

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JANUARY 4, 2016

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on January 4, 2016, at the Citizens Center, Auditorium, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

Cecelia A. Martin, Chairman
Carrol Mitchem, Vice Chair
Martin Oakes
Alex E. Patton
Bill Beam

Planning Board Members Present:

Christine Poinsette, Chairman
Dr. Crystal Mitchem, Secretary
Jeffrey Todd Burgin
John Dancoff
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: Chair Cecelia Martin called the meeting to order. She led in a Moment of Silence and the Pledge of Allegiance.

Adoption of Agenda: Chair Martin presented the agenda for the Board's approval.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, January 4 2016
6:30 PM

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

Call to Order - Chair Cecelia Martin

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda- adding Item 8A – Closed Session
2. Consent Agenda

- Tax Request for Releases over \$100 - November 16 - December 12, 2015
- Capital Project Ordinance Amendment No. 5
- Budget Ordinance Amendment No. 6
- Grant Project Ordinance No. 4
- Surplus Property
- VTS - Vehicle Tax Refunds
- Waived Fees - Piedmont Council, Boy Scouts
- Approval of Minutes

3. Zoning Public Hearings - Randy Hawkins

PD #2015-2 Whitehouse Park, LLC, applicant (Parcel ID# 00426 and 00427) A request to rezone 101 acres from I-G (General Industrial) to PD-MU (Planned Development Mixed Use) to permit a sports training and event complex – including a school and dormitory, motocross and BMX tracks, indoor sports area, swimming and diving pools, recreational vehicle spaces and support services – a hall for special events and meetings, and space for light manufacturing, storage and offices. The proposed site is located at 288 Whitehouse Drive, on the west side of Maiden Highway about 700 feet north of Horseshoe Lake Road, in Lincolnton Township.

PD #2015-4 Eastwood Construction, LLC (Parcel ID# 02631 and 02630) A request to rezone 25 acres from R-T (Transitional Residential) and R-SF (Residential Single-Family) to PD-R (Planned Development-Residential) to permit a subdivision with 58 lots for single-family homes. The property is located on the west side of Saint James Church Road and south side of Verdict Ridge Drive in Catawba Springs Township.

CZ #2015-3 S D & J Investment Group, Inc., applicant (Parcel ID# 34644 and 52070) A request to rezone 1.4 acres from B-N (Neighborhood Business) and R-SF (Residential Single-Family) to CZ I-G (Conditional Zoning General Industrial) to permit an expansion of a self-storage facility. The property is located at 1697 N. NC 16 Hwy., on the west side of N.C. 16 Business about 375 feet north of Galway Lane, in Catawba Springs Township.

UDO Proposed Amendment #2015-4 Lincoln County Planning & Inspections Department, applicant. A proposal to amend Section 2.2.1 of the Lincoln County Unified Development Ordinance to make a day care center a permitted use in the I-G (General Industrial), I-L (Light Industrial) and B-C (Corporate Business) districts.

4. Update from Animal Services - David Workman
5. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)

6. Request for Approval to Purchase 2 compactors sole source from Bakers Waste Equipment for Tin Mine for \$55,370.55 - Don Chamblee
7. Request to lease a 2014 Articulated CAT 725 dump truck for up to six months with a purchase option agreement for \$282,000 and to sell the existing 2005 Articulated CAT 725 for \$25,000 - Don Chamblee
8. Other Business

8a. 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 Beam, the Board voted unanimously to adopt the agenda adding Item 8a – Closed Session.

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

- Tax Request for Releases over \$100 - November 16 - December 12, 2015
- Capital Project Ordinance Amendment No. 5
- Budget Ordinance Amendment No. 6
- Grant Project Ordinance No. 4
- Surplus Property
- VTS - Vehicle Tax Refunds
- Waived Fees - Piedmont Council, Boy Scouts
- Approval of Minutes

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

Additional information from Andrew Bryant:

Commissioner Oakes asked Andrew Bryant various questions about zoning for gas stations and conditional use permits.

New Business/Advertised Public Hearings:

PD #2015-2- Whitehouse Park, LLC, applicant: Andrew Bryant presented the following:

The applicant is requesting the rezoning of 101 acres from I-G (General Industrial) to PD-MU (Planned Development Mixed Use) to permit a sports training and event complex – including a school and dormitory, motocross and BMX tracks, indoor sports

area, swimming and diving pools, recreational vehicle spaces and support services – and a hall for special events and meetings and space for light manufacturing, storage and offices. A site plan and a report have been submitted as part of the rezoning application and would serve as the master plan for the development if the rezoning is approved.

SITE AREA AND DESCRIPTION

The property is located at 288 Whitehouse Drive, on the west side of Maiden Highway about 700 feet north of Horseshoe Lake Road, in Lincolnton Township. It is adjoined by property zoned R-S (Residential Suburban), R-SF (Residential Single-Family), I-G and GMC (General Manufacturing and Commercial, one of Lincolnton's zoning districts).

Public water and sewer are available at this location. Approximately half of this property is located in a 100-year floodplain. Land uses in this area include residential and industrial. This property is designated by the Lincoln County Land Use Plan as industrial, for manufacturing/industrial and warehousing uses.

Mr. Bryant submitted Addendum #1 which modifies the report, the Irrigation Inspection Report and the Sound Analysis Study as requested by the Board.

Chair Martin said they will be reopening the public hearing, which was conducted on December 7 for WhiteHouse Extreme Sports Park. Only new information will be heard during this hearing and repetitive information will not be presented.

Chair Martin opened the public hearing concerning PD #2015-2 – Whitehouse Park, LLC.

Brittan Schnell, gave clarification on 8 issues raised at the last meeting. He said the motorcross will not be open to the public, only for athletes. The sound from the motorcycles was discussed.

Commissioner Mitchem asked if Mr. Schnell has considered not having the motorcross. Mr. Schnell said his son has a passion for motorcross and that is what led to this park, so he would not.

Ann Stroup spoke about the impact on Lincoln County with having an event center.

Bob Nichols, 2832 Wheatfield Court, said he has been a resident for 48 years and lived across from Saunders Furniture on Hwy 27 for 15 years. He spoke about the noise Al Lane's race track created.

Holly Hennessee, 902 Park Circle, said as the mom of 20 month old twin during the sound test, she could hear the sound of 2 bikes in the nursery in her house. She said this is during nap time.

George Andrea said he lives in Morganton and owns over 60 acres of land. He said a neighbor rides motorcross behind his property. He said they cannot sit outside and talk with 2 bikes riding and with 5 bikes riding, they can hear them inside the house.

Clint Hennessee, 902 Park Circle, spoke against the request due to the fact that this is a residential area and the dirt bikes do not fit in.

Whitney Barkley, Attorney, spoke concerning the nuisance and what a nuisance is in North Carolina.

Noral Stewart, Acoustical Consultant for over 35 years, spoke concerning the decibels with the dirt bikes, musical events, loud speakers and other sounds from the proposed use.

David Ledford explained how he thinks this use conflicts with the Lincoln County UDO.

Julius Barkley spoke against the request due to the noise and the hours of operation changing.

Being no additional speakers, Chair Martin declared the public hearing closed.

PD #2015-4 – Eastwood Construction, LLC:

The applicant is requesting the rezoning of 25 acres from R-T (Transitional Residential) and R-SF (Residential Single-Family) to PD-R (Planned Development Residential) to permit a subdivision with 58 lots for single-family homes. Under the Lincoln County Unified Development Ordinance, any proposed subdivision with 50 or more lots is subject to approval through the planned development process. In addition, the applicant is proposing lots smaller in size than the minimum area permitted in the R-T and R-SF districts.

A site plan and guidelines for the proposed development have been submitted as part of the rezoning application and would serve as the master plan for the development if the rezoning request is approved. Under the UDO, a traffic impact analysis is not required for a proposed subdivision of this size.

SITE AREA AND DESCRIPTION

The property is located on the west side of Saint James Church Road and south side of Verdict Ridge Drive. It is adjoined by property zoned R-T, R-SF and PD-R. Land uses in this area are primarily residential. St. James Elementary School is located nearby. This property is not located in a protected watershed. None of the property is located in a floodplain.

PLAN CONFORMANCE

This property is part of an area designated by the Lincoln County Land Use Plan as Suburban Residential, suitable for densities of upwards of 1-2 homes per acre

depending on the provision of utilities. The proposed development would be served by county water and sewer. The proposed density is approximately 2.3 homes per acre.

UDO COMPLIANCE

The UDO requires that a planned development include a minimum of 12.5% recreation and open space. The master plan for this proposed calls for approximately 25% recreation and open space. Subdivisions with more than 50 lots are required to have at least two access points. This proposal calls for access points on Saint James Church Road and Verdict Ridge Drive. Both are state-maintained roads. (The minutes from the community involvement meeting indicate that the only access would be from Verdict Ridge Drive. The plan was later revised to add an access point on Saint James Church Road.) The plan also complies with the UDO's subdivision standards for internal connectivity, block length and cul-de-sac length.

Commissioner Oakes asked how many houses could be built on this property if this is not approved. Mr. Hawkins said there is the potential for a 37 lot cluster subdivision, zoned R-T and R-S.

Keith Johnson asked the distance from this property to the Optimist Club Road/16 intersection and the St. James Church Road/16 intersection. Mr. Hawkins answered it is approximately 1600 feet from Optimist Club Road and then maybe half a mile.

Chair Martin opened the public hearing concerning PD # 2015-4 – Eastwood Construction LLC, applicant.

Steve Bailey, with PSP Associates, said Eastwood is a local company that has been in business since 1977. Killian Creek is 58 lots on 26 acres, with more than double the required 12.5% open space. There is a perimeter buffer around the entire site to buffer from adjoining properties. There will be a 5' wide sidewalk along all proposed streets, street trees on both sides of all proposed streets, a series of natural walking trails within the community, landscaped entrance and entrance monuments, and a HOA with CCR's that govern and maintain the quality of development.

Mr. Bailey said there will be a connection to St. James Church Road and a connection to Verdict Ridge Drive.

Commissioner Oakes said without this approval, the developer could build 37 homes, he asked the benefit to the County of 21 more homes. Mr. Bailey said the proposal, with the architectural requirements, the homes and community, they will build a better product than buy right zoning.

Bill McGuirk, representing Verdict Ridge Homeowner's Association, said Verdict Ridge is a quiet neighborhood with 340 homes on a 18 hole golf course. It was the first planned development in Lincoln County, beginning in 1998. He said while they fully acknowledge that Eastwood may have a legal right to cut an entrance into Verdict Ridge Drive, they feel strongly that this harms their community by chipping away at the unified

look and conformity to HOA restrictions that Verdict Ridge has worked so hard to maintain. He said there is also a safety issue with this connection. He asked the Board to either not approve or to conditionally approve with only one entrance.

Commissioner Oakes asked Mr. Hawkins if a second entrance requirement could be waived. Mr. Hawkins said that would require a separate public hearing and findings of fact would have to be made.

Commissioner Oakes said the plans show 2 roads going towards Verdict Ridge and one turns into a cul-de-sac. He asked if they could be swapped so the entrance and cul-de-sac are reversed. He said this would meet the requirement for a second entrance and minimize the impact on Verdict Ridge Drive.

Robert Davis said DOT would strongly prefer where they currently have the entrance.

Mr. Robert Brown, Attorney representing the Estate of David Clark Sr., said it is important to understand that Verdict Ridge Drive is in existence because of an easement agreement that was entered into with Mr. Knox as the developer of Verdict Ridge and the Clark family. The easement agreement was granted to Mr. Knox from the Clark's to use this as an additional access to Verdict Ridge. The easement was recorded in 1998, which was about a year before the lots were sold and developed in Verdict Ridge. The Clark family reserved for themselves certain rights to use this easement area in the future, not only for themselves, but for any successor owners of the property, which would be Eastwood Homes.

Commissioner Beam asked Mr. McGuirk if he would prefer having the development as part of Verdict Ridge with the same HOA. Mr. McGuirk said that would be more palatable than a separate development with different restrictions.

Being no additional speakers, Chair Martin closed the public hearing.

CZ #2015-3 S D & J Investment Group, Inc.:

The applicants are requesting the rezoning of 1.4 acres from B-N (Neighborhood Business) and R-SF (Residential Single-Family) to CZ I-G (Conditional Zoning General Industrial) to permit an expansion of a self-storage facility. A self-storage facility is a conditional use in the Eastern Lincoln Development District, in which property is located, and a permitted use in the I-G district. A site plan has been submitted as part of the rezoning application. The plan proposes two self-storage buildings that would be accessed via the existing driveway for the facility, Sure-Safe Self Storage. A half-acre portion of Parcel 34644 fronting N.C. 16 Business would remain zoned B-N.

Site Area & Description

This property is located at 1697 N. NC 16 Hwy., on the west side of N.C. 16 Business about 375 feet north of Galway Lane. It is adjoined by property zoned R-SF, CU B-G (Conditional Use General Business), CZ I-G and B-N. Land uses in this area include business, industrial, institutional, recreational and residential. The NC 16 Corridor Vision

Plan recommends concentrating commercial development in three identified community centers and in nodes around main intersections. This property is not located in one of those areas.

Additional Information

Permitted uses

Under current zoning: retail sales, offices, services, restaurant, etc., on B-N parcel; single-family home on R-SF parcel.

Under proposed zoning: expansion of self-storage facility.

Adjoining zoning and uses

East (front portion of Parcel 34644): zoned B-N, house that is planned to be converted into offices.

South: Zoned CZ I-G and CU B-G, self-storage facility.

West: zoned R-SF, park

North: zoned R-SF, vehicle service garage (grandfathered under zoning).

Chair Martin opened the public hearing concerning CZ #2015-3 – S D & J Investment Group, Inc.

Danielle Maggs, applicant, said she is here to answer any questions.

Being no additional speakers, Chair Martin closed the public hearing.

UDO Proposed Amendment 2015-4 – Lincoln County Planning and Inspections Department, applicant:

This is a proposal to amend Section 2.2.1 of the Lincoln County Unified Development Ordinance to make a day care center a permitted use by right in the I-G (General Industrial), I-L (Light Industrial) and B-C (Corporate Business) districts.

A day care center is a conditional use in the county's main residential districts and a permitted use by right in the main business districts, but such a facility is currently not a conditional or permitted use in industrial districts.

This proposed amendment was initiated by the Lincoln Economic Development Association to help clear the way for the potential development of a child care facility in the Lincoln County Industrial Park, and to allow such a facility as an option in other industrial and business parks.

Chair Martin opened the public hearing concerning UDO Proposed Amendment 2015-4 – Lincoln County Planning and Inspections Department, applicant.

Commissioner Oakes said he has visions of a rubber fire in an industrial area with a daycare beside it. He asked why this will be by right and not conditional. Mr. Hawkins said he does not think a daycare operator would want to locate in a heavy industrial district where that potential is.

Cliff Brumfield said there are almost 3,000 employees working at the Lincoln County Industrial park. One of the biggest challenges is getting enough qualified workers to come. It would be convenient to have a daycare there at the Industrial Park.

Being no additional speakers, Chair Martin declared the public hearing closed.

Chair Martin recessed and announced the Commissioners would resume their meeting in the Commissioners Room.

Update from Animal Services: David Workman presented an update from Animal Services and expressed his apologies for the recent fines from the state. He reviewed the violations and action plans in place for each item. He also presented some proposed changes including no picking up owner surrender animals, only receiving owner surrenders on certain days and times, no longer accept owner surrender euthanasia, and LCAS will have a designated maximum hold period of 10 days for animals entering the shelter, if space allows. A public hearing will be held at a future date for these proposed changes.

Public Comments:

Robert Avery, 4466 Hwy 182 Crouse, said it is about time for a survey to get county residents involved.

Jena Healy provided stats from 2014 to 2015 with animals that have died in cages and animal euthanized. She said with the proposed 10 day hold, it takes longer than 10 days to line up rescue so the 10 day hold would increase the number of euthanized animals.

Rudy Bauer, 8252 Blades Trail, said Burton Creek or Covington on Lake Norman is coming up again. He said last week we had 5+ inches of rain, catch basins went over the top, and one home basement was flooded. He said the Commissioners need to do something about this.

Commissioner Oakes asked for pictures and videos if any residents have them.

Mr. Atkins said after the complaints were made, Rick McSwain visited the site and violations were found. He issued a notice of noncompliance halting all construction activities until the issues were corrected.

Request for Approval to Purchase 2 compactors sole source from Bakers Waste Equipment for Tin Mine for \$55,370.55 - Don Chamblee presented the following:

Public Works is requesting to replace two stationary 4 cubic yard compactors at Tin Mine Convenience Site. The two compactors at the Tin Mine Convenience site are approximately 20 years old and are in need of replacement. Two other convenience sites have Baker Equipment and a Sole Source purchase is requested to standardize the compactors.

Mr. Chamblee requested approval to purchase two compactors sole source from Baker Waste Equipment for Tin Mine for \$55,370.55.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the purchase of 2 compactors sole source from Bakers Waste Equipment for Tin Mine Convenience Site for \$55,370.55.

Request to lease a 2014 Articulated CAT 725 dump truck for up to six months with a purchase option agreement for \$282,000 and to sell the existing 2005 Articulated CAT 725 for \$25,000 - Don Chamblee presented the following:

Public Works is requesting to lease a 2014 Articulated CAT 725 Dump Truck for up to six months with a purchase option agreement for \$282,000 and to sell the existing 2005 Articulated CAT 725 for \$25,000.

The landfill uses the off road articulated dump truck to move material from the barrow area to the face of the landfill for daily cover. The existing dump truck is out of service and has 10,700 hours of use. During the lease of the 2014 CAT 725, ninety percent of the lease payments will be applied to the purchase price.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the lease of the 2014 Articulated CAT 725 dump truck for up to six months with a purchase option agreement for \$282,000 and sell the existing 2005 Articulated CAT 725 for \$25,000.

Other Business: Mr. Atkins made the recommendation to move toward relocating Senior Services as the 3rd building location at Cronland.

Commissioner Mitchem asked for an update on the old hospital site at the next meeting.

Closed Session – UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Beam against) to enter 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.

Chair Martin announced that no action was taken in closed session.

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