

**LINCOLN COUNTY  
BOARD OF COMMISSIONERS**

**MINUTES  
NOVEMBER 3, 1997**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on November 3, 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

Planning Board Members present were:

John H. Black, Jr.  
Mike Allred  
Mike Baker  
Gary Garlow  
James Funderburk  
Stanley Roseboro  
Ronald Smith  
Jerry Geymont

Also present were Jeff Vernon, Director of Building and Land Development, Judy Francis, Zoning Administrator, Kelly Atkins, Subdivision Administrator, and Amy S. Long Clerk to the Board of Commissioners.

**CALL TO ORDER**

Chairman McConnell called the November 3, 1997 meeting to order.

**AGENDA**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

**AND**

**PLANNING BOARD**

**NOVEMBER 3, 1997**

**PUBLIC HEARINGS**

	6:30 PM	Call to Order
1.	6:30 PM	Approval of Minutes September 22, 1997
2.	6:30 PM	Public Hearings

Zoning Map Amendment No. 234 – Deborah and John Gaus, Applicants, Requesting a Zoning Map Change for their property on Madison Furnace Trail in Pumpkin Center from R-T (Residential Transition) to R-SF (Residential Single Family)

Zoning Map Amendment No. 235 – Ivester & Ladd, CPAs, Applicants, Requesting a Zoning Map Change for property owned by the heirs of Pauline C. Sherrill that is located at 2614 Highway 16 North in the Denver area from R-SF (Residential Single Family) to B-N (Neighborhood Business) to accommodate an accounting business to locate in the existing structure.

Zoning Map Amendment No. 236 – Freddy Denton, Applicant, Requesting a Zoning Map Change for property owned by Charles M. Beatty that is located on Highway 16 North in the Denver area from R-SF (Residential Single Family) to B-G (General Business) to accommodate an electric business and retail sales store.

**Announcement of Application Withdrawal**

Zoning Map Amendment No. 237 – Marvin J. Phillips, Applicant, Requesting a Zoning Map Change for his property that is located on Highway 16 North in the Denver area from R-SF (Residential Single Family) to I-G (General Industrial).

Conditional Use Permit No. 116 – Mildred C. Bradshaw, Applicant, Requesting a Conditional Use Permit to allow her to place a Class C mobile home on her property for her grandson as an accessory care provider. The property is located at 3389 Halite Lane in Iron Station and is currently zoned R-SF (Residential Single Family).

Conditional Use Permit No. 117 – Carolina Boats, Inc., Applicant, Requesting a Conditional Use Permit to allow a used car and boat sales lot in the B-N (Neighborhood Business) district. The property is currently owned by

F & H Properties, LLC, and is located at 824 Highway 16 North in Denver.

Conditional Use Permit No. 118 – Robin P. Shrum, Applicant, Requesting a Conditional Use Permit to allow her to place a Class C mobile home on her property for an accessory care provider for Mr. Parker. The property is located at 305 Wise Road in Lincolnton and is currently zoned R-T (Residential Transition).

Parallel Conditional Use Permit No. 45 – James K. Peeler, Applicant, Requesting a Parallel Conditional Use Permit in order to accommodate an existing business on Highway 274 in the Cherryville area. He request that his property be rezoned from R-SF (Residential Single Family) and R-R (Rural Residential) to I-G (General Industrial). He also request a Conditional Use Permit to allow a commercial flight park.

- 3. 8:00 PM Report on YMCA
- 4. 8:10 PM 1996-1997 Audit Report
- 5. 8:25 PM County Commissioners' Report
- 6. 8:40 PM County Manager's Report
- 7. 8:55 PM Other Business
- 8. 9:00 PM Recommendations from the Planning Board

Zoning Map Amendment No. 234 – Deborah and John Gaus, Applicants

Zoning Map Amendment No. 235 – Ivester & Ladd, CPAs, Applicants

Zoning Map Amendment No. 236 – Freddy Denton, Applicants

Zoning Map Amendment No. 237 – Marvin J. Phillips, Applicants

Conditional Use Permit No. 116 – Mildred C. Bradshaw, Applicant

Conditional Use Permit No. 117 – Carolina Boats, Inc.,  
Applicants

Conditional Use Permit No. 118 – Robin P. Shrum, Applicant

Parallel Conditional Use Permit No. 45 – James K. Peeler,  
Applicant

9. 9:30 PM Closed Session – Personnel

Adjourn

Please note that the Board of Variances and Appeals will not meet (BOVA meeting was held on October 22, 1997.)

Please note the Board of Commissioners will meet for their regular meeting on November 17, 1997 at 7:00 PM. The East Lincoln County Water and Sewer District will also meet on November 17, 1997 at 6:30 PM.

Commissioner Terry Brotherton made a motion requesting removal of Zoning Map Amendment Request No. 236.

Seconded by Commissioner Larry Craig.  
Unanimously approved.

## **APPROVAL OF MINUTES**

Chairman McConnell presented the minutes of the September 22, 1997 Regular Board of Commissioners meeting for approval.

Commissioner Larry Craig motioned that the minutes of September 22, 1997 Regular Meeting be approved.

Seconded by Commissioner Terry Brotherton.  
Unanimously approved.

## **PUBLIC HEARING - ZONING ISSUES**

### **PUBLIC HEARINGS**

Chairman McConnell announced that this was the date, Monday, November 3, 1997 and the time, 6:30 p.m., which was advertised in the *Lincoln Times-News*

on October 24, 1997 and October 31, 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, November 3 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:

ZMA 234-John & Deborah Gaus, applicants, Request to rezone the applicants property on Madison Furnace Trail in Pumpkin Center from R-T to R-SF.

ZMA 235- Ivester & Ladd, CPAs, applicants, Request to rezone property located at 2614 Highway 16 North in the Denver area from R-SF to B-N to accommodate an accounting business.

ZMA 236-Freddy Denton, applicant, Request to rezone property located on Highway 16 North in the Denver area from R-SF to B-N to accommodate a proposed electrical business and retail store.

ZMA 237- Marvin J. Phillips, applicant, Request to rezone property on Highway 16 North in the Denver area from R-SF to I-G.

CUP 116-Mildred Bradshaw, applicant, Request to allow a Class C mobile home in the R-SF district on Halite Lane in Iron Station to house an accessory care provider.

CUP 117-Carolina Boat, Inc. d.b.a. Carolina Toy Store, applicant, Request to allow a used car and boat lot in the B-N district on Highway 16 North in the Denver area.

CUP 118-Robin P. Schrum, applicant, Request to allow a Class C mobile home in addition to existing home in the R-T district on Wise Road in Lincolnton to house an accessory care provider.

PCUR 45-James K. Peeler, applicant, Request for a Parallel Conditional Use Permit that would rezone his property on Highway 274 in the Vale area from R-SF and R-R to I-G to accommodate an existing commercial flight park.

Interested parties and citizens may obtain further information from the Lincoln County Planning Department, 302 North Academy Street, Lincolnton, N.C. 28092 or by calling (704) 736-8724.

By the order of the Lincoln County  
Board of Commissioners,  
Amy S. Long, Clerk to the Board

### **Zoning Map Amendment No. 234—Deborah and John Gaus, Applicants**

Judy Francis, Zoning Administrator, presented information on Zoning Map Amendment No. 234—Deborah and John Gaus, Applicants.

The applicants are requesting a zoning map change for their property on Madison Furnace Trail in Pumpkin Center from R-T (Residential Transition) to R-SF (Residential Single Family).

This property, approximately 2.2 acres, is located on Madison Furnace Trail in Pumpkin Center and is currently zoned R-T. This parcel currently has a single family residence on it and is completely surrounded by recently rezoned properties in the R-SF district. 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. 234—Deborah and John Gaus, Applicants.

Being no one wishing to speak, Chairman McConnell declared the Public Hearing on Zoning Map Amendment No. 234—Deborah and John Gaus, Applicants, closed.

### **Zoning Map Amendment No. 235—Ivester & Ladd, CPAs, Applicants**

Judy Francis, Zoning Administrator, presented information on Zoning Map Amendment No. 235—Ivester & Ladd, CPAs, Applicants.

The applicant is requesting a zoning map change for property owned by the heirs of Pauline C. Sherrill that is located at 2614 Highway 16 North in the Denver area from R-SF (Residential Single Family) to B-N (Neighborhood Business) to accommodate an accounting business to locate in the existing structure.

This property, which consists of approximately three and one quarter (3.23) acres, is located on Highway 16 North and is currently zoned R-SF. The parcel

has a single family residential structure on it that is being used as a rental unit. The parcel is surrounded by R-SF (residential single family) on all sides, has BN properties very near it to the north and south and lies within the WS-IVC watershed. Surrounding parcels have single family residences, mobile homes, and small businesses on them. The Lincoln County Land Development Plan calls for higher density residential and regional commercial development in the area.

Chairman McConnell asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 235—Ivester & Ladd, C.P.A.s, Applicants.

Betty Ivester of Ivester & Ladd, C.P.A.s stated that there would be no major changes to the property. She commented that the business is very quiet and has low traffic.

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. 235—Ivester & Ladd, C.P.A.s, Applicants, closed.

#### **Zoning Map Amendment No. 237—Marvin J. Phillips, Applicant**

Judy Francis, Zoning Administrator, presented information on Zoning Map Amendment No. 237—Marvin J. Phillips, Applicant.

The applicant is requesting a zoning map change for his property that is located on Highway 16 North in the Denver area from R-SF (Residential Single Family) to I-G (General Industrial).

This property, which consists of approximately twelve (12) vacant acres, is located on Highway 16 North and is currently zoned R-SF. The parcel has R-SF (Residential Single Family) zoning to the immediate south, BN properties to the north and east, B-G (General Business) to the east, and I-G (General Industrial) to the south and west. The parcel lies partially within the highway overlay district. Surrounding parcels have single family residences, small businesses, and industrial structures on them. The Lincoln County Land Development Plan calls for higher density residential and regional commercial development in the area.

Chairman McConnell asked if there was anyone wishing to speak regarding Zoning Map Amendment No. 237—Marvin J. Phillips, Applicant.

Being no one wishing to speak, Chairman McConnell declared the Public Hearing on Zoning Map Amendment No. 237—Marvin J. Phillips, Applicant, closed.

#### **Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.**

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.

Judy Francis, Zoning Administrator, presented Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.

The applicant is requesting a Conditional Use Permit to allow her to place a Class C mobile home on her property for her grandson as an accessory care provider.

The applicant's property, which consists of approximately two (2) acres, is located at 3389 Halite Lane in Iron Station and is currently zoned residential single family (R-SF). The parcel is entirely surrounded by R-SF zoning and has some residential transition (R-T) zoning to the near west. Surrounding properties have single family residences, mobile homes, and commercial businesses on them. The Lincoln County Land Development Plan calls for medium density residential development in this area.

Judy Francis stated that Ms. Bradshaw is in failing health and needs someone there to care for her. She stated that there is no letter from a doctor stating that she needs an accessory care provider.

Chairman McConnell asked if there was anyone wishing to speak regarding Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.

Herbert D. Inman, 5215 East Hwy 27, stated that he lives behind Ms. Bradshaw and is curious to know why her grandson needs his own trailer. He stated that Ms. Bradshaw lives in a large house and her grandson could live with her. He also asked what will happen to the trailer if she passes on.

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. 116—Mildred C. Bradshaw, Applicant, closed.

### **Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, applicant.**

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, applicant.

Judy Francis, Zoning Administrator, presented Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, applicant.

The applicant is requesting a Conditional Use Permit to allow a used car and boat sales lot in the neighborhood business (B-N) district.

The property is currently owned by F&H Properties, LLC and consists of approximately one and one-quarter (1 1/4) acres and lies within the WSIV-C watershed. It is located at 824 Highway North in Denver and is currently zoned neighborhood business (B-N). The parcel is surrounded by neighborhood business (B-N) zoning, residential suburban (R-S) zoning, and residential single family (R-SF) zoning. Surrounding properties have single family residences and commercial businesses on them. The Lincoln County Land Development Plan calls for high density residential and regional commercial development in this area.

Judy Francis stated that the applicant was planning to use the house as a sales office. She commented that numerous boats and vehicles had already been placed on the lot.

Chairman McConnell asked if there was anyone wishing to speak regarding Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, applicant.

Mark Sulter, General Sales Manager of Carolina Toy Store, stated that he did know that a Conditional Use Permit was needed to open the store. He commented that Carolina Toy Store would only be selling boats, motorcycles, and cars. He stated that the vehicles have been moved off of the lot, but the boats are still there. He stated that they are currently not selling anything.

Commissioner Larry Craig stated that he had received some phone calls from concerned citizens questioning the integrity of the Commissioners for placing so many used car lots on Highway 16. He stated that the Commissioners should proceed with caution on some of these car lots.

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. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, applicant, closed.

#### **Conditional Use Permit No. 118—Robin Parker Schrum, Applicant.**

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Conditional Use Permit No. 118—Robin Parker Schrum, applicant.

Judy Francis, Zoning Administrator, presented Conditional Use Permit No. 118—Robin Parker Schrum, applicant.

The applicant is requesting a Conditional Use Permit to allow the placement of a Class C mobile home on the property for an accessory care provider for Mr. Parker.

The applicant's property, which consists of approximately two and three-quarter (2 ¾) acres, is located at 305 Wise Road in Lincolnton, is currently zoned residential transition (R-T), and lies within the WSIV-P watershed. The parcel is entirely surrounded by R-T zoning and has some residential single family (R-SF) zoning to the near west and south. Surrounding properties have single family residences and mobile homes on them. The Lincoln County Land Development Plan calls for medium density residential development in this area.

Chairman McConnell asked if there was anyone wishing to speak regarding Conditional Use Permit No. 118—Robin P. Schrum, applicant.

Robin P. Schrum, applicant, stated that she would like to place a mobile home on her father's property to have someone there with him all of the time, because of his failing health.

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. 118—Robin Parker Schrum, applicant, closed.

#### **Parallel Conditional Use Rezoning No. 45—James K. Peeler, Applicant**

Having been duly sworn by the Clerk, Amy Long, the following individuals presented information regarding Parallel Conditional Use Rezoning No. 45—James K. Peeler, Applicant

Judy Francis, Zoning Administrator, presented Parallel Conditional Use Rezoning No. 45—James K. Peeler, Applicant

The applicant is requesting a Parallel Conditional Use Permit in order to accommodate an existing business on Highway 274 in the Cherryville area. He requests that his property be rezoned from residential single family (R-SF) and rural residential (R-R) to general industrial (I-G). He also requests a Conditional Use Permit to allow a commercial flight park.

The properties total approximately twenty-eight acres (28) lie within the WSII-P watershed and are currently zoned R-SF and R-R. Surrounding parcels are zoned R-SF and R-R and have single-family homes and mobile homes on them. The properties are being utilized as a flight park and contain an unpaved airstrip and several structures. The Lincoln County Land Development Plan calls for medium density residential development in this area.

Chairman McConnell asked if there was anyone wishing to speak regarding Parallel Conditional Use Rezoning No. 45—James K. Peeler, Applicant.

James K. Peeler, applicant, stated that wants to bring the zoning into accordance with the use of the property. He stated that he does not wish to bring any large planes into this flight park, he just wants to keep it operating. He stated that he has been there since 1988, so he is grandfathered in. James K. Peeler, applicant, stated that there is no room for massive expansion. He stated that he is listed on the Charlotte and Atlanta sectionals. He stated that the runway is around 1500 feet with a displaced threshold. He commented that he has approximately 10 planes on flight park currently. He stated that he does sales, service, and training. He stated that he has been an ultralight instructor since 1981.

Commissioner Larry Craig asked Mr. Peeler if he could foresee a lot of growth in the future, and asked how many more airplanes he expected.

James K. Peeler stated that he does have hangar space now, but it is at capacity with about 10 planes. He stated that he would possibly build another hangar with 10 more spaces in the future.

Chairman Louis McConnell asked if Mr. Peeler could build more hangars there without the rezoning.

Judy Francis, Zoning Administrator, stated that if Mr. Peeler wanted to expand, it would be a nonconforming business expansion and he would have to go to the Planning Board.

James K. Peeler stated that the case is still under litigation in Court; it is currently not resolved.

Tom Martin, 3306 Fish Pond Road, spoke in opposition of the request, stating that he lives about 1 ½ miles from the flight park. He commented that there are about 5 subdivisions within a mile radius. He submitted Exhibit 1, a map of the area (on 2000 foot radius) and Exhibit 2, Regulations for Ultralight Vehicles. He asked the board to preserve public health and safety, and welfare of the community by rejecting this request.

Donald P. Lewis, 2380 Highway 274, spoke in opposition of the request, stating that he lives about 100 yards from the Ultraport. He commended the Board and the previous board on zoning issues. He stated that the Lincoln County Airport is a good example of this. He stated that this is a residential area and is growing and the airport is a public nuisance.

Kimberly Beam, 2430 Highway 274, spoke in opposition of the request, stating that she was also speaking for her parents Carroll and Berdine Beam. She stated that the airport poses a threat to homeowners and pilots. She commented that the airport is a nuisance and a danger.

Chairman Louis McConnell commented that if the request was denied, the airport will not be shut down, he will operate under the Grandfather clause. He just cannot expand.

Clara Peeler, 2481 Highway 274, stated that she is the mother of James Peeler. She stated that airport poses no danger and no damaging noise level.

Ronnie F. Gantt stated that Mr. Peeler recently taught him how to fly. He commented that Mr. Peeler trains pilots to stay off populated areas.

W. Todd Pomeroy, with Jonas Law Firm, stated that he represents Mr. Harold McCumber in the lawsuit. He presented Exhibit 1a, a plat of the subdivision, Exhibit 2, an aerial map, Exhibit 3, a close-up map, Exhibit 4, several complaints. Mr. Pomeroy stated that there is also a video that Mr. McCumber shot that shows that the pilots fly at a very low altitude. He commented that this is a pending Litigation matter and it would be premature for the Commission to decide any issue until Litigation is resolved. He referred to North Carolina Statute 63-13 involving air flight.

Chairman Louis McConnell asked Mr. Pomeroy why FAA has not been called in to correct any problems. Todd Pomeroy stated that his understanding is the FAA has no enforcement power.

Mr. Pomeroy stated that he has filed a counterclaim, and a Preliminary Injunction is set for November 17, 1997 requesting that Mr. Peeler or any of his agents be prevented from flying over Mr. McCumber's land at such low altitudes.

Thomas W. Baxter, Jr., 6027 Bailey Baxter Road, spoke in opposition of the request, stating that the North Brook Number 1 community does not need a larger airport or flight park. He presented a petition with 234 signatures to the Board. He also presented several complaints.

Jerry Baxter, 2599 Sorrells Baxter Road, stated that he lives across the road from the airport and has lived there all of his life. He stated that his biggest concern is that the Ultralport is in a direct line with the United States Army's C-130's and C-127 low level Military training. He commented that it is just a matter of time.

Dorothy Baxter, 6576 Flay Road, spoke in opposition of the request, stating that he is concerned about the future of the neighborhood. She is worried that the airport will decrease her property value.

Annette Eaker, 6576 Sorrells Baxter Road, spoke in opposition of the request, stating that she lives 3/10 of a mile from the airport. She commented that she is concerned about her property value. She stated that the planes fly so low over her property that it causes her livestock to stampede through the fences.

Chairman Louis McConnell stated that Jeff Taylor, Assistant County Attorney, has advised him that the Burden of Proof is on Mr. Peeler and he should have more time to speak.

Richard Murnan, Fairview School Road, stated that he lives about 2 miles from the airport. He stated that his neighbors told him that ultralights are no more offensive than lawnmowers.

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. 45—James K. Peeler, Applicant, closed.

Chairman McConnell called for a brief recess.

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.

Chairman McConnell called the public hearing meeting back to order.

## **REPORT ON YMCA**

Peter Acker gave an update on the YMCA. He commented that the plans for the YMCA have been announced to the community. He stated that so far, \$1.5 million of the \$2 million has been raised.

Chairman Louis McConnell stated that he noticed in the paper that the location would be the corner of Gaston Street and Gamble Drive.

Peter Acker stated that this would be a convenient location. In a survey done, the campus of Lincoln Medical Center was chosen as one of the two sites for the YMCA.

Commissioner James Hallman stated that in order to facilitate the property, the land would need to be conveyed back to the Commissioners, and then back to the YMCA with certain reversionary clauses.

Commissioner James Hallman stated that there was a very good article in the Charlotte Observer on the YMCA recently.

Commissioner Larry Craig stated that he had a number of questions. He asked what kind of protection would be in place to protect Lincoln County and if leasing or selling the land was a possibility.

Commissioner Terry Brotherton stated that the concept of the YMCA was great. He stated that the land in question was appraised at around \$220,000. He stated that East Lincoln County has a park and West Lincoln County does not even have any land for a park, and he could not vote to give this land away. He stated that he would be for selling or leasing the land at fair market value.

Commissioner Beth Saine stated that she agrees with Commissioner Brotherton. She is in favor of the YMCA, but does not think the public would like the Commissioners giving this land to a private organization.

Peter Acker stated that the land would revert back to Lincoln County if the YMCA would close.

Harry Grace, President of YMCA of Greater Charlotte, stated that the YMCA would have no interest in the property if YMCA would close.

Commissioner Larry Craig stated that he would be in agreement to give the property to YMCA, but to be sure that if the YMCA failed, the land would come back to the County.

Commissioner James Hallman stated that he is supportive of the YMCA.

Commissioner Larry Craig stated that the YMCA has a lot to offer the community. He commented that he has gotten a lot of calls in support of the YMCA.

Chairman Louis McConnell asked Jeff Taylor, Assistant County Attorney, if the Commissioners were in a position to sell the land in question. Jeff Taylor stated that the land is committed to the hospital and is not in a position to be sold.

Chairman Louis McConnell stated that he would probably look favorable on the revert clause, but would want to look over the document that will be drawn up by the County Attorneys.

## **1996 – 1997 AUDIT REPORT**

Turner Rivenbark of Cherry BeKaert and Holland presented the following information:

LINCOLN COUNTY  
GENERAL FUND FINANCIAL INFORMATION

JUNE 30, 1997

	<u>96-97</u>	<u>95-96</u>	<u>INCREASE (DECREASE)</u>
<b>Assets:</b>			
Cash	\$ 4,244,000	\$ 4,312,000	\$ (68,000)
Due from other funds (net)	4,138,000	2,901,000	1,237,000
Accounts receivable	3,212,000	3,117,000	95,000
Property taxes receivable	1,317,000	767,000	550,000
Liabilities – Accounts Payable	862,000	827,000	35,000
Deferred Revenues	1,750,000	1,137,000	613,000
<b>Fund Balance</b>			
Reserved	7,682,000	6,274,000	1,408,000
Unreserved	2,617,000	2,859,000	(242,000)

LINCOLN COUNTY, NORTH CAROLINA  
GENERAL FUND FINANCIAL INFORMATION  
JUNE 30, 1997

	<u>96-97</u>	<u>95-96</u>	<u>INCREASE (DECREASE)</u>
<b>Revenues:</b>			
Property taxess	\$ 18,051,000	\$ 15,587,000	\$ 2,464,000
Local option sales tax	6,945,000	6,721,000	224,000
Inventory tax reimbursement	1,115,000	1,118,000	(3,000)
Federal and state grants	3,931,000	4,149,000	(218,000)
Health Department	1,594,000	1,165,000	429,000
Other	<u>2,994,000</u>	<u>2,460,000</u>	<u>534,000</u>
	34,630,000	31,200,000	3,430,000
Expenditures:	<u>33,016,000</u>	<u>30,744,000</u>	<u>2,272,000</u>
Revenues over expenditures	1,614,000	456,000	1,158,000

Net transfers (to) from other funds	<u>(448,000)</u>	<u>384,000</u>	<u>(832,000)</u>
Increase in fund balance	\$ <u>1,166,000</u>	\$ <u>840,000</u>	\$ <u>326,000</u>

Mr. Rivenbark stated that the County Finance Department had received a Financial Reporting Achievement award.

## **RECOMMENDATIONS FROM PLANNING BOARD MEETING – NOVEMBER 3, 1997**

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

### **Zoning Map Amendment No. 234—Deborah and John Gaus, Applicants**

Unanimous vote of approval as submitted.

A motion by Commissioner James Hallman to approve Zoning Map Amendment No. 234—Deborah and John Gaus, Applicants, based on the Planning Board's recommendation to rezone property from Residential Transitional (R-T) to Residential Single Family (R-SF) and the fact that the entire community wanted the change.

Seconded by Commissioner Beth Saine.  
Unanimously approved.

### **Zoning Map Amendment No. 235—Ivester & Ladd, CPAs, Applicants**

Unanimous vote to rezone only portion of lot IV overlay district.

Judy Francis, Zoning Administrator, stated that there was a uniform boundary, the wooded property would be a buffer.

Commissioner Terry Brotherton stated that he has a problem with a lot with two different classifications.

A motion by Commissioner Larry Craig to rezone the entire tract from Residential Single Family (R-SF) to Neighborhood Business (B-N).

Seconded by Commissioner Terry Brotherton.  
Unanimously approved.

### **Zoning Text Amendment No. 237—Marvin J. Phillips, Applicant.**

Unanimous vote of approval as submitted.

A motion by Commissioner Terry Brotherton to approve Zoning Map Amendment No. 237—Marvin J. Phillips, Applicant, based on the Planning Board’s recommendation to rezone property from Residential Single-Family (R-SF) to general industrial (I-G).

Seconded by Commissioner Larry Craig.  
Unanimously approved.

**Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.**

Unanimous vote of approval with the condition that the applicant present a doctor's letter stating accessory care is necessary.

Chairman McConnell presented the Findings of Fact for Conditional Use Permit No. 116—Mildred C. Bradshaw, Applicant.

# RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

## LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP-# 116

Date: November 3, 1997

Applicant's Name: Mildred C. Bradshaw

Address: PO Box 158  
3389 Halite Lane  
Iron Station, NC 28080

Property Owner's Name: Same as Applicant  
Address:

Property Location: 3389 Halite Lane, Iron Station

Existing Zoning: R-SF

## Proposed Conditional Use: Class C Mobile Home for Grandson as Accessory Care Provider

## 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 Larry Craig.  
Seconded by Commissioner James Hallman.

Factual Reasons Cited: The use will not materially endanger the public health or safety if located where proposed and developed according to plan, citing the fact that it will be on a temporary basis.  
Vote: Unanimously approved.

2. The use meets all required conditions and specifications. Yes X No     
Motioned by Commissioner Terry Brotherton.  
Seconded by Commissioner Beth Saine.  
Factual Reasons Cited: The use meets all required conditions and specifications because they are asking for a Class C mobile home and the specifications will be enforced by Inspections.  
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 Larry Craig.  
Seconded by Commissioner James Hallman.  
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity; the value of the abutting property will not be injured because the mobile home is only there temporarily.  
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 Larry Craig.  
Seconded by Commissioner James Hallman.  
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 in question and it meets all criteria.  
Vote: Unanimously approved.

After having held a public hearing on November 3, 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 one "fair and reasonable condition" attached based on the findings of fact being in the affirmative. 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. Applicant present a doctor's letter stating accessory care is necessary.

2.

---

Chairman  
Lincoln County Board of Commissioners

November 3, 1997

---

Clerk to Board of Commissioners

November 3, 1997

**Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, Applicant.**

Unanimous vote of approval as requested.

Chairman McConnell presented the Findings of Fact for Conditional Use Permit No. 117—Carolina Boat, Inc. d/b/a Carolina Toy Store, Applicant.

**RECOMMENDATION ON FINDINGS OF FACT  
FOR A CONDITIONAL USE PERMIT**

**LINCOLN COUNTY, NORTH CAROLINA**

Application Number: CUP-# 117      Date: November 3, 1997

Applicant's Name: Carolina Boat, Inc. d/b/a Carolina Toy Store

Address:      824 Hwy 16 N.  
                  Denver, NC 28037

Property Owner's Name: F & H Properties, LLC.  
Address:            2331 Eastover Drive  
                  Concord, NC 28025

Property Location: 824 Highway 16 N.  
                  Denver, NC 28037

Existing Zoning:      B-N

Proposed Conditional Use: Used Car 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 X No     
Motioned by Commissioner Terry Brotherton.  
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, citing the fact that this is basically a business area and it is a straight stretch of Highway 16.

Vote: Unanimously approved.

2. The use meets all required conditions and specifications. Yes X No     
Motioned by Commissioner Terry Brotherton.  
Seconded by Commissioner James Hallman.  
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 Terry Brotherton.  
Seconded by Commissioner Beth Saine.  
Factual Reasons Cited: The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity; the value of the abutting property will not be injured because of surrounding properties.  
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 Terry Brotherton.  
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 general conformity with the Land Use Plan for the area in question. Vote: Unanimously approved.

Commissioner Larry Craig stated that on all other car lots there had been restrictions on the hours of operation.

Commissioner Terry Brotherton stated that it is about one mile south from other car lots.

Jeff Taylor, County Attorney, stated that he was concerned about the lack of evidence to support the issue.

After having held a public hearing on November 3, 1997, and in light of the finding of facts listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Commissioner Terry Brotherton motioned that the Conditional Use Permit be approved based on Findings of Fact all being in the affirmative.

Seconded by Commissioner Larry Craig.  
Vote: Unanimously approved.

---

**Chairman**  
**Lincoln County Board of Commissioners**

November 3, 1997

## Clerk to Board of Commissioners

November 3, 1997

## Conditional Use Permit No. 118—Robin Parker Schrum, Applicant.

Unanimous vote of approval as requested.

Chairman McConnell presented the Findings of Fact for Conditional Use Permit No. 118—Robin Paker Schrum, Applicant.

## RECOMMENDATION ON FINDINGS OF FACT FOR A CONDITIONAL USE PERMIT

## LINCOLN COUNTY, NORTH CAROLINA

Application Number: CUP-# 118 Date: November 3, 1997

Applicant's Name: Robin Parker Schrum

Address: 288 Wise Road  
Lincolnton, NC 28092

Property Owner's Name: W. Frank Parker  
Address: 305 Wise Road  
Lincolnton, NC 28092

Property Location: 305 Wise Road  
Lincolnton, NC 28092

Existing Zoning: R-T

Proposed Conditional Use: Place a Class C mobile home on her property for an accessory care provider for Mr. Parker

## 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.

Vote: Unanimously approved.

2. The use meets all required conditions and specifications. Yes X No     
Motioned by Commissioner Larry Craig.  
Seconded by Commissioner James Hallman.  
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 Beth Saine.  
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 in question. Yes X No     
Motioned by Commissioner James Hallman.  
Seconded by Commissioner Terry 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 in question.  
Vote: Unanimously approved.

After having held a public hearing on November 3, 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 No. 118 be approved based on Findings of Fact all being in the affirmative.

Seconded by Commissioner Beth Saine.

Vote: Unanimously approved.

---

November 3, 1997

Chairman  
Lincoln County Board of Commissioners

---

November 3, 1997

Clerk to Board of Commissioners

### **Parallel Conditional Use Rezoning No. 45—James K. Peeler, Applicant**

Unanimous vote to deny request as submitted. The discussion included the following issues: concerns over spot zoning, surrounded by residential property, any expansions in the future would go without scrutiny, airport would not be closed down if denied, but any expansions would go back to Planning Board. There would be no more public hearings or ways to address neighbors concerns in the future..

Jeff Taylor, Assistant County Attorney, stated that regarding the issues in the lawsuit, the Court decision would override any zoning. He commented that the Court will decide whether it is nonconforming.

Commissioner Terry Brotherton made a motion to deny Parallel Conditional Use Rezoning No. 45.

Seconded by Commissioner Larry Craig.  
Unanimously approved.

Commissioner James Hallman stated that the public comments show that the community is against expansion of the airport.

Commissioner Larry Craig stated that the noise is a major factor.

Chairman Louis McConnell called a brief recess.

Chairman Louis McConnell called the meeting back to order.

### **COUNTY COMMISSIONERS REPORT**

Commissioner James Hallman stated that there is a vacancy on the Airport Authority and that Steven A. Carpenter has been submitted.

Commissioner James Hallman also advised that there is one vacancy on the East Lincoln County Water and Sewer Advisory Board and Gilbert List has been submitted.

Commissioner James Hallman made a motion to appoint Steven A. Carpenter to the Airport Authority to fill the unexpired term of Donald Little and Gilbert List to the East Lincoln County Water and Sewer Advisory Board.

Seconded by Commissioner Larry Craig.  
Unanimously approved.

### **COUNTY MANAGER'S REPORT**

#### **MEMORANDUM**

**TO:** Louis E. McConnell, Chairman  
Board of Commissioners

**FROM:** Rick French, County Manager

**SUBJECT:** County Manager's Report

**DATE:** October 29, 1997

1. The North Carolina Department of Transportation will meet on November 5, 1997 at 2:00 PM in Dallas at Gaston College, Garrison Auditorium, Room 201. Gaston College is located off US 321. The purpose of the meeting will be to receive information on transportation projects for inclusion in the 1999-2005 Transportation Improvement Program (TIP).
2. The Employee's Appreciation Luncheon is scheduled for December 3, 1997 at the Citizens Center. The lunch will be held from 11:30 AM to 2:00 PM to allow all employees time to eat without closing down departments. Awards for service will be presented by the County Commissioners between 12:45 PM – 1:15 PM. Please mark your calendars for this special time.
3. A new roof has been put on the "County lake house" for \$2,400.00.
4. County staff have been contacted about a charter school in Lincoln County. Mrs. Robin Black (732-6970) contacted our office for possible available buildings. Mrs. Black reported hopes were that a charter school would be opened next school year. Mrs. Black stated the school would be K-6 with about 120 students. Enclosed is some information on charter schools for your information. This could (depending on what perspective you take) have a financial impact on our 98-99 budget.
5. I recently spoke with Maiden Town Manager Doris Bumgarner. Doris reported Maiden was interested in an Emergency Water Agreement similar to Cherryville. I hope to meet with Doris in the next few weeks to work out the details.
6. Enclosed is the grant information previously discussed concerning matching county funds for the Automatic Defibrillation. The amount requested is \$6,413.25. Following your approval, equipment will be purchased.

7. County staff have been working on the "Special Merit" check. Our proposal would be for all full time county employees employed between October 1, 1996-October 1, 1997 would receive \$250. Only part-time employees who have accumulated 520 hours or more are eligible for the \$100. This is 10 hour average per week. Any part-time employee who averages less time will not receive any money. These checks would be distributed in November.
8. Enclosed is information from Leon Harmon concerning funding for Economic Development. EDA was formed in January of 1996.

/lh

Enclosures

Rick French, County Manager stated \$6413.25 is requested for the Automatic Defibrillation machine. Commissioner Larry Craig stated that he would like to check it over with the Lincoln County Rescue Squad.

Commissioner James Hallman made a motion to fund the \$6413.25, for the Automatic Defibrillation machine subject to Commissioner Larry Craig finding out about the Lincoln County Rescue Squad.

Seconded by Commissioner Larry Craig.  
Unanimously approved.

Rick French stated that the "Special Merit" checks would be for all full-time County employees employed between October 1, 1996 and October 1, 1997 would receive \$250.00. He stated that only part-time employees who have accumulated 520 hours or more are eligible for the \$100.00. It was the consensus of the Board to approve this.

Mr. French stated that he had received that information on the Mountain Island Lake Marine Commission with the percentage changed to 4%.

Commissioner James Hallman made a motion to approve the Resolution for the Mountain Island Lake Marine Commission with 4%.

Seconded by Commissioner Larry Craig.  
Vote: 4-1

Rick French stated that a work session needs to be set for sometime in December. He reminded the Board of the meeting on November 10, 1997 at 7:00 p.m. with EDA Executive Board in closed session.

## **CLOSED SESSION-CONTRACTUAL AND PERSONNEL**

Commissioner James Hallman made a motion to go into closed session.

Seconded by Commissioner Beth Saine.  
Unanimously approved.

## **OPEN SESSION**

Commissioner James Hallman made a motion to come out of closed session.

Seconded by Commissioner Beth Saine.  
Unanimously approved.

Rick French gave the Board a proposed letter from Doug Chapman to the property owners in the East Lincoln Sewer District about the proposed capacity fees. Mr. French commented that a mass mailing to all of the Sewer District would cost around \$1000.

Commissioner Terry Brotherton stated that he believes this letter will confuse people.

It was the consensus of the Board not to send out these letters.

Commissioner Larry Craig stated that maybe someone would have a better idea than capacity fees. He stated that the Commissioner should go down to East Lincoln for the Public Hearing.

Rick French stated that the meeting could be held at East Lincoln High School Cafeteria on November 17, 1997. He commented that the East Lincoln Water and Sewer District meeting would be held at 6:30 p.m. and the public hearing during the regular meeting at 7:00 p.m.

Commissioner Larry Craig asked the Board's opinion about working something out with the developments already under way.

Commissioner James Hallman asked Jeff Taylor, Assistant County Attorney, if Eddie Knox has any recourse with the Lincoln County if capacity fees are charged.

Jeff Taylor, County Attorney, stated that he does not think so, because what is already planned is under one set of guidelines and the capacity fees are under another.

Jeff Taylor stated that Maggie Dollar, at the Health Department had come to him with an issue that needs to be addressed. He stated that the Health Department does on-site inspections for the installation of septic tanks when a particular project is underway. Another service offered is a Preliminary Subdivision Review, which is only done 4 or 5 times per year. He stated that in this review the Health Department offers some opinions about tracts of land, such as how many lots can be divided and give some assurance that the septic tanks will all perk. They have been doing this as a service for builders, and

charging for it. The issue was brought up because of a court case in which the Attorney Generals Office was told that it was not a state function. Jeff Taylor stated that this service is available in the private sector, that the service would still be available if the County stopped doing it. Mr. Taylor stated that the liability for the County is too high.

Commissioner Terry Brotherton made a motion to act accordingly with Jeff Taylor's recommendation concerning changes in the Preliminary Subdivision Review.

Seconded by Commissioner Beth Saine.  
Unanimously approved.

Commissioner Larry Craig stated that the Health Department could possibly give directions as to where to go for the service.

Commissioner Terry Brotherton stated that the Health Department could give a list of options, but not recommending anyone.

## **ADJOURNMENT**

Being no further business to come before the Board of Commissioners at this time, Chairman McConnell entertained a motion to adjourn the November 3, 1997 meeting.

Commissioner Larry Craig motioned that the Board adjourn.

Seconded by Commissioner Beth Saine.  
Unanimously approved.