

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, AUGUST 20, 2007

The Lincoln County Board of County Commissioners met in regular session on August 20, 2007 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M.

Commissioners Present:

Thomas R. Anderson, PE, Chairman
Alex E. Patton, Vice Chairman
Bruce Carlton
James A. Klein – Arrived at 6:45 p.m.
Marie Moore

Others Present:

Michael S. Talbert, Interim County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Kelly Atkins, Director of Building & Land Development
Randy Hawkins, Zoning Administrator
Candi Cornwell, Associate Zoning Administrator
Andrew Bryant, Associate Planner
Stacy Yates, Associate Planner
Elizabeth Snyder, Director of Forestry
Rick McSwain, Director of Soil & Water
Steve Gilbert, Director of Public Works
Barry McKinnon, Utility Engineer
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the August 20, 2007 meeting of the Lincoln County Board of Commissioners to order and welcomed Michael Talbert, Interim County Manager.

Invocation: Pastor Jim Graves with Lincolnton Seventh-Day Adventist Church gave the Invocation. Chairman Anderson led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Patton, the Board voted unanimously to adopt the agenda as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

AUGUST 20, 2007

6:30 PM Call to Order

6:31 PM Invocation – Pastor Jim Graves
Lincolnton Seventh-Day Adventist Church

6:32 PM Pledge of Allegiance

1. 6:33 PM Adoption of Agenda

2. 6:34 PM Consent Agenda

- Approval of Minutes
 - August 6, 2007
- Budget Adjustment No. 19, 21, 22
- Waived Fees
 - Lincoln Medical Center

3. 6:35 PM Public Comments

4. 6:50 PM Recommendations from Planning Board

ZMA #554 Jeff Smiley, applicant
CUP #281 John Leatherman, applicant
CUP #282 Alltel Communications Inc., applicant
PCUR #154 B.V. Hedrick Gravel and Sand Co., applicant
PCUR #140A Westport Lakeside Development LLC, applicant
PCUR #147A Westport Lakeside Development LLC, applicant

5. 7:30 PM Lincoln County Comprehensive Land Use Plan –
Recommendation from Planning Board

6. 7:45 PM Lincoln County Adequate Public Facilities Program –
Recommendation from Planning Board

7. 8:05 PM Unified Development Ordinance Firm Selection – Stacy Yates

8. 8:15 PM Confirmation of New LHS Community Trustee Council Members

9. 8:20 PM Report from Forestry Service – Elizabeth Snyder

10. 8:30 PM Retreat Status – Commissioner Jim Klein

11. 8:40 PM Discussion of Budget Process – Commissioner Jim Klein

12. 8:50 PM Contract for Engineering Services – Industrial Park Wastewater
Facilities – Amendment No. 4

13. 9:00 PM Lincoln County Soil Erosion & Sedimentation Control Grant Approval – Rick McSwain

14. 9:10 PM Capital Project Report

15. 9:15 PM Finance Officer's Report

16. 9:20 PM County Manager's Report

17. 9:25 PM County Commissioners' Report

18. 9:30 PM County Attorney's Report

19. 9:35 PM Vacancies/Appointments

20. 9:40 PM Calendar

21. 9:45 PM Other Business

22. 9:50 PM Closed Session

Adjourn

Consent Agenda: Chairman Anderson removed the August 6, 2007 minutes from the agenda.

- Budget Adjustment No. 19, 21, 22
- No. 19: Encumber designated funds for Social Services
- No. 21: Insurance Settlement Account was increased by \$7,550.00 – Need to increase Capital Outlay – Vehicles by same amount in order to offset the cost to replace totaled patrol car
- No. 22: Additional funds provided by HRSA Grant; Purchase of transport ventilator
 - Waived Fees
 - Lincoln Medical Center

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the consent agenda.

Public Comments: Chairman Anderson advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

Being no speakers, Chairman Anderson declared the public comments section closed.

Recommendations from Planning Board:

Zoning Map Amendment No. 554 – Jeff Smiley, applicant: The Planning Board voted 8-0 to recommend approval.

Zoning Amendment No. 554 – Statement of Consistency and Reasonableness

Case No. ZMA #554
Applicant: Jeff Smiley
Parcel ID#: 60253
Location: Campground Road
Proposed
Amendment: Rezone from R-T to B-G

This proposed amendment is inconsistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: This area is not one of the areas designated by the 2001 Land Use Plan as most suitable for concentrating commercial development.

This proposed amendment is reasonable and in the public interest in that: The front portion of this parcel is already zoned B-G. Several businesses are located in this area. The new Land Use Plan as currently proposed would classify this area as commercial.

UPON MOTION by Commissioner Patton, the Board voted unanimously to accept the Planning Board's recommendation and the Statement of Consistency and Reasonableness for Zoning Map Amendment No. 554 – Jeff Smiley, applicant.

Conditional Use Permit No. 281 – John Leatherman, applicant: The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to accept the Planning Board's Findings of Fact for Conditional Use Permit No. 281 – John Leatherman in total and as presented.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve Conditional Use Permit No. 281 – John Leatherman, applicant.

FINDINGS OF FACT

Application #: CUP #281 Date: August 6, 2007
Applicant Name: John Leatherman
Applicant Address: 226 Cat Square Rd., Lincolnton NC 28092
Property Location: Hwy. 27 West PID # 13382 Existing Zoning: R-S
Proposed Conditional Use: Class E (singlewide) mobile home

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO _____
FACTUAL REASON CITED: Will not endanger the public health or safety.
UPON MOTION by Commissioner ---, the Board voted unanimously to approve based on the factual reasons cited.

2. The use meets all required conditions and specifications. YES NO _____
 FACTUAL REASON CITED: Mobile home was previously in Lincoln County.
 UPON MOTION by Commissioner ---, the Board voted unanimously to accept the Planning Board's Finding of Fact 2 and the factual reason cited.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO _____
 FACTUAL REASON CITED: Property is farmland and family land; other manufactured homes are located in this area.
 UPON MOTION by Commissioner ---, the Board voted unanimously to accept the Planning Board's Finding of Fact 3 and the factual reason cited.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO _____
 FACTUAL REASON CITED: Meets Goal 7 of the current Land Use Plan.
 UPON MOTION by Commissioner ---, the Board voted unanimously to concur with the Planning Board for the factual reason cited.

Conditional Use Permit No. 282 – Alltel Communications Inc., applicant: The Planning Board voted 8-0 to recommend approval.

FINDINGS OF FACT

Application #: CUP #282 Date: August 6, 2007
 Applicant Name: Alltel Communications Inc.
 Applicant Address: 10005 Monroe Rd., Matthews NC 28105
 Property Location: 4031 Orchard Rd. PID # 23954 Existing Zoning: R-T
 Proposed Conditional Use: 230-foot telecommunications tower

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO _____
 FACTUAL REASON CITED: Tower will be located in the middle of 16 acres.
 UPON MOTION by Commissioner ---, the Board voted unanimously to approve based on the factual reasons cited.
2. The use meets all required conditions and specifications. YES NO _____
 FACTUAL REASON CITED: No hazard to air navigation.
 UPON MOTION by Commissioner ---, the Board voted unanimously to accept the Planning Board's Finding of Fact 2 and the factual reason cited.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO _____
 FACTUAL REASON CITED: Setback requirements are met; area is not heavily populated.
 UPON MOTION by Commissioner ---, the Board voted unanimously to accept the Planning Board's Finding of Fact 3 and the factual reason cited.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO _____

FACTUAL REASON CITED: Will be strictly controlled.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the findings of fact as presented by the Planning Board.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Planning Board's recommendation and approve Conditional Use Permit No. 282 – Alltel Communications, Inc.

Parallel Conditional Use Request No. 154 – B. V. Hedrick Gravel and Sand Co., applicant: The Planning Board voted 7-1 to recommend approval with the following conditions:

- 1) That the applicant engage in discussions with Blum and with the resident who raised concerns.
- 2) That a conditional letter of map revision be approved by FEMA before any encroachment is made into the floodplain on the northern side of Forney Creek.

Staff recommended adopting the proposed conditions the applicant submitted with the application.

A letter was presented from Blum saying that they will not oppose Parallel Conditional Use Permit No. 154 per the following agreement reached with B.V. Hedrick Gravel and Sand Co.

1. B.V. Hedrick Sand and Gravel Co. will provide a minimum 6-month notice prior to beginning blasting on the proposed pit in the Southwest corner of their property. This will allow Blum Inc. time to complete a pre-blast survey of our existing facility and evaluate the tolerable limits of the equipment currently in use.
2. B.V. Hedrick Sand and Gravel Co. agrees to discuss blasting procedures and will modify as required to not negatively impact Blum Inc. equipment or facility.
3. B.V. Hedrick Sand and Gravel Co. will support Blum Inc. in its future rezoning request to move parcel 34251 from R-T (Transitional Residential) to I-G (General Industrial) use.

The Board discussed making this agreement part of the conditions. The applicant did not have a problem with this.

A letter was submitted from Jason Conner, Environmental Director with Hedrick Industries concerning the meeting with Mr. Billy Howard. Hedrick Gravel and Sand offered to readjust their entrance based on the ability to obtain the property right-of-way from Carolina Centers LLC and a modified driveway permit from the NCDOT, plant trees or re-landscape the area in front of Mr. Howard's home to minimize the problems he is having with customer trucks, and remove any gravel that is deposited from the trucks leaving the site. Mr. Howard refused to accept these suggestions and instead wanted monetary compensation on a monthly basis.

Randy Hawkins stated that Commissioner Moore asked him to check with Duke Energy to see if they had any concerns on the quarry operation as it relates to their combustion turbine station on Old Plank Road. Duke notified him today that they have no opposition to the rezoning.

Zoning Amendment – Statement of Consistency and Reasonableness

Case No.: PCUR #154
Applicant: B. V. Hedrick Gravel and Sand Co.
Parcel ID#: 02860, 02861, 02862, 30239, 31188, 34252, 52621, 52622, 56506, 73724, 74885, 78253, 78254, 84029 and 85905
Location: Off Hwy. 16 South
Proposed
Amendment: Rezone from I-G and R-T to CU I-G to permit the expansion of a quarry

This proposed amendment is consistent with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that: This property is located in an area designated by the 2001 Land Use Plan as a commercial and employment center.

This proposed amendment is reasonable and in the public interest in that: Most of this property is already zoned industrial. Other industrial uses are located in this area. The proposed Land Use Plan would designate this area as industrial.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to accept the planning board's statement of consistency and reasonableness.

FINDINGS OF FACT

Application #: PCUR #154 Date: August 6, 2007
Applicant Name: B.V. Hedrick Gravel and Sand Co.
Applicant Address: 7 Yorkshire St., Suite 102, Asheville NC 28803
Property Location: Off Hwy. 16 South Existing Zoning: I-G, R-T
Proposed Conditional Use: Expansion of existing quarry

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO _____
FACTUAL REASON CITED: Has the approval of Pulte Homes; testing done previously.
UPON MOTION by Commissioner Patton, the Board voted unanimously to approve based on the factual reasons cited.
2. The use meets all required conditions and specifications. YES NO _____
FACTUAL REASON CITED: Testimony at hearing.
UPON MOTION by Commissioner Moore, the Board voted unanimously to accept the Planning Board's Finding of Fact 2 and the factual reason cited.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO _____

FACTUAL REASON CITED: Covenant established with Pulte Homes; applicant meeting with Blum.

UPON MOTION by Commissioner Klein, the Board voted unanimously to accept the Planning Board's Finding of Fact 3 and the factual reason cited.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO _____

FACTUAL REASON CITED: Consistent with current and proposed Land Use Plan.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to concur with the Planning Board for the factual reason cited.

Conditions:

- 1) That the applicant engage in discussions with Blum and with the resident who raised concerns. Both meetings have taken place and letters have been submitted to that effect.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve Condition 1.

- 2) That a conditional letter of map revision be approved by FEMA before any encroachment is made into the floodplain on the northern side of Forney Creek.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve Condition 2.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the applicant's original 7 conditions:

B.V. Hedrick Gravel and Sand Company propose the following conditions for the Conditional Use Permit to continue to operate the Lake Norman Quarry:

1. Hedrick Industries will abide by the Development and Restrictive Covenant Agreement made and entered into as of May 15, 2006 between Pulte Home Corporation ("Pulte") and B.V. Hedrick Gravel and Sand Company, INC. ("Hedrick"). Refer to Exhibit H for the Agreement and Exhibit I for the Quarry Pulte Buffer Survey.
2. Hedrick Industries will continue to develop the Quarry in accordance with the site plan attached.
3. Hedrick Industries will maintain its North Carolina Mining Permit covering the Quarry and the uses proposed at all times during the operation of the quarry and the reclamation of the site.
4. Blasting:
 - a. Blasting impacts at the closest, non-company-owned, occupied structures, limited by state law to 1" per second PPV. Extensive Federal Bureau of Mines show that 2" per second PPV is a safe thresh

hold at which no damage will occur. Hedrick Industries will size each blast event so that off-site impacts will not be above the State limit.

b. In accordance with North Carolina law, a seismograph reading will include: date, time, pounds per delay, location of blast, location of seismograph peak particle velocity readings and decibel readings. Refer to Exhibit J

5. Buffer and Berms

A buffer area, which may include existing roads or berms, will be maintained a minimum of 50 feet back from all boundary lines; berms may be included in this buffer area with permission from the Department of Environment and Natural Resources.

6. Containment Structures; Storage

No fuel or petroleum products will be stored within 50 feet from any water body. All petroleum products will be stored in secondary containment.

7. Dust Control

The applicant will control dust by the use of a water truck on haul roads with spray bars on the processing equipment.

UPON MOTION by Commissioner Klein, the Board voted unanimously to add compliance with the letter dated 8/20/07 from Karl Ruedisser of Blum Inc., as a condition.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to accept the Planning Board's recommendation to approve Parallel Conditional Use Permit No. 154.

Parallel Conditional Use Request No.140A – Westport Lakeside Development LLC,
applicant: The Planning Board voted 8-0 to recommend the following:

Allow the use of private septic systems on the single-family lots that are not approved for sewer service, subject to the approval of the Lincoln County Health Department, on the conditions that the applicant:

- 1) Construct a sewer line/collection system, subject to the approval of NCDENR and Lincoln County, to serve all of the single-family lots.
- 2) Establish a reserve account funded by the purchaser of each lot from Westport No. 1, LLC to cover all estimated costs of connecting to the sewer system any and all homes served by private septic systems, including the costs of installing of grinder pumps and service connections and the costs of abandoning septic tanks. The reserve account would be served by private septic systems, including the costs of installing of grinder pumps and

service connections and the costs of abandoning septic tanks. The reserve account would be maintained by the Westport Lakeside Homeowner's Association, to be released to pay such costs of connecting to the sewer system as set forth herein.

3) Record restrictive covenants or deed covenants prohibiting homeowners from connecting to the sewer system without the county's approval and requiring homeowners served by private septic systems to connect to the sewer system and to properly abandon the septic systems once sewer service becomes available, with the costs to be paid from the reserve account. The connections shall be made within six months of the date that sewer service becomes available.

Randy Hawkins stated that between the public hearing and the Planning Board's meeting, there have been discussions with DENR and they have orally agreed to approve a revision of the sewer plans for this subdivision. DENR has agreed that the subdivision can revise the plans to include all 52 lots in the sewer collection system and assign one of the sewer capacity letters to the end of the subdivision so it would not be a dry line, but a total system that has been approved.

Chairman Anderson asked who has control of the Westport Lakeside Homeowners Association. Mr. Hawkins stated that the developer will have control until the association is turned over to the homeowners.

Mr. Tom Daniel stated that it is written in the bylaws that once a percentage of the homes are sold, the homeowner's association will be turned over to the homeowners.

Commissioner Moore asked if the cost of the lines also includes the capacity fees. Mr. Hawkins stated that it will include all the costs.

Randy Hawkins stated that the 21 lots in the subdivision will have sewer, the applicant will have to apply to the Health Department on a lot by lot basis for the septic system each individual lot. He said that some of the lots may not be approved for septic systems. The homes on septic systems will have to be hooked to sewer once it is available.

Application #:	PCUR 140A	Date: August 6, 2007
Applicant Name:	Westport Lakeside Development LLC.	
Applicant Address:	P.O. Box 9007, Greensboro, NC 27429	
Property Location:	Golf Course Drive South	Existing Zoning: CU P-R
Proposed Conditional Use:	Allow private septic systems on single-family lots	

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO _____
FACTUAL REASON CITED: Subject to approval by Lincoln County Health Department and NCDENR
UPON MOTION by Commissioner Klein, the Board voted unanimously to approve based on the factual reasons cited.
2. The use meets all required conditions and specifications. YES NO _____

FACTUAL REASON CITED: Will have to meet all required conditions and specifications.
UPON MOTION by Commissioner Patton, the Board voted unanimously to approve
Condition No. 2 with the factual reason cited.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO _____

FACTUAL REASON CITED: Will not injure the value of adjoining or abutting property; septic tanks to be removed.

UPON MOTION by Commissioner Klein, the Board voted unanimously to accept the Planning Board's Finding of Fact 3 and the factual reason cited.

5. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES X NO _____

FACTUAL REASON CITED: Is in harmony with the area and in conformity with the Land Use Plan

UPON MOTION by Commissioner Carlton, the Board voted unanimously to concur with the Planning Board for the factual reason cited.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the conditions set forth by the Planning Board:

Allow the use of private septic systems on the single-family lots that are not approved for sewer service, subject to the approval of the Lincoln County Health Department, on the conditions that the applicant:

- 1) Construct a sewer line/collection system, subject to the approval of NCDENR and Lincoln County, to serve all of the single-family lots.
- 2) Establish a reserve account funded by the purchaser of each lot from Westport No. 1, LLC to cover all estimated costs of connecting to the sewer system any and all homes served by private septic systems, including the costs of installing of grinder pumps and service connections and the costs of abandoning septic tanks. The reserve account would be served by private septic systems, including the costs of installing of grinder pumps and service connections and the costs of abandoning septic tanks. The reserve account would be maintained by the Westport Lakeside Homeowner's Association, to be released to pay such costs of connecting to the sewer system as set forth herein.
- 3) Record restrictive covenants or deed covenants prohibiting homeowners from connecting to the sewer system without the county's approval and requiring homeowners served by private septic systems to connect to the sewer system and to properly abandon the septic systems once sewer service becomes available, with the costs to be paid from the reserve account. The connections shall be made within six months of the date that sewer service becomes available.

A MOTION by Commissioner Klein to accept Parallel Conditional Use Permit 140A with the findings of fact and the conditions approved.

Discussion: Commissioner Carlton stated that when sewer is available and it is time to hook up, septic tanks and lines have to be abandoned. He asked if they will stay there or be removed. Randy Hawkins stated that they will be removed from service.

Commissioner Carlton asked for this information to be in writing to the people who buy the homes.

VOTE: 4 – 1

AYES: Anderson, Patton, Moore, Klein
NOES: Carlton

Parallel Conditional Use Permit No. 147A – Westport Lakeside Development, LLC, applicant: The Planning Board voted 7 – 1 to recommend the following:

Allow the use of private septic systems on the single-family lots that are not approved for sewer service, subject to the approval of the Lincoln County Health Department, on the condition that the applicant:

- 1) comply with the 3 conditions set forth in Parallel Conditional Use Permit #140A, or
- 2) That any lots served by private septic systems be at least 32,500 square feet in size.

Randy Hawkins stated that this case is different from the other case, because no capacity has been allocated yet, but in the event that there is some capacity, he could put in the lines to serve all the homes, develop beyond the amount allotted and then put in septic tanks after that.

Commissioner Klein asked why this is different from other developments.

Randy Hawkins stated that of all the planned districts that have been approved, this is the only one that has no sewer capacity allocated to it.

Commissioner Klein asked the hierarchy. Randy Hawkins stated that he is unsure, that would be up to Public Works.

Commissioner Klein stated that he feels like the Board is being asked to approve sewer capacity for a plant that is two years out. Randy Hawkins stated that we do know that there will be sewer capacity when the new plant is in operation. Commissioner Klein stated that he's not sure he wants to approve this now and keep a running tally of who is in line for this capacity.

Randy Hawkins stated that if the APFP is approved, it will be much easier to keep up with sewer capacity.

Mr. Hawkins stated that case one is a best case scenario, if capacity becomes available, and it's a similar situation to the previous case where 1/3 of the lots have capacity, then

the developer could construct a system to serve the entire subdivision and proceed under the same condition as the previous case. The second case would force him to go to $\frac{3}{4}$ of an acre. The Subdivision Ordinance and Sewer Use Ordinance say you can proceed if sewer service is not available.

Chairman Anderson stated that the “or” in the condition worries him. He asked if the “or” was taken out, and the remaining conditions were left, if he could put in the sewer system whenever he proceeds with this. He expressed his desire to remove the “or”.

Randy Hawkins stated that this will be considered a dry line and DENR will not allow it.

Application #: PCUR 147A Date: August 6, 2007
Applicant Name: Westport Lakeside Development LLC.
Applicant Address: P.O. Box 9007, Greensboro, NC 27429
Property Location: Golf Course Drive South Existing Zoning: CU P-R
Proposed Conditional Use: Allow private septic systems on single-family lots

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO _____
FACTUAL REASON CITED: Use will not materially endanger the public health or safety and is subject to approval by Lincoln County Health Department and NCDENR
UPON MOTION by Commissioner Patton, the Board voted 3 -2 (Commissioner Klein , Carlton against) to approve Finding one.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the following factual reason cited: The use will not materially endanger the public health or safety and is subbed to approval by Lincoln County Health Department and NCDENR.

2. The use meets all required conditions and specifications. YES NO _____
FACTUAL REASON CITED: Will have to meet all required conditions and specifications, subject to approval from Lincoln County Health Department
UPON MOTION by Commissioner Patton, the Board voted 2 – 3 (AYES: Patton, Anderson; NOES: Carlton, Klein, Moore) to accept Condition No. 2 with the factual reason cited.

Chairman Anderson announced that the motion failed and therefore Parallel Conditional Use Permit No. 147A has been rejected and is not approved.

Chairman Anderson declared a five minute recess.
Chairman Anderson called the meeting back to order.

Lincoln County Comprehensive Land Use Plan – Recommendation from Planning Board:

Board: The Planning Board voted 7-0 to recommend the following for the proposed Small Area Plan for the new NC 150/New NC 16 interchange at the Lincoln/Catawba line:

Classify the area east of New NC 16 and south of NC 150 as commercial, except for a rectangular area that is currently zoned industrial. It would be classified as industrial.

Classify the area west of New NC 16, south of NC 150 and east of Henry Dellinger Road as commercial along NC 150 (approximately 800 feet deep) and the remaining larger area as industrial.

There was a discussion concerning the classification at the new NC 16 and NC 150 interchange and about condition zoning.

Commissioner Moore asked how the classification is for Hagers Ferry and Pilot Knob Road. Kelly Atkins stated that it does not suggest that we go business on Hagers Ferry and Pilot Knob Roads.

UPON MOTION by Commissioner Moore, the Board voted unanimously that based on what was heard here tonight that Hager's Ferry/Pilot Knob Road situation is clear and the property at 150 will be industrial as it came from the Steering Committee be approved and that the text be amended to show that and the conditional zoning text be included in the Land Use Plan.

Lincoln County Adequate Public Facilities Program – Recommendation from Planning Board: Tyson Smith gave a Power point presentation on the APFO.

At the meeting on July 9, the Lincoln County Planning Board voted 6 – 0 to recommend approval of the proposed Adequate Public Facilities Program. As part of the vote, the Planning Board recommended removing an exemption for “affordable housing.”

The APFP proposal also called for the Board of Commissioners to enter into a memorandum of understanding with the East Lincoln Water & Sewer District to carry out certain provisions of the program. At the time, the District was responsible for the operation of the sewer system in the East Lincoln area. Because the county has since taken over that responsibility, a memorandum of understanding is not necessary and the proposal has been revised to reflect the county’s responsibility for the sewer system.

The MOU with the Lincoln County Schools has been approved by the Board of Education.

The proposal calls for amendments to the Lincoln County Zoning Ordinance and the Lincoln County Subdivision Ordinance.

Commissioner Carlton asked if traffic was ever discussed as a part of the APFP.

Kelly Atkins stated that it would be very difficult to include traffic since Lincoln County does not own the state road system. He stated that the Planning Board is currently working on a Transportation Plan and it should be to the Board in a month or so.

Jeff Taylor gave an update on the legislation pending in the General Assembly. As reported in June, Senate Bill 1180 would try to strip from local governments the ability to make exactions for contributions for conditions of developments, as a mechanism to be used in APFO’s. That bill passed the Senate and went to the House, passing the first

reading in the House, then being sent to the House Finance Committee, where is currently is. This could be brought back up next year.

UPON MOTION by Commissioner Carlton, the Board voted 4 – 1 (Patton against) to adopt the statement of consistency and reasonableness as presented by the Planning Board in connection with the proposed Adequate Public Facilities Program.

UPON MOTION by Commissioner Moore, the Board voted 4 – 1 (Patton against) to approve the memorandum of understanding as presented and executed with the Lincoln County Board of Education.

Commissioner Patton stated that moments ago, the Board approved a Land Use Plan, guiding principle 9 says to ensure that Lincoln County remains an affordable place in which to build and live. Lincoln County wants to be a place where all of it's citizens, teachers and firefighters, utility workers, as well as higher paid executives can find a quality home. If the Board approves an APFO tonight, they set that back. We can't have it both ways. The history of APFO's is that it steers affordable housing away from these areas, which is in direct opposition of our Land Use Plan. He stated that in his mind, there is two problems with this, 1: steers lower priced homes away from affected areas and 2: the mitigation factor put in place leans toward tract developers, lower income developers cannot mitigate at a rate that a high end developer can. He stated that it's still an APFO, which stands for All Poor Families Out, which is where we're headed.

Commissioner Klein asked about appeals and the findings of fact currently used. He asked for criteria and clearer definition in the findings of fact so that the Board of Adjustment is clear what they are passing judgment on.

Tyson Smith stated that this could certainly be tailored for this APFP.

Jeff Taylor stated that Candi Cornwell has been in touch with the Institute of Government. Some of the general wording in the findings of fact for variance is right out of the General Statutes, however there is not anything that says the Board cannot adopt definitions.

UPON MOTION by Commissioner Carlton, the Board voted 4 – 1 (Patton against) to approve the Adequate Public Facilities Program as presented.

Unified Development Ordinance Firm Selection – Stacy Yates: Stacy Yates presented the Unified Development Ordinance Firm Selection.

Stacy Yates stated that Lincoln County has undergone the process of a request of qualifications (RFQ) from planning firms around the region. The request for qualifications was for a consultant to be hired to complete the Unified Development Ordinance (UDO) process. RFQ's were sent to 14 firms and was advertised on the North Carolina Chapter of the American Planning Association's website. Six firms responded to the request. Staff scored each firm individually based on their report detail, proximity to Lincoln County, expertise with writing UDOs, their timeframe, their staff experience,

cost and their overall good fit for Lincoln County; thus staff is recommending Land Design, Inc. as the consultant for the development of the UDO.

A scope of services has been drafted and reviewed by staff and Jeff Taylor. Upon approval from the Board concerning the selection of Land Design, there will be a joint workshop with the Planning Board on Friday, September 7 at 2 p.m. LandDesign will be attending this workshop and will give a presentation concerning the scope of services and answer any questions. The total cost of the UDO project is expected to be \$205,000 which was approved in the 2007-2008 Building and Land Development budget. The process should take 11 – 13 months to complete.

Commissioner Patton stated that he does not understand why we have to pay someone to watch people do their job. He asked if the Public Works Department has hired the position of Director of Public Utilities and if this position would free up time for the Engineer to do this observation.

The Board discussed hiring a position to do this observation on projects.

Michael Talbert, Interim County Manager, stated that he will figure by the next meeting for creating a position to do observation on projects.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the firm selection.

Staff also recommended approval for the following individuals on the UDO steering committee:

Stacy Yates
Kelly Atkins
Randy Hawkins
Candi Cornwell
Andrew Bryant
Randy Williams
Bruce Carlton
Jr. Howard
Terry Whitener
John Pagel
Steve Gurley
Mike Futrell
Barry McKinnon
Erma Deen Hoyle
Rick McSwain
Mitch Miller
Cheryl Burgess
Stanley Roseboro
Susanne Sellers
Steve Isaac

Tom Campbell
Mark Carpenter
George Arena
Jeff Faucette

UPON MOTION by Commissioner Klein, the Board voted unanimously to appoint the committee.

Confirmation of New LHS Community Trustee Council Members:

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the appointment of Bud Boyles and Lee Kaniipe to the LHS Community Trustee Council Members.

Report from Forestry Service – Elizabeth Snyder: Elizabeth Snyder presented a report from the Forestry Service.

The Board asked of the status of the Mountain Island Educational State Forest. Elizabeth Snyder stated that Laura Shidal could better answer the questions concerning this.

Retreat Status – Commissioner Jim Klein: Commissioner Klein stated that he would like to review some items discussed at the January 19, 2007 retreat. He stated that priorities for the Planning Board were reached in this meeting, a transportation policy is one item that will be coming before the Board soon. He asked for an update on restructuring the Planning Board.

Discussion of Budget Process – Commissioner Jim Klein: Commissioner Klein stated that he would like to open the discussion of the Budget Process. He stated that in essence the key revisions are: set a target amount for the tax rate, fund balance, etc. much earlier than in the process than is now done. We are provided a later opportunity to “reset” the targets if necessary. The public hearing is held earlier in the approval process and gives the public data prior to the hearing upon which they can comment.

Commission Carlton suggested holding off on this until a new county manager is hired.

UPON MOTION by Commissioner Klein, the Board voted 3 – 2 (AYES: Klein, Carlton, Moore, NOES: Anderson, Patton) to adopt the revision to the budget process.

Contract for Engineering Services – Industrial Park Wastewater Facilities – Amendment No. 4: Steve Gilbert presented the contract for engineering services for the Industrial Park Wastewater Facilities.

Amendment No. 4 modifies the Contract for Services between Lincoln County and W K. Dickson & Co., Inc. dated October 4, 2004 for professional engineering services to build an outfall sewer, force main and pumping station to serve the County Industrial Park located off Finger Mill Road. The purpose of Amendment No. 4 is to adjust the

compensation to the Engineers to reflect additional work associated with a change in project scope as described below.

Design and Bidding Modifications

- Force Main and Sewer Design shall increase from \$50,020 to \$53,000. An increase of \$2,980
- Bidding and Contract Services shall increase from \$5,500 to \$6,400

Construction Observation

- This amendment calls for W. K. Dickson to provide Construction Observation Services for 100% of the job at a cost of \$85.00/hour plus expenses. This is based on a maximum of 1142 hours over the 168 calendar days. This amount is not to exceed \$103,300.)

The total amendment will increase the present contract total from \$150,375 to \$257,555.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the design and bidding modifications.

Michael Talbert advised the Board that he will get cost figures, and present them at the next meeting.

Steve Gilbert presented Contract Amendment No. 5, which modifies the Contract for Services between Lincoln County and W. K. Dickson & Co., Inc. dated October 4, 2004 for professional engineering services to build an outfall sewer, force main and pumping station to serve the County Industrial Park located on Finger Mill Road. The purpose of Amendment No. 5 is to adjust the compensation to the Engineers to reflect additional work associated with a change in project scope.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve Contract Amendment No. 5.

Lincoln County Soil Erosion & Sedimentation Control Grant Approval – Mike Talbert: Michael Talbert presented information regarding the L. C. Soil Erosion and Sedimentation Control Grant Approval. This is a contract with the Department of Environmental and Natural Resources for a project entitled Lincoln County Soil and Erosion Sedimentation Control Ordinance. In essence, the County is getting a grant that will last about 6 months, the total amount of the grant is \$33,705. This is a 60/40 matching grant.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the L. C. Soil Erosion and Sedimentation Control Grant.

Capital Project Report – Steve Gilbert: Steve Gilbert presented the Public Works Capital Project Reports.

Finance Officer's Report: Leon Harmon, Finance Officer, presented the Budget Performance Report for July 2007.

Commissioner Anderson stated that, at the NCACC meeting, the hot topic was Land Use Transfer Tax and Sales Tax. The Board needs to make a decision fairly quickly as to what to put on the ballot and which ballot to put it on. He asked staff to have a report on the transfer tax and sales tax on the September 10 agenda.

Chairman Anderson declared a five minute recess and called the meeting back to order.

County Commissioners' Report: Commissioner Klein stated that the NCACC Conference he recently attended was an excellent conference.

Commissioner Patton stated that the Airport Authority will have a massive fund drive on new terminal, and that the Board will be hearing about it.

County Attorney's Report: Jeff Taylor updated the Board in regards to Mr. Talbert's contract. He stated that the draft provided for \$45.67 for additional hours, but the hourly rate is actually provided for \$45.71.

UPON MOTION by Commissioner Patton, the Board voted unanimously to accept the contract, and authorized the Chair to sign on the Board's behalf.

Mr. Taylor gave an update on the IBT and the new legislation. He stated that there will be a meeting on IBT Thursday, September 13, and that they would like to involve managers and commissioners to discuss the future of this effort and financing it.

Chairman Anderson asked Commissioner Klein to get with Jeff Taylor concerning ABC Board member terms to allow them to serve longer than the 6 year term limits.

Vacancies/Appointments: Commissioner Klein presented the vacancies/appointments:

Vacancies:

Nursing and Adult Care Home Community Advisory Committee
Recreation Commission
LNRC

Appointments:

JCPC - Recommended by JCPC Board
Sheila Crawley Getties
Robert S. Hamilton
Lavern Gary-Reid
Plus membership list

Library Board – both recommended by Library Director Ed Trever
Annette Heavner
Reappoint Kathryn Yarbro

Nursing Home Committee – Rec. by Committee
Melva Perrot-Eddy

Pathways – Rec. by Pathways Nominating Committee
Chrystal Hoyle
Reappoint Nancy Roberston

Commissioner Moore asked Commissioner Klein to do the vote on Nancy Roberson for Pathways separate.

UPON MOTION by Commissioner Klein to appoint the following individuals, minus Nancy Roberson, the Board voted unanimously to approve the appointments.

Commissioner Moore presented copies of Pathways Board minutes and spoke of Nancy Roberson working behind the scenes. She respectfully asked the Board not to reappoint Nancy Roberson to the Pathways Board.

UPON MOTION by Commissioner Klein, the Board voted 4 – 1 (Commissioner Moore against) to reappoint Nancy Roberson to the Pathways Board for a 2nd three year term.

Commissioner Moore expressed her displeasure with Ms. Roberson's reappointment.

The Board asked if they could have a designee serve on the Transportation Advisory Board due to the fact that no Commissioners schedule allowed time for this meeting. They asked Jeff Taylor to look into this.

Calendar: Chairman Anderson presented the September 2007 calendar.

Closed Session: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to enter closed session pursuant to NCGS 143-318.11 (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, and to consult with attorney concerning attorney-client privilege.

The Board returned to open session.

UPON MOTION by Commissioner Klein, the Board voted 4 – 1 (Patton against) to make the Adequate Public Facilities Program effective October 1, 2007.

Adjourn: UPON MOTION by Commissioner Patton, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners