

**LINCOLN COUNTY
BOARD OF COMMISSIONERS**

**MINUTES
OCTOBER 6, 1997**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on October 6, 1997 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 p.m. for the purpose of conducting public hearings on zoning issues. The following were present:

Louis E. McConnell, Chairman
James A. Hallman, Vice Chairman
Terry L. Brotherton
Larry S. Craig
Beth H. Saine

Jeffrey Taylor, Assistant County Attorney
Richard French, County Manager—Arrived about 10:00 PM
Stan Kiser, Assistant County Manager

Planning Board Members present were: John Black, Mike Baker, Ron Smith, James Funderburk, Jerry Geymont, Gary Garlow, Stanley Roseboro, and Mike Allred.

Also present were Judy Francis, Zoning Administrator, Steven Smith, Land Use Coordinator, and Amy S. Long, Clerk to the Board of Commissioners.

CALL TO ORDER

Chairman McConnell called the October 6, 1997 meeting to order.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

AND

PLANNING BOARD

OCTOBER 6, 1997

PUBLIC HEARINGS

	6:30 PM	Call to Order
1.	6:30 PM	Approval of Minutes August 11, 1997
2.	6:30 PM	Public Hearings

Zoning Map Amendment No. 230 -- Joe Henderson, Applicant. Request for a Zoning Map Change for His Property on Highway 27 West from RS-DH (Residential Suburban) to IG (General Industrial) in the Highway Overlay District to Bring a Business That Existed Prior to Zoning Into Conformity.

Zoning Map Amendment No. 231 – Painter, Robinson, Proctor, Howard, Gibson, Abernethy, Moon and Sain, Applicants. Request for a Zoning Map Change for These Parcels on or Near Madison Furnace Trail from R-T (Residential Transition) to R-SF (Residential Single Family)

Zoning Map Amendment No. 233 – Covenant Development, LLC, Applicant. Request for a Zoning Map Change for a Portion of This Parcel That Lies on the South Side of Little Egypt Road from R-T (Residential Transition) to R-SF (Residential Single Family)

Conditional Use Permit No. 115 – Denise Jackson, Applicant. Request for a Conditional Use Permit to Allow a Used Car Sales Lot in the B-N (Neighborhood Business) District on Highway 16 North at Mundy Road in the Denver Area.

Parallel Conditional Use Permit No. 44 – Robert F. Fredell, Applicant. Request for a Parallel Conditional Use Permit That Would Rezone the Parcels from R-S (Residential Suburban) to R-R (Rural Residential) and Bring an Existing Commercial Fishing Lake Business on W. Highway 27 Into Conformity With a Conditional Use Permit.

Watershed Text Amendment No. 2 – A Text Amendment to the Lincoln County Water Supply Watershed Ordinance that Updates Language to Reflect Recent Organizational Name Changes and Make the Definition of “Discharging Landfill” Consistent with Statewide Terminology.

Zoning Map Amendment No. 232 – A Text Amendment to Chapter 2 of the Zoning Ordinance to Add Definitions for the Words “Slip” and “Commercial Use”.

3. 7:30 PM **At this time the Board of Commissioners will recess the October 6, 1997 meeting and open the October 6, 1997 Board of Variances and Appeals Meeting.**

4. 8:00 PM County Commissioner's Report
5. 8:10 PM County Manager's Report
6. 8:15 PM Other Business
7. 8:20 PM Recommendations from the Planning Board

Zoning Map Amendment No. 230 – Joe Henderson, Applicant

Zoning Map Amendment No. 231 – Painter, Robinson, Proctor, Howard, Gibson, Abernethy, Moon and Sain, Applicants

Zoning Map Amendment No. 233 – Covenant Development, LCC, Applicant

Conditional Use Permit No. 115 – Denise Jackson, Applicant.

Parallel Conditional Use Permit No. 44 – Robert F. Fredell, Applicant.

Watershed Text Amendment No. 2 – Amendment Updates Language to Reflect Organizational Name Changes and Makes “Discharging Landfill” Definition Consistent with Statewide Terminology

Zoning Text Amendment No. 232 – Amendment to Chapter 2 of the Zoning Ordinance to Add Definition for the Words “Slip” and “Commercial Use”.
8. 8:45 PM Closed Session (If Necessary)

Adjourn

Commissioner Larry Craig made a motion to add item 3a – Social Service Request to agenda.

Seconded by Commissioner Terry Brotherton.
Unanimously approved.

APPROVAL OF MINUTES

Chairman McConnell presented the minutes of the August 11, 1997 Board of Commissioners Work Session meeting for approval.

Commissioner Larry Craig motioned that the minutes of August 11, 1997 Regular Meeting be approved.

Seconded by Commissioner James Hallman.
Unanimously approved.

PUBLIC HEARING - ZONING ISSUES

Chairman McConnell announced that this was the date, Monday October 6, 1997 and the time, 6:30 p.m., which was advertised in the *Lincoln Times-News* on September 26, 1997 and October 6, 1997 for a Public Hearing on zoning requests.

NOTICE LINCOLN COUNTY PUBLIC HEARING

Zoning Map Amendments Conditional Use Permits Parallel Conditional Use Rezonings

Lincoln County Board of Commissioners will hold a public hearing on Monday, October 6, 1997 at 6:30 p.m. in the Commissioner's Board Room, Third Floor Citizens Center, 115 W. Main Street, Lincolnton, NC. A public hearing will be held for the following requests:

WSTA 2-A text amendment to the Lincoln County Water Supply Watershed Ordinance that updates language to reflect recent organizational name changes and make the definition of "discharging landfill" consistent with statewide terminology.

ZMA 230-J. Henderson requests to rezone area on Highway 27 West from RS-DH to IG in the highway overlay district to bring a business that existed prior to zoning into conformity.

ZMA 231-W. Elliot Painter, R. & E. Robinson, Geneva Proctor, Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon & E. Saine request to rezone area on or near Madison Furnace Trail from R-T to R-SF.

ZTA 232-Text amendment to Chapter 2 of the Zoning Ordinance to add definitions for the words "slip" and "commercial use".

ZMA 233-Covenant Development, LLC, requests to rezone a portion of a parcel that lies on the south side of Little Egypt Road from R-T to R-SF.

CUP 115-Denise Jackson requests a Conditional Use Permit to allow a used car sales lot in the B-N district on Highway 16 North at Mundy Road in the Denver area.

PCUR 44-Robert F. Fredell requests a Parallel Conditional Use Permit that would rezone the parcels from R-S to R-R and bring an existing commercial fishing lake business on W. Highway 27 into conformity with a Conditional Use Permit.

Zoning Map Amendment No. 230—Joe Henderson, Applicant

Judy Francis, Zoning Administrator, presented information on Zoning Map Amendment No. 200--Regina Crenshaw, Applicant.

The applicant is requesting a zoning map change for his property on W. Highway 27 from RS-DH to IG-DH to bring a business that existed prior to zoning into conformity.

The property, which consists of 4.83 acres, is located at 5973 W. Highway 27 in the Vale area and is currently zoned R-S in the highway overlay district. An existing single family residence on the property will be subdivided off on a lot of at least one-third acre and is not part of the property to be rezoned. An auction house/registered junkyard has existed on the lot since 1972. The parcel has IG zoning to the west, R-SF to the south, and R-S to the north and east. Surrounding structures are single family residences, mobile homes, and commercial in nature. The Lincoln County Land Development Plan calls for medium density development in this area.

Chairman McConnell asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 230—Joe Henderson, Applicant.

Joe Henderson, applicant, stated that he was trying to comply with zoning, bringing a business he had operated since 1972 into conformity. He commented that his plans are to tear the old building down and build a new auction house.

Chairman McConnell asked if anyone else would like to speak. Being no additional speakers, Chairman McConnell declared the Public Hearing on Zoning Map Amendment No. 230—Joe Henderson, Applicant, closed.

Zoning Map Amendment No. 231—W. Elliot Painter, R. & E. Robinson, Geneva Proctor, Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon and E. Sain, Applicants

Judy Francis, Zoning Administrator, presented information on Zoning Map Amendment No. 231-- W. Elliot Painter, R. & E. Robinson, Geneva Proctor,

Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon and E. Sain, Applicants

The applicants and their neighbors are requesting a zoning map change for their property on or near Madison Furnace Trail in Pumpkin Center from R-T to R-SF.

The properties consist of 157 acres, are located on Madison Furnace Trail in Pumpkin Center and are currently zoned R-T. Six of these parcels are currently vacant and three of them have single family residences on them. The parcels have R-S zoning to the north and west, R-SF zoning to the north, and R-T zoning to the south and east. Surrounding parcels have single family residences and mobile homes on them. The Lincoln County Land Development Plan calls for higher density residential development in the area.

Chairman McConnell asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 231-- W. Elliot Painter, R. & E. Robinson, Geneva Proctor, Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon and E. Sain, Applicants.

Libby Robinson spoke in favor of the request saying that the owners wanted to make it a better area. The owners would also like to preserve a historic site on the land. She stated there is a doublewide on the land and the other landowner, not on the application, is also in favor of this.

Darlene Gibson spoke in favor of the request stating that on one side of the road there are about 150 homes, on the other there are a lot of trailers. They want to keep the neighborhood upgraded.

Chairman McConnell asked if anyone else would like to speak. Being no additional speakers, Chairman McConnell declared the Public Hearing on Zoning Map Amendment No. 231-- W. Elliot Painter, R. & E. Robinson, Geneva Proctor, Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon and E. Sain, Applicants.

Zoning Text Amendment No. 233—Covenant Development, LLC, Applicant

Judy Francis, Zoning Administrator presented information regarding Zoning Map Amendment No. 233—Covenant Development, LLC, Applicant.

The applicant is requesting a zoning map change for his property on the south side of Little Egypt Road from R-T to R-SF.

This property, which consists of approximately 69 acres, is located on Little Egypt Road and is currently zoned R-T. The parcel is currently vacant. The parcel has R-SF zoning to the north, R-T zoning to the west, and IG zoning

to the east and south. Surrounding parcels have single family residences and mobile homes on them and the new County sewage treatment plant is directly across the street. The Lincoln County Land Development Plan calls for higher density residential development in the area.

Chairman McConnell asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 233—Covenant Development, LLC, Applicant.

Walter Hendrix, Partner in Covenant Development, spoke in favor of this request. He stated that a development will be built with 142 individual homes, with a minimum lot size of 14,000 square feet. He stated that Covenant Development is also developing Huntington Hills and that these homes will be in about the same price range. They have submitted a plan for County water and sewer. There will be a flood plain across the creek.

Grant Ewing, Hunter's Bluff Drive, questioned whether homes would be built on the north side or south side of Little Egypt. He also asked if the traffic would be a problem on the recently paved 2-lane road, and about entrances to the subdivision.

Walter Hendrix commented that homes would only be built on the south side of Little Egypt Road. There will be 2 entrances, and price ranges would be between \$125,000 and 150,000.

Chairman McConnell asked if anyone else would like to speak. Being no additional speakers, Chairman McConnell declared the Public Hearing on Zoning Text Amendment No. 233—Covenant Development, LLC, Applicant, closed.

Conditional Use Permit No. 115—Denise H. Jackson, Applicant

Having been duly sworn by the Clerk, Amy S. Long, the following individuals presented information regarding Conditional Use Permit No. 115—Denise H. Jackson, Applicant.

Judy Francis, Zoning Administrator presented Conditional Use Permit No. 115—Denise H. Jackson, Applicant.

The applicant is requesting a Conditional Use Permit for her property on N. Highway 16 to allow her to operate a used car sales lot in the BN-DH district.

The applicant's property, which consists of .85 acre, is located at the corner of Mundy Road and Highway 16 North in the Denver area and currently zoned Neighborhood Business in the highway overlay district. The parcel is vacant and has R-SF district to the east, south, and west and BN to the north. Surrounding structures are single family residences and commercial

establishments. The Lincoln County Land Development Plan calls for higher density residential and regional commercial development in this area.

Chairman McConnell asked if there was anyone wishing to speak regarding Conditional Use Permit No. 115—Denise H. Jackson, Applicant.

Denise Jackson, Applicant, stated that she would like to put a used car lot beside her current business. She stated that she would preserve as much as possible, by building a nice-looking building, similar to the house. She commented that she and her husband would be very involved in the business, and that it will be very clean, not junky. She commented that they would like to build a garage, and have entrances on Highway 16 and Mundy Road. She anticipates between 20-30 cars on the lot.

Charles Adkins, 5941 Mundy Road, spoke in opposition of the request, stating that this is a small, residential area and it does not need a used car lot. He also commented that this is a very dangerous intersection.

Reggie Stroud, 4322 Hwy. 16 North, spoke in opposition of the request, stating that Highway 16 has heavy traffic, and the used car lot would cause potential wrecks and traffic congestion.

Eric Milendez, 5984 Mundy Road, spoke in opposition of the request, stating that he is concerned about speed of traffic on Mundy Road. This used car lot may caused increased traffic and crime.

Clyde Armstrong, 6012 Mundy Road, spoke in opposition of the request, stating that a used car lot would take away from the neighborhood, rather than add to it.

Chairman McConnell asked if anyone else would like to speak. Being no additional speakers, Chairman McConnell declared the Public Hearing on Conditional Use Permit No. 115—Denise H. Jackson, Applicant, closed.

Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant

Having been duly sworn by the Clerk, Amy S. Long, the following individuals presented information regarding Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant.

Judy Francis, Zoning Administrator presented Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant.

The applicant is requesting a Parallel Conditional Use Permit for his and Sandra Taylor's property on Highway 27 West that entails a zoning map change

from R-S to R-R and a Conditional Use Permit to allow an existing commercial fishing lake.

The parcels, which consist of approximately 8 acres, is located on Highway 27 West in the Vale area, is currently zoned R-S, and lies within the highway overlay district. There is a non-conforming commercial fishing lake and retail establishment on the parcels. The predominant surrounding zoning district is R-S with some B-N to the northwest. Surrounding properties have single family residences, mobile homes, and small businesses on them. The Lincoln County Land Development Plan calls for medium density residential development in this area.

There have been problems with gambling machines, food preparation, and building with no building permit.

Chairman McConnell asked if there was anyone wishing to speak regarding Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant.

Robert F. Fredell, Applicant, stated that he has a lease on the lake, he owns the property beside the lake. He commented that he had improved the property by doing grading work and removing an old mobile home.

Enoch Canipe, 201 Tommy's Welding Shop Lane, stated that he owns the adjoining property. He commented that he has no problem with the fishing on the lake, he does have a problem with the upkeep of the lake and the people coming there. There is only one restroom at the lake, some guidelines and restrictions are needed. He stated that the fish are not properly taken care of and eventually die. He has found dead carp, fish hooks, and line on his property in the past. He also stated that the sound system is too loud.

Joe Heavner, 253 Hwy 274, questioned what this would lead to in the future, whether trailers would be allowed there. He also asked who governs this and whom they should call with complaints. He commented that there should be some restrictions about restrooms. He requested that Robert Fredell be granted the Parallel Conditional Use Permit, but with restrictions.

Chairman McConnell asked if anyone else would like to speak. Being no additional speakers, Chairman McConnell declared the Public Hearing on Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant, closed.

Watershed Text Amendment No. 2

After the required review by the state, the Lincoln County Water Supply Watershed Ordinance has received conditional approval from the NC Division of

Water Quality. The final approval for this ordinance is contingent upon the adoption of the following text changes (as suggested by the state).

1.) Change Section 501 (F) to read as follows:

The Watershed Administrator shall keep a record of variances to the Lincoln County Watershed Ordinance. This record shall be submitted for each calendar year to the Division of Water Quality, on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(In 1996, the Division of Environmental Management became the Division of Water Quality. This text amendment reflects that terminology change.)

2.) Amend the following definition:

Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge System (NPDES) permit.

(This change is suggested to keep our definitions consistent with statewide technology.)

Zoning Text Amendment No. 232

Amend Chapter 2: Definition and Rules of Construction as follows:

Include in Section 2.4 Definitions the following definitions:

Slip

A docking place for a single watercraft between two piers. The open area dimensions of acceptable slips are not to exceed fifteen (15) feet wide by thirty-two (32) feet in length.

Commercial Use

A business enterprise, managed and operated over time by (a) proprietor(s), with the primary objective of making and sustaining profit.

Chairman McConnell asked if there was anyone wishing to speak regarding Watershed Text Amendment No. 2 or Zoning Text Amendment No. 232.

Being no speakers, Chairman McConnell declared the Public Hearing on Text Amendment No. 2 or Zoning Text Amendment No. 232 closed.

The Planning Board reconvened to the balcony of the auditorium on the second floor of the Citizen Center for a Planning Board meeting and to deliberate on the above public hearing recommendations.

RECESS

Commissioner Larry Craig made a motion to recess the October 6, 1997 Public Hearing meeting and open the October 6, 1997 Board of Variances and Appeals meeting.

Seconded by James Hallman.
Unanimously approved.

Chairman McConnell called the public hearing meeting back to order.

SOCIAL SERVICES

Commissioner Larry Craig stated that at the September 30 meeting of the Board of Social Services, it was voted that the Board would ask the County to change the policy of those who are placed on call on weekends and holidays. These are workers at the Protective Service Agency, Child Abuse, and Adult Protective Service. The changes in compensation would be \$100 compensation for being on call, hour-for-hour time off for any time spent in the field on any case while on call, and a day off if beeper is carried on any holiday. Commissioner Craig stated that the County policy would have to be changed, and he would like the Board to look at it. He stated that he would like to defer action until Rick French, County Manager, will be present.

Commissioner James Hallman asked if the \$100 compensation would be for a weekend.

Commissioner Larry Craig stated that he believed it was \$100 monthly, and currently the County is paying \$100, but taxes are being taken out. It would be better for them if it could be counted as an expense and no taxes taken out.

Commissioner James Hallman stated that this was part of their job duties and descriptions when they were hired and this request is over and above the basis of their hiring.

Commissioner Larry Craig made a motion to defer this until October 20, 1997 when Rick French, County Manager, will be present.

Seconded by Commissioner Terry Brotherton.
Unanimously approved.

COUNTY COMMISSIONERS' REPORT

Commissioner Larry Craig stated that he would not be in town for the October 13, 1997 meeting with the School Board and asked if the meeting could be rescheduled.

Commissioner James Hallman stated that he already had another meeting on the same night and another time would be more convenient for him also.

Commissioner Larry Craig stated that Rick French, County Manager, look into changing the date of the meeting with the School Board.

Commissioner Terry Brotherton stated that he had received some calls from members of the Economic Development Board and was wondering when the meeting with the Board of Directors would be.

Commissioner James Hallman stated that Rick French could work on it and try to reschedule the meeting.

Commissioner Larry Craig stated that he spoke with Elaine Harmon about office space. He stated that the Register of Deeds office is out of room. He commented Ms. Harmon would like to know if it is possible for her to move. The Board wanted to check with Mr. French before making any decisions on this matter.

Commissioner Larry Craig stated that he apologized for missing the Groundbreaking for the jail. He commented that it is never too early to start thinking about the funds for the jail project. He stated that he would like to see this project paid for without a tax increase. He commented that the Department heads could be instructed to try to be conservative and operate on the same budget next year as this year.

Chairman Louis McConnell stated that he had received some complaints about the need of Ford Explorers in Lincoln County.

Commissioner James Hallman stated that the concern is transporting people in the Winter, in bad weather situations.

Chairman Louis McConnell stated that a citizen called him about dead animals on the side of the road, and wondered which County department was in charge of this. He stated that the Department of Transportation used to pick them up and he would like to know if they still do. Chairman Louis McConnell stated that he would like for Rick French to look into this and see if the Department of Transportation is still in charge of this.

Chairman Louis McConnell stated that another citizen had contacted him about the possibility of rotating the hours at the convenience sites. He commented that he will discuss this with Mr. French at a later time.

Commissioner Terry Brotherton stated that at the Webb's Road and Optimist Club Road Convenience sites, the attendants keep figures of how many customers come in per hour. On Saturdays in the summer there were very few customers after 5:30. He stated that the busiest time at the Webb's Road Convenience Site was on Sunday afternoon.

Commissioner James Hallman stated that the hours cannot suit everybody.

Commissioner Larry Craig commented that deer hunting season will be soon. He stated that he has had several calls, a number of citizens are worried about high powered guns being fired in the woods on ground level. Elevated Hunting Ordinances are being put into place in other Counties and is possible for Lincoln County.

Chairman Louis McConnell asked who would be in charge of enforcing this.

Commissioner Larry Craig stated that he is going to get a copy of Cabarrus County's Ordinance. He commented that he thinks the State Wildlife would enforce it.

Chairman Louis McConnell called for a five minute recess.

Chairman Louis McConnell called the meeting back to order.

RECOMMENDATIONS FROM PLANNING BOARD MEETING – OCTOBER 10, 1997

Judy Francis, Zoning Administrator, presented the Planning Board's recommendations as follows:

Zoning Map Amendment No. 230—Joe Henderson, Applicant.

Unanimous approval of request as submitted.

A motion by Commissioner James Hallman to approve Zoning Map Amendment 230, based on the Planning Board's unanimous approval.

Seconded by Commissioner Beth Saine.

Unanimously approved.

Zoning Map Amendment No. 231—W. Elliot Painter, R. & E. Robinson, Geneva Proctor, Wilma Howard, Kenneth Gibson, H. & M. Abernethy, and L. Moon & E. Sain, Applicants.

Unanimous vote to table Zoning Map Amendment No. 231 until the next meeting, until John Gaus (who was out of town when application was passed around) can sign and rezone his parcel with the others.

Judy Francis, Zoning Administrator, stated that since John Gaus, who was out of town when the application was passed around, will have to sign the application to have his land included. Ms. Francis stated that if ZMA 231 is approved as it is now, Mr. Gaus would have to come in, fill out his own application, and pay \$125.

Commissioner Larry Craig stated that the \$125 fee could be deferred so the rest of the property owners would be approved now.

Jeff Taylor, County Attorney, stated that the Public Hearing would need to be reopened if Mr. Gaus comes in at a later date.

A motion by Commissioner Larry Craig to approve Zoning Map Amendment 231 and allow the change from R-T to R-SF for all the families that have petitioned.

Seconded by Commissioner James Hallman.
Unanimously approved.

A motion by Commissioner Larry Craig to defer John Gaus' application fee if he chooses to come in to have his land rezoned.

Seconded by Commissioner Beth Saine.
Unanimously approved.

Zoning Map Amendment No. 233—Covenant Development, LLC, Applicant

Unanimous approval of requested with a further recommendation that the County look into a possible buffer acquisition on the north side of the road in the event of a possible expansion of the sewage plant there.

Commissioner Terry Brotherton commented that the Land Use Plan for that area calls for higher density development. He stated that he some people in East Lincoln would be critical of a high density development, but the applicant can put a mobile home subdivision there by right. He is offering to upgrade.

A motion by Commissioner James Hallman to approve Zoning Map Amendment 233, based on the unanimous approval from the Planning Board.

Seconded by Commissioner Beth Saine.
Unanimously approved.

Conditional Use Permit No. 115—Denise Jackson, Applicant.

Voted 5-2 to approve with the following conditions:

1. Only driveway be located on Mundy Road 175 feet back from the intersection of 16,
2. No vehicles, signs or screening allowed in the 10/70 sight triangle,
3. Hours of operation 10:00 a.m. to 6:00 p.m. Monday - Saturday
4. Any structures constructed on property are to be in character with the neighborhood and the large house on the adjacent lot.

Chairman McConnell commented that he had a problem limiting the hours of operation from 10:00 a.m. to 6:00 p.m. Monday - Saturday.

Chairman McConnell stated that he thinks 8:00 a.m. to 8:00 p.m. would be better.

Commissioner Terry Brotherton questioned the only entranceway being on Mundy Road.

Chairman McConnell stated that the applicant would be at a disadvantage not having a driveway off of Highway 16

Chairman McConnell stated that North Carolina Department of Transportation would handle driveway access.

Chairman McConnell asked if it was illegal to say the applicant cannot be open on Sunday. He asked Jeff Taylor, County Attorney, if the decision not to let the applicant open on Sunday would stand up in court.

Jeff Taylor stated that the issue would be if that is a fair and reasonable condition. If it was solely based on some idea of religion, it probably would not hold up. He stated that if it was for another reason, it probably would, but also added that the Board does not have to give the reason. He stated that if it was set that way with the applicant's consent, there would be no challenging it.

Chairman McConnell presented the Findings of Fact for Conditional Use Permit No. 115—Denise Jackson, Applicant

RECOMMENDATION ON FINDINGS OF FACT

FOR A CONDITIONAL USE PERMIT

LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP-# 115

Date: October 6, 1997

Applicant's Name: Denise H. Jackson
Address: 4493 Grassy Creek Rd.
Denver, NC 28037

Property Owner's Name: Same as above
Address:

Property Location: Corner of Mundy Road and Highway 16 North in the Denver area.

Existing Zoning: BN

Proposed Conditional Use: Used Car Sales Lot

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 James Hallman.
Seconded by Commissioner Beth Saine.
Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan, because the State will handle the driveway.
Vote: Unanimously approved.
2. The use meets all required conditions and specifications. Yes X No
Motioned by Commissioner James Hallman.
Seconded by Commissioner Terry 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 X No
Motioned by Commissioner James Hallman.
Seconded by Commissioner Terry Brotherton.
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property.
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 in question. Yes X No

Motioned by Commissioner James Hallman.

Seconded by Commissioner Larry Craig.

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 conformity with the Land Use Plan for the area in question.

Vote: Unanimously approved.

After having held a public hearing on October 6, 1997, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Commissioner James Hallman motioned that the Conditional Use Permit be approved with the following "fair and reasonable conditions" attached. Seconded by Commissioner Larry Craig.

Vote: Unanimously approved.

In recommending said conditional use, the following conditions were recommended by the Lincoln County Board of Commissioners:

1. Driveway access to be in conformity with NCDOT specifications.
2. No vehicles, signs, or screening to be allowed within the 10/70 sight triangle at corner.
3. Any structures constructed on property are to be in character with the neighborhood and the large house on the adjacent lot.
4. Hours of operation are to be Monday through Saturday not to exceed 8:00 a.m. to 8:00 p.m. and on Sunday from 1:00 p.m. to 8:00 p.m.

October 6,, 1997

Chairman
Lincoln County Board of Commissioners

October 6, 1997

Clerk to Board of Commissioners

Commissioner Larry Craig stated that safety plays a big role in decision-making, and North Carolina is in charge of traffic control. He stated that if there is an unsafe hazard in this community, the residents need to petition the Department of Transportation in Raleigh to make the improvements.

Commissioner Larry Craig asked Jeff Taylor, Assistant County Attorney if the Board is supposed to consider traffic in decisions.

Jeff Taylor, Assistant County Attorney, stated that the Board does not have the authority to mandate a particular solution, such as a traffic light. He commented that the County Commissioners have authority over the public health, safety, and welfare; and it is a legitimate exercise of that power to look into what steps should be taken.

Commissioner Larry Craig stated that in the future Rick French could possibly write a letter to the Department of Transportation stating that there is a concern about the traffic in an area.

Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant

Vote 6-1 to approve as requested with the only condition being that the Conditional Use Permit will expire in two years when Mr. Fredell's lease is up on the lake.

Commissioner James Hallman stated that there were 3 different issues here: building permits, gambling, and food preparation.

Commissioner James Hallman stated that this fishing lake is surrounded by a number of houses, and at times is a nuisance.

Judy Francis, Zoning Administrator, stated that most of the problems discussed during the Public Hearing will be addressed through the building code. She stated that the building is substandard and will probably have to come down.

Commissioner Larry Craig stated that the two major complaints were the disposal of dead fish and lack of restrooms.

Commissioner James Hallman stated that a condition could be that Mr. Fredell would have to dispose of dead fish in an appropriate, approved method. Mr. Hallman stated that Mr. Fredell should have at least two bathrooms, in addition to the facility already in the building.

Commissioner Larry Craig stated that Mr. Fredell should have a minimum of 3 approved bathroom facilities.

Commissioner James Hallman made a motion to rezone this property subject to the Conditional Use Permit.

Seconded by Commissioner Terry Brotherton.
Unanimously approved.

Chairman McConnell presented the findings of fact for Parallel Conditional Use Rezoning No. 44—Robert F. Fredell, Applicant.

RECOMMENDATION ON FINDINGS OF FACT

FOR A CONDITIONAL USE PERMIT
LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUR-# 44

Date: October 6, 1997

Applicant's Name: Robert F. Fredell
Address: 823 Hibiseus Trail
Lincolnton, NC 28092

Property Owner's Name: Same as above
Address:

Property Location: Southwest side of Highway 73 immediately west of Plank Road.
Map

Existing Zoning: R-T

Proposed Conditional Use: Construction, Demolition, and Land Clearing Debris Landfill

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 James Hallman.
Seconded by Commissioner Larry Craig.
Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan, with the conditions relative to bathroom facilities and disposal of dead fish.
Vote: Unanimously approved.
2. The use meets all required conditions and specifications. Yes X No
Motioned by Commissioner James Hallman.
Seconded by Commissioner Larry Craig.
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 X No
Motioned by Commissioner James Hallman.
Seconded by Commissioner Larry Craig.
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property, anymore than it already has, 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 in question. Yes X No

Motioned by Commissioner James Hallman.

Seconded by Commissioner Larry Craig.

Factual Reason Cited: The location and character of use, if developed according to 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.

Vote: Unanimously approved.

After having held a public hearing on October 6, 1997, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Commissioner James Hallman motioned that the Conditional Use Permit be approved with the following "fair and reasonable conditions" attached. Seconded by Commissioner Larry Craig.

Vote: Unanimously approved.

In recommending said conditional use, the following conditions were recommended by the Lincoln County Board of Commissioners:

1. All dead fish must be disposed of in an appropriate and approved method.
2. There shall be a minimum of three (3) approved bathroom facilities on the premises or whatever number is specified by code—whichever is greater.
3. Conditional use permit is to allow a commercial fishing lake only and will expire in two years.

October 6, 1997

Chairman
Lincoln County Board of Commissioners

October 6, 1997

Clerk to Board of Commissioners

Watershed Text Amendment No. 2

Unanimous approval as written.

A motion by Commissioner Terry Brotherton to accept the recommendation of the Planning Board and approve Watershed Text Amendment 2.

Seconded by Commissioner Larry Craig.
Unanimously approved.

Zoning Text Amendment No. 232

Unanimous approval of the definition of Commercial Use as written.

Commercial Use

A business enterprise, managed and operated over time by (a) proprietor(s), with the primary objective of making and sustaining profit.

Suggested following language for Slip:

Slip

A U-shaped docking area for watercraft, the open area dimensions of acceptable slips are not to exceed fifteen (15) feet wide by thirty-two (32) feet in length.

Commissioner Terry Brotherton asked if the Planning Board's recommendation was deleting the words "single watercraft".

Commissioner Terry Brotherton asked if there was a limit on the number of slips that an individual could have on a residential lot.

Judy Francis, Zoning Administrator, stated that Duke Power generally regulates, one slip per hundred feet of shoreline.

Commissioner Larry Craig stated that four slips are allowed by right, so an individual could have four 15 foot boat slips.

Commissioner Larry Craig stated that he wanted to accomplish was to define slip as a slip for one boat.

Jeff Taylor, Assistant County Attorney, stated that since a public hearing has already been held, maybe he and Judy Francis could get together and come with a different definition. He stated that this needed to be deferred.

A motion by Commissioner Larry Craig to defer action on the definition of Slip until October 20, 1997.

Seconded by Commissioner Terry Brotherton.

Unanimously approved.

A motion by Commissioner Terry Brotherton to approve the definition of Commercial Use.

Seconded by Commissioner Larry Craig.
Unanimously approved.

OTHER BUSINESS

Commissioner Larry Craig stated that Welfare Reform was discussed at the last Social Services meeting. He stated that a lot of negatives came out of the meeting. He commented that regardless of the plan chosen, a certain amount of criteria will have to be written. The funding for electing and standard counties is the same, but there is an opportunity for savings with electing. He commented that with the Work First program, a program could be implemented to do away with or keep the Work First program. He stated that a good factor about being an electing county is that if it does not work, the County can go back to being a standard county. He stated that some of the responsibilities of being an electing county include writing the criteria and writing the checks.

Commissioner James Hallman stated that there will have to be tighter restrictions in order to save money.

Stan Kiser, Assistant County Manager, stated that in an electing county the liability and blame is placed on the County.

Commissioner Larry Craig stated that there are still a lot of questions that have not been answered.

ADJOURNMENT

Being no further business to come before the Board of Commissioners at this time, Chairman McConnell entertained a motion to adjourn the October 6, 1997 meeting.

Commissioner James Hallman motioned that the Board adjourn.

Seconded by Commissioner Larry Craig.
Unanimously approved.