations with Jeff Lynn. He presented an ASAC study. He stated that if a tower is under 200’ it does not have to be lighted or marked.

Jeff Riggins also presented information concerning his conversations with Jeff Lynn. He stated that Jeff Lynn recommended that the tower be lighted, but stated that it was not required.

Jim Meyer presented information concerning property values around towers. He stated that he has not found a loss of value next to towers.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Conditional Use Permit No. 192 – Duke Communication Services, applicant, closed.

Parallel Conditional Use Rezoning No. 81 – Piedmont Companies, applicant:

Having been sworn by the Clerk, Amy S. Long, the following individuals spoke on Conditional Use Permit No. 81 – Piedmont Companies, applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Rezoning No. 81 – Piedmont Companies, applicant.

The applicant is requesting a Parallel Conditional Use Rezoning to rezone 40.1 acres from Residential Suburban (R-S) to Conditional Use Planned Residential (CU P-R) to accommodate a major subdivision with 55 lots proposed for Class B mobile homes.

The parcel is located on Bethel Church Road just west of Buffalo Shoals Road. The adjoining parcels are all zoned Residential Suburban (R-S). The Lincoln County Land Use Plan calls for higher density residential development in this area.

Commissioner Craig stated that by-right, this would allow for about 3 Class A mobile homes per acre.

Randy Hawkins stated that a Class B mobile home is a doublewide with a roof pitch not as steep as a Class A mobile home. The overhang is not as much and you can have different types of siding. He stated that in this development they are proposing a 4/12 roof pitch, vinyl siding, shingles, and brick underpinning with at least a 6" overhang.

Chairman Cochrane opened the Public Hearing concerning Parallel Conditional Use Rezoning No. 81 – Piedmont Companies, applicant.

Mr. David Bell, with Piedmont Companies, presented the following information concerning the subdivision. He stated that this is not going to be a mobile home park and will not have any singlewide mobile homes. It will have site built, modular homes, and manufactured homes. The doublewides will have vinyl siding, and brick and masonry foundations. He stated that R-S zoning by-right allows doublewide manufactured homes. He stated that the roof pitch and the overhang are the only items they wish to modify from the original zoning regulations. Mr. Bell stated that the lots facing Bethel Church Road are restricted to site built or modular homes. He stated that there are 59 proposed lots and a 6.39 acre common space area. There will be homeowner's association fees to keep up the area. Mr. Bell stated that they will all be new mobile homes. He stated that phase I has 28 lots in it and can be built out in about 18 months. He stated that for phase

II, they are planning on going with modular and site-built housing, but may end up putting doublewides on these also. He stated that the minimum square footage is 1000 square feet.

Commissioner Choate asked why they would go with Class B mobile homes.

Mr. Bell stated that the difference in price could be as much as \$3,000.

Mr. Michael Noles stated that he owns the property directly beside this property. He asked the Board to not make it any easier for the applicants. He stated that 59 more houses would be around 120 more cars on Bethel Church Road.

Mr. Robert Nixon stated that he lives at 787 Buffalo Shoals Road, which is adjacent to the property in question. He stated that he is concerned about water pressure. Mr. Nixon stated that he operates Boger City Rest Home out there. He asked about the impact on schools, traffic, etc.

Mr. David Noles asked if the Commissioners knew about the one-mile radius around the city. He stated that nobody has the authority to ask to rezone land unless they are the owner of the land. He stated that a mobile home is a mobile home. Mr. Noles stated that the applicants have already gone and bought the trailers to put on the land. He stated that the applicants came and pushed up Mr. Roy Huss' wheat. He stated that he has honeybees out there that he moved there from west Lincoln.

Mr. Charles McCaslin stated that he lives at 1226 McCaslin Place. He stated that he owns 14 acres that joins this property. He stated that this will affect him down the road, because mobile homes will affect the value of his property. He stated that he understands the need for affordable housing, but is against putting mobile homes in there.

Mr. Michael Hovis stated that he bought the property right in the middle of this. He stated that he has been there three years and what he's already paid for this will be thrown away if this goes through. He stated that the common area will be a place for them to sell drugs and cause trouble. He stated that he is concerned that if a bunch of septic tanks are put in there, it will contaminate the creeks, rivers, lakes, and streams in the area. Mr. Hovis stated that if someone has to pay more for what they're getting, maybe they'll appreciate it more.

Mr. Eric Altemose stated that he has been there for 7 years and loves it there. He stated that school buses travel this road everyday. He stated that there is a lot of traffic there and a very dangerous road. He stated that he lived in a Craig Gates community called Mission Trails. He stated that the fees that homeowners paid dwindled after time. He asked the Board not to approve this.

Mr. Kevin Hull stated that he lives in the Green Acres Subdivision. He stated that that he is not on Buffalo Shoals Road or Bethel Church Road. He stated that the traffic needs to be looked at better. He stated that the main goal needs to be safety.

Mr. Duncan Butler stated that for five years he worked three jobs. He stated that the house that they moved out of was a Class B doublewide and it is in very bad shape now. He stated that the value of his home has gone up for the last six years and this would bring it down.

Ms. Janice Peeler stated that she works for Century 21 Town and Country Realty. She stated that doublewides will sell in the doublewide parks when they are set up, because they give them financing with little money down. She stated that you cannot sell these homes, because people destroy them. She stated that this will bring their property values down. Ms. Peeler stated that this will be in their back yard. She asked Mr. Bell to reconsider and build small stick built homes.

Mr. Jeff Noles stated that he lives at 979 Bethel Church Road. He stated that Mr. Bell told him that there would not be mobile homes on the property. He stated that there is all kinds of property in the county zoned for this. Mr. Noles stated that the developers and Commissioners would not want this in their back yard.

Mr. Mitch White stated that he used to work at Gold Medal Homes and does not have much of a problem with doublewides. He stated that his problem is that they don't fit the scenario in the neighborhood. Mr. White asked if this is a community well if other wells in the area will dry up. He stated that they want the Commissioners to listen to them, that they don't want this in their community. He asked if anyone on the Planning Board and on the Board of Commissioners would benefit from this.

Chairman Cochrane stated that the Board members could not legally vote on this if they have an interest in it.

Mr. Patrick Elmore asked how they can rezone land that they do not own. He stated that there are currently overcrowded and these types of housing do not generate enough tax dollars to pay their way. He stated that he runs a business, Elmore Financial Group, and has a responsibility to serve his clients. He stated that he can put his clients into investments and make a lot of money really fast when he knows the stocks are not going to make it. He stated that he is not going to take advantage of someone else.

Mr. Brad Whitley stated that he lives at 1278 Worthington Place and he bought the property in 1995. He stated that they have put a lot of stock in their property. It was valued at \$104,000 when they bought it and now it's valued at \$165,000. He stated that this will substantially injure the value of their property. He stated that it does not go along with what's already in the community. Mr. Whitley also commented on the traffic on the road.

Ms. Jaime Noles stated that she had never seen the preliminary subdivision plans before tonight. She voiced concerns about the setbacks the development will have. Ms. Noles also voiced concerns about their farm being torn up by the residents of this subdivision.

Mr. David Noles stated that there is farm land out there. Chemicals have been put on it and it has been sprayed. He stated that you either have to scrape it off or let it sit for

three years. He stated that if you put all those septic tanks on that property, it will go into the creeks.

Mr. Willie Heafner stated that he is concerned about water and schools. He stated that he owns a lot of property in the area and he owns homes in the area. He stated that he owns farmland in that area and is building homes in the area. Mr. Heafner stated that he is very concerned about what goes in there. He stated that Loy Huss has farmed this 100 acre farm for the last seven or eight years free of charge. He stated that a mistake was made, but he feels like he and Loy are great friends. He stated that they are building this subdivision under the plans of the county with regards to septic tanks and traffic impact studies.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Parallel Conditional Use Rezoning No. 81 – Piedmont Companies, applicant, closed.

Chairman Cochrane called for a five minute recess.
Chairman Cochrane called the meeting back to order.

Zoning Text Amendment No. 386 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 386 – Lincoln County, applicant.

The following text addition has been proposed:

Amend Section 2.4 in the Lincoln County Zoning Ordinance to include the following definition:

Tattoo Parlor/Body Piercing Studio

An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Amend Section 10.10.2 in the Lincoln County Zoning Ordinance to include “tattoo parlors/body piercing studios” as a use permitted subject to the issuance of a Conditional Use Permit. The use should be listed as Item “O”.

Chairman Cochrane opened the Public Hearing on Zoning Text Amendment No. 386 – Lincoln County, applicant.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing on Zoning Text Amendment No. 386 – Lincoln County, applicant, closed.

Zoning Text Amendment No. 387 – Lincoln County, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Text Amendment No. 387 – Lincoln County, applicant.

The following text addition has been proposed:

Amend Section 10.11.2 of the Lincoln County Zoning Ordinance to include “Laboratories: dental, medical, optical and research” as a use permitted in the General Business (B-G) District subject to the issuance of a conditional use permit. The use should be listed as item “T”.

Chairman Cochrane opened the Public Hearing on Zoning Text Amendment No. 387 – Lincoln County, applicant.

Maggie Dollar stated that the Health Department will monitor and permit tattoo parlors. She stated that on the medical, dental research labs would have to apply to the state and be permitted under the solid and hazardous waste division for any wastes they may generate.

Being no additional speakers, Chairman Cochrane declared the Public Hearing on Zoning Text Amendment No. 387 – Lincoln County, applicant, closed.

The Planning Board reconvened to the second floor balcony.

Conditional Use Permit No. 190 – Martin Marietta, applicant:

Commissioner Anderson presented the following list of conditions for the Board’s consideration. Commissioner Anderson stated that REA Construction has responded to the conditions provided at the last meeting.

**CONDITIONS – CUP #190
(Revised 9/10/01)**

1. Access and egress to this proposed Asphalt Manufacturing Facility will be restricted to the existing Martin Marietta Denver Quarry facility entrance. Construction of this proposed Asphalt Manufacturing Facility shall at no time, now or during its operation, cause or contribute to vehicular traffic of any type on the existing street presently known as Racing Drive except as follows:
 - Racing Drive may be utilized to access the proposed plant site during the construction phase.
 - Construction of the connecting road from the Martin Marietta property shall be constructed coincidental with construction of the proposed hot mix asphalt facility and shall be completed on or before startup of the proposed hot mix asphalt facility.

- Subsequent to startup of the proposed hot mix asphalt facility, access to said facility shall be solely via the Martin Marietta facility.
2. Prior to the start of construction of this proposed Asphalt Manufacturing Facility, the Owner and/or Operator of said facility shall submit to the Lincoln County Building Inspection Department a complete and comprehensive list of all equipment to be installed and/or operated for the production of hot mix asphalt. Further, said Owner and/or Operator shall retain an independent consultant to inspect said facility and certify to the Lincoln County Building Inspection Department that all installed equipment meets or exceeds set forth for such equipment by the National Asphalt Pavement Association and that all installed equipment can be operated within the limitations governing the issuance of an air quality permit by the Division of Air Quality (DAQ) of the North Carolina Department of Environment and Natural Resources (“DENR”).
 3. Prior to operation of this proposed Asphalt Manufacturing Facility, the Owner and/or Operator of said facility shall obtain an air quality permit as required by the North Carolina Department of Environment and Natural Resources, Division of Air Quality and submit a true copy of said permit to the Lincoln County Building Inspection Department.
 4. In the event the Owner and/or Operator shall receive any complaint (except that anonymous complaints shall not be subject to these conditions) concerning air quality at any time during its operation of this Plant, the following actions shall be taken by said Owner and/or Operator:
 - a. The name of the complainant and the nature of the complaint shall be provided to the Director of the Lincoln County Building and Land Development Department within 24 hours of receipt of said complaint. That Department shall evaluate the complaint and, in the event said complaint shall be determined to be valid by said Lincoln County Building and Land Development Department, the Owner and/or Operator of said Plant shall:
 - b. Arrange for inspection of said Plant by the North Carolina Department of Environment and Natural Resources (“DENR”), Division of Air Quality (DAQ) and certification by DAQ that said facility is currently operating within the requirements set forth for such Asphalt Manufacturing Facilities and that said Plant is in compliance with the air quality permit applicable thereto. The inspection and certification required herein shall be accomplished within 30 working days of a determination by the Lincoln County Building and Land Development Department as to the validity of said claim.
 5. Prior to the start of construction of this proposed Asphalt Manufacturing Facility the Owner and/or Operator of said Facility shall determine the names and addresses of all residents currently residing on the east side of Highway 16 North

between the existing entrance to the Martin Marietta Quarry and a point 100 yards south of the intersection of Highway 16 North and Racing Drive. The Owner and/or Operator of said Facility shall then assist said residents in contacting the Postmaster at the Denver Branch of the United States Postal Service to determine the feasibility of relocating said residents mail boxes from the west side of Highway 16 North to the east side of Highway 16 North. Relocation of these mailboxes would eliminate the necessity for residents to cross Highway 16 North to obtain their mail. In the event USPS will permit relocation of the mail boxes of said residents to the west side of Highway 16 North, the Owner and/or Operator of this proposed Asphalt Manufacturing Facility shall, at its costs, arrange of the relocation of said mailboxes.

Commissioner Anderson asked Tim Gaddy with Rea Construction if this is a new plant or an older existing plant that will be relocated to this site.

Mr. Gaddy stated that this is an existing plant that will be relocated to this site. He stated that the technology is the same with this plant as a new plant. He stated that there are two types of asphalt plants, a batch plant and a drum mix plant. The batch plant is still manufactured today, but generally went out of use in the late 1970's. He stated that these were replaced with drum mix plants, which are much simpler and more efficient operation. This is the type that will be located at this site.

Commissioner Anderson asked when the permit required from the Division of Air Quality would be issued and how often it has to be renewed.

Mr. Gaddy stated that they can't apply for an Air Quality Permit until they get a letter of zoning. After getting a letter of zoning, they would begin the permit process, which typically takes 6 weeks to 3 months to go through the permit process.

Commissioner Anderson asked if this facility will have a bag house and asked Mr. Gaddy to explain the function of that component and how it works to control fugitive dust and odor.

Mr. Gaddy stated that it would have a bag house. He explained the way an asphalt plant works and the purpose of the bag house.

Chairman Cochrane presented the findings of fact, as approved by the Planning Board for Conditional Use Permit No. 190 – Martin Marietta, applicant.

RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP #190 Date: September 10, 2001

Applicant's Name: Martin Marietta Materials, Inc.
Address: 8701 RedOak Blvd.
Charlotte, NC 28215

Property Owner's Name: Same as above
Address:

Property Location: In Lincoln County off Highway 16 at the end of Racing Drive

Existing Zoning: I-G

Proposed Conditional Use: Property to be used as a hot mix asphalt manufacturing facility. Site will have two portable office buildings, several plant components and a material stockpile area.

FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
Factual Reasons Cited: It will not endanger the public health or safety due to the current zoning.
UPON MOTION by Commissioner Craig, the Board voted unanimously to find this fact in the affirmative.
2. The use meets all required conditions and specifications.
Factual Reasons Cited: The proposed use does meet the required conditions and specifications required by the county.
UPON MOTION by Commissioner Craig, the Board voted unanimously to find this fact in the affirmative.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
Factual Reasons Cited: Because it is zoned industrial, it should not injure the value of adjoining property.
UPON MOTION by Commissioner Craig, the Board voted unanimously to find this fact in the affirmative.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.
Factual Reasons Cited: Because of the location and the I-G district, it would be in general conformity with the surrounding area.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find this fact in the affirmative.

After having held a Public Hearing on 8/6/01 and in light of the Findings of Facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Planning Board's recommendation and the Findings of Fact as presented for Conditional Use Permit No. 190 – Martin Marietta, applicant, with the following conditions:

**CONDITIONS – CUP #190
(Revised 9/10/01)**

1. Access and egress to this proposed Asphalt Manufacturing Facility will be restricted to the existing Martin Marietta Denver Quarry facility entrance. Construction of this proposed Asphalt Manufacturing Facility shall at no time, now or during its operation, cause or contribute to vehicular traffic of any type on the existing street presently known as Racing Drive except as follows:
 - Racing Drive may be utilized to access the proposed plant site during the construction phase.
 - Construction of the connecting road from the Martin Marietta property shall be constructed coincidental with construction of the proposed hot mix asphalt facility and shall be completed on or before startup of the proposed hot mix asphalt facility.
 - Subsequent to startup of the proposed hot mix asphalt facility, access to said facility shall be solely via the Martin Marietta facility.
2. Prior to the start of construction of this proposed Asphalt Manufacturing Facility, the Owner and/or Operator of said facility shall submit to the Lincoln County Building Inspection Department a complete and comprehensive list of all equipment to be installed and/or operated for the production of hot mix asphalt. Further, said Owner and/or Operator shall retain an independent consultant to inspect said facility and certify to the Lincoln County Building Inspection Department that all installed equipment meets or exceeds set forth for such equipment by the National Asphalt Pavement Association and that all installed equipment can be operated within the limitations governing the issuance of an air quality permit by the Division of Air Quality (DAQ) of the North Carolina Department of Environment and Natural Resources ("DENR").
3. Prior to operation of this proposed Asphalt Manufacturing Facility, the Owner and/or Operator of said facility shall obtain an air quality permit as required by the North Carolina Department of Environment and Natural Resources, Division of Air Quality and submit a true copy of said permit to the Lincoln County Building Inspection Department.

4. In the event the Owner and/or Operator shall receive any complaint (except that anonymous complaints shall not be subject to these conditions) concerning air quality at any time during its operation of this Plant, the following actions shall be taken by said Owner and/or Operator:
 - a. The name of the complainant and the nature of the complaint shall be provided to the Director of the Lincoln County Building and Land Development Department within 24 hours of receipt of said complaint. That Department shall evaluate the complaint and, in the event said complaint shall be determined to be valid by said Lincoln County Building and Land Development Department, the Owner and/or Operator of said Plant shall:
 - b. Arrange for inspection of said Plant by the North Carolina Department of Environment and Natural Resources (“DENR”), Division of Air Quality (DAQ) and certification by DAQ that said facility is currently operating within the requirements set forth for such Asphalt Manufacturing Facilities and that said Plant is in compliance with the air quality permit applicable thereto. The inspection and certification required herein shall be accomplished within 30 working days of a determination by the Lincoln County Building and Land Development Department as to the validity of said claim.
5. Prior to the start of construction of this proposed Asphalt Manufacturing Facility the Owner and/or Operator of said Facility shall determine the names and addresses of all residents currently residing on the east side of Highway 16 North between the existing entrance to the Martin Marietta Quarry and a point 100 yards south of the intersection of Highway 16 North and Racing Drive. The Owner and/or Operator of said Facility shall then assist said residents in contacting the Postmaster at the Denver Branch of the United States Postal Service to determine the feasibility of relocating said residents mail boxes from the west side of Highway 16 North to the east side of Highway 16 North. Relocation of these mailboxes would eliminate the necessity for residents to cross Highway 16 North to obtain their mail. In the event USPS will permit relocation of the mail boxes of said residents to the west side of Highway 16 North, the Owner and/or Operator of this proposed Asphalt Manufacturing Facility shall, at its costs, arrange of the relocation of said mailboxes.

Chairman
Lincoln County Board of Commissioners

Date

Resolution Supporting the Certified Industrial Site Designation for the Lincoln County Industrial Park: Stan Kiser presented the following Resolution for the Board’s approval, stating that Lincoln Economic Development has asked the Board to approve this Resolution.

**RESOLUTION SUPPORTING THE CERTIFIED INDUSTRIAL SITE
DESIGNATION FOR THE LINCOLN COUNTY INDUSTRIAL PARK**

WHEREAS, the Lincoln County Board of Commissioners believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development through the expansion of existing industries and the recruitment of new industries; and

WHEREAS, the North Carolina Department of Commerce has developed a Certified Industrial Site program to improve our competitive edge in expanding and recruiting industry; and

WHEREAS, the Lincoln County Industrial Park meets the requirements of the Certified Industrial Park program through the efforts of the Lincoln Economic Development Association.

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners fully support the Certified Industrial Site proposal for the Lincoln County Industrial Park.

Approved this 10th day of September, 2001.

Jerry Cochrane, Chairman
Lincoln County Commissioners

ATTEST:

Amy S. Long, Clerk
Lincoln County Commissioners

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Resolution Supporting the Certified Industrial Site Designation for the Lincoln County Industrial Park.

Public Hearing on Proposed Amendments to the Lincoln County Animal Control Ordinance: Chairman Cochrane opened the public hearing concerning the proposed amendments to the Lincoln County Animal Control Ordinance.

Chairman Cochrane presented the following wording presented by the Humane Society.

Shelter from the weather:

- A. Summer: a substantial, enclosed dog house positioned in the shade or covered with a tarp large enough to provide shade.
- B. Winter: a substantial enclosed dog house.

Bob Richardson presented the request that **shelter from the weather** be defined as:

- A. Summer: a substantial, enclosed dog house with a roof, a floor, four sides, with an opening for a doorway, positioned in the shade or covered with a tarp large enough to provide shade. Also, it needs to be added since a dog chained to a house cannot seek shade, the owner should provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to allow all animals kept outdoors to be protected from the direct rays of the sun. Owners should not tie or chain an animal as to endanger the health or well being of such animal due to temperature, lack of food or water, that may cause suffering or death.
- B. Winter: A substantial enclosed doghouse with a roof, a floor, four sides, with an opening for a doorway, that provides shelter from extreme cold, rain, sleet, and snow and not to be tied out in inclement weather as to endanger the health or well being of such animal due to cold.

Water is affected by extreme temperatures (evaporating in summer and freezing in winter).

Dr. Karen Miller, a Veterinarian at Lincolnton Animal Hospital, gave a description of heat stroke in animals.

Charles Eurey stated that he is an animal person, but has a problem with the amendment because it is more intrusive in the citizens' lives. He stated that he does not want to see dogs suffer, but does not believe the ordinance would be enforceable.

Dot Wise told the Board of a situation with a dog named Buddy, who is tied to a utility building inside a chain link fence. She stated that a lot of the time, he has no food or water. She stated that since she first saw the dog in distress, she has been taking him food and water.

Marni Carpenter stated that the ordinance needs to be made tougher because this one does not work. She stated that there needs to be a strict definition of shelter that Animal Control will enforce. She stated that this shelter does not need to be pretty or expensive, just humane. Ms. Carpenter stated that with this amendment, Animal Control would not go door to door checking for dog houses, but if a question of abuse or adequate shelter were raised, the Ordinance could be used to enforce humane treatment.

Emily Britt stated that this addendum is not about setting housing standards for pet owners or infringing on individual rights. It is about the right of animals to be humanely treated and protected from abuse and neglect from individuals. She stated that this gives the Animal Control Officers clear guidelines as to what proper shelter is.

Beth Tobin shared with the Board a letter written to Delores Stroupe from the Humane Society of the United States supporting the amendments to the Ordinance. Ms. Tobin spoke in favor of the amendments.

Todd Aderholt stated that sometimes where common sense lacks, a change is needed. He stated that the Animal Control Officers need this to help the animals in Lincoln County.

Diane Leatherman stated that they are only trying to clarify an ordinance already in effect. She stated that Animal Control is concerned that this amendment will create additional work for their already stretched staff, but she's not sure that it will. She stated that the purpose of this addendum is that when Animal Control responds to an animal cruelty complaint, they have the authority to ask the owner to provide adequate shelter.

Bill Beam presented the following definition of **shelter from the weather** that law enforcement has come up with.

Restrained animals:

Any non agriculture animal(s) restrained as a pet by either chain or fence will require a structure for shelter. Shelter shall be either located in appropriate shade or have shade provided for the animal by artificial means on any day when temperature is above 85 degrees for more than 4 hours.

Non-restrained animals

Any non agriculture animal(s) kept as a pet will be provided a location the animal has access to for protection from the weather heat or cold.

Emily Britt stated that she has a problem with the 85 degrees, because animals can die in less temperatures than that. She suggested that they take the best of both definitions and come up with a workable recommendation.

By consensus, the Board agreed to defer any action on the specific wording and request that the members of the Humane Society get with Bill Beam and come up with wording suitable to both parties that addresses all concerns.

Space Needs Assessment: Stan Kiser, County Manager, presented a space needs assessment for several county departments.

Judy Caudill spoke of the Elections Department's need for additional space.

Commissioner Anderson questioned the need for a satellite office for the Elections Department. There was a discussion about a satellite office at the water plant.

Commissioner Craig stated that he and Judy toured the annex building at the jail last week. He stated that he felt this could be a good building for the Elections Department

for a fair and reasonable amount of money. He stated that the old jail would be ideal for storage.

Chairman Cochrane asked Stan and the county departments to look around at open office space and make recommendations.

Commissioner Anderson requested a list of county owned buildings and square footage.

Letter of Credit: Stan Kiser, County Manager, presented a Letter of Credit and Contract for the Triangle Plaza Subdivision in the amount of \$35,000. Jack Chandler has stated that the amount of the Letter of Credit is sufficient to cover the costs of the remaining infrastructure left to be completed. The County Attorney has looked over the contract and says it is acceptable. The Letter of Credit is figured at 1.25 times the cost of construction.

UPON MOTION by Commissioner Saine, the Board voted unanimously to accept the Letter of Credit and Contract No. 19 for the Triangle Plaza Subdivision.

Other Business: Stan Kiser, County Manager, presented a memo from Susan McCracken stating that Heafner Tire accepted the county's offer of \$45,000. Ms. McCracken also presented a detailed inventory of the furniture.

Commissioner Craig stated that the county's investment in this will only be twenty-some thousand dollars after reimbursement.

UPON MOTION by Commissioner Craig, the Board voted unanimously to accept the contract to buy the furniture from Heafner Tire for \$45,000.

Mr. Kiser presented the Board with information concerning parking on the Courthouse lawn.

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

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners