



**LINCOLN COUNTY PLANNING & INSPECTIONS DEPARTMENT**  
302 NORTH ACADEMY STREET, SUITE A, LINCOLNTON, NORTH CAROLINA 28092  
704-736-8440 OFFICE 704-736-8434 INSPECTION REQUEST LINE 704-732-9010 FAX

To: Board of Commissioners  
Planning Board

From: Randy Hawkins, Zoning Administrator

Date: March 18, 2016

Re: UDO Proposed Amendments #2016-1  
Clint Hennessee, applicant

*The following information is for use by the Lincoln County Board of Commissioners and the Planning Board at their joint meeting/public hearing on April 4, 2016.*

**APPLICANT'S PROPOSAL**

The applicant is proposing amendments to the Lincoln County Unified Development Ordinance as follows:

1) Amend Section 3.12.4 under General Development Standards to establish maximum permitted sound levels as measured at or beyond the property boundary based on the zoning district of the adjoining property and time of day.

2) Amend Section 4.4 under Specific Use Standards to establish maximum permitted sound levels for racetracks as measured at or beyond the property boundary based on the zoning district of the adjoining property and time of day.

3) Amend Section 12.3.2 to add a definition for "racetrack."

Under the proposal, maximum sound levels would be based on an average decibel reading over a 10-minute period.

The full text of the proposal, including tables with maximum prescribed decibel levels, is included with the application.

**BACKGROUND**

Lincoln County currently doesn't have specified maximum decibel limits in its noise ordinance or in the UDO.

The noise ordinance prohibits "any loud, raucous and disturbing noise, which term shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities.

Section 3.12.4 of the UDO states that "uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family detached and two-family houses and residential districts."

A number of other counties and cities in North Carolina have noise regulations with maximum decibel levels, but nearly all of those regulations are established in stand-alone noise ordinances. Those ordinances apply to various types of disturbing noises, including amplified music, loud gatherings, animals, and vehicles in general. Noise ordinances are typically administered by law enforcement agencies.

In researching this proposal, staff has not found any zoning ordinances that establish maximum sound levels for racetracks. Instead, some ordinances require that racetracks be set back a certain minimum distance from the property line or from any existing home or business. Gaston County, for example, requires that no portion of any outdoor motor vehicle racetrack be located closer than 750 feet to an existing principal structure on an adjoining lot.

#### STAFF'S RECOMMENDATION

Staff recommends that Parts 1 and 2 of the proposal not be approved. Staff recommends approval of Part 3 only. The UDO currently doesn't include a definition for a "racetrack."

If the Board of Commissioners wants to establish maximum permitted sound levels, staff believes it should be done by amending the county's noise ordinance. Many noise issues involve temporary disturbances that don't fall under the purview of zoning.

As for establishing a specific noise standard for racetracks, staff believes the noise issue can be resolved through the conditional use process. A racetrack is not a permitted use by right in any zoning district. It is a conditional use in the R-R (Rural Residential) and I-G (General Industrial) districts. A racetrack shouldn't be approved unless an applicant provides sufficient information to show that it would be buffered adequately from adjoining properties.



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### **Staff's Proposed Statement of Consistency and Reasonableness**

Case No. **UDO Proposed Amendments #2016-1**

Applicant **Clint Hennessee**

Proposed amendments

- 1) Amend Section 3.12.4 to establish maximum permitted sound levels as measured at or beyond the property boundary based on the zoning district of the adjoining property and the time of day.**
- 2) Amend Section 4.4 to establish maximum permitted sound levels for racetracks as measured at or beyond the property boundary based on the zoning district of the adjoining property and the time of day.**
- 3) Amend Section 12.3.2 to add a definition for "racetrack."**

**Parts 1 and 2** of these proposed amendments **are not consistent** with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that **the Land Use Plan does not call for establishing maximum permitted sound levels as part of the Unified Development Ordinance**.

**Part 3** of these proposed amendments **is consistent** with the Lincoln County Land Use Plan in that **it would not modify a land use regulation but simply add a definition for a type of land use**.

**Part 1** of these proposed amendments is **not reasonable and not in the public interest** in that: **Among counties and cities that have maximum permitted sound levels, nearly all of those regulations are established in stand-alone noise ordinances which apply to various types of disturbing noises, including those that don't fall under the purview of zoning.**

**Part 2** of these proposed amendments is **not reasonable and not in the public interest** in that: **In the case of a proposed racetrack, the noise issue should be resolved through the conditional use process by requiring an applicant to provide information to show that the racetrack would be buffered adequately from adjoining properties.**

**Part 3** of these proposed amendments is **reasonable and is in the public interest** in that: **The Unified Development Ordinance currently does not include a definition for "racetrack."**



## UDO Text Amendment Application

Lincoln County Planning and Inspections Department  
Zoning Administrator  
302 N. Academy St., Suite A, Lincolnton, NC 28092  
Phone: (704) 736-8440 Fax: (704) 732-9010

### Part I

Applicant Name Clint Hennessee

Applicant Address 902 Park Circle

Applicant Phone Number 704-437-8404

### Part II

Briefly describe the proposed text amendment.

- 1) Amend Section 3.12.4 to establish maximum permitted sound levels as measured at or beyond the property boundary based on the zoning district of the adjoining property and the time of day.
- 2) Amend Section 4.4 to establish maximum permitted sound levels for racetracks as measured at or beyond the property boundary based on the zoning district of the adjoining property and the time of day.
- 3) Amend Section 12.3.2 to add a definition for "racetrack."

*I hereby certify that all of the information provided for this application and attachments is true and correct to the best of my knowledge.*

Clint Hennessee  
\_\_\_\_\_  
Applicant

2/19/16  
\_\_\_\_\_  
Date

# **UDO Proposed Amendments #2016-1**

*Proposed added text is underlined.*

***1) Amend Section 3.12.4 to establish maximum permitted sound levels as measured at or beyond the property boundary based on the zoning district of the adjoining property and time of day.***

## **3.12.2 Operational Performance Standards**

### **§3.12.1 Purpose**

The operational performance standards of this section are intended to protect the health, safety and welfare of the citizens of the County by regulating potential nuisance features associated with certain land uses.

### **§3.12.2 Applicability**

The operational performance standards of this section shall apply to all uses, buildings and structures within the jurisdiction of the County and shall be a continuing obligation of such uses, buildings and structures, unless otherwise specifically indicated.

### **§3.12.3 Exemptions**

The following are exempt from the operational performance standards of this section:

Temporary construction, excavation and grading associated with development for which applicable permits have been issued and with the installation of roads or utilities; and

Demolition activities that are necessary and incidental to permitted development on the same lot, on several lots being developed at the same time or in public rights-of-way or easement.

### **§3.12.4 Standards**

Under this section, the following standards shall apply:

#### **A. Noise**

1. Sites shall be laid out and uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family detached and two-family houses and residential districts.
  
2. No person may operate or cause or permit the operation of any source of sound that exceeds the limits set forth herein for the following receiving use districts when measured at the property boundary or at any point within the property affected by the noise. dB(A) shall be calculated on a 10-minute average.

<b>Table of Maximum Permitted Sound Level [dB(A)]</b>		
<u>Receiving Use District</u>	<u>Day (7 a.m. - 10 p.m.)</u>	<u>Night (10 p.m. - 7 a.m.)</u>
<u>Residential</u>	<u>60</u>	<u>55</u>
<u>Commercial</u>	<u>65</u>	<u>60</u>
<u>Industrial</u>	<u>75</u>	<u>75</u>

- (a) For any sound which emits a pure tone, cyclically varying sound and repetitive impulsive sound, the standards defined herein shall be reduced by five db (A).
- (b) The standards set forth in this section shall not apply to the following sources:
  - (1) Emergency warning devices and emergency equipment including medical transport helicopters.
  - (2) Lawn care equipment used during daytime hours.

**2) Amend Section 4.4 to establish maximum permitted sound levels for racetracks as measured at or beyond the property boundary based on the zoning district of the adjoining property and time of day.**

#### **§4.4. Commercial Use Standards**

The following standards shall apply to all permitted uses, special uses and conditional uses, as set forth in the Permitted Land Use Table (see §2.2.1).

##### **§4.4.12    Racetracks**

- A.** The maximum sound level at the property boundary shall remain at or below the limits set herein for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise. dB(A) shall remain at or below the maximum sound level maximum. dB(A) shall be calculated on a 10-minute average.

<b><u>Table of Maximum Permitted Sound Level [dB(A)]</u></b>		
<u>Receiving Use District</u>	<u>Day (7 a.m. - 10 p.m.)</u>	<u>Night (10 p.m. - 7 a.m.)</u>
<u>Residential</u>	<u>60</u>	<u>55</u>
<u>Commercial</u>	<u>65</u>	<u>60</u>
<u>Industrial</u>	<u>75</u>	<u>75</u>

**3) Amend Section 12.3.2 to add a definition for "racetrack."**

##### **§12.3.2    General Terms**

RACETRACK. A facility where vehicles of any size, model aircraft and similar reduced-scale objects, or animals are raced for speed and/or endurance, at which seating space and accessory food stands may be provided, including tracks used primarily or exclusively for testing, training or practice.