

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, SEPTEMBER 10, 2018**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on September 10, 2018, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

**Commissioners Present:**

Bill Beam, Chair  
Anita McCall, Vice Chair  
Martin Oakes  
Carrol Mitchem  
Richard Permenter

**Planning Board Members Present:**

Todd Burgin, Chairman  
Floyd Dean, Vice-Chairman  
Jamie Houser, Secretary  
Matt Burton  
Matt Fortune  
Keith Gaskill  
Milton Sigmon

**Others Present:**

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

**Call to Order:** Chairman Beam called the meeting to order. He led in a Moment of Silence and led the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, September 10, 2018**  
**6:30 PM**

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

Call to Order - Chairman Beam

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
  - VTS Refunds
  - Ordinance Declaring the Denver Christmas Parade to be a County Sponsored Event, Including Road Closures
  - Minutes for Approval – August 6, 2018; August 20, 2018
3. Zoning Public Hearings - Randy Hawkins

**Quasi-Judicial Cases (speakers must be sworn)**

PA #45 Denver Land Development, LLC, applicant (Parcel ID# 86899) A request for preliminary plat/sketch plan approval for three additional lots in the Quinlan Estates subdivision. The 4.6-acre tract is located on the north side of N.C. 150 between Quinlan Lane, Waterview Trail and Diesel Drive in Ironton Township.

CUP #381 Roddey Edwards, applicant (Parcel ID# 29828 and 29833) A request for a conditional use permit to locate a detached garage in front of the front building line of a house on a lot adjacent to Lake Norman. The 0.45-acre lot is located at 2163 Willow Cove Lane, about 600 feet west of Camelia Lane, in Catawba Springs Township.

CUP #382 Christopher Pence Jr., applicant (Parcel ID# 70464) A request for a conditional use permit to allow vehicle sales in the I-G (General Industrial) district. The 1.85-acre parcel is located at 230 Joshua Court, about 1,300 feet northeast of N.C. 27, in Ironton Township.

CUP #383 Mark Powell, applicant (Parcel ID# 34779) A request for a conditional use permit to operate a bed and breakfast with one guest suite in the R-SF (Residential Single-Family) district in a proposed new house. The 0.8-acre parcel is located at 5143 Windward Point Lane, at the end of Windward Point Lane about 900 feet north of Harbor Lane, in Catawba Springs Township.

CUP #384 Verizon Wireless, applicant (Parcel ID# 33066) A request for a conditional use permit to erect a 225-foot wireless telecommunications tower in the R-T (Transitional Residential) district. The proposed site, part of a 153-acre parcel, is located on the north side of N.C. 73 about 1,500 feet east of Schronce Road, in Catawba Springs Township.

**Legislative Cases:**

ZMA #654 Eddie Faulkner, applicant (Parcel ID# 11111) A request to rezone 6.7 acres from B-G (General Business) to R-S (Residential Suburban). The property is located on the south side of N.C. 27 and north side of Lackey Road about 900 feet west of the intersection of the two roads in North Brook Township.

ZMA #655 Gerald Henley, applicant (Parcel ID# 81545) A request to rezone 1.0 acre from I-G (General Industrial) to R-T (Transitional Residential). The subject property, part of a 5.0-acre tract, is located about 300 feet west of Henry Dellinger Road and 800 feet south of N.C. 150 in Ironton Township.

PD #2018-1 Cambridge Commons MF, LLC, applicant (Parcel ID# 90176 and 30400) A request to rezone 10.3 acres from R-T (Transitional Residential) to PD-R (Planned Development-Residential) to permit 260 multi-family dwelling units. The subject property is located on the west side of North Pilot Knob Road on the north and south sides of Cresset Dellinger Road in Catawba Springs Township.

4. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
5. Discussion of options with old Health Department Building - John Henry
6. Elections Request for part time workers - Candy Burgin
7. Other Business

Adjourn

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

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

- VTS Refunds
- Ordinance Declaring the Denver Christmas Parade to be a County Sponsored Event, Including Road Closures
- Minutes for Approval – August 6, 2018; August 20, 2018

**New Business/Advertised Public Hearings:** Mr. Wesley Deaton gave information on the zoning cases and asked if any Board member has had ex parte communication on the Conditional Use Permits. He explained standing in quasi judicial cases.

Chairman Beam said he received an email about the cell tower case and started reading it before he realized it was a Conditional Use Permit. Commissioner Permenter said he exchanged emails with someone who plans to testify in general times about land uses and short term rentals.

Commissioner Oakes asked if someone received a letter in the mail from the Planning Department, if that establishes standing. Mr. Deaton responded that if someone is 660 feet from the proposed use, they would have standing.

**PA #45 Denver Land Development, LLC, applicant** : Mr. Jeremiah Combs presented the following:

The applicant is requesting preliminary plat review/ sketch plan approval for 3 additional lots off Waterview Trail in Quinlan Estates subdivision. The Lincoln County Planning Board approved the preliminary plat for the Quinlan Estates subdivision, including 37 residential lots and a future commercial lot, on November 6, 2006. The applicant is requesting to replace the future commercial lot with three residential lots. The Lincoln County Unified Development Ordinance states in Article 9.6, all preliminary plats meeting the definition of a major subdivision shall be submitted to the Planning Board and Board of Commissioners, in the form of a quasi-judicial public hearing for approval, disapproval or approval with conditions.

#### Site Area & Description

The 4.6-acre site is located on the north side of N.C. 150 between Quinlan Lane, Waterview Trail and Diesel Drive in Ironton Township. The subject property is zoned R-S (Suburban Residential) and is adjoined by property zoned R-S. The applicant is proposing to serve the lots with county water and private septic systems. The lots would be accessed from Waterview Trail, which was dedicated and constructed as a public right-of-way when the Quinlan Estates subdivision was recorded in 2007. Land Use Plan The Lincoln County Land Use plan designates this area as Large Lot Residential, suitable for residential development with densities of 0.20 units per acre to 1.35 units per acre.

Mr. Combs pointed out the original 37 lots.

There was a discussion about the fact that this subdivision was approved under the old standards and old Subdivision Ordinance, not the UDO. Andrew Bryant said since these lots could be served off NC 150, but would be internally facing they took the perspective that it wouldn't impact on the subdivision with the way the road splits.

Commissioner Oakes asked if the change would make this subject to the new rules. Mr. Bryant said that since the major subdivision was created prior to the ordinance change, this is simply the re-subdivision of lots, so the new ordinance standard would not apply. Mr. Deaton concurred with Mr. Bryant's statement.

Chairman Beam opened the public hearing for PA #45 – Denver Land Development, LLC, applicant.

Daniel Devine, applicant, stated that they have a 4.5 acre parcel there that is zoned R-T now so there are different small businesses that could come there. He said they have worked with the Homeowner's Association for Quinlan Estates, who gave a letter of recommendation to get these three lots into the development and under their restrictions. The lots will have individual driveways like the other lots in the subdivision. Mr. Devine said he prepared the proposed Findings of Fact and incorporated them into his testimony.

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

#### **CUP #381 Roddey Edwards, applicant:**

The applicant is requesting a conditional use permit to locate a detached garage in front of the front building line of a house on a lot adjacent to Lake Norman. Under Section 4.6.2.C.2(a) of the Unified Development Ordinance, an accessory structure cannot extend in front of the front line of the principal structure unless it is set back a minimum of 100 feet from the edge of the road right-of-way; or, in the case of a lot adjacent to Lake Norman, the Board of Commissioners may approve a conditional use permit to allow an accessory structure to be located in the road yard, a minimum of 30 feet from the edge of the road right-of-way. The applicant is proposing to build a 720- square-foot garage.

#### SITE AREA AND DESCRIPTION

The 0.45-acre lot is located at 2163 Willow Cove Lane, about 600 feet west of Camelia Lane. It is zoned R-SF (Residential Single-Family) and is adjoined by property zoned RSF and by Lake Norman. Land uses in this area are primarily residential. This property is part of an area designated by the Lincoln County Land Use Plan as Single-Family Neighborhood.

Mr. Hawkins stated that this is on a private road.

Chairman Beam opened the public hearing for CUP #381 – Roddey Edwards, applicant.

Being no speakers, Chairman Beam closed the public hearing.

#### **CUP #382 Christopher Pence Jr., applicant:**

The applicant is requesting a conditional use permit to sell vehicles in the I-G (General Industrial) district. The applicant operates a towing business with a vehicle storage area on the proposed site. Vehicle sales is proposed as an additional use. Under the Unified Development Ordinance, vehicle sales is a conditional use in the I-G district.

#### SITE AREA AND DESCRIPTION

The 1.85-acre parcel is located at 230 Joshua Court, about 1,300 feet east of N.C. 27, in Ironton Township. The property is part of the Ross Industrial Park. It is adjoined on all sides by property zoned I-G. Land uses in this area include industrial, business and residential. The subject property is located in an area designated by the Lincoln County Land Use Plan as an Industrial Center.

Chairman Beam opened the public hearing for CUP #382 – Christopher Pence, Jr., applicant.

Christopher Pence, Jr., applicant, said he owns the property and has been in business for several years there. He said he has his wholesaler license and has been in the car business basically his whole life. He said he would like to operate a very small retail business there also.

Keith Gaskill asked where the used cars will be placed for storage. Mr. Pence said they are fully fenced in and the vehicles will be off to the left side up against the fence. Mr. Hawkins said they have to be 10' from the edge of the road right of way.

Mr. Pence stated that he prepared the proposed Findings of Fact and incorporates them into his testimony.

Matt Burton asked if there are any restrictions as to how many vehicles Mr. Pence can have and sell. Mr. Hawkins said there are no proposed restrictions as far as maximum number.

Mr. Pence said he proposes to have 5 to 10 cars for sale at a time on the site.

Mike Williams, 1544 Bishop Road, Lincolnton, said he also owns the property at 190 Joshua Court. He said he doesn't have any objections to Mr. Pence's request for a used car lot, but has some concerns. He presented pictures of the road and cul-de-sac. He expressed concerns about the cul-de-sac and cars being unloaded and stored in that area. He said delivery drivers are not able to turn around due to this issue. He said these issues do not have anything to do with Mr. Pence or his request, just some concerns he has. Mr. Williams said there is also a camper across the street from his property that he believes someone is living in, but he has not spoken to that property owner.

Mr. Pence said he currently stores about 50 vehicles on his site and he plans on adding less than 10. He said the problem is not from his company, but from additional companies that have tractor trailer trucks that sit there overnight. He said this creates the problem on the cul-de-sac. He said he has already discussed with them that they should not be storing vehicles on the road overnight.

Mr. Williams said once again, he is not opposed to Mr. Pence changing or increasing his business. He said his issues are blocking the road and cul-de-sac from tractor trailers coming in and out making deliveries.

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

#### **CUP #383 Mark Powell, applicant:**

The applicant is requesting a conditional use permit to operate a bed and breakfast with one guest suite (two bedrooms) in the R-SF (Residential Single-Family) district in a proposed new house. An existing house would be removed to make way for the new house. A site plan is included as part of the application. Under the Unified Development Ordinance, a bed and breakfast is a conditional use in the R-SF district, subject to certain standards.

#### **SITE AREA AND DESCRIPTION**

The 0.8-acre parcel is located at 5143 Windward Point Lane, at the end of Windward Point Lane about 900 feet north of Harbor Lane. Windward Point Lane is a private road. The subject property is adjoined by property zoned R-SF and by Lake Norman. Land uses in this

area are primarily residential. This property is part of an area designated by the Lincoln County Land Use Plan as Single-Family Neighborhood.

## BED AND BREAKFAST STANDARDS

The Unified Development Ordinance establishes the following standards for a bed and breakfast: §4.4.3 Bed & Breakfast Single-family detached dwellings may be used as bed and breakfasts in accordance with the following requirements: A. One or more bedrooms may be rented on a daily basis to tourists, vacationers and similar transients; B. Where the provision of meals is provided, such provision is limited to the breakfast meal, available only to guests and employees; C. Individual rooms shall not be equipped with cooking facilities; D. There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety; E. Such operations shall be conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of two full-time employees; and F. An owner of the use shall reside on site.

Milton Sigmon asked about fire escapes required for a bed and breakfast. Mr. Hawkins said there are exit requirements under the building code for single family homes, but a bed and breakfast has no special requirements. Mr. Sigmon asked the difference between a bed and breakfast and a duplex. Mr. Hawkins said for a bed and breakfast a fire rated wall is not required, there is a direct access way from the home to the guest portion.

Mr. Sigmon asked how the safety checks would be enforced if AirBnB no longer existed. Mr. Hawkins said the application itself is not dependent on AirBnB.

Commissioner Permenter asked if there were any other bed and breakfast or short term rentals operating on lakefront in Lincoln County. Mr. Hawkins stated that there was one bed and breakfast approved a number of years ago on Little Fork Cove Road, but he's not sure if they are still in operation. Mr. Hawkins stated that the county does not regulate whole home rental.

Chairman Beam opened the public hearing for CUP #383 – Mark Powell, applicant.

Mark Powell, applicant, presented a packet of evidence, which is hereby incorporated by reference. He said they purchased the property in 2013 as an eventual retirement property and are currently working with an Architect and Builder to develop plans for that property. At the time of purchase, the home was in disrepair due to years of neglect. They started renting the property on Airbnb in December of 2014 with very positive results immediately. Benefits of the rental include: rental income, ability to meet new people with some social interaction, provides lodging for friends and family of Lincoln County residents, source of over \$9500 in occupancy taxes to Lincoln County since 2015 and support for Lincoln County businesses. After almost 4 years experience renting on Airbnb, they have had 182 rentals, with 143 5-star ratings. They have superhost status and only one neighbor concern with dogs getting on her property so they immediately updated their house rules and contacted that renter to correct the situation. Mr. Powell said it is a private road, maintained

by the neighbors, into the property. He said they have not been asked to provide any funds for maintenance since purchasing the property.

Mr. Powell said Maureen Nuaman is a Denver resident and repeat guest. He provided her contact information in case anyone wanted to reach out to her.

Mr. Powell stated they plan to build a new home with one guest suite with 2 bedrooms. It will have a maximum occupancy of 6 guests to accommodate families. The proposed suite size will be 1000 square feet including 2 bedrooms, one bath, den and kitchenette with a separate, private entrance. Their plan is to provide a light continental breakfast. Duration of rental visits is not restricted by their Airbnb settings but typical visits are less than a week in duration.

Mr. Powell presented a log of visitors and their reason for the visit.

Mr. Powell presented security and safety control information. He said as the owner, they will be there overnight to oversee the guests. He presented verification information from the Airbnb site, explaining how the process works, where you have to add a profile pictures, a photo of government ID (driver's license or passport, etc.), guest authentication using picture and government id and visual validation of valid ID.

Commissioner Oakes asked if there is verification for every person who shows up or just the person who pays the rental. Mr. Powell said it is just for the person who pays the rental.

Mr. Powell said they only accept renters who provide a valid government issued ID. This is an extra security feature that Airbnb allows. He said they also require a positive recommendation from other hosts.

Airbnb searches databases of public state and county criminal records, state and national sex offender registries, Office of Foreign Assets Control (OFAC) list which includes terrorist designations. These are conducted by approved background check providers and the checks are refreshed periodically for active users.

Chairman Beam asked if the applicants are stipulating that this will be written in the CUP. Mr. Hawkins said it is really up to the Board if they want to set this as a condition. Mr. Deaton said the Board does not have to say that it has to remain on Airbnb, but can still say as a condition that it have these certain due diligence requirements. Mr. Powell said he is fine with any conditions about these requirements.

Commissioner Oakes asked if anyone has ever been rejected for a rental request. Mr. Powell stated that there has been one, they got the rental request, accepted it and within 30 minutes it was gone from the site. Airbnb notified them that the individual did not meet their screening requirements and that is why they cancelled the reservation.

Mr. Powell said they have nearly 4 years' experience with 182 rentals for whole home rental on AirBnb with no security or safety events. They have direct experience of a renter being

denied the ability to rent by AirBnb and internet search does not support issues with AirBnb renters increasing neighborhood security risk.

Commissioner McCall asked why the applicant is just now coming before the Board if he has been renting the home for four years. Mr. Powell said he has to have a CUP to do home-share rental.

Commissioner Permenter asked if there will be an internal door where they can lock it. Mr. Powell said there is a locked door where they can access the space from their house, but it is a lockout scenario. Commissioner Permenter asked how this is not a multi-family dwelling. Andrew Bryant stated that the NC Residential Building Code treats one and two family dwellings as the same type of construction.

Commissioner Mitchem asked who will police this as regards to a bed and breakfast. Mr. Bryant said they will not do a bunk check, but they will have to maintain their permitting requirements through Lincoln County Environmental Health. Mr. Bryant said they would go on a complaint basis only.

Floyd Dean said about a month ago a very similar application came through this process, which was approved at the Planning Board level but denied by the Commissioners. He said the reason was the finding of fact that it could devalue their property and same safety issues is why the Commissioners denied it. He asked if a precedent has been set where this application should not be approved. Mr. Deaton stated that each CUP stands on its own facts by the applicant and opponent.

Milton Sigmon asked if the applicant will be moving to the site. Mr. Powell stated that their plan is to move to the site, but they have to build first. He said they have a decision to make based upon whether they get this permit.

Jan Mercer, 1863 Hagers Point Lane, Denver, stated that she is here to oppose. Mr. Deaton advised the Board not to allow her to speak due to lack of standing since she lives 10 miles from the site.

Geena Fie, 8001 Andrew Franklin Drive, Denver stated that she is a realtor and has extensive knowledge on values. Mr. Deaton advised the Board that Ms. Fie did not have standing on the case.

Wayne Orndorff, 5086 Windward Point Lane, Denver, pointed out his property on the map. He presented a picture with a tape measure across the road, which is 9 feet wide. He said there is no way for emergency vehicles to get back there. He said the road is in very poor shape and since it is the property owners responsibility to take care of the road, he doesn't see where they need to have additional traffic on the road for monetary gain.

Mr. Deaton advised that after researching, they found that the lots in this subdivision were made subject to a private access easement back in 1993. It's a 45' right of way and is

private amongst the lots. There is no HOA, it just says everybody has the right to work on it.

Mr. Orndorff said the bed and breakfast will be adding cars for 6 people, which will go by his house for monetary gain.

Matt Burton asked how many people could stay in the house. Mr. Powell said there will be up to 6 people.

Floyd Dean asked if the guests will have access to their house. Mr. Powell said they will not have access unless it is granted to them.

Todd Burgin asked if Mr. Powell would be ok with a restriction of 2 cars per rental. Mr. Powell responded that he would have no problem with that.

Mr. Powell stated that in respect to time, he would like to refer the Board back to the packet he presented where there is evidence on property value impact and points on harmony. He said if anyone has questions, please let him know.

Chairman Beam asked Mr. Powell to present the information on harmony.

Mr. Powell stated that the location on Windward Point Lane has no covenants or restrictions on short term rental activity. The location is on a private road that allows the use of the property by both residents and guests. The location allows use of properties on the private road by both residents and guests. There is no restriction in Lincoln County code associated with bed and breakfast use on private roads. The character of bed and breakfast use is consistent with residential single-family use. Guests enjoy a visit to the lake in the same way that residents do. Mr. Powell stated that they are working very closely with George and Olivia Fleming to design every aspect of the proposed new home to maximize privacy and harmony with vegetation screening between the homes and review of detailed house plans. The property lien with other neighbors is fenced with shrubs already planted for screening.

Floyd Dean asked if the rental unit will have a kitchenette. Mr. Powell said the requirement for the kitchenette is that it will not have a stove.

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

#### **CUP #384 Verizon Wireless, applicant:**

The applicant is requesting a conditional use permit to erect a 225-foot wireless telecommunication tower in the R-T (Transitional Residential) district. Under the Unified Development Ordinance, a telecommunication tower in excess of 60 feet and no greater than 325 feet is a conditional use in the R-T district, subject to certain standards. The applicant has submitted an application packet that addresses each of the standards. In addition, the applicant has submitted a real estate appraiser's analysis of the impact of the proposed tower on the value of abutting properties.

## SITE AREA AND DESCRIPTION

The proposed site, part of a 153-acre parcel, is located on the north side of N.C. 73 about 1,500 feet east of Schronce Road in Catawba Springs Township. The subject property is adjoined by property zoned R-T and R-SF (Residential Single Family). Land uses in this area include residential and agricultural. A 1,100-foot tower is located about a half mile to the southwest of the proposed site. The proposed site is located in an area designated by the Lincoln County Land Use Plan as Large Lot Residential.

## ORDINANCE STANDARDS

Wireless telecommunications facilities are classified under civic uses. The Unified Development Ordinance sets the following standards for such facilities:

### §4.3.7 Wireless Telecommunication Facility

A. The proposed tower, antenna or accessory structure and equipment will be placed in a location and in a manner which will minimize the visual impact on the surrounding area. Accessory structures and equipment must meet all applicable standards of this UDO.

B Approval for a proposed tower within a radius of 10,500 feet from an existing tower or other suitable structure shall not be issued unless the applicant certifies that the existing tower or structure does not meet applicant's structural specifications or technical design requirements, or that a co-location agreement could not be obtained at a reasonable market rate and in a timely manner.

C. Minimum tower setbacks shall be as follows:

1. From all lot lines and public right-of-ways, a distance equal to the tower's fall zone, as certified by a licensed professional engineer in the State of North Carolina, plus 20 feet; and

2. From any residential use, a distance of its height plus 50 feet, unless the owner of the use waives this requirement by a notarized affidavit.

D. The proposed tower must be designed to accommodate additional antennae equal in number to applicant's present and future requirements.

E. Unless otherwise restricted, the height of a tower is limited per §2.2.1, Use Table. Antennae or equipment mounted on a building must meet the height requirements of §2.4.

F. A tower must not be illuminated or contain any lighting unless otherwise required by State or Federal regulations.

G. The color of a tower and its antennae shall be one that will blend to the greatest extent possible with the natural surroundings.

H. No commercial signs or advertising shall be allowed on any tower, antennae, accessory structure or equipment.

I. Existing towers may be replaced or modified providing that the existing height is not exceeded by more than 20 feet and the new or modified tower meets all of the above requirements except for the setback provisions.

J. Any tower, antennae, accessory structure or equipment that is not used for communication purposes for more than 120 days shall be considered as abandoned and shall be removed by the owner within 60 days. The County shall require financial guarantees in accordance with §5.10 to guarantee removal of abandoned equipment in compliance with the requirements of this subsection.

K. Telecommunication/transmission towers shall not be constructed unless the tower owner has general liability coverage of at least \$1,000,000. The owner of the tower shall provide the County with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the County 30 days prior to the cancellation, modification or failure to renew the insurance coverage required. Lapse of this insurance shall be deemed by the County to be sufficient grounds to revoke the applicable County permits.

Chairman Beam opened the public hearing for CUP #384 – Verizon Wireless, applicant.

Ralph Wyndarden spoke representing Verizon Wireless. He said this is on a 153 acre site and is intended to allow colocation and will support 3 additional co-locators. All documents have been submitted for this application and would like those materials to be made a part of the record. Mr. Wyndarden incorporated the documents and Findings of Fact into his testimony.

Michael Berkowitz stated that he performed an Impact Study, which is included in the packet concerning the impact on adjacent and abutting properties. He said this is a rather odd property that includes land on the south side of 73 as well as additional land on the north side of Schronce Road. He said the most compelling item that has been discussed is that there is a 1085 foot tower that is lit and is very visible from any adjacent properties. There is a development that was purchased for residential development adjacent to a tower that would talk about the proposed development along this. This is located just west of the East Lincoln Development Area, which with the increased growth, there is an increased need for this service because of developments that already exist. Most developments on Highway 73 are already buffered from the 73 Corridor. Mr. Berkowitz stated that it is his professional opinion that this will not substantially injure the value of adjoining or abutting properties.

Richard Pence stated that he lives in the neighborhood across from the tower. He said of all of Highway 73, the location they picked is across from the gated, most prestigious neighborhood with the highest tax value per house on the whole 73 Corridor in Lincoln County. He said those towers are ugly and it will be right on 73.

John Yeagley said he does site acquisition for Verizon. He said they investigated the existing structure, but it was very weak and would not handle the load. He pointed out the search area on a map, saying this was the best suitable site that was available.

David Best, with Chase Real Estate, said he did the site acquisition on this site. He said they sent letters to about 10 property owners in that defined search area. They received responses from 2, one of which did not have a clean title so access would be a problem. He said the tower will be seen from the road, but not the compound fence. He said they knew of the admittedly high income housing, which were there after the other tower and this is  $\frac{1}{4}$  of the existing tower.

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

#### **ZMA #654 Eddie Faulkner, applicant**

The applicant is requesting the rezoning of 6.7 acres from B-G (General Business) to R-S (Residential Suburban). The subject property is part of a 9.6-acre parcel, the remainder of which is currently zoned R-S.

#### **Site Area & Description**

The subject property is located on the south side of N.C. 27 and north side of Lackey Road, about 900 feet west of the intersection of the two roads, in North Brook Township. This property is adjoined by property zoned B-G, R-S and R-SF (Residential Single Family). Land uses in this area include business, residential and agricultural. The subject property is part of an area designated by the Lincoln County Land Use Plan as Rural Living, suitable for single-family homes.

#### **Additional Information**

**Permitted uses** Under current B-G zoning: vehicle service, retail sales, offices, personal services, etc. Under proposed R-S zoning: site-built house, modular home, church.

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

East: zoned B-G, car wash.

South (opposite side of Lackey Road): zoned R-SF, residential and agricultural use.

West: zoned R-S, agricultural use.

North (opposite side of N.C. 27): zoned R-S, agricultural use

Chairman Beam opened the public hearing for ZMA #654 – Eddie Faulkner, applicant.

Being no speakers, Chairman Beam closed the public hearing.

### **ZMA #655 Gerald Henley, applicant**

The applicant is requesting the rezoning of 1.0 acre from I-G (General Business) to RT (Transitional Residential). The subject property is part of a 5.0-acre parcel, the remainder of which is zoned I-G. The applicant is planning to subdivide the 5.0-acre parcel to create a 1.0-acre lot for a residence.

#### **Site Area & Description**

The subject property is located about 300 feet west of Henry Dellinger Road and 800 feet south of N.C. 150 in Ironton Township. It is adjoined by property zoned I-G and R-T. Land uses in this area include industrial, business and residential. The subject property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center. It adjoins an area designated as Large Lot Residential. Additional Information Permitted uses Under current I-G zoning: vehicle service, vehicle repair, machine shop, woodworking shop, etc. Under proposed R-T zoning: site-built house, modular home, manufactured home, duplex, church. Adjoining zoning and uses East: zoned R-T, residential use. South: zoned R-T, undeveloped tract. West: zoned I-G, industrial/business use. North: zoned I-G, industrial/business use.

**Staff's Recommendation** Under state law, prior to adopting or rejecting a zoning amendment, the Board of Commissioners must adopt one of the following statements: (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest. (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest. (3) A statement approving the zoning amendment and containing at least all of the following: a. A declaration that the approval is also deemed an amendment to the comprehensive plan. b. An explanation of the change in conditions the governing board took into account in amending the plan to meet the development needs of the community. c. Why the action taken is reasonable and in the public interest.

Staff recommends that the Board of Commissioners exercise Option 3.

Chairman Beam opened the public hearing for ZMA #655 – Gerald Henley, applicant.

Vanessa Henley said she is here to answer any questions.

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

## **PD #2018-1 Cambridge Commons MF, LLC, applicant**

The applicant is requesting the rezoning of 10.3 acres from R-T (Transitional Residential) to PD-R (Planned Development-Residential) to permit 260 multi-family dwelling units (apartments). This would be the third phase of a larger development area that includes a retail center and a planned office park.

A concept plan and a PD-R report with conditions 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. A traffic impact analysis is also included as part of the application. In addition, the applicant has provided minutes from a community involvement meeting that was held on March 6.

### **SITE AREA AND DESCRIPTION**

The subject property is located of the west side of North Pilot Knob Road and the north and south sides of Cresset Dellinger Road. It is adjacent to the Cambridge Village retail center, a 16-acre site that includes a Publix grocery store, and to a planned 5-acre office park. Adjoining properties are zoned PD-C (Planned Development Commercial) and R-T. Land uses in this area include business and residential.

### **ENVIRONMENTAL**

A portion of this property is located in the WS-IV Protected Area watershed district. The remainder, the larger portion, is located in an area subject to state stormwater regulations and permitting.

### **LAND USE PLAN CONFORMANCE**

This property is part of an area designated by the Lincoln County Land Use Plan as a Walkable Activity Center, suitable for a mix of commercial and residential uses with a residential density of 6-24 dwelling units per acre. Including the commercial center and planned office park as part of an activity center, the proposed residential density is 8.3 dwelling units per acre. Counting only the area for the apartments, the proposed density is 25 units per acre.

### **SEWER AVAILABILITY**

The applicant has been advised that Lincoln County currently cannot allocate sewer capacity for the proposed development. Total allowable capacity at the Killian Creek Wastewater Treatment Plant is limited to 90% of the maximum permitted flow of 3.35 million gallons per day. The Board of Commissioners has reserved 8% of the permitted flow for nonresidential development. In July, actual flow plus allocated capacity reached 82%, triggering a temporary halt to any additional residential allocations. If the N.C. Department of Environmental Quality approves, the county can begin allocating the remaining 10% of capacity once construction begins on an expansion of the plant. That project, scheduled to

start in June 2019, will double the capacity of the plant. The expansion is forecast to be completed in December 2020. The applicant has also been advised of a flow-capacity issue with a sewer main that serves the area that includes the proposed apartment site.

Chairman Beam opened the public hearing for PD #2018-1 – Cambridge Commons, MF, LLC, applicant.

Robert Davis stated that this is the final phase is this multi-family site, which also includes Publix and other retail and office space already approved by the Board. The applicant does understand there is current residential sewer capacity at this site.

Rad Hudson, with Bohler Engineering, said they are proposing to develop 10.6 acres along North Pilot Knob Road, north of 73. The site would have access to North Pilot Knob Road, Business 16 and NC 73. This plan would be a maximum of 260 multi-family units with 12.5% open space or greater. This site is in the East Lincoln Development District. Recommendations of the TIA include a right turn lane from their site onto North Pilot Knob Road, which they intend to build for this project and would be coordinated with other projects on 73.

Mr. Atkins recommended the Commissioners look at the Transportation Plan for that area and asking the developer for an in lieu of fee instead of doing the proposed improvements. He said the Planning Board could take that under advisement to discuss further with the applicant.

Shane Seagle, applicant, said he would be happy to answer any questions.

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

Chairman Beam called for a brief recess while the Planning Board moved their meeting to the 2<sup>nd</sup> floor balcony. Chairman Beam called the meeting back to order.

**Public Comments:** Chairman Beam opened Public Comments.

Ken Kindley spoke urging the Board to leave the Courthouse downtown.

Being no additional speakers, Chairman Beam closed Public Comments.

**Discussion of options with old Health Department Building:** John Henry presented the following:

Parcel 00806 and 01285 appraised for \$1.022 million “as if vacant”. DARI conducted an asbestos survey collecting 53 samples, 13 of which contained asbestos. UST on the site that must be removed at a price of \$20,000 with no contaminated soil found. The Board will need to decide if the property will be sold as is or if the building will be demolished. If the

decision is to demolish, the Board needs to approve the contract with DH Griffin in the amount of \$187,550 for abatement and demolition.

**UPON MOTION** by Commissioner Permenter, the Board voted unanimously to approve the contract with DH Griffin in the amount of \$187,550 for abatement and demolition at old Health Department site.

**Elections Request for Part time workers:** - Candy Burgin presented a request from the Board of Elections to add 12 part time positions for early voting. Hours are mandated by the State which will require workers to work in shifts.

Newly passed legislation requires 12 hours days for early voting. Adding part time workers will prevent overtime and allow staff to schedule workers.

Staff recommends approval to add 12 part-time One Stop Workers to eliminate the need of current employees working 12-13 hour days for 14 days. The proposal is to rotate each of the 26 total employees to work either 7 hours or 6 hours per day.

This will be an overall budget increase of \$10,471.33 per election cycle.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the request for part time workers for Elections as presented.

**Other Business:** Mr. Atkins informed the Board of work session concerning transportation on September 17 at 3:30 p.m. in the Commissioners Room.

Mr. Atkins said he met with the City Council last week and the City is very interested in keeping the Courthouse downtown and are willing to help any way they can to achieve this.

**Recess:** **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to recess to September 17, 2018 at 3:30 p.m. in the Commissioners Room for a work session concerning transportation.