

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, DECEMBER 6, 1999

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on December 6, 1999 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 5:30 PM.

Commissioners Present:

James A. Hallman, Chairman
Terry L. Brotherton, Vice-Chairman
Beth H. Saine
W. J. Waters, Jr.
John R. Gamble, Jr. – Arrived at 6:30 PM

Planning Board Members Present:

Mike Baker, Chairman
Mike Allred
James Funderburk
Phil Hunt
Dean Lutz
Jerry Geymont
Stanley Roseboro
Ron Smith

Others Present:

Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of Building and Land Development
Lee Lawson, Land Use Coordinator
Candace Ramseur, Development Technician

Call to Order: Chairman Hallman called the December 6, 1999 meeting to order.

Election of Chair: Stan Kiser, County Manager, opened the floor to nominations for Chairman.

Commissioner Brotherton nominated James Hallman as Chairman.

UPON MOTION by Commissioner Saine, the nominations were closed and James Hallman was unanimously elected Chairman.

Election of Vice-Chair: Chairman Hallman conducted the election of Vice Chairman.

Commissioner Saine nominated Commissioner Terry Brotherton as Vice Chairman.

UPON MOTION by Commissioner Waters, the Board voted unanimously to close the nominations and elect Commissioner Brotherton as Vice Chairman.

Adoption of Agenda: **UPON MOTION** by Commissioner Brotherton, the Board voted unanimously to adopt the agenda as follows, with the additions in bold.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARINGS

DECEMBER 6, 1999

- | | | |
|------------|----------------|---|
| | 5:30 PM | Call to Order |
| | | Election of Chair |
| | | Election of Vice-Chair |
| 1. | 5:30 PM | Adoption of Agenda |
| 2. | 5:30 PM | Adoption of Rules of Procedure |
| 3. | 5:30 PM | Announcement of Board Organization |
| 4. | 5:30 PM | Approval of Minutes <ul style="list-style-type: none">- November 15, 1999- November 29, 1999 |
| 4a. | 5:30 PM | Sludge Facility at Water Plant |
| 5. | 5:30 PM | New Business / Advertised Public Hearings |
- Conditional Use Permit No. 165 – Richard L. Kunz, applicant,
Request for a Conditional Use Permit in order to accommodate a
used automobile dealership. The property is owned by Ms. Judy
Farmer and located off of South Highway 16 in Stanley, NC.
The property is located in the Neighborhood Business (B-N)
zoning district with a Designated Highway (D-H) overlay.
- Subdivision Ordinance Amendment No. 13 -- Subdivision
Ordinance Amendment to require developers to pay all
applicable county fees according to the current fee schedule
adopted by the Lincoln County Board of Commissioners.

6. 5:50 PM Lake Haven Estates – Christie Martin
7. 6:05 PM Board of Equalization and Review – Madge Huffman
8. 6:15 PM Request for Permission for Fireworks Use On New Years Eve – Jerry Rogers and Mike Futrell
9. 6:30 PM Approval of 2000 Meeting Schedule
10. 6:40 PM Other Business
- 10a. 6:45 PM Minimum Standards for Adult Care Homes**
11. 6:50 PM Recommendations from the Planning Board – December 6, 1999
 - Conditional Use Permit No. 165 – Richard Kunza, applicant.
 - Subdivision Ordinance Amendment No. 13.
12. 7:15 PM Closed Session – Contractual and Personnel

Adjourn

Adoption of Rules of Procedure: UPON MOTION by Commissioner Saine, the Board voted unanimously to adopt the Rules of Procedure as presented after the following discussion.

Commissioner Brotherton stated that an area that has caused some confusion is amendments to motions, and amendments to the amendments. He stated that he believes this should be looked at.

Chairman Hallman stated that the Board could limit it to one amendment.

Commissioner Waters stated that he likes the idea of limiting it to one amendment.

Jeff Taylor, County Attorney, stated that he could work on it and bring back some language to make the changes.

Chairman Hallman stated that Board could go ahead and approve the Rules of Procedure and then amend the Rules of Procedure.

Jeff Taylor stated that Dr. Gamble suggested a change to provide some language that requires a yes or no vote for any votes of substance.

Announcement of Board Organization: Chairman Hallman presented the following Board Organization.

COMMISSIONER

ORGANIZATION

James A. Hallman, Chairman

Chamber of Commerce
Hospital Board of Trustees

Terry Brotherton, Vice Chairman

Social Services Board
SDA Consortium, (JOBS-COG)
Emergency Services Advisory Council
Recreation Commission
Economic Development

Beth Saine

Airport Authority
Catawba River Task Force
Appointment Coordinator
Historic Properties Commission

Dr. John Gamble

Centralina Council of Government
Human Relations Council
Greater Lincolnton Association –
Downtown, Inc. (GLAD)
Lincoln Cultural Center

W. J. Waters, Jr.

Board of Health
Gaston-Lincoln Mental Health
Carolinas County Coalition
Centralina Development Corporation
Communities in Schools
Centralina Private Industry Council.

Approval of Minutes: Chairman Hallman presented the minutes of the November 15, 1999 Regular Meeting and the November 29, 1999 Recessed Meeting for approval.

UPON MOTION by Commissioner Waters, the Board approved the November 15, 1999 and the November 29, 1999 minutes.

Sludge Facility at Water Plant: Jack Chandler, Director of Public Services, presented the Board with copies of a letter to his attention, dated February 11, 1999, from Terry A. Gross of the Public Water Supply Section, concerning an inspection of the Water Treatment Facility of the Lincoln County Water System. A list of recommendations was made, which included that a waste disposal system must be constructed and existing clearwell used as hold tank placed in service. Mr. Chandler stated that they have applied for Grant money for this project, and expected to have some type of funding in place by this time, but the grants were postponed by 60 days due to the flooding in eastern North Carolina.

Mr. Chandler stated that there is a bid opening scheduled for this project on Thursday, December 9, 1999 at 2:00 PM. He stated that without having funding for the project in

place, it's been recommended that they delay the bid opening. He stated that the alternative is that they continue with the bid opening as scheduled, and initially fund the project by way of the general fund and the fund balance, in the hopes of getting grant money or through a loan or some type of lease-purchase agreement.

Mr. Chandler stated that the final aspect of delaying the bid opening is that the contractor is expecting a price increase in the near future. To avoid the price increase, they would have to be able to award the contracts for the project at the December 13, 1999 meeting.

Mr. Chandler stated that regardless of how this is funded, the State has already said in this letter that they have to proceed with this project.

Commissioner Brotherton asked what period of time was available after the bid opening to award the contract.

Jack Chandler stated that this was something that was left out of the original construction. He stated that this project will free up what was originally designed as a one million gallon clear well at the plant, that is now being used to store the sludge.

Mr. Chandler stated that in a number of weeks, they are going to be pumping sludge out and land applying. He stated that this is not intended to be a long-term project.

Mr. Chandler stated that the contract they have for the land applying is at a cost of three cents per gallon. He stated that just to get the clear well cleaned out, they are looking at a million gallons, and could easily go above a million gallons.

UPON MOTION by Commissioner Waters, the Board voted unanimously to open the bids and make a firm decision on awarding them in that thirty-day period.

New Business: Advertised Public Hearings: Chairman Hallman announced that this was the date, Monday, December 6, 1999 and the time, 5:30 PM, which was advertised in the *Lincoln Times-News* on November 26, 1999 and December 3, 1999.

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, December 6, 1999 (note time change) to consider the following zoning related matters:

CUP #165 Richard L. Kunz, applicant: A request for a Conditional Use Permit in order to accommodate a used automobile dealership. This property is located in the Neighborhood Business (B-N) Zoning district with a Designated Highway (D-H) overlay.

SOA #13: An amendment to the Subdivision Ordinance that will require developers to pay all applicable county fees according to the current fee schedule adopted by the Lincoln County Board of Commissioners.

Conditional Use Permit No. 165 – Richard L. Kunz, applicant: Lee Lawson, Land Use Coordinator, presented the following information concerning Conditional Use Permit No. 165 – Richard L. Kunz, applicant.

The applicant is requesting a Conditional Use Permit for property owned by Ms. Judy Farmer located off of South Highway 16 in Stanley, NC. The applicant is making this request in order to accommodate a used automobile dealership. The property is located in the Neighborhood Business (B-N) zoning district with a Designated Highway (D-H) overlay.

The parcel is 0.400 acres and is located in the Catawba Springs Township. The property is joined on the south, west, east, and north by properties that are zoned Residential-Single Family (R-SF) with a D-H overlay. The Lincoln County Land Development Plan calls for lower density development in this area. A motor vehicle sales lot requires the issuance of a Conditional Use Permit in the B-N zoning district.

Commissioner Waters stated that this parcel is not big enough to be zoned Neighborhood Business.

Chairman Hallman asked if there was anyone wishing to speak regarding Conditional Use Permit No. 165 – Richard L. Kunz, applicant. Having been sworn by the Clerk, Amy S. Long, the following individuals presented information concerning Conditional Use Permit No. 165.

Richard L. Kunz stated that his plan is to set up a small used car lot, and he needs the space primarily for office space. He stated that they will be automobile wholesalers. He stated that there will be six to eight cars out front.

Jeff Dellinger presented a petition against the Conditional Use Permit with six names on it. He stated that the lot is awful small for a car lot.

Hubert Arndt stated that he lives close to this property on Highway 16. He stated that there is already congestion on 16. Mr. Arndt stated that these cars will make a blind spot for people trying to pull out onto Highway 16.

Being no additional speakers, Chairman Hallman declared the Public Hearing for Conditional Use Permit No. 165 – Richard L. Kunz, applicant, closed.

Subdivision Ordinance Amendment No. 13: Lee Lawson, Land Use Coordinator, presented the following information concerning Subdivision Ordinance Amendment No. 13.

The following amendments to the Subdivision Ordinance will require developers to pay all applicable county fees according to the current fee schedule adopted by the Lincoln County Board of Commissioners.

Specifically the following underlined and italicized text will be added to Section 201.

201 General Procedure for Plat Approval

After the effective date of this ordinance, no subdivision plat of land within the County's jurisdiction shall be filed or recorded unless it has first been submitted to mapping two days prior to the review of the Subdivision Administrator and approved by the proper body as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Subdivision Administrator. All applicable county fees must be paid according to the current fee schedule adopted by the Lincoln County Board of Commissioners.

Chairman Hallman asked if there was anyone wishing to speak concerning Subdivision Ordinance Amendment No. 13.

Lake Haven Estates – Christie Martin: Christie Martin, a resident of Lake Haven Estates, showed a short video of their neighborhood. Ms. Martin stated that this dates back to 1996 when Mr. Bill Miller applied for a Conditional Use Permit to put in one modular home. Since then, without notifying the residents, Mr. Miller has added a strip mall right in their neighborhood. Ms. Martin presented the Board pictures of their neighborhood. She stated that in 1996, Bill Miller submitted his application for a Conditional Use Permit with a landscape drawing. Since then, Bill Miller has continually violated several conditions such as: actually putting in the structure at an angle against the original drawing; using the model home to live in, even without water and electricity; renting the model home to construction workers to live in; and construction trash and a tractor trailer littered the lot for three years. Bill Miller would not mow the lawn, and it grew six feet in places. The lot was never landscaped and the buffer was never put in. Ms. Martin stated that their neighborhood called, wrote, and visited Land and Building Development complaining on and off for three years. They were always told there was nothing they could do. She stated that they have approached Bill Miller on and off for three years and were denied satisfaction. She asked the Board to find a way to remove the model home and completely buffer this business from their homes.

Chairman Hallman asked Kelly Atkins, Director of Building and Land Development if Bill Miller has violated the Conditional Use Permit.

Kelly Atkins stated that Mr. Miller has violated the Conditional Use Permit. Mr. Atkins stated that action has been taken with each complaint that was received.

Commissioner Waters stated that the original plan was two homes, he asked how it is now a strip mall.

Kelly Atkins stated that Mr. Miller can build the strip mall by right as long as he screens the area that abuts the residential district and subdivide the land, which he has done.

Commissioner Brotherton stated that Mr. Miller's property is as much a part of Lake Haven Estates as the residential part. Commissioner Brotherton stated that Mr. Miller

has as much right to use that road as the residents do, because his lots are part of the subdivision. He stated that he believes that Mr. Miller and Rodney Sherrill paid for the paving of the road, and the residents were supposed to repay assessments. Mr. Sherrill and Mr. Miller have never collected from the residents.

Chairman Hallman stated that there are three things on the petition and the first one is for Mr. Miller to stop entering on Sarah and Katherine Drive. He asked Kelly Atkins if there was anything in the Zoning Ordinance that requires that he not use that street.

Kelly Atkins stated that there was not, it should be handled through the homeowner's association, if they have some guidelines about the roads.

Chairman Hallman stated that the second is that Bill Miller separate the business property totally with no entrance from Katherine or Sarah Drive thereby dividing it with a privacy fence or embankment with tall shrubs.

Kelly Atkins showed the Board the plan that was presented and approved by himself and Richard Smith.

Chairman Hallman stated that the third on the list is that Bill Miller repair the damaged asphalt to Sarah Drive that was caused by his water leak and the constant construction traffic, and replace the gravel on Katherine Drive.

Kelly Atkins stated that there is nothing from the County that would make him repair the road.

Bill Miller stated that they paved that road at their expense. The original homeowners in there said they would pay a share. The only original homeowner in the development is the lady that spoke. He stated that the Conditional Use Permit was for a modular house showroom, and after they built a few modular homes, they felt their stick built home construction was superior to modular homes. He then decided to go back to original zoning and use the building as a retail office business.

Christie Martin stated that she holds the maintenance agreement for the road, and Mr. Miller's name is not on it. She stated that she would like to pass her speaking along to other neighbors.

Keith Sawyer stated that he lives across from the business. He stated that it is an eyesore. He stated that it is a chore, picking up Mr. Miller's construction trash, and he has had to put pylons up in his yard to keep the trucks out of his yard. He stated that there is a leak in front of Mr. Miller's driveway. Mr. Sawyer stated that a few weeks ago, he was late for work because brick trucks were lined up in the road, and he could not get out of the road.

Lisa Blankenship stated that she is looking at this from a resident's point of view. She stated that this is a neighborhood where their children play, and there is a mall going up.

She stated that there has never been any landscaping at Mr. Miller's place, and they almost did not buy in the neighborhood because it looks so bad.

Commissioner Brotherton stated that five or six weeks ago, Mr. Sawyer called him concerning a water leak. He stated that the County does not have water lines on Sarah Drive. He stated that someone built some houses and extended individual water lines from the houses to Highway 16. Commissioner Brotherton stated that he asked Jack Chandler if he could determine who had the leak. There was one homeowner that had an excessive amount of usage. He stated that the County has no obligation to the water lines on Sarah Drive.

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

Board of Equalization and Review: Madge Huffman stated that the Lincoln County Board of Commissioners has previously adopted a resolution to create a special Board of Equalization. The Board of Equalization and Review serves at the pleasure of the Board of Commissioners to hear any or all taxpayers who own or control taxable property assessed for taxation in the County with respect to the valuation of such property or property of others.

Each year this Board shall hold its first meeting not earlier than the first Monday in April and not later than the first Monday in May. In years in which a county does not conduct a real property revaluation. The Board shall complete its duties on or before the third Monday following its first meeting unless, in its opinion, a longer period of time is necessary or expedient to a proper execution of its responsibilities. In the year in which a county conducts a real property revaluation, the Board shall complete its duties on or before December 1, except when deemed necessary and all required provisions are met.

Since the Board of Equalization and Review is not allowed to convene after the required adjournment date, under G.S. 105.325, the powers of further appeal for the taxpayer is returned to the Board of County Commissioners.

Other counties in the state of North Carolina have recognized the need for the Board of Equalization to meet at other times of the year to hear appeals related to discovered property, motor vehicles, audits, exclusion and exemptions, etc. It is not the intent of this extension to hear real property value appeals twelve months of the year. For this change, these counties have presented the North Carolina Legislation with a bill to authorize the local boards to meet after adjournment to hear these cases.

Ms. Huffman stated that she would like to propose that the Board of Commissioners allow Lincoln County to proceed with a similar bill with the help of the County Attorney and State Representatives.

UPON MOTION by Commissioner Saine, the Board voted unanimously to have the County Attorney and the Tax Department to proceed with the appropriate documentation, a request to the General Assembly to allow this.

Request for Permission for Fireworks Use on New Years Eve – Jerry Rogers and

Mike Futrell: Mike Futrell, Fire Marshal, stated that Westport Baptist Church has requested permission for fireworks use on New Years Eve. He stated that the company that is doing the fireworks has also done Carolina Panthers games, Charlotte Hornets games, Atlanta Olympics games, Chicago Bulls, and Paramounts Carowinds. They have a five million-dollar liability insurance coverage for any personal or property damage. All their workers are trained and have gone to school.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to allow Westport Baptist Church fireworks subject to the Fire Marshal's assurance that they meet all appropriate guidelines.

Approval of 2000 Meeting Schedule: Chairman Hallman presented the following 2000 Meeting Schedule for the Board's approval.

The Board agreed to change the February 7, 2000 meeting to February 14, 2000 and the January 4, 2000 meeting to January 10, 2000.

UPON MOTION by Commissioner Waters, the Board approved the 2000 Meeting Schedule as adjusted.

**NOTICE
LINCOLN COUNTY
BOARD OF COMMISSIONERS
2000 MEETING SCHEDULE**

Monday, January 10, 2000

- **5:30 P.M. Public Hearings – Zoning**
- **Board of Variance & Appeals (Following Public Hearing/Zoning)**
- **Regular Meeting**

Monday, January 17, 2000

- **5:30 P.M. Regular Meeting**

Monday, February 14, 2000

- **5:30 P.M. Public Hearings – Zoning**
- **Board of Variance & Appeals (Following Public Hearing/Zoning)**
- **Regular Meeting**

Monday, February 21, 2000

- 5:30 P.M. Regular Meeting

Monday, March 6, 2000

- 5:30 P.M. Public Hearing - Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, March 20, 2000

- 5:30 P.M. East Lincoln County Water & Sewer District
- 6:00 P.M. Regular Meeting

Monday, April 3, 2000

- 5:30 P.M. Public Hearing - Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, April 17, 2000

- 5:30 P.M. Regular Meeting

Monday, May 1, 2000

- 5:30 P.M. Public Hearings – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, May 15, 2000

- 5:30 P.M. Regular Meeting

Monday, June 5, 2000

- 5:30 P.M. Public Hearings – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, June 19, 2000

- 5:30 P.M. East Lincoln County Water & Sewer District
- 6:30 P.M. Regular Meeting

Monday, July 3, 2000

- 5:30 P.M. Public Hearing – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, July 17, 2000

- 5:30 P.M. Regular Meeting

Monday, August 7, 2000

- 5:30 P.M. Public Hearing – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, August 21, 2000

- 5:30 P.M. Regular Meeting

Monday, September 11, 2000

- 5:30 P.M. Public Hearing – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, September 18, 2000

- 5:30 P.M. East Lincoln County Water & Sewer District
- 6:00 P.M. Regular Meeting

Monday, October 2, 2000

- 5:30 P.M. Public Hearing – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, October 16, 2000

- 5:30 P.M. Regular Meeting

Monday, November 6, 2000

- 5:30 P.M. Public Hearing – Zoning
- Board of Variance & Appeals (Following Public Hearing/Zoning)
- Regular Meeting

Monday, November 20, 2000

- **5:30 P.M. Regular Meeting**

Monday, December 4, 2000

- **5:30 P.M. Public Hearing – Zoning**
- **Board of Variance & Appeals (Following Public Hearing/Zoning)**
- **Regular Meeting**

Monday, December 18, 2000

- **5:30 P.M. Regular Meeting**

Other Business: Chairman Hallman stated that he has received a check made out from John R. Gamble, Jr., MD for \$1,650.03 to refund certain pay that he received while he was unavailable to attend meetings during his illness.

Chairman Hallman presented the following Ordinance Regulating Minimum Standards for Adult Care Homes Licensed and Operating in Lincoln County. He stated that this was approved at a previous meeting, but due to the fact that Commissioner Gamble was not present, it requires a second vote to be adopted.

UPON MOTION by Commissioner Gamble, the Board unanimously approved the Ordinance Regulating Minimum Standards for Adult Care Homes Licensed and Operating in Lincoln County.

**AN ORDINANCE REGULATING MINIMUM STANDARDS FOR
ADULT CARE HOMES LICENSED AND OPERATING
IN LINCOLN COUNTY**

WHEREAS, the Lincoln County Board of Commissioners has heard a number of complaints from time to time regarding potentially dangerous conditions and various other deficiencies in adult care homes in Lincoln County; and

WHEREAS, the State of North Carolina, through the Division of Facilities Services of the Department of Health and Human Services, has adopted regulations governing many aspects of the construction and operation of such facilities; and

WHEREAS, the Lincoln County Board of Commissioners believes that the Minimum standards should be more stringent, particularly with regard to the safety of the building housing adult care homes; and

WHEREAS, the Board of Commissioners verily believes that it would be in the best interests of the citizens of Lincoln County and would promote the health, safety, and welfare of its citizens to set higher standards with regard to certain aspects of adult care facilities in Lincoln County;

NOW, THEREFORE, pursuant to the authority of Section 153A-121 of the North Carolina General Statutes, the Lincoln County Board of Commissioners hereby enacts the following Ordinance:

Section I.

DEFINITIONS. The following definitions shall apply to the terms used in this Ordinance.

- A. “Adult care home” refers to an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents as defined in N.C.G.S. 131D-2 (1b).
- B. “Building” or “facility” refers to the building or buildings housing an adult care home.
- C. “Home” refers to an adult care home as defined above.

Section II.

GENERAL BUILDING REQUIREMENTS

- A. The building (including any contiguous unlicensed sections) and all fire safety, electrical, mechanical, and plumbing equipment must be maintained in a safe and operating condition.
- B. There must be an approved heating system sufficient to maintain 75 degrees F. (24 degrees C) in all areas (including any contiguous unlicensed sections of the building) which residents must egress through during their regular daily routines under winter design conditions.
- C. Air conditioning or at least one fan per resident bedroom and living and dining areas (including any contiguous unlicensed sections) must be provided when the temperature exceeds 88 degrees F (31 degrees C) in any central corridor which residents must egress through during their regular daily routines.
- D. All steps, porches, stoops, and ramps must be provided with handrails and guardrails.

Any facility which is above grade must have an approved handicapped wheelchair ramp which complies with all current Americans With Disabilities Act standards and must be attached to a licensed section of the facility.

- E. All new construction and all additions, renovations and/or modifications to existing buildings (including any contiguous unlicensed sections) must meet the full requirements of the North Carolina Building Code for institutions and the sanitation requirements of the Division of Health Services as well as the requirements of this Ordinance.

Section II.

BEDROOM REQUIREMENTS

- A. A bedroom within a facility may not be occupied by more than two residents. This requirement also applies to homes licensed before April 1, 1984, in which five residents were allowed to occupy one bedroom.
- B. Each resident bedroom must be ventilated with one or more windows which are maintained operable and well lighted. The window area must be equivalent to at least eight percent of the floor space. The windows must be low enough to see outdoors from the bed and chair, with a maximum 36 inch sill height (as measured from the interior floor to the bottom of the sill) on interior walls and a maximum height of not more than 66 inches (as measured from grade to the bottom of the sill) on exterior walls.

Section IV.

SANITATION REGULATIONS

- A. Housekeeping: All adult care homes must have a sanitary grade of 90 or above at all times.
- B. In addition to any other applicable requirements, the facility must contain space for storage of dry refrigerated and frozen food items to comply with sanitation regulations. Such storage space must be located within the licensed section of the building.

Section V.

PERMITS, ENFORCEMENT; EFFECTIVE DATE

- A. No Lincoln County permits of any kind shall be issued for an adult care home until the operator (or proposed operator) has demonstrated compliance with the provisions of this Ordinance.
- B. The Lincoln County Department of Building and Land Development shall be responsible for enforcement of the provisions of Sections II and III of this Ordinance.
- C. The Lincoln County Health Department shall be responsible for enforcement of the provisions of Section IV of this Ordinance.

D. Violations of this Ordinances may be enforced by any one or more of the remedies authorized by Section 153A-123 of the North Carolina General Statutes, including, but not limited to, the following:

(1) A citation issued by Lincoln County staff which subjects the offender to a civil penalty of fifty dollars (\$50.00) to be recovered by the County in a civil action in the nature of debt if the offender does not pay the penalty within twenty (20) days after being cited for a violation.

(2) A civil action seeking an injunction and order of abatement may be directed toward any person or entity creating or allowing the creation of a condition that violates the provisions of this Ordinance.

(3) A misdemeanor warrant. A violation of this Ordinance upon the issuance of a misdemeanor warrant shall be punishable under Section 14-4 of the North Carolina General Statutes by a maximum sentence of thirty (30) days and/or a maximum fine of fifty dollars (\$50.00).

E. This Ordinance shall be effective upon its adoption.

Adopted by the Lincoln County Board of Commissioners this _____ day of November, 1999.

James A. Hallman, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Long
Clerk to the Board of Commissioners

Commissioner Gamble stated that Rick McSwain has worked diligently and loyally for the County, to the point that the Soil and Water Conservation Board has recommended that he be recognized for that service, and given a raise.

Stan Kiser, County Manager, apologized for taking so long to getting around to that particular issue. He stated that Mr. McSwain's salary increase did not have anything to do with change in position or change in classification. He stated that he wanted to be put substantially equivalent with Gaston and Catawba Counties. Mr. Kiser stated that based on that, he denied the request.

Commissioner Saine stated that other than the County Manager and Clerk to the Board, the Board of Commissioners does not give salary increases. It is the responsibility of the County Manager to do this.

Charles Wallace stated that he is on the Soil and Water Conservation Board. He said that Mr. McSwain is doing a fine job. He stated that Mr. McSwain was asked to get comparable salaries from other counties. Mr. Wallace stated that the workload in Lincoln County is greater than the adjoining counties.

Commissioner Gamble stated that there is no additional expense to the County to do it. He stated that this pay increase should be retroactive to the date of the request.

A MOTION by Commissioner Gamble made a motion to give Rick McSwain the raise, as requested by the Soil and Water Conservation Board.

VOTE: **2 – 3** AYES: Gamble, Waters
 NOES: Hallman, Brotherton, Saine

Chairman Hallman suggested that Mr. Wallace go back to the Board and try to change Mr. McSwain's job classification.

Commissioner Gamble stated that he would like to make a comment based on what he read in the paper. He stated that according to a newspaper report, the Hospital made a little over \$73,000 in October. He stated that he wanted to call to the Board's attention that this amount of money would not cover interest and principal in payments for October.

Commissioner Brotherton stated that he understands Commissioner Gamble's concerns. He stated that he thought that it meant the \$73,000 was left after paying bills.

Commissioner Brotherton stated that ten teachers from the Lincoln County School System received the most distinguished level of recognition for teaching awarded in the United States. He stated that he would like to see the Board of Commissioners consider some type of recognition for these teachers. He stated that he would like to see some type of award put into place, possibly the Lincoln County Award for Excellence or the Board of Commissioners Awards of Excellence.

It was the Consensus of the Board to have Resolutions written up with each teacher's name on them for the December 13, 1999 meeting, and present them in January.

Commissioner Gamble stated that it was his understanding that the Hospital Administrator was supposed to be at the meeting next week, but is not planning to come. He asked if there was some way to make the Hospital Administrator meet with the Board.

Chairman Hallman read Article 7, Section 7 out of the Hospital Bylaws.

Recommendations of the Planning Board – December 6, 1999: Lee Lawson, Land Use Coordinator, presented the following recommendations from the Planning Board.

Conditional Use Permit No. 165 – Richard L. Kunz, applicant: The Planning Board unanimously recommended approval with the following conditions: 1 – Show the proper setbacks for the Neighborhood Business (B-N) zoning district around the accessory structure on the site plan, and 2 – Show the required screening on all sides of the lot that abuts a residential district.

RECOMMENDATION ON FINDINGS OF FACT
FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP # 165

Date: December 6, 1999

Applicant's Name: Richard L. Kunz, Sr.
Address: 401 Livingston Drive
Charlotte, NC 28211

Property Owner's Name: Judy Edwards
Address: 408 E. Main Street
Walhalla, SC 29691

Property Location: 1689 Hwy 16 South, Stanley, NC 28164

Existing Zoning: B-N/D-H

Proposed Conditional Use: Used Car Dealership

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

2. The use meets all required conditions and specifications. Yes X No _____
Motioned by Commissioner Brotherton.
Factual Reasons Cited: The use meets all required conditions and specifications.
-- Vote: 3 – 1 AYES: Hallman, Brotherton, Saine
NOES: Waters

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. Yes X 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: 3 – 1 AYES: Hallman, Brotherton, Saine
NOES: Waters
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: 3 – 1 AYES: Hallman, Brotherton, Saine
NOES: Waters

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. 165, Richard L. Kunz, applicant, be approved with the following conditions:

1. Show the proper setbacks for the Neighborhood Business (B-N) zoning district around the accessory structure on the site plan, and

Show the required screening on all sides of the lot that abuts a residential district.

**VOTE: 3 – 1 AYES: Hallman, Brotherton, Saine
NOES: Waters**

Chairman
Lincoln County Board of Commissioners

Date

Clerk to Board of Commissioners

Date

Subdivision Ordinance Amendment No. 13: Lee Lawson stated that the Planning Board unanimously recommended approval as requested.

UPON MOTION by Commissioner Brotherton, the Board voted unanimously to approve Subdivision Ordinance Amendment No. 13.

Adjournment: **UPON MOTION** by Commissioner Waters, the Board voted unanimously to adjourn

Amy S. Long, Clerk
Board of Commissioners

James A. Hallman, Chairman
Board of Commissioners