

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, SEPTEMBER 14, 2015**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on September 14, 2015, at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

**Commissioners Present:**

Carrol Mitchem, Chairman  
Bill Beam, Vice Chairman  
Martin Oakes  
Cecelia Martin  
Alex Patton

**Planning Board Members Present:**

Christine Poinsette, Chairman  
Dr. Crystal Mitchem, Secretary  
Jeffrey Todd Burgin  
John Dancoff  
Floyd Dean  
Jamie Houser  
Keith Johnson  
Greg Smith  
Andrew Robinson

**Others Present:**

Kelly G. Atkins, County Manager  
Wesley Deaton, County Attorney  
Amy S. Atkins, Clerk to the Board

**Call to Order:** Chairman Mitchem called the meeting to order and called for a moment of silence. Chairman Mitchem led in the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, September 14, 2015**  
**6:30 PM**

**James W. Warren Citizens Center**  
**115 West Main Street**  
**Lincolnton, North Carolina**

Call to Order

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda - Motion to adopt agenda removing CUP #346, agenda items 6, 8 and 10
2. Consent Agenda
  - Releases over \$100 - July 16 - August 15, 2015
  - Capital Project Ordinance Amendment #3
  - Budget Ordinance Amendment #3
  - Budget Ordinance Amendment #4
  - Resolution Recognizing the 50th Anniversary of Head Start and Gaston Community Action
  - National Long-Term Care Residents' Rights Month 2015 Proclamation
  - Minutes for Approval
  - Grant Project Ordinance Amendment #2
3. Resolution to Approve the Asset Purchase Agreement ("APA") for Purchase of the Lincoln County Home Health Agency by Capital Care Resources, LLC The "APA" includes the Bill of Sale and Lease Agreement - Maggie Dollar
4. Resolution of Authorization for application to North Carolina (DWSRF) Drink Water State Revolving Fund - Don Chamblee
5. Zoning Public Hearings - Randy Hawkins

PCUR #165 Prestige Corporate Headquarters, LLC (Parcel ID# 33266) A request for a parallel conditional use rezoning of 5.7 acres from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit a self-storage facility to be expanded with the addition of storage areas for recreational vehicles and boats. The property is located at 445 N. NC 16 Hwy., on the west side of N.C. 16 Business and north side of Forest Oak Drive, in Catawba Springs Township.

CUP #336A Patricia McCaffery and Robert Seitz, applicants (Parcel ID# 60294) A request to amend a conditional use permit for a kennel to allow an area on the east side of the site to be used by customers as a dog park. The 6.15-acre parcel is located at 7897 Natalie Commons Drive, on the north side of Natalie Commons Drive about 1,000 feet west of N.C. 16 Business, in Catawba Springs Township.

CUP #345 William Leonhardt, applicant (Parcel ID# 13634) A request for a conditional use permit to establish a manufactured home park in the R-T (Transitional Residential) district by placing four additional manufactured homes on a site with five existing manufactured homes. The 17.3-acre parcel is located on the west side of Shoal Road about 1,600 feet south of N.C. 182 in Howards Creek Township.

~~CUP #346 Warren Anderson, applicant (Parcel ID# 15183) A request for a conditional use permit to place a Class C manufactured home in the R-S (Residential Suburban) district. The 0.69 acre parcel is located at 2390 Boy Scout Road, on the north side of Boy Scout Road about 200 feet south of Old N.C. 150, in Howards Creek Township. \*Postponed\*~~

~~ZMA #620 James Canipe, applicant (Parcel ID# 13864) A request to rezone 3.5 acres from R-SF (Residential Single-Family) to R-R (Rural Residential). The property is located on the west side of Chrysanthemum Lane about 800 feet south of Wyant Road in Howards Creek Township.~~

~~ZMA #621 William Leonhardt, applicant (Parcel ID# 13626) A request to rezone 1.2 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). The property is located on the east side of Shoal Road about 500 feet south of N.C. 182 in Howards Creek Township.~~

~~ZMA #622 JVP Fit Enterprises, LLC, applicant (Parcel ID# 74083) A request to rezone 0.72 acre from B-N (Neighborhood Business) to B-G (General Business). The property is located on the west side of N.C. 16 Business about 500 feet south of Denver Drive in Catawba Springs Township.~~

~~ZMA #623 Richard Smith, Brenda Smith, Lee Caldwell, Sharon Page, Richard Page, Emily Toto, John Black, Richard Ferguson, Steve McIntrye, Lisa Windell, Jerry Windell, Danny Scott, Larry Caldwell et al, applicants (Parcel ID# 52787) A request to rezone 2.3 acres from CU I-L (Conditional Use Light Industrial) to B-G (General Business). The property is located on the south side of Forest Oak Drive about 500 west of N.C. 16 Business in Catawba Springs Township.~~

- ~~6. Rivercross Phasing Plan – Randy Hawkins~~
- ~~7. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)~~
- ~~8. Renewal of Airport Operating Agreement between City of Lincolnton and Lincoln County – Joe Tate~~
- ~~9. Other Business~~
- ~~10. Closed Session Pursuant to NCGS § 143-318.11. **Closed sessions** (a) (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment.~~

Adjourn

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

**Consent Agenda:** UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the Consent Agenda.

- Releases over \$100 - July 16 - August 15, 2015
- Capital Project Ordinance Amendment #3
- Budget Ordinance Amendment #3
- Budget Ordinance Amendment #4
- Resolution Recognizing the 50th Anniversary of Head Start and Gaston Community Action
- National Long-Term Care Residents' Rights Month 2015 Proclamation
- Minutes for Approval – August 17, 2015
- Grant Project Ordinance Amendment #2

\*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

**Resolution to Approve the Asset Purchase Agreement ("APA") for Purchase of the Lincoln County Home Health Agency by Capital Care Resources, LLC The "APA" includes the Bill of Sale and Lease Agreement - Maggie Dollar:**

UPON MOTION by Commissioner Oakes, the Board voted unanimously to adopt Resolution to Approve the Asset Purchase Agreement ("APA") for Purchase of the Lincoln County Home Health Agency by Capital Care Resources, LLC The "APA" includes the Bill of Sale and Lease Agreement.

**Resolutions of the  
Lincoln County Board of Commissioners  
September 14, 2015**

The following Resolutions were duly adopted by the Lincoln County Board of Commissioners (the "Board"), the governing body of the County of Lincoln (the "County"), in a duly called regular meeting on September 14, 2015.

WHEREAS, the County currently owns certain assets, which assets are associated with the provision of certified home health and related services within the geographic boundaries of Lincoln County, North Carolina (the "Agency");

WHEREAS, N.C. Gen. Stat. §131E-13 provides that if the County leases, sells, or conveys the Agency, or part thereof, the procedural requirements of N.C. Gen. Stat. §131E-13(d) shall apply;

WHEREAS, the Board has carefully studied the future needs of the Agency and has held public hearings and obtained public comment on the present and future needs of the Agency in accordance with the requirements of N.C. Gen. Stat. §131E-13(d);

WHEREAS, the Board has (i) at a regular meeting more than sixty (60) days prior to the date hereof, adopted a resolution declaring the intent of the County to sell the Agency (the “Resolution of Intent”); (ii) at said meeting, requested proposals for the sale of the Agency by direct solicitation of at least five (5) prospective purchasers; (iii) conducted a public hearing on the Resolution of Intent not less than fifteen (15) days after its adoption; (iv) required information on charges, services, and indigent care at similar facilities owned and operated by each proponent; (v) not less than forty-five (45) days after adopting the Resolution of Intent and not less than thirty (30) days after conducting the public hearing on the Resolution of Intent, conducted a public hearing on the proposals to purchase the Agency; and (vi) made copies of the proposals with respect to the Agency available to the public at least ten (10) days before the public hearing on said proposals, all in accordance with the requirements of N.C. Gen. Stat. §131E-13(d)(1) through (6);

WHEREAS, Kindred Healthcare, Inc., which is experienced in the operation and management of home health agencies, submitted a proposal on behalf of itself and its affiliates to purchase substantially all of the assets used in the operation of the Agency (the “Assets”);

WHEREAS, the terms and conditions of the proposed sale of the Assets to Capital Care Resources, LLC, a Georgia limited liability company that is affiliated with Kindred Healthcare, Inc., have been reduced to writing in the form of an Asset Purchase Agreement by and between the County and Capital Care Resources, LLC (the “Asset Purchase Agreement”), the form of which is attached hereto as Exhibit A;

WHEREAS, at least ten (10) days before this meeting, the County made copies of the Asset Purchase Agreement available to the public in accordance with the requirements of N.C. Gen. Stat. §131E-13(d)(8) and a legal notice of this regular meeting of the Board was published in accordance with the requirements of N.C. Gen. Stat. §131E-13(d)(7); and

WHEREAS, in accordance with the requirements of N.C. Gen. Stat. §131E-13(d)(7), after considering whether the sale of the Assets to Capital Care Resources, LLC, in accordance with the provisions of this Resolution, will meet the health-related needs of medically underserved groups, such as low income persons, racial and ethnic minorities, and handicapped persons, the Board finds that the sale of the Assets is in the public interest.

NOW, THEREFORE, be it resolved that in accordance with N.C. Gen. Stat. §131E-13(d), the Board hereby authorizes the Chairman of the Board, and such other persons as may be required, on behalf of the County, to complete the following actions:

1. Execute on behalf of the County the Asset Purchase Agreement and any other agreements, certificates, documents, and instruments to be executed by the County in connection with the Asset Purchase Agreement, including, without limitation, the Bill

of Sale and Assignment, and the Lease Agreement, in substantially the form presented to and approved by the Board.

2. Take such other and further actions as may be necessary to conclude and implement the transaction described in this Resolution.

This the 14th day of September, 2015.

LINCOLN COUNTY BOARD OF  
COMMISSIONERS

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Carrol D. Mitchem, Chair

ATTEST:

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Amy Atkins  
Clerk to the Board of Commissioners

**EXHIBIT A**

**ASSET PURCHASE AGREEMENT**

**Resolution of Authorization for application to North Carolina (DWSRF) Drink**

**Water State Revolving Fund:** Don Chamblee reported on the meeting held with residents of Forest Oaks Subdivision. This agenda item is to apply for a state revolving fund low interest loan.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve Resolution of Authorization for application to North Carolina (DWSRF) Drink Water State Revolving Fund.

**RESOLUTION OF AUTHORIZATION, BOARD OF COMMISSIONERS  
COUNTY OF LINCOLN, NC**

WHEREAS, The Federal Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water system improvements, and

WHEREAS, The COUNTY OF LINCOLN has need for and intends to construct a water line extension to serve a local residential neighborhood with clean drinking water, including 2, 6 and 8 inch waterlines along Deer Track Drive and Forest Oak Drive; WHEREAS, The COUNTY OF LINCOLN intends to request state (loan or grant) assistance for the project,

**NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF  
COMMISSIONERS OF THE COUNTY OF LINCOLN;**

That COUNTY OF LINCOLN, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State (loan or grant) award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the COUNTY OF LINCOLN to make scheduled repayment of the loan, to withhold from the COUNTY OF LINCOLN any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Kelly Atkins, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application and related attachments on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 14th Day of September, 2015 at Lincoln County, North Carolina.

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Carrol D. Mitchem, Chairman

**New Business/Advertised Public Hearings:** Randy Hawkins presented the following:

**PCUR #165 Prestige Corporate Headquarters, LLC (Parcel ID# 33266):**

The applicant is requesting a parallel conditional use rezoning of a 5.7-acre parcel from B-N (Neighborhood Business) to CU B-G (Conditional Use General Business) to permit a self-storage facility to be expanded with the addition of storage areas for recreational vehicles and boats. A site plan has been submitted as part of the application. The existing self-storage buildings on this site are a nonconforming use under the property's current zoning. Under the Unified Development Ordinance, a nonconforming use cannot be expanded. A self-storage facility, which may include vehicle storage, is a conditional use in the B-G district and in the Eastern Lincoln Development District (ELDD).

**SITE AREA AND DESCRIPTION**

The property is located at 445 N. NC 16 Hwy., on the west side of N.C. 16 Business and north side of Forest Oak Drive. In addition to three self-storage buildings, this property contains a car wash, an auto sales lot and office, and a vehicle service garage. This property is adjoined by property zoned B-N, I-G (General Industrial), CU I-L (Conditional Use Light Industrial) and R-SF (Residential Single-Family). A Duke Energy transmission right-of-way runs across the rear of this property and across the rear of the adjoining residential property. Land uses in this area include business, industrial and residential. The NC 16 Corridor Vision Plan recommends that commercial activity be concentrated in nodes.

**ADDITIONAL INFORMATION**

**Permitted uses**

Under current zoning: Continued operation of existing self-storage facility, car wash, auto sales lot and vehicle service garage.

Under requested zoning: Expansion of existing self-storage facility, continued operation of car wash, auto sales lot and vehicle service garage.

**Adjoining zoning and uses**

South (opposite side of Forest Oak Drive): zoned B-N and CU I-L, medical offices and site of rubber fabrication facility that was destroyed by fire and is planned to be rebuilt. West: zoned R-SF, residence.

North: zoned I-G and B-N, self-storage facility and pool and spa business.

East (opposite side of N.C. 16): zoned B-N, office building and convenience store/gas station.

Mr. Hawkins made note of the fact that the revised site plan will have the fence along Forest Oaks Drive and the rear of the property screened with slats or fabric. The site plan shows the access to Forest Oaks Drive will be a limited access drive and not access for customers. The access to the property will be Hwy 16.

Chairman Mitchem opened the public hearing concerning PCUR #165 – Prestige Corporate Headquarters, LLC, applicant.

Lee Caldwell, 7784 Deer Track Drive, said there are 12 storage and boat facilities on Highway 16 on 12.6 miles. She said the residents have concerns about the car wash since it has an old septic and pre-treatment system. In the UDO, it says water and sewer are to be used when it is available. She said this car wash is unique in that it is adjacent to a potential rv and boat storage. She said there will be nothing stopping rvs and boats from dumping down their drains. She said they see evidence of bubbles on the adjacent property. She encouraged the county to make them hook onto county water and sewer. Ms. Caldwell presented pictures of the site with cars on the site.

Kathy Pedrick, 7773 Deer Track Drive, spoke concerning the primary entrance in the UDO. She said this property does not meet the ELDD specifications. She said there is no need for a secondary entrance on Forest Oaks Drive.

David Lutz, 274 N, Hwy 16, with CES Group Engineers and representing Prestige, spoke. He said there will be a coded gate off of Hwy 16 which will be the entrance to the site. The entrance on Forest Oaks will be maintained, but will not be used for customer access and it will be locked. The site will be under full surveillance, which should discourage illegal dumping. They are proposing to put in new chain link fencing and provide slats or cloth along Forest Oaks and the back of the property. The client has done a full video of the system and confirmed it is in good working order. The client has also received a letter from the county that will require them to have a properly licensed operator to conduct scheduled maintenance and sampling with one site visit per month to make sure the system is working properly.

Commissioner Beam asked if there was a plan to hook onto county water and sewer and if this would be required. Mr. Hawkins responded that the UDO only requires new construction to hook onto county water and sewer if it is available.

Lori Dukats, 7723 Deer Track Drive, said slats on fences do not work, they only last until the wind blows them away. She said per the UDO chain link fences are to be maintained. She said ELDD standards say fences should be decorative and chain link or vinyl is not allowed along roads. She presented pictures of other storage facilities on Hwy 16 that look nice and asked for the same regulations.

Sherrie McBride, 7844 Deer Track Drive, said they received different notifications from the Planning Department and asked for clarification on what would be there. She asked for all ELDD standards to be upheld.

Rick Smith, 7575 Forest Oak Drive, said one of his concerns is on the treatment and disposal of the car wash byproduct in the form of waste. He asked if there is any record that it has been inspected and what they will do for waste disposal. He said that with the fencing, slats and cloth are not asthetically appealing. He said with the side gate, it was not there earlier and there may not be a driveway permit for that. He would like a definition of limited access on Forest Oaks.

John Black, 7624 Forest Oak Drive, presented pictures of the site and what the residents have to look at every day.

Brenda Smith, 7575 Forest Oak Drive, spoke concerning outdoor storage and quoted the UDO standards for general outdoor storage screening.

Randy Hawkins said Forest Oaks is a state road and he is not sure if a driveway permit was issued for the side access. He said they can do some research on when the driveway was put in.

Brian Pedrick, 7773 Deer Track Drive, said the occasionally see bubbles and is concerned that what is going into the car wash and coming out in their neighborhood. Chairman Mitchem advised Mr. Pedrick to call Environmental Health.

Maggie Dollar, Lincoln County Health Director, said she will follow up with Environmental Health concerning this and will forward the information received to the Planning Board.

Sharon Black, 7624 Forest Oak Drive, informed the Planning Board of their neighborhood's water problems and said this could make the problems worse.

Brian Mahoney said he purchased this property and cleaned it up extensively. He said there is more work to do, but they have done a lot of work to clean it up. He said with dumping, they will kick people out if they are caught doing illegal things.

Being no speakers, Chairman Mitchem declared the public hearing closed.

**CUP #336A – Patricia McCaffery and Robert Seitz, applicants:**

The applicants are requesting an amendment to a conditional use permit for a kennel to allow an area on the east side of the site to be used by customers as a dog park. The request involves a parcel that is largely zoned I-G (General Industrial) with a 0.9-acre portion zoned B-N (Neighborhood Business). The dog park would be located in the area zoned B-N. Under the Unified Development Ordinance, a kennel is a conditional use in the I-G and B-N districts.

The 6.15-acre parcel is located at 7897 Natalie Commons Drive, on the north side of Natalie Commons Drive about 800 feet west of N.C. 16 Business. This property is adjoined by property zoned I-G, B-N and R-SF (Residential Single Family). Land uses in this area include business, institutional, industrial and residential. The NC 16 Corridor Vision Plan recommends that commercial activity be concentrated in nodes. A commercial area that's clustered around the intersection of N.C. 16 Business and Triangle Circle/Unity Church Road extends to this property.

Chairman Mitchem opened the public hearing concerning CUP #336A – Patricia McCaffery – Kenneth Pope, applicant.

Bob Seitz, applicant, said they came to the Board a year ago to construct a dog car facility. He said they later thought of having a dog park for their customers to have to use for free when they want. He pointed out on pictures, the white fenced in area, which they would like to use as the dog park, it is currently called a driving range. He said this will be members only and they will be assured the dogs have been vetted and are not aggressive. This would be a great perk for their customers who live on small lots. This area is fenced in and has pup grass, artificially designed turf that allows drainage.

Commissioner Oakes asked how long the kennel has been open. The applicant said they have been open since July. They have had up to 60 dogs at one time and have a capacity of over 200 at any given point.

Commissioner Oakes asked if there have been any complaints about noise. Mr. Hawkins said they have not received any. Mr. Seitz said that the people who were here before are their biggest customers.

Pat McCaffery, applicant, said they have built a top notch facility to serve the community and this is there way of giving back to the community. She said they have over 13,000 square feet in their facility and have 6 large yards with pup grass, there are 8 foot fences completely surrounding it. They have invested in vinyl fencing and have put the dog park at the far end of the property, 150 feet from the street.

John Sitzenstock asked what the plan was for the building at the far end. He asked what the plan was for the vacant acreage there.

Mr. Seitz said what the gentleman is referring to is a maintenance building – a storage building.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #345 – William Leonhardt, applicant:**

The applicant is requesting a conditional use permit to establish a manufactured home park in the R-T (Transitional Residential) district by placing four additional manufactured homes on a site with five existing manufactured homes. Under the Unified Development Ordinance, a manufactured home park is a conditional use in the R-T district.

The 17.3-acre parcel is located on the west side of Shoal Road about 1,600 feet south of N.C. 182 in Howards Creek Township. A house is also located on this site. The property is adjoined by property zoned R-T and R-SF (Residential Single-Family). Land uses in this area include residential, agricultural and institutional (church). This property is part

of an area designated by the Lincoln County Land Use Plan as Rural Preservation, where low-density residential uses are encouraged.

#### UDO STANDARDS FOR MANUFACTURED HOME PARKS

Minimum area: five acres

Maximum density: two homes per acre with well and septic tank.

Road access: No manufactured home space may directly access a public road.

Internal road: Parks containing fewer than 20 manufactured home space may be served by an unpaved road.

Setbacks: No manufactured home shall be located within 30 feet of a project boundary or within 60 feet of the centerline of a public road.

Minimum spacing of homes: 20 feet apart.

Chairman Mitchem opened the public hearing concerning CUP #345 – William Leonhardt, applicant.

Robert Avery, 4466 Hwy 182 W., said this is real close to the church and there are a good deal of manufactured homes in the area already. He said some of the old ones are real unsafe. He said he is really interested in the fire hazard and health hazard with older mobile homes.

Eddie Faulkner, 1981 Shoal Road, said he lives across the street from the trailer park. He said he has lived there 45 years and has never seen more than about 6 trailers on this property at any time. He said the ones there have been deeply neglected and the door on one has been open for years. He said there are a lot of issues on this road, one of which is not enough well water. The other issue, this is a beautiful country area, and has enough trailers. He asked the Planning Board to take this under consideration and not recommend approval.

Gail Peele, 1952 Shoal Road, said she lives beside the property and the property up for rezoning surround their property. She voiced concerns about the whole 17 acres being zoned for a trailer park and more trailers added. She spoke about unsavory neighbors that have lived in the trailer park in the past. She respectfully requested that the Board deny the trailer park. Mrs. Peele presented pictures of the mobile homes on the property.

Christine Poinsette asked if this property was rezoned how many mobile homes could be placed there. Mr. Hawkins said with this CUP, there would only be 9 mobile homes allowed and if the applicant wanted more, he would have to come back before the Board.

Bill Leonhardt, applicant, said his father in law built this park 40 years ago and there were originally 9 homes there. He said 4 had been removed and they are asking to put them back. He said his son is remodeling and renovating the park and has moved his mother in. Mr. Leonhardt pointed out on the map which parcels he owns in the area. He said they are asking to put the doublewide on the other parcel for his son to live in.

Commissioner Patton asked home many mobile homes are currently rented. Mr. Leonhardt said there are not any that are currently rented, they will be pulling them all out and replacing them.

Commissioner Patton asked when they will be removed. Mr. Leonhardt said they have to have permits to move them and need permits to pull more in. Commissioner Patton asked the timeframe. Mr. Leonhardt said it all depends on this meeting.

Billy Leonhardt said once you pull a mobile home out, you only have six months to replace it. He said he owns Alan's Mobile Home and RV Supply. He said he is putting his mom in the mobile home park and has spent a lot of money to make improvements. He said they are only asking for all 9 lots there.

Floyd Dean, Planning Board member, asked what type of mobile homes will be put in there. Billy Leonhardt said Mr. Hawkins has requested that the 4 new homes be vinyl siding and shingle roof, no metal on metal. He said the others can be metal on metal.

Billy Leonhardt said he plans to move ¼ of a mile down the road to look after this place.

Reverand Robert Mitschke of Bethpage Lutheran said he has lived in the area for 7 ½ years and has gone up and down Shoal Road a lot. He said the traffic increased when Walmart opened up. He thanked the Sheriff's Office for keeping an eye on the 4 way stop sign. He said he doesn't think adding 5 trailers to a mobile home park will increase the traffic load that much. Reverand Mitschke said Mr. Leonhardt has done a tremendous amount of work on that site. He said he wished the Leonhardts well and hopes they are allowed to continue.

Sandra Payne, 1969 Shoal Road, said she lives across the street from this mobile home park. She said the park looks much better, but her concern is if this will open the door for more mobile home parks.

Chairman Mitchem said mobile home parks can only be in certain zoning areas.

Commissioner Martin asked when the last tenant was in the park.

Earl Guiton said he currently lives in the one mobile home that is in the park. He said he has really worked hard cleaning that place up and they are trying hard.

Charlie Peele said he lives right beside mobile home park and appreciates they have cleaned up. He said they do not need five more mobile homes there.

Being no additional speakers, Chairman Mitchem closed the public hearing.

Jeremiah Combs, Code Enforcement Officer, presented the following:

**ZMA #620 James Canipe, applicant** (Parcel ID# 13864) A request to rezone 3.5 acres from R-SF (Residential Single-Family) to R-R (Rural Residential). The property is located on the west side of Chrysanthemum Lane about 800 feet south of Wyant Road in Howards Creek Township.

The applicant is requesting the rezoning of a 3.5-acre parcel from R-SF (Residential Single-Family) to R-R (Rural Residential).

This property is located on the west side of Chrysanthemum Lane about 800 feet south of Wyant Road in Howards Creek Township. It is adjoined by property zoned R-SF and R-R. Land uses in this area include residential and agricultural. This property is located in an area designated by the Lincoln County Land Use Plan as Rural Preservation, where low-density residential uses are encouraged.

#### **Permitted uses**

Under current R-SF zoning: site-built house, modular home

Under requested R-R zoning: site-built house, modular home, doublewide or singlewide manufactured home.

#### **Adjoining zoning and uses**

East: zoned R-SF, farmland with residence.

South: zoned R-SF, residence.

West: zoned R-R, farmland,

North: zoned R-SF, residence.

Chairman Mitchem opened the public hearing concerning ZMA #620 – James Canipe, applicant. Being no speakers, Chairman Mitchem declared the public hearing closed.

**ZMA #621 William Leonhardt, applicant** (Parcel ID# 13626) A request to rezone 1.2 acres from R-SF (Residential Single-Family) to R-T (Transitional Residential). The property is located on the east side of Shoal Road about 500 feet south of N.C. 182 in Howards Creek Township.

The applicant is requesting the rezoning of a 1.2-acre parcel from R-SF (Residential Single-Family) to R-T (Transitional Residential).

This property is located on the east side of Shoal Road about 500 feet south of N.C. 182 in Howards Creek Township. It is adjoined by property zoned R-SF and R-T. Land uses in this area include residential, agricultural and institutional (church). This property is part of an area designated by the Lincoln County Land Use Plan as Rural Preservation, where low density residential uses are encouraged.

#### **Permitted uses**

Under current R-SF zoning: site-built house, modular home

Under requested R-T zoning: site-built house, modular home, doublewide or singlewide manufactured home, duplex.

### **Adjoining zoning and uses**

East: zoned R-SF, farmland with old house.

South and West (opposite side of Shoal Road): zoned R-T and R-SF, farmland and church cemetery.

North: zoned R-SF, residence and undeveloped lot.

Chairman Mitchem opened the public hearing concerning ZMA #621, William Leonhardt, applicant.

Derek Dunn, 1903 Shoal Road, spoke against the request saying he bought his property 3 years ago. He said this property has been in a run-down state with old farmhouse buildings. He said his property value has increased, but feels a mobile home would potentially decrease this.

Bill Leonhardt said they would like permission to place this doublewide mobile home on the property. It is currently in Gastonia and will be moved to this location. His son's mother owns the doublewide, which his son and family will reside in.

Billy Leonhardt said he will be selling his home in Gastonia to move to this property. He said he will continue to clean up this property and will do the right thing. Mr. Leonhardt said he will have to remove the old home before the doublewide can be moved in.

Robert Avery spoke about inspections of mobile homes

Being no additional speakers, Chairman Mitchem declared the public hearing closed.

**ZMA #622 JVP Fit Enterprises, LLC, applicant** (Parcel ID# 74083) A request to rezone 0.72 acre from B-N (Neighborhood Business) to B-G (General Business). The property is located on the west side of N.C. 16 Business about 500 feet south of Denver Drive in Catawba Springs Township.

The applicant is requesting the rezoning of 0.72 acre from B-N (Neighborhood Business) to B-G (General Business). This property is part of a 2.5-acre parcel, the remainder of which is zoned B-G. A fitness center is located on the portion that is zoned B-G. The property that is zoned B-N has recently been acquired by the center's owner for expansion purposes.

However, a fitness center is not a permitted use in the B-N district.

This property is located on the west side of N.C. 16 Business about 500 feet south of Denver Drive. It is adjoined by property zoned B-G, B-N and R-SF. Land uses in this area include business, industrial and residential. The NC 16 Corridor Vision Plan recommends concentrating commercial activities in nodes.

### **Adjoining zoning and uses**

East (opposite side of N.C. 16 Business): zoned R-SF, residences.

South: zoned B-N, residence.

West: zoned R-SF, undeveloped tract.

North (adjoining parcel): zoned I-G, auto sales lot.

Chairman Mitchem opened the public hearing concerning ZMA #622 – JVP Fit Enterprises, LLC.

Bill Kuletz, 3229 N. Hwy 16, said he has been here 30 years. He said he would like to see a privacy fence between his property and this property. He spoke concerning the development of Hwy 16. He spoke of the tax dollars leaving the county due to what is being put in on Hwy 16.

Being no additional speakers, Chairman Mitchem declared the public hearing closed.

Randy Hawkins presented the following:

**ZMA #623 Richard Smith, Brenda Smith, Lee Caldwell, Sharon Page, Richard Page, Emily Toto, John Black, Richard Ferguson, Steve McIntrye, Lisa Windell, Jerry Windell, Danny Scott, Larry Caldwell et al, applicants(Parcel ID# 52787)**

The applicants are requesting the rezoning of 2.3 acres from CU I-L (Conditional Use Light Industrial) to B-G (General Business). The property, owned by Global Holdings Group, LLC, is the site of the Universal Rubber Products plant that was destroyed by fire in February. The property was rezoned in a parallel conditional use rezoning in 1996 from B-N (Neighborhood Business) to CU I-L to permit rubber fabrication. One of the conditions that were imposed was that there be “no outside storage on sides of property abutting residential district.”

From 2001 to 2008, the property owner was cited several times and paid \$1300 in penalties. In each case, he did come into compliance. In 2008, there was another violation and they started threatening to start the process to revoke the conditional use permit. The property owner came into compliance and since 2008 he has been in substantial compliance.

The property is located on the south side of Forest Oak Drive about 500 feet west of N.C. 16 Business. It is located in the Eastern Lincoln Development District and is adjoined by property zoned B-N (Neighborhood Business), B-G (General Business) and R-SF (Residential Single-Family). This property is served by public water and sewer. Land uses in this area include business and residential. This property is part of an area designated by the Lincoln County Land Use Plan as the NC 16 Corridor. The Land Use Plan called for the creation of a new zoning overlay district that, among other goals, would prohibit certain “heavy” or unsightly uses from locating along the corridor. The Eastern Lincoln Development District was established as a result. Under the ELDD use

table, the manufacture of rubber products is a conditional use. The NC 16 Corridor Vision Plan recommends that commercial activity be concentrated in nodes.

### **Permitted uses**

Under current CU I-L zoning: rubber fabrication

Under requested B-G zoning: retail sales, offices, personal services, restaurant, etc.

### **Adjoining zoning and uses**

East: zoned B-N, medical offices.

South: zoned B-G, auto parts store.

West: zoned R-SF, residences.

North (opposite side of Forest Oak Drive): self-storage facility, vehicle service garage, auto sales lot, car wash.

Planning staff is recommending the request be denied. He said the owner has a vested right to use his property.

Plans have been submitted to rebuild the plant and are under review from various county departments. Since this is new development it is subject to UDO and ELDD standards. Outside storage must be designated on the site plan and screened.

Chairman Mitchem asked who the applicants are. Mr. Hawkins said neighbors are the applicants.

Commissioner Beam asked if this place was in compliance at the time of the fire. Mr. Hawkins said based on their knowledge and review of photos, they were in substantial compliance. He said they had not received any complaints.

Chairman Mitchem asked what started the fire. Mr. Hawkins said his understanding was it was a brush fire, where someone had been burning trash in a barrel.

Mr. Hawkins said truck trailers are not considered outside storage, due to the fact that the storage is enclosed and not outside.

Commissioner Beam asked if the building will look a great deal different with the new standards. He asked if the trailer storage would be allowed. Mr. Hawkins said trailer storage would be allowed.

Commissioner Oakes asked Mr. Deaton what would happen if the county approved the rezoning. Mr. Deaton said this would be taking certain vested rights which could require some compensation.

Chairman Mitchem called for a five minute recess and then called the meeting back to order.

Chairman Mitchem opened the public hearing concerning ZMA #623.

Rick Smith, 7575 Forest Oak Drive, presented handouts to the Board and Planning Board. He said the justification for the request was the industrial based fire, which occurred in February 2015 and the significant health risks for Forest Oaks and surrounding properties and also the unsightliness of the property. Mr. Smith said there was no substantial improvement since 2008. He said this is a hazard to the community. Mr. Smith spoke about the fire in great detail.

Larry Caldwell, 7784 Deer Track Drive, said they complained in 2008 about outside storage. He presented pictures of outside storage from 2008. He said if the owner is allowed to go back, it will go right back to how it was before. He presented pictures of the temporary location the business is currently housed in. He said this is out of place and should be in an industrial park.

Karen J. Bolick, 7568 Deer Track Drive, said they built their house in Forest Oaks Subdivision in 1989 because it was a nice, quiet residential area. She said they spoke against the rezoning in 1996, but it was approved. She questioned the word substantial compliance because this is not what she sees. She said the conditional use permit has been violated where it says the use will not materially endanger the public health or safety. She said they were trapped in their neighborhood. She says the permit is for light industrial, not manufacturing. On the internet, it says they manufacture materials and according to the fire department, there were materials used for manufacturing. Mrs. Bolick said their road is state maintained, but they had to come up with the funds to bring it up to state standards before they would accept it into their system.

Brenda Smith, 7575 Forest Oaks Drive, spoke concerning manufacturing on site and the outside storage. She said there was no screening on the site. She said they are concerned for their safety and the wellbeing of their neighborhood and Lincoln County. She asked that the Board not allow Mr. Davis to rebuild on this site.

Attorney Robert Brown with the Jonas Law Firm, 2279 N. Hwy 16, spoke on behalf of Cotton Davis, the owner of Universal Rubber Products and the sole owner of Global Holdings Group, LLC. He said Mr. Davis has been a resident of Lincoln County for 30 years and Universal Rubber has been here 27 years. He said Universal Rubber does not manufacture, they fabricate. He said they received rubber in the sold form and create gaskets and things like that, fabricating the rubber from one use to another. The CUP was issued in 1996 and they have continuously operated in compliance with that. They did have some issues, but since 2008 until the fire, they were in compliance with no violations. The fire report indicates this fire was not caused by Universal Rubber, it was caused by a resident of Forest Oaks. Ironically, that family member is one of the petitioners. There are vested rights with this permit and his client has 12 months to restart construction. He spoke concerning the county's ability to handle fires of this magnitude. Mr. Brown said the new site will comply with the UDO and ELDD. Mr. Brown said there is now an off site location for storage.

Kathy Pedrick spoke concerning the amount of trash stored on the site before the fire.

John Black asked the Board to actually come see the site.

Sharon Black said it has been a mess up there for a long time. She said she felt like it fell on deaf ears before when they complained.

Brian Pedrick said he is looking for a nice landscaping plan to make it where they can be proud of their subdivision.

Jackie DeCarlo, 7743 Deer Track Drive, said she was woken up early in the morning by a banging noise before and would appreciate them being quieter if they build back. She said she would also like for it to look nice when driving by there.

Commissioner Oakes asked if any complaints have been filed. Jeremiah Combs, Code Enforcement Officer, spoke concerning the numerous complaints including buffering and screening, stacks of pallets, unlicensed vehicles. The complaints regarding Universal Rubber were overgrown vegetation and junk trailers on the property. The trailers are allowed to be there and there is not an overgrown vegetation ordinance.

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

Rudy Bauer spoke about storage, car and boat lots on the east side of the county. He said they pay most of the taxes and

Robert Avery, 4466 Hwy 182, Crouse, spoke concerning the need to update the Schedule of Values and UDO to move the county forward.

**Other Business:** Commissioner Oakes presented the following appointments:

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to make the following appointments to the Library Board:

<b>Library Board</b>	7 members
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Jane Crouse (Chair)	Ironton	Moved from Lincolnton	Term ending 12/31/16	1 <sup>st</sup> (moved)
Laurie Sellers	Howard's Creek		Term ending 8/31/18	1 <sup>st</sup>
Sylvia Wallace	Lincolnton		Term ending 8/31/17	1 <sup>st</sup>
Wanda Hallman	At-Large (Northbrook)	Ex-Librarian West Lincoln	Term ending 8/31/17	1 <sup>st</sup>
Becky Reavis	At-Large (Ironton)	Psychologist	Term ending 8/31/18	1 <sup>st</sup>

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to appoint Florence Arrowsmith to the Lincoln Natural Resources.

<b>Lincoln Natural Resources</b>		7 members
Florence Arrowsmith	Lincolnton	Term ending 12/31/18 2 <sup>nd</sup>

Being no additional speakers, Chairman Mitchem declared the Public Comments section closed.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Carrol Mitchem, Chairman  
Board of Commissioners