

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on October 4, 1999 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 5:30 p.m. for the purpose of conducting public hearings on zoning issues. The following were present:

James A. Hallman, Chairman
Terry L. Brotherton, Vice-Chairman
Beth H. Saine
W. J. Waters, Jr.

Jeffrey Taylor, County Attorney
Stan Kiser, County Manager

Planning Board Members present were: Gary Garlow, Mike Baker, Dean Lutz, Ron Smith, Jerry Geymont, James Funderburk, Stanley Roseboro, and Phil Hunt.

Also present were Candace Ramseur, Development Technician, Tina Jenkins, Development Technician, Richard Smith, Land Use Coordinator, Kelly Atkins, Director of Building and Land Development and Amy S. Long, Clerk to the Board of Commissioners.

CALL TO ORDER

Chairman Hallman called the October 4, 1999 public hearing meeting of the Lincoln County Board of Commissioners to order.

ADOPTION OF THE AGENDA

Chairman Hallman presented the Agenda for the October 4, 1999 Board of Commissioners meeting for adoption.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARINGS

OCTOBER 4, 1999

5:30 PM Call to Order

1. 5:30 PM Adoption of Agenda

2. 5:30 PM Approval of Minutes
- September 13, 1999

3. 5:35 PM Resolution for Approval of Financing of Roll-off Truck

4. 5:40 PM Resolution Concerning Use of Room Occupancy and Tourism Tax

5. 5:50 PM Set Public Hearing for ED TAP Funding – Erma Deen Hoyle

6. 6:00 PM New Business / Advertised Public Hearings

Conditional Use Permit No. 163 – Hubert Berchem, applicant, Request for a Conditional Use Permit in order to accommodate a retail sail equipment, boat sales, and sail repair business on property owned by CICA, Inc. This property is located in the Neighborhood Business (B-N) zoning district with a Designated Highway (D-H) Overlay at Highway 16 North in the Catawba Springs Township.

Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant, Request for a Parallel Conditional Use Rezoning on property located at the corner of Old Mill Road and North Carolina Highway #150. The applicant wishes to rezone this property for future commercial use. This property is located in the Residential Suburban (R-S) zoning district in the Ironton Township.

Zoning Text Amendment No. 314 – Zoning Ordinance Text Changes: Amend the Zoning Ordinance so that the Rural Residential (R-R), Transitional Residential (R-T), Residential Suburban (R-S), Residential Single-Family (R-SF) and the Residential and Commercial Recreational (R-CR) residential zoning districts require a thirty (30) foot front yard setback from the edge of the street right-of-way for all residential uses and that these same districts would require a forty (40) foot rear setback.

Also, amend Sections 12.1.4-B.1 & 12.1.4-B.3, so that the front and rear setbacks of a residential lot lying in a Designated Highway (D-H) overlay district (primarily where a Designated Special Highway or Designated Corridor Road are involved) will be the same as the underlying

zoning district. The more restrictive setbacks will still apply to all commercial zoning districts.

Zoning Map Amendment No. 319 – Don Hartsoe, applicant, Request to rezone 0.914 acres from Residential Single-Family (R-SF) to Transitional Residential (R-T). This property is located off of Rock Dam Road in the Howards Creek Township.

Zoning Text Amendment No. 320 – Amend the Zoning Ordinance so that the second sentence of Section 5.3.3 reads as follows: “An appeal to the Board of Variances and Appeals shall be made within forty-five (45) days of the decision made by the Zoning Administrator or the issuance of a zoning or building permit.” (The phrase “or the issuance of a zoning or building permit” shall be added to the existing sentence.)

7. **At this time, the Board of Commissioners will recess the October 4, 1999 meeting and open the October 4, 1999 Board of Variance and Appeals Meeting.**
8. 7:00 PM Engineering Service Contract with McGill Associates
9. 7:05 PM Discussion of Airport Improvement Grant
10. 7:10 PM Recommendations of the Planning Board – October 4, 1999
 - Conditional Use Permit No. 163 – Hubert Berchem, applicant.
 - Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant.
 - Zoning Text Amendment No. 314
 - Zoning Map Amendment No. 319 – Don Hartsoe, applicant.
 - Zoning Text Amendment No. 320
11. 7:30 PM Other Business
12. 7:40 PM Closed Session – Contractual and Personnel

Adjourn

Commissioner Saine stated that Item 2a – Appointment of Alternate Board of Appeals members needed to be added to the agenda.

A motion by Commissioner Brotherton to adopt the agenda with the addition of Item 2a – Appointment of Alternate Board of Appeals members.

Unanimously approved.

APPROVAL OF MINUTES – SEPTEMBER 13, 1999

Chairman Hallman presented the minutes of the September 13, 1999 Board of Commissioners meeting for approval.

Chairman Hallman presented the following changes to the September 13, 1999 meeting minutes.

Page 14, Paragraph 5

He stated that the tank is 90 feet long and **90** inches in diameter, and approximately 8 feet tall with 3 foot pillars.

Page 23, Paragraph 4

The Planning Board recommended the front setbacks for residential zoning districts be changed from **40 to 30** feet, but the rear setback be changed to 40 feet for all residential uses, so that the density of the lots will not be disturbed as much.

Page 26, Paragraph 6

A month or so ago, in the Courtrooms, there were portraits hung of John Friday and **Hamp Childs**.

A motion by Commissioner Saine to approve the minutes of the September 13, 1999 meeting of the Lincoln County Board of Commissioners with the above corrections.

Unanimously approved.

APPOINTMENT OF BOARD OF APPEALS ALTERNATE

Commissioner Saine stated that last month, at the September 13th Board of Variances and Appeals meeting, there were only four members present. She stated that it is necessary to appoint alternates. The following two names have been submitted to her: Louis McConnell and Sam Houser.

Chairman Hallman stated that the two alternates for the Board of Appeals were set up when this method was started, but none were ever appointed.

A motion by Commissioner Saine to appoint Louis McConnell and Sam Houser as alternates for the Board of Appeals.

Commissioner Waters asked the Board arrived at these two candidates.

Commissioner Saine stated she got the recommendations from the County Commissioners.

Commissioner Waters stated that the Board is not following the Ordinance. He stated that he would not have a problem with the alternates if the original board was set up right.

Vote: 3 – 1 AYES: Hallman, Brotherton, Saine
NOES: Waters

RESOLUTION FOR APPROVAL OF FINANCING OF ROLL-OFF TRUCK

Leon Harmon presented the following list of the proposals received to finance the Solid Waste Roll-Off Truck that the Board of Commissioners approved to purchase at their September 13, 1999 meeting through lease purchase.

First Citizens Bank	4.57%
BB&T	4.64%
Centura	4.68%
Wachovia	5.02%
First Union	5.90%

Mr. Harmon recommended that the low bid received from First Citizens in the amount of 4.57% be accepted.

Mr. Harmon presented the following Resolution for the Board to approve.

A RESOLUTION AUTHORIZING THE DIRECTOR OF FINANCE TO EXECUTE AN INSTALLMENT PURCHASE CONTRACT FOR THE PURCHASE OF A 2000 MODEL WG 64 ROLL-OFF TRUCK

WHEREAS, the County of Lincoln solicited and received competitive proposals from financial institutions for the purchase of a 2000 Model WG 64 Roll-Off Truck; and

WHEREAS, First Citizens Bank offers the lowest fixed interest rate of 4.57% for a 3 year term for this purchase;

NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Lincoln that the Council authorizes the Finance Director to enter into a contact with First

Citizens Bank on behalf of the County for the purchase of a 2000 Model WG 64 Roll-Off Truck at a fixed interest rate of 4.57%.

BE IT FURTHER RESOLVED that the aforesaid contracts by and between the County of Lincoln, various State contract and other vendors, and First Citizens Bank, together with the amounts to be paid thereunder, be and the same are hereby designated as qualified tax-exempt obligations of the County of Lincoln for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

BE IT FURTHER RESOLVED that the Council does not reasonably expect that the Purchaser (and any subordinate entities) will issue more than \$10,000,000 in qualified tax-exempt obligations pursuant to such Sections 265(b)(3)(ii) during the current calendar year.

This resolution is effective upon its adoption this 4th day of October, 1999.

The motion to adopt this resolution was made by Commissioner Brotherton to approve Mr. Harmon's proposal authorizing the financing of the roll-off truck with First Citizens Bank at 4.57%.

Unanimously approved.

RESOLUTION CONCERNING USE OF ROOM OCCUPANCY AND TOURISM TAX

Chairman Hallman presented the following Resolution Concerning Use of Room Occupancy and Tourism Tax.

RESOLUTION CONCERNING USE OF ROOM OCCUPANCY AND TOURISM TAX

WHEREAS, it has been recognized that additional resources were needed in the promotion of travel and tourism in Lincoln County.

WHEREAS, a growing number of counties in North Carolina are using room occupancy taxes from the rental of rooms, lodging or accommodations, in the promotion of travel and tourism.

WHEREAS, on July 24th 1993 the North Carolina General Assembly approved legislation enabling Lincoln County to begin charging a room occupancy tax.

WHEREAS, after holding the required public hearings, the Lincoln County Board of Commissioners enacted a resolution levying a room occupancy tax on August 23, 1993 to become effective October 1, 1993.

WHEREAS, the enabling legislation of this tax requires that at least two-thirds of the proceeds from this tax be used to promote travel and tourism. The legislation also allows that the remaining revenues be used for tourism related expenditures.

WHEREAS, on September 12, 1994 a resolution was approved designating the use of the proceeds for fiscal years 1993-94 and 1994-95.

WHEREAS, on October 20, 1997 a resolution was approved designating the use of the proceeds for fiscal years 1995-96, 1996-97 and 1997-98.

WHEREAS, during fiscal year 1998-99 Lincoln County received \$51,041, and expects to receive during 1999-00, \$50,000 from the tax.

WHEREAS, during fiscal year 1998-99 Lincoln County incurred the following expenses to promote travel and tourism: Chamber of Commerce \$11,760, to advertise print and distribute information on Lincoln County; Mainstreet Program \$11,760; Historical Properties \$5,166; Historical Association \$21,940; Historical Coordinator \$42,655; and Battle of Ramsour Mill \$7,038; for a total of \$100,319.

WHEREAS, during the current fiscal year Lincoln County has budgeted the following to promote travel and tourism: Chamber of Commerce \$12,000; Mainstreet Program \$6,000; Historical properties \$5,346; Historical Association \$20,000; Historical Coordinator \$38,667; and Battle of Ramsour Mill \$4,500 for a total of \$86,513.

THEREFORE BE IT RESOLVED, That the revenues from the Local Occupancy tax be used for the above outlined tourism related expenditures and to promote travel and tourism for fiscal years 1998-99, and 1999-00.

Adopted this the 4th day of October, 1999.

James A. Hallman, Chairman
Board of Commissioners

A motion by Commissioner Waters to approve the Resolution Concerning Use of Room Occupancy and Tourism Tax.

Unanimously approved.

SET PUBLIC HEARING FOR ED TAP FUNDING – ERMA DEEN HOYLE

Erma Deen Hoyle stated that Lincoln County is eligible to apply for state assistance funding for the transportation of the County's elderly and disabled citizens (EDTAP – Elderly and Disabled Transportation Assistance Program) and for employment purposes (Work First Transitional/Employment Transportation Assistance Program). This assistance improves independent living and the quality of life. The grant process for these funds requires a public hearing to be held for public review and comment. Ms. Hoyle requested a Public Hearing be set for Monday, October 25, 1999, at 3:00 p.m. at the Lincoln County Senior Center. A public hearing notice must be published in a newspaper having general circulation in the county. The notice must be published at least fourteen (14) days prior to the date of the meeting.

A motion by Commissioner Brotherton to set the Public Hearing as requested.

Unanimously approved.

ENGINEERING SERVICE CONTRACT WITH MCGILL ASSOCIATES

Stan Kiser, County Manager, presented the Board with a Service Contract McGill Associates has submitted to the County. He stated that they are willing to put an engineer here preferably one day per week, if needed, at the rate of \$65 per hour and .35 cents per mile.

A motion by Commissioner Brotherton to permit Mr. Kiser to move forward with the contract with McGill Associates for engineering services.

Unanimously approved.

DISCUSSION OF AIRPORT IMPROVEMENT GRANT

Jeff Lynn stated that this was brought before the Board at the last meeting. He stated that this is an accelerated expansion program, and there is a possibility that they are eligible for up to \$2.5 million in funding.

Pat Turney stated that last month the Board was given some figures that may be in question. He stated that they basically gave extremes at the last

meeting. He requested that the Board consider \$125,000 over two years worth of budgets. The City's share would also be \$125,000 over two years also.

A motion by Commissioner Brotherton to approve this and move forward with the plan.

Unanimously approved.

PUBLIC HEARINGS – ZONING ISSUES

Chairman Hallman announced that this was the date, Monday, October 4, 1999 and the time, 5:30 p.m., which was advertised in the *Lincoln Times-News* on September 24, 1999 and October 1, 1999 for a Public Hearing on zoning requests.

NOTICE OF PUBLIC HEARING

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing at 5:30 P.M. on Monday, October 4, 1999 to consider the following zoning related matters:

Conditional Use Permit No. 163 – Hubert Berchem, applicant, Request for a Conditional Use Permit in order to accommodate a retail sail equipment, boat sales and sail repair business on property owned by CICA, Inc. This property is located in the Neighborhood Business (B-N) zoning district with a Designated Highway (D-H) Overlay at Highway 16 North in the Catawba Springs Township.

Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant, Request for a Parallel Conditional Use Rezoning on property located at the corner of Old Mill Road and North Carolina Highway #150. The applicant wishes to rezone this property for future commercial use. The property is located in the Residential Suburban (R-S) zoning district in the Ironton Township.

Zoning Text Amendment No. 314 – Zoning Ordinance Text Changes: Amend the Zoning Ordinance so that the Rural Residential (R-R), Transitional Residential (R-T), Residential Suburban (R-S), Residential Single-Family (R-SF) and the Residential and Commercial Recreational (R-CR) residential zoning districts require a thirty (30) foot front yard setback from the edge of the street right-of-way for all residential uses and that these same districts would require a forty (40) foot rear setback.

Also, amend Sections 12.1.4-B.1 & 12.1.4-B.3, so that the front and rear setbacks of a residential lot lying in a Designated Highway (D-H) overlay district (primarily where a Designated Special Highway or Designated Corridor Road

are involved) will be the same as the underlying zoning district. The more restrictive setbacks will still apply to all commercial zoning districts.

Zoning Map Amendment No. 319 – Don Hartsoe, applicant, Request to rezone 0.914 acres from Residential Single-Family (R-SF) to Transitional Residential (R-T). This property is located off of Rock Dam Road in the Howards Creek Township.

Zoning Text Amendment No. 320 – Amend the Zoning Ordinance so that the second sentence of Section 5.3.3 reads as follows: “An appeal to the Board of Variances and Appeals shall be made within forty-five (45) days of the decision made by the Zoning Administrator or the issuance of a zoning or building permit.” (The phrase “or the issuance of a zoning or building permit” shall be added to the existing sentence.)

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, which is located at 115 W. Main Street in Lincolnton, NC. For more information, contact the Lincoln County Building and Land Development department at (704) 736-8440.

Conditional Use Permit No. 163 – HUBERT BERCHEM, APPLICANT

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Conditional Use Permit No. 163 – Hubert Berchem, applicant.

Richard Smith, Land Use Coordinator, presented Conditional Use Permit No. 163—Hubert Berchem, applicant.

The applicant is requesting a Conditional Use Permit for property owned by CICA, Inc. located off of North Highway 16 in Denver, NC. The applicant is making this request in order to accommodate a boat sales business. The property is located in the Neighborhood Business (B-N) zoning district with a Designated Highway (D-H) overlay.

This parcel is 0.78 acres and is located in the Catawba Springs Township. The property is joined on the south, west, and north by properties that are also zoned Neighborhood Business (B-N) with a D-H overlay. The property is joined on the east by the residential portion of the Planned Mixed Use (P-MU) district for the Smithstone Properties project. The Lincoln County Land Development Plan calls for higher density development in this area. A boat sales lot requires the issuance of a Conditional Use Permit in the B-N zoning district.

Chairman Hallman asked if there was anyone wishing to speak regarding Conditional Use Permit No. 163 – Hubert Berchem, applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Conditional Use Permit No. 163 – Hubert Berchem, applicant, closed.

Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr, applicant

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant.

Richard Smith, Land Use Coordinator, presented Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant.

The applicant is requesting a Parallel Conditional Use Rezoning (PCUR) to rezone an approximately 4.67 acres portion of a 49.02 acres parcel owned by the applicant to Conditional Use General Business (CU-BG) for commercial usage. The property is presently zoned Residential Suburban (R-S) with a Designated Highway (D-H) overlay. The property is located at the corner of North Carolina Highway #150 and Old Mill Road in Lincolnton, NC.

This parcel is joined on the north, east, and south by properties that are also zoned R-S with a D-H overlay. It is joined on the west by properties that are zoned Residential Single-Family (R-SF) with a D-H overlay and by property that is zoned Neighborhood Business (B-N) with a D-H overlay. The Lincoln County Land Use Plan calls for higher density development in this area.

The Planning Board asked if there was a specific use for the property for the Parallel Conditional Use Rezoning.

Richard Smith stated that for the corner lot, the corner of Hwy. 150 and Old Mill Road, he hopes to have a convenience store of some type, and for the others commercial, business or office use.

Chairman Hallman stated that he has always been under the impression that with a Parallel Conditional Use, they had to specify exactly what it had to be used for.

Jeff Taylor, County Attorney, stated that this is his opinion also. He stated that it may be appropriate to ask the applicant to tie it down some more.

Chairman Hallman asked if there was anyone wishing to speak regarding Parallel Conditional Use Rezoning No. 65—Max A. Caldwell, Jr., applicant.

Being no one wishing to speak, Chairman Hallman declared the Public Hearing on Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant, closed.

ZONING TEXT AMENDMENT NO. 314

Richard Smith, Land Use Coordinator, presented information on Zoning Text Amendment No. 314.

Amend the Zoning Ordinance Sections 10.1.3-B.1, 10.2.3-B.1, 10.4.3-B.1, and 10.5.3-B.1, so that the minimum front yard setback for all residential uses in the Rural Residential (R-R), Transitional Residential (R-T), Residential Single-Family (R-SF), and Residential and Commercial Recreational (R-CR) zoning districts (except Essential Services, Class 1 and private residential storage buildings) is thirty (30) feet.

Amend Section 10.3.3-B., so that the minimum front yard setback for all residential uses in the Residential Suburban (R-S) zoning district (except Essential Services, Classes 1 and 2, and private residential storage buildings) is thirty (30) feet. The current front setback for each of these districts is forty (40) feet.

Amend Sections 10.1.3-D.4, 10.2.3-D.4, 10.3.3-D.3, 10.4.3-D.2 and 10.5.3-D.2, so that the minimum rear yard setback for all residential uses in the Rural Residential (R-R), Transitional Residential (R-T), Residential Suburban (R-S), Residential Single-Family (R-SF), and Residential and Commercial Recreational (R-CR) zoning districts (except Essential Services, Class 1 and private residential storage buildings) is forty (40) feet. The current rear setback for each of these districts is thirty (30) feet.

Amend Sections 12.1.4-B.1 and 12.1.4-B.3, so that the front and rear setbacks of a residential lot lying in a Designated Highway (D-H) overlay district, where a Designated Special Highway or Designated Corridor Road are involved, will be the same as the underlying zoning district requires. The more restrictive D-H overlay front and rear setbacks still apply to all commercial zoning districts.

The Board of Commissioners discussed this recommendation at its meeting on August 16, 1999. The Board deferred this case at its September 13, 1999 meeting in order to make the rear setback changes as recommended by the Planning Board and the change in the D-H overlay setbacks as recommended by the Board of Commissioners. These changes to this particular text amendment were advertised as recommended by the County Attorney.

Chairman Hallman asked if there was anyone wishing to speak regarding Zoning Text Amendment No. 314.

Sylvia Holmes stated that the County has money budgeted for the new, revised Land Use Plan for the Catawba Springs Township. She asked if the Plan will be

accepted or if the Catawba Springs Township will have to wait until the rest of the County is completed.

Jeff Taylor, County Attorney, stated that the revision of the Land Use Plan was decided on by this Board in conjunction with looking at revising the Zoning Ordinance. He stated that we would have to be careful, we could have different zoning districts but not different ordinances.

Sylvia Wallace stated that the current Planning Board recommends a thirty foot setback in the front and a forty foot setback in the rear. The forty foot setback in the rear would help maintain water permeable land as high density development continues.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Text Amendment No. 314, closed.

ZONING MAP AMENDMENT NO. 319 – DON HARTSOE, APPLICANT.

Richard Smith, Land Use Coordinator, presented the following information on Zoning Map Amendment No. 319 – Don Hartsoe, applicant.

The applicant is requesting to rezone 0.914 acres owned by the applicant from Residential Single-Family (R-SF) to Transitional Residential (R-T). The applicant wishes to rezone this property in order to place a doublewide mobile home on it.

This parcel is located on Rock Dam Road in the Howards Creek Township. The property is joined on the north, west, and south by property that is also zoned R-SF. It is joined on the east by property that is zoned R-T. The Lincoln County Land Use Plan calls for medium density development.

Chairman Hallman opened the public hearing for Zoning Map Amendment No. 319 – Don Hartsoe, applicant.

Kay Walker stated that she and her brother inherited the property right next door. She stated that years ago, it was decided to change the zoning from Transitional to Residential. She stated that there seems to be a lot of mobile homes in the area, and she would prefer that it stay residential and not be changed.

Jean Shronce stated that she lives on Daniel's Church Road and owns 52 acres, joining the lot. She stated that the land should not be rezoned for a trailer park, they want to keep their community as beautiful as it is.

Being no additional speakers, Chairman Hallman declared the public hearing for Zoning Map Amendment No. 319 – Don Hartsoe, applicant, closed.

ZONING TEXT AMENDMENT NO. 320

Richard Smith, Land Use Coordinator, presented the following information concerning Zoning Text Amendment No. 320.

Amend the Zoning Ordinance so that the second sentence of Section 5.3.3 reads as follows: "An appeal to the Board of Variances and Appeals shall be made within forty-five (45) days of the decision made by the Zoning Administrator or the issuance of a zoning or building permit." (The phrase "or the issuance of a zoning or building permit" shall be added to the existing sentence in the ordinance.)

Commissioner Waters stated that it would make more sense to him to leave out "of the decision made by the Zoning Administrator".

Chairman Hallman opened the Public Hearing for Zoning Text Amendment No. 320.

Norm Mitchell stated that he opposes limiting the term to 45 days, stating that some people travel, and 45 days is too short of a time period.

Being no additional speakers, Chairman Hallman declared the Public Hearing on Zoning Text Amendment No. 320 closed.

Chairman Hallman announced that at this time, the Planning Board would reconvene to the second floor balcony.

RECESS

A motion by Commissioner Brotherton to recess the October 4, 1999 public hearing meeting and open the October 4, 1999 Board of Variance and Appeals meeting.

Unanimously approved.

RECOMMENDATIONS FROM THE PLANNING BOARD -- OCTOBER 4, 1999

Richard Smith, Land Use Coordinator, presented the following Planning Board Recommendations.

CONDITIONAL USE PERMIT NO. 163 – HUBERT BERCHEM, APPLICANT.

The Planning Board recommends unanimous approval with the following restrictions: 1 – Lighting on the project must be focused internally, 2 – A thirty

foot (30') buffer/screening area must be maintained where the lot abuts property that is used for residential purposes, 3 – No outside speakers will be allowed, and 4 – Water runoff must be controlled by a berm or rip-rap at the rear of the paved area.

Chairman Hallman reviewed the Findings of Fact on the Conditional Use Permit.

RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP # 163 Date: October 4, 1999

Applicant's Name: Hubert Berchem
Address: 5044 Beach Side Place
Sherrills Ford, NC 28673

Property Owner's Name: CICA
Address: PO Box 1131
Denver, NC 28037

Property Location: Highway 16, Denver, NC

Existing Zoning: B-N

Proposed Conditional Use: Sailmaking, Retail sail equipment, and boat sales

FINDINGS OF FACT

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. Yes No
Motioned by Commissioner Brotherton.
Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan.
-- Vote: Unanimously approved.
2. The use meets all required conditions and specifications. Yes No
Motioned by Commissioner Brotherton.
Factual Reasons Cited: The use meets all required conditions and specifications.
-- Vote: Unanimously approved.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes No
Motioned by Commissioner Brotherton.

Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
--Vote: Unanimously approved.

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 concerned. Yes X No _____
Motioned by Commissioner Brotherton.

Factual Reason Cited: 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 concerned.

--Vote: Unanimously approved.

After having held a public hearing on October 4, 1999, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Commissioner Brotherton motioned that Conditional Use Permit No. 163, Hubert Berchem, applicant, be approved with the following conditions:

1. Lighting on the project must be focused internally
2. A thirty foot (30') buffer/screening area must be maintained where the lot abuts property that is used for residential purposes.
3. No outside speakers will be allowed
4. Water runoff must be controlled by a berm or rip-rap at the rear of the paved area.

Unanimously approved.

Chairman
Lincoln County Board of Commissioners

Date

Clerk to Board of Commissioners Date

Parallel Conditional Use Rezoning No. 65 – Max A. Caldwell, Jr., applicant

The Planning Board recommended 7 to 1 to defer request to allow applicant time to specify type of usage needed to warrant a PCUR or allow applicant to re-apply for a straight rezoning. In either event, the Planning Board recommends that the case be re-advertised.

Zoning Text Amendment No. 314 – Zoning Ordinance Text Changes

The Planning Board unanimously recommended approval as requested.

Richard Smith, Land Use Coordinator, asked Jeff Taylor about what kind of time frame needed to be given.

Chairman Hallman gave the date of December 1, 1999.

A motion by Commissioner Brotherton to approve Zoning Text Amendment No. 314 effective December 1, 1999.

Unanimously approved.

Zoning Map Amendment No. 319 – Don Hartsoe, applicant

The Planning Board recommended unanimously that this request be denied.

A motion by Commissioner Waters to deny Zoning Map Amendment No. 319 – Don Hartsoe, applicant, based on the Planning Board's recommendation.

Unanimously approved.

Zoning Text Amendment No. 320

The Planning Board unanimously recommended approval with the change of wording so that it reads as follows- "An appeal to the Board of Variances and Appeals shall be made within forty-five (45) days of the issuance or denial of a zoning or building permit or the written decision of the Zoning Administrator.

A motion by Commissioner Waters to approve Zoning Text Amendment No. 320 as amended.

Unanimously approved.

OTHER BUSINESS

Chairman Hallman stated that the Board has a request from the Department of Transportation waiving the \$300 use fee for the Citizen Center. He stated that this has typically been done in the past.

A motion by Commissioner Waters to waive the cost of the Citizens Center for the Department of Transportation.

Unanimously approved.

Commissioner Brotherton stated that he would like to address the accusation Ms. Carol Clise made at the last meeting, in which she stated that Governor's Island Sewer Treatment Facility was Lincoln County's worst polluter of Lake Norman. Her defense was Donna Lisenby, the Catawba Riverkeeper. He called the Riverkeeper the next day and was told "My statement was taken out of context. What I said was Midsouth Utilities has the worst record of violations on Lake Norman, with 38 violations since 1997." He explained to her that he was not really interested in Midsouth Utilities record, but Governor's Island Sewer Treatment Facility. She continued by saying that the facility has been inspected three times since 1997, with four violations. He asked her about the seriousness of the violations, whether they contained to pertained to pollution of the lake, or technical in nature. She did not know. She said she has not taken water samples at the discharge location. He stated that the Catawba Riverkeeper is in no way part of a government agency. Later he talked with Mr. Carroll Weber, former owner of the treatment plant on Governor's Island, and he could not remember any violations that were of a serious manner pertaining to pollution. He suggested a visit to Heter Utilities, which has an office in Denver, where the files were on record. Mr. Brotherton reviewed three large files on Governor's Island and found one citation where the state had some concerns about an operator's qualifications. Another was where the chlorine level was low at one time. Last Friday, he met with Environmental Chemist, Richard Bridgeman. He went over the documents for Governor's Island. He learned that the facility is presently licensed to treat 20,000 gallons daily, but the average is 5,000 gallons daily. Mr. Bridgeman stated that Governor's Island has a track record of operating well within the limitations and stay in compliance at the plant. Their ammonia values always look good according to the reports. They are allowed 30 milligrams for x number of gallons of suspended residue, and they stay in the 8.5 range, according to Mr. Bridgeman. Pollution of the lake on Governor's Island has never been an issue. Mr. Brotherton asked Mr. Bridgeman his personal opinion of the Governor's Island facility. "They appear to be doing well.", "I don't have any record of any fines.", "If anything that facility is underloaded, which makes the task of operation somewhat more difficult and considering that, they are doing an even better job than the report shows", and "They are doing a real good job." were his comments. Mr. Brotherton stated that Ms. Clise's statement would have been more accurate had she said that Governor's Island Treatment Plant is doing the best job of not polluting Lake Norman in Lincoln County, over all that have a discharge that reaches Lake Norman. He stated that after talking to the people that really monitor this, an apology to the fine residents of Governor's Island, Heter Utilities, and Mr. Weber would be in order from Ms. Clise.

Commissioner Saine stated that at the September 13, 1999 Board of Appeals meeting, Robert Burns came to the Board for a variance. She asked the County Attorney if the case could be reheard, since there were only four members present at the time.

Jeff Taylor, County Attorney, stated that a majority at the Board of Variances and Appeals meeting could grant a rehearing, perhaps with five members present.

Richard Smith stated that two firms have submitted proposals to the County for updating the Land Use Plan. Of those two, the Planning Board recommended unanimously to choose the Walker Fields Group, in conjunction with Land Design of Charlotte to revamp our Land Use Plan. The proposal from the Walker Fields Group was \$35,000 for the eastern part of the county, and the remainder of the county at \$97,000. They would update the county-wide plan at one time for \$120,000. The time frame given was six months to a year. The Planning Board's recommendation was going with what the Board had previously allotted, and request an additional \$15,000.

There was a discussion about the Land Use Plan.

It was the consensus of the Board that they would like to hear a presentation from the Walker Fields Group before making a final decision.

CLOSED SESSION – CONTRACTUAL AND PERSONNEL

A motion by Commissioner Waters to go into Closed Session for the following purposes pursuant to N. C. G. S. 143-318.11:

1. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
2. To consult with the County Attorney in order to preserve the attorney-client privilege between the attorney and the public body.

The motion was unanimously adopted.

A motion by Commissioner Beth Saine to return to open session.

Unanimously approved.

Chairman Hallman advised that there was nothing to report from Closed Session.

ADJOURN

A motion by Commissioner Saine to adjourn the October 4, 1999 meeting.

Unanimously approved.