

A G E N D A

LINCOLNTON CITY COUNCIL

November 2, 2017

7:00 p.m.

Council Chambers

City Hall

FOR YOUR CONVENIENCE A COPY OF
TONIGHT'S AGENDA
IS AVAILABLE, LOCATED TO THE
RIGHT OF THE ENTRANCE TO THE
COUNCIL CHAMBERS

*ANYONE WISHING TO SPEAK
DURING THE PUBLIC COMMENT
PORTION OF THE AGENDA
PLEASE SEE THE CITY CLERK PRIOR
TO THE MEETING TO SIGN UP
NON-AGENDA ITEMS WILL BE
DISCUSSED AND SPEAKERS WILL BE
LIMITED TO THREE (3) MINUTES
A COPY OF THE RULES FOR PUBLIC COMMENT
ARE AVAILABLE AT THE CITY CLERK'S DESK*

THANK YOU FOR ATTENDING
OUR MEETING
AND FOR YOUR INTEREST
IN THE CITY OF LINCOLNTON

A G E N D A

LINCOLNTON CITY COUNCIL

November 2, 2017

7:00 p.m.

CALL TO ORDER – Mayor Ed Hatley

PLEDGE OF ALLEGIANCE

1. Approval of Regular Agenda

2. Approval of CONSENT AGENDA:

All items placed under the Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

3. Approval of Minutes from the October 5th Regular Meeting

4. Calls to Public Hearing for the December 7, 2017 City Council meeting:

Deadline is Monday the 30th at 5:00 p.m.

**CUP-9-2017- Application from Teramore Development, LLC
requesting a conditional use permit to construct a 9,100 square feet
retail building (Dollar General) in the Planned Business (PB District).
The subject property has frontage on both W. NC Highway 27 and W
NC Highway 150 and is approximately 300 feet west of the intersection
of these two roads (Parcel ID 21439).**

(O-18-17)

**Proposed amendment to the City's Code of Ordinances – Title IX –
General Regulations – Chapter 93.016: Unnecessary Noise Prohibited
Specifically and Title XIII – General Regulations – Chapter 130:
Offenses Against Public Peace and Safety**

AGENDA

November 2, 2017

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REGULAR AGENDA:

PUBLIC HEARINGS

(O-16-17)

5. **ZTA-5-2017-** Application from the Lincolnton Planning Department requesting an amendment to Section 153.315 of the Unified Development Ordinance to text and map to modify the provision regarding consistency with the comprehensive plan to conform to recently adopted state legislation.

Laura Elam, Planning Director

PUBLIC HEARINGS

(O-17-17)

6. **ZTA-6-2017-** Application from the Lincolnton Planning Department requesting an amendment to Section 153.031 of the Unified Development Ordinance to amend the definitions of the terms “Subdivision” and “Minor Subdivision” to comply with recently adopted state legislation

Laura Elam, Planning Director

7. **CUP-6-2017-** Application from William McDaniel requesting a conditional use permit to operate a Tavern in the Planned Business (PB) District. The subject property is located within the Lincolnton Plaza Shopping Center at 1565 North Aspen Street (Parcel ID 57488).

Laura Elam, Planning Director

8. **CUP-7-2017-** Application from HWP Realty, LLC requesting renewal of a conditional use permit, issued in 2015, to construct a pharmacy in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject property is located on the south side of East Main Street approximately 350 feet east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 91738).

Laura Elam, Planning Director

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PUBLIC HEARINGS

9. **CUP-8-2017-** Application from Concord Properties requesting approval of a conditional use permit to construct a Chick-Fil-A Restaurant in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject is located on the south side of East Main Street approximately 650 feet east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 22484).

Laura Elam, Planning Director

10. **CU-ZMA-3-2017-** Application from Greg Houser requesting a conditional rezoning from R-25 to CU-NB District for the purpose of constructing a Dance Studio. The subject property is located on the east side of Startown Road approximately 750 feet north of the intersection of Startown Road and Reepsville Road (Parcel ID 21757)

Laura Elam, Planning Director

11. **CU-ZMA-4-2017-** Application from Carl Jenkins requesting a conditional use rezoning from R-8 to CU-RO District for the purpose of operating a Funeral Home. The subject property is located at 406 Battleground Road (Parcel ID 17847).

Laura Elam, Planning Director

RESOLUTION

(R-11-17)

12. **Consideration of Resolution Directing the City Attorney to petition for a Court Order for repair, removal or demolition at 702 N Grove Street**

Laura Elam, Planning Director

AGENDA

November 2, 2017

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BUDGET AMENDMENT

(BA-04-17)

- 13. Proposed Budget Amendment – Transfer monies to consolidate insurance codes and amend funds to add 321 Bridge Project**

Steve Zickefoose, City Manager

OTHER BUSINESS

- 14. Consideration of quotes for Property & Liability Insurance coverage**

**David Ramsey,
Business Services Manager**

POLICY

(P-07-17)

- 15. Consideration of new City Policy regarding Small Claims and Sanitary Sewer Backup Reimbursement “Good Neighbor Policy”**

**David Ramsey,
Business Services Manager**

- 16. Monthly Financial Update/Overtime Report**

Steve Zickefoose, City Manager

PUBLIC COMMENT

*Speakers will be limited to three (3) minutes to address Mayor and City Council
Concerning Non-Agenda Items.*

You must sign in with the City Clerk prior to the meeting to be eligible to speak.

NEWS MEDIA

ADJOURNMENT

ITEM #

1

APPROVAL

OF

REGULAR

AGENDA

ITEM #

2

APPROVAL

OF

CONSENT

AGENDA

ITEM #

3

REGULAR MEETING - OCTOBER 5, 2017

The Mayor and City Council met in regular session on Thursday, October 5, 2017 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnton NC.

Mayor Ed Hatley called the meeting to order. The Mecklenburg Young Marines led the Pledge of Allegiance.

The following Council members were in attendance:

SMITH BLACK EADDY JETTON

Councilman Eaddy made the motion unanimously approved the *REGULAR AGENDA*.

Councilman Black made the motion unanimously approved the *CONSENT AGENDA* as follows:

- Approved of Minutes from the September 7, 2017 – Regular Meeting
- Approved the following Calls to Public Hearing for the November 2nd regular City Council meeting:
CUP-6-2017- Application from William McDaniel requesting a conditional use permit to operate a Tavern in the Planned Business (PB) District. The subject property is located within the Lincolnton Plaza Shopping Center at 1565 North Aspen Street (Parcel ID 57488).

CUP-7-2017-Application from HWP Realty, LLC requesting renewal of a conditional use permit, issued in 2015, to construct a pharmacy in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject property is located on the south side of East Main Street approximately 350 feet east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 91738).

CUP-8-2017- Application from Concord Properties requesting approval of a conditional use permit to construct a Restaurant in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject is located on the south side of East Main Street approximately 650 feet east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 22484).

REGULAR MEETING - OCTOBER 5, 2017

CONSENT AGENDA ITEMS CONTINUED:

CU-ZMA-3-2017- Application from Greg Houser requesting a conditional rezoning from R-25 to CU-NB District for the purpose of constructing a Dance Studio. The subject property is located on the east side of Startown Road approximately 750 feet north of the intersection of Startown Road and Reepsville Road (Parcel ID 21757)

CU-ZMA-4-2017- Application from Carl Jenkins requesting a conditional use rezoning from R-8 to CU-RO District for the purpose of operating a Funeral Home. The subject property is located at 406 Battleground Road (Parcel ID 17847).

ZTA-5-2017- Application from the Lincolnton Planning Department requesting an amendment to Section 153.315 of the Unified Development Ordinance to text and map to modify the provision regarding consistency with the comprehensive plan to conform to recently adopted state legislation.

ZTA-6-2017- Application from the Lincolnton Planning Department requesting an amendment to Section 153.031 of the Unified Development Ordinance to amend the definitions of the terms “Subdivision” and “Minor Subdivision” to comply with recently adopted state legislation.

Approved Resolution (R-08-2017) to surplus Lincolnton Police Department Patrol Officer Kameron Keener’s service weapon and badge upon his retirement – November 1, 2017

Proclamation – Public Power Week – October 1st through 7th, 2017
Proclamation – Dyslexia Awareness Month – October 2017

REGULAR MEETING - OCTOBER 5, 2017

REGULAR AGENDA:

PRESENTATION OF RETIREMENT RESOLUTION TO LPD – PATROL OFFICER KAMERON KEENER:

(R-09-17)

Mayor Hatley ask City Council to entertain a motion to approve a retirement resolution for Officer Kameron Keener. Councilman Eaddy made the motion unanimously approved to adopt the resolution as written. The Mayor called Officer Kameron Keener to the front and presented him a framed copy of the following resolution:

WHEREAS, *Kameron S. Keener*, began his employment with the City of Lincolnton on March 20, 1985 as a Reserves Division Police Officer with the Lincolnton Police Department. In 1997 he became a full time employee as a Lincolnton Police Officer; and

WHEREAS, *Kameron S. Keener*, has proven his leadership qualities, rising through the ranks in 2001 when he was promoted to a Investigator in the Detectives Division, then in 2007 to a Police Sergeant. Kameron has provided excellent Public Safety to the citizens of Lincolnton and was named Police Officer of the Year through the VFW in 2003; and

WHEREAS, *Kameron S. Keener*, in 2005 received his Intermediate Certificate from the NC Criminal Justice Education and Training Standards Commission and then in 2010 earned his Advanced Law Enforcement Certificate, which is the highest certification awarded by the Training and Standards Division of the North Carolina Department of Justice; and

WHEREAS, *Kameron S. Keener*, transferred to the Police-Community Services Division in 2008 where he has served as patrol for our Downtown, assisting with enforcement of our Alarm and Golf Cart Ordinances and the City's RUOK Program. Kameron plans to retire effective November 1, 2017; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lincolnton that appreciation be shown to *Kameron S. Keener* honoring him on his upcoming retirement and that we extend congratulations and best wishes to him for continued success in all his future endeavors.

Mayor Hatley said jokingly, "Let it go on record that Kameron declined to comment." He wished Kameron the best on his retirement.

REGULAR MEETING - OCTOBER 5, 2017

PRESENTATION OF RETIREMENT RESOLUTION TO LFD – FIRE ENGINEER DAVID FORD:

(R-10-17)

Mayor Hatley asked City Council to entertain a motion to approve a retirement resolution for Fire Fighter David Ford. Councilman Black made the motion unanimously approved to adopt the resolution as written. The Mayor called David Ford to the front and presented him a framed copy of the following resolution:

WHEREAS, *David L. Ford*, began his employment with the Lincolnton Fire Department September 26, 1989 as a Firefighter. David, through the Office of the North Carolina State Fire Marshal, achieved all three levels of training available, receiving his Level III certification as a Fire Control Specialist in 1993. Then in 1999 earned the title of Fire Engineer; and

WHEREAS, *David L. Ford*, through his dedication and impeccable work ethic has provided excellent Public Safety for our City. He will tell you that one of his major accomplishments is working with the other Fire Department members to provide a high quality of Fire and Life Safety to the citizens of Lincolnton; and

WHEREAS, *David L. Ford*, has assisted with maintenance and repairs of Fire Department equipment, including our Fire Engines, his vast knowledge of technology also allowed him to assist with their computer system, going above and beyond which resulted in many thousands of dollars savings to the City; and

WHEREAS, *David L. Ford*, was named Public Servant of the Year, by the Lincolnton VFW, in 2013 for his outstanding service to the community; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lincolnton that appreciation be shown to *David L. Ford* and best wishes to him for continued success in all his future endeavors.

Mayor Hatley said, “Losing this much experience in one night, both Kameron and David, is a huge loss to the City. We want you both to know we appreciate you.”

PRESENTATION OF THE KEY TO THE CITY TO THE FOLLOWING MEDAL OF HONOR RECIPIENTS:

Mayor Hatley presented a Key to the City to the following and gave background information on each Medal Honor recipient. He first recognized

REGULAR MEETING - OCTOBER 5, 2017

Walter “Joe” Marm – Col US Army (Ret) and then North Carolina native Robert Martin Patterson – CSM US Army (Ret). Col Marm’s decorations include the Medal of Honor, Legion of Merit, Bronze Star, Purple Heart, Meritorious Service Medal with four oak leaf clusters, Air Medal with two oak leaf clusters and the Army Commendation Medal with one oak leaf cluster.

Mr. Patterson, originally from Carpenter North Carolina, also a Medal of Honor Recipient holds the Legion of Merit, Meritorious Service Medal(2d award, Bronze Star (2d award), Purple Heart (3d award) Army Commendation Medal (2d award), Army Achievement Medal, Combat Infantryman Badge Master Parachutist Badge, Air Assault Badge, Drill Sergeant Badge, Viet Nam Cross of Gallantry with Silver Star, Kuwait Liberation Medal and the Southeast Asia Service Medal.

Mayor Hatley commended Dale Punch for annually bringing distinguished military personnel to our County and City. He reminded everyone that tomorrow Dale and the Veterans Office would hold a Medal of Honor Day. He encouraged everyone to attend. Mayor Hatley thanked Dale for bringing these dignitaries to Lincolnton this year. He said, “We are honored to have them as our guest. This is a rare occasion for Lincolnton. We thank you for your sacrifice.” These men received a standing ovation from all those in attendance.

PRESENTATION OF PROCLAMATION TO JON HENDERSON, UNIT COMMANDER OF MECKLENBURG COUNTY YOUNG MARINES USMC; HUNTER HULLETTE LINCOLN COUNTY RECRUIT - PROCLAIMING OCTOBER 23 – 31, 2017 AS YOUNG MARINES RED RIBBON WEEK:

Mayor Hatley called on Jon Henderson, Unit Commander of Mecklenburg County Young Marines and Hunter Hulette a recent Lincoln County Recruit to come forward to receive a framed copy of the proclamation that read as follows:

WHEREAS, communities across American have been plagued by numerous problems associated with illicit drug use and those that traffic in the; and

WHEREAS, there is hope in winning the war on drugs and that hope lies in education and drug demand reduction, coupled with hard work and determination of organizations such as the Young Marines of the Marine Corps League to foster a healthy, drug-free lifestyle; and

REGULAR MEETING - OCTOBER 5, 2017

WHEREAS, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

WHEREAS, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

WHEREAS, October 23-31 has been designated National Red Ribbon Week which encourages Americans to wear a red ribbon to show their support for a drug-free environment.

NOW, THEREFORE, BE IT PROCLAIMED that I, Mayor Ed Hatley, hereby proclaims October 23-31, 2017 as Red Ribbon Week and encourage all citizens to support this worthy initiative.

RECOGNITION OF SERVICE – (SERVED ON THE LINCOLNTON-LINCOLN COUNTY AIRPORT AUTHORITY AS CITY APPOINTEES UNTIL RECENT LEGISLATION CHANGED THE AUTHORITY’S MAKE-UP, ENDING THEIR SERVICE):

Mayor Hatley presented a plaque to both Fred Houser, who served from 2012 to 2017; and Leon Harmon served from 2013 to 2017 as City Appointees on the Lincolnton-Lincoln County Airport Authority. With the recent restructuring of the Airport, through legislation from the General Assembly, the City no longer has three appointments to this board and Mayor Hatley wanted to thank them for their service to the City and its citizens. Both men spent decades working with the Airport through previous positions with Lincoln County and their service in their appointed positions was very valuable to both the City and the Airport Authority.

PROPOSED AMENDMENT TO THE CITY’S CODE OF ORDINANCES – TITLE VII – TRAFFIC CODE – TRAFFIC SCHEDULES (SCHEDULE VII) SPEED LIMITS ON CITY MAINTAINED STREETS. CHANGING THE SPEED LIMIT ON PERIWINKLE STREET FROM 35 MPH TO 25 MPH:

(O-15-17)

Mayor Hatley opened the Public Hearing. Rodney Jordan, Chief of Police, reviewed the proposed ordinance to change the speed limit on Periwinkle Street from 35 mph to 25 mph. Chief Jordan said that currently there is no

REGULAR MEETING - OCTOBER 5, 2017

speed limit signage on Periwinkle, therefore the speed limit per City ordinance is 35 mph. He said based on the length and width of the street, the number of houses close to the roadway and information received from speaking with neighbors along the street, the Police Department believes that the limit is too fast for the area and would recommend lowering it to 25 mph. He suggested this change would be for the entire length of the street from Highland Drive to the dead-end portion.

Councilman Eaddy made the motion unanimously approved to close the Public Hearing.

Councilman Jetton made the motion unanimously approved to amend the Code of Ordinances as recommended, making the speed limit 25 mph. This change will become effective upon erection of signage.

CONSIDERATION OF A REVISION TO ADMINISTRATIVE POLICY – SERVICE AWARD PROGRAM TO BECOME EFFECTIVE OCTOBER 5, 2018 IF APPROVED:

(P-06-17)

Tanya Osborne, Human Resources Director, recommended that Council consider amending the above administrative Policy regarding Service Award Program. She said during the 2017-18 budget process the Longevity Pay Plan – Administrative Policy, was amended to reflect an employee's longevity pay based upon accumulated years of City service rather than consecutive years. To provide consistency within the policies, she suggested a revision to the Administrative Policy # 4 – Service Award Program to allow employee eligibility for service awards to also be based upon accumulated years of service instead of consecutive years. Employees would be recognized at the annual service award luncheon held in December and awarded a gift. She suggested the policy become effective upon adoption if approved.

Councilman Eaddy made the motion unanimously approved to amend the Administrative Service Policy # 4 Service Award Program as recommended, to become effective upon adoption.

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RECOMMENDATION FROM STEERING COMMITTEE REGARDING A VISION STATEMENT:

Brett Hicks, Executive Director of DDA, reviewed the findings from a community forum held in July of 2017 at First Methodist Church. The forum provided fellowship and brainstorming to discuss the many positive features of downtown Lincolnton. Brett said, "After the Vision Forum a smaller group made up of downtown residents, business owners, property owners, City officials, and DDA members work continued on the process and hone the ideas into one statement. The statement was then forwarded to the NC Main Street organization for further review and suggestions for a statement that truly spoke to the uniqueness of our community. From there the statement was forged and presented to the Steering Committee for approval." The Downtown Vision Statement was compiled as follows:

"Tucked between the rolling hills of the Blue Ridge Mountains and the glow of the City lights of Charlotte aspiring business owners will find a nurturing atmosphere in downtown Lincolnton where they can grow and flourish. Downtown Lincolnton, is a hidden gem of opportunity as the hub of distinctive arts and artisan and active living."

Brett concluded requesting that Council endorse the proposed statement on behalf of Downtown Lincolnton. Councilman Black made the motion unanimously approved certifying the statement as recommended.

Councilman Eaddy said, "I think it is a great statement for marketing purposes."

Mayor Hatley thanked Brett and the Downtown Development Association for the work they put into composing the statement.

RECOMMENDATION FROM STEERING COMMITTEE REGARDING NOISE ORDINANCE:

Fred Jarrett, Chair of the Lincolnton Steering Committee, proposed changes to the City's Code of Ordinances on behalf of the Steering Committee. The first proposed change was to Chapter 130: Offenses Against Public Peace and Safety – Section 130.05 – Special Events and Festivals. Item number three was proposed to be amended adding the following language: Abusive or threatening language that disrupts a special event or festival or that abuses or threatens another person in a manner likely to cause a fight or brawl at a special event or festival is prohibited. Noise Ord. 93.016 (1) also applies.

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The second proposed amendment was to Chapter 93.016 – Unnecessary Noise Prohibited Specifically – adding language to Section (I) Any person or group of persons willfully making any loud, raucous, or disturbing sound that – because of its volume, duration, and character – annoy, disturb, frighten, injure, or endanger the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities in the neighborhood or Central Business District is prohibited.

Fred referenced a case where the NC Court of Appeals upheld the above revisions in a case. He suggested Council consider revising the Code of Ordinances as unanimously approved by the Steering Committee.

This item generated some discussion. In conclusion, Councilman Black made the motion unanimously approved to hold a Public Hearing on this proposed amendment at the December 7th City Council meeting.

MONTHLY FINANCIAL REPORT/OVERTIME REPORT:

Steve Zickefoose, City Manager, reviewed the handout (Executive Summary) providing totals for the General Fund, listing departmental totals, the Electric Fund and The Water & Sewer Fund. He compared the totals to the totals from last fiscal year at this time. He said, “I feel we are where we need to be at this point in the year.” The handout appeared as follows:

October 2017 Council Meeting								
Executive Summary								
August 2017 Year-To-Date								

REGULAR MEETING - OCTOBER 5, 2017

		Budget 17-18	Actual 17-18	% of Budget	Budget 16-17	Actual 16-17	Difference
Water & Sewer Fund							
Fund 61	Revenues	7,449,995	1,411,652	18%	7,867,135	1,475,221	(63,569)
	Fund Balance	390,000	-		1,265,399		
		7,839,995	1,411,652		9,132,534	1,475,221	(63,569)
	Water Treatment	1,501,500	269,853		1,476,528	234,505	35,348
	Dist & Collection	1,356,250	238,418		2,390,175	359,947	(121,529)
	Wastewater	1,537,900	157,860		1,648,076	149,689	8,171
	W & S Intangibles	3,444,345	71,211		3,617,755	67,049	4,162
	Expenses	7,839,995	737,342	9%	9,132,534	811,190	(73,848)
	Difference		674,310			664,031	10,279
Electric Fund							
		Budget 17-18	Actual 17-18	% of Budget	Budget 16-17	Actual 16-17	Difference
Fund 63	Revenues	7,791,714	1,278,342	16%	8,000,000	1,284,974	(6,632)
	Fund Balance	-	-		79,000	-	-
		7,791,714	1,278,342		8,079,000	1,284,974	(6,632)
	Electric Dept.	7,791,714	910,915		8,079,000	794,829	116,086
	Expenses	7,791,714	910,915	12%	8,079,000	794,829	116,086
	Difference		367,427			490,145	(122,718)
Overtime	80+ hours		51,065			52,619	(1,554)

PUBLIC COMMENT:

Mr. Keith Gaskill spoke under the Public Comment portion of the agenda, thanking the Mayor, Dr. Eaddy and Chief Jordan for attending Residents Rights Week.

NEWS MEDIA:

There were no questions from the News Media.

ADJOURNMENT:

Councilman Black made the motion unanimously approved to adjourn the meeting.

DONNA C. FLOWERS, MMC
CITY CLERK

ED HATLEY
MAYOR

ITEM #

4

Chapter

130. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

CHAPTER 130: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

130.05 Special events and festivals

§ 130.05 SPECIAL EVENTS AND FESTIVALS.

(A) The Chief of Police, or his or her designee, shall define an area within the city for the activities to be conducted and the duration of the activities. He or she shall have the authority to block streets to vehicular traffic, and control the conduct of participants and attendees of special events to the extent necessary to ensure public safety. The area as defined, and the duration of activities shall be clearly marked on maps posted on the barricades erected to block vehicular traffic, and shall be published prior to the events in the publication having general circulation in the Lincolnton/Lincoln County area prior to the event.

(B) During the time and area so designated, the following activities shall be forbidden:

(1) The movement of powered vehicles (except for public safety and public works/utilities vehicles or others as approved for short distance movement on festival grounds while accompanied by law enforcement or festival officials);

(2) Allowing animals not under the control of a competent person; animals not sufficiently near the owner or person in charge of the animal; not under his or her direct restraining control and disobedient to that person's commands; animal not restrained by chain, leash, harness or other mean of physical control; provided however, police canines and service dogs trained to provide assistance to special persons for sight, hearing, mobility; and

(3) Any conduct deemed to be disruptive or dangerous to participants or attendees of the special event.

Abusive or threatening language that disrupts a special event or festival or that abuses or threatens another person in a manner likely to cause a fight or brawl at a special event or festival is prohibited. Noise Ord. 93.016 (I) also applies.

(C) A violation of this section shall constitute a Class 2 misdemeanor unless it is alleged that the conduct was intentional or was carried out in a way that constituted willful or wanton disregard for the safety of the participants or attendees of the event, in which case it shall constitute a Class 1 misdemeanor.

(Prior Code, § 10-24) (Ord. O-55-97, passed 8-14-1997) Penalty, see § 10.99

NOISE

§ 93.015 UNNECESSARY NOISE GENERALLY PROHIBITED.

It shall be unlawful for any person to create or assist in creating any unreasonably loud, disturbing and unnecessary noise in the city. Noise of the character, intensity and duration as to be detrimental to the public health, welfare and peace is hereby prohibited.

(Prior Code, § 7-4) Penalty, see § 93.999

Statutory reference:

Authority to regulate loud noises on streets and sidewalks, see G.S. § 160A-184

§ 93.016 UNNECESSARY NOISE PROHIBITED SPECIFICALLY.

The following acts, among others, are hereby declared to create loud, disturbing and unnecessary noises in violation of this code, but the enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, so as to create any unreasonably loud or harsh sound, or the sounding of the device for an unnecessary and unreasonable period of time;

(B) The playing of any radio or television or phonograph or other musical instrument in a manner or with volume, particularly during hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of resident;

(C) The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity;

(D) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded, or in a manner as to create loud or unnecessary grating, grinding, rattling or other noise;

(E) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger;

(F) The conducting, operating or maintaining of any garage or service station in any residential area so as to cause loud or offensive noises to be emitted therefrom, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or on Sundays;

(G) The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same are in session, or within 150 feet of any hospital, which unreasonably and unnecessarily interferes with the working of these institutions, provided conspicuous signs are displayed in the streets indicating that the area is a school, court or hospital area;

(H) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m., on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues; and

(I) ~~The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.~~ **Any person or group of persons willfully making any loud, raucous, or disturbing sound that – because of its volume, duration, and character – annoys, disturbs, frightens, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities in the neighborhood or Central Business District is prohibited.**

(Prior Code, § 7-5) Penalty, see § 93.999

Donna Flowers

From: Mark Carpenter
Sent: Thursday, October 26, 2017 10:13 AM
To: Laura Elam
Cc: Donna Flowers
Subject: Call to Public Hearing for December City Council Meeting

Just received the first application that needs to be called to public hearing for the December City Council Meeting. Deadline is Monday the 30th at 5:00 p.m.

- CUP-9-2017- Application from Teramore Development, LLC requesting a conditional use permit to construct a 9,100 square feet retail building (Dollar General) in the Planned Business (PB District). The subject property has frontage on both W. NC Highway 27 and W NC Highway 150 and is approximately 300 feet west of the intersection of these two roads (Parcel ID 21439).

Mark A. Carpenter
City of Lincolnton
Zoning Administrator
114 West Sycamore Street
P.O. Box 617
Lincolnton, NC 28093
704-736-8930



ITEM #

5

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: ZTA-5-2017 Application from Lincoln Planning Department requesting amendment to Section 153.315 of the Unified Development Ordinance to conform to recently adopted state legislation regarding consistency with comprehensive plan

DATE: November 2, 2017

BACKGROUND

In 2005, the State enabling legislation related to planning was amended to require that when governing boards make decisions on requests for rezonings and zoning ordinance text amendments, they consider the request's consistency with their adopted comprehensive plan.

STATE REGULATORY REFORM ACT

During the 2017 legislative session, the State adopted the 2016 - 17 Regulatory Reform Act. The Act amends the state statutes to add more specificity to the legislation governing zoning amendments and requirements for consideration of consistency with the comprehensive plan.

The new statute now requires approval of a statement that describes plan consistency specifically in one of three forms:

1. A statement approving the proposed zoning amendment and describing its consistency with the comprehensive plan;
2. A statement rejecting the proposed zoning amendment and describing its inconsistency with the comprehensive plan; or
3. A statement approving the proposed amendment and declaring that this also amends the comprehensive plan along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

With each of these alternatives, the statement is also to include an explanation of why the governing board deems the action reasonable and in the public interest.

PROPOSED AMENDMENT

The proposed amendment adds the above requirements to the existing section of the zoning regulations regarding City Council's consideration of the comprehensive plan with decisions on zoning amendments in accordance with recent state legislation.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend approval of the amendment as outlined above in order to comply with recently adopted state legislation.

**AN ORDINANCE TO AMEND THE
CITY OF LINCOLNTON
UNIFIED DEVELOPMENT ORDINANCE
TO CONFORM TO RECENTLY ADOPTED STATE LEGISLATION REGARDING
CONSISTENCY WITH COMPREHENSIVE PLAN**

Section 1. Amend Section 153.315, Amendments to Text and Map, to modify the comprehensive plan statement provision as follows. Newly adopted language is underlined and highlighted in blue and language to be deleted is ~~struck through~~ and **highlighted in red**.

Section 153.315 **AMENDMENTS TO TEXT AND MAP.**

(J) (1) After the public hearing has been conducted and officially closed, the City Council shall render a decision concerning the proposal not later than the next regularly scheduled City Council meeting. The decision of the City Council shall be limited to one of the various alternatives listed in divisions (E) and (F) of this chapter. A copy of the City Council's decision shall be sent to the applicant by the Administrator by first class mail within five working days after the City Council's decision.

~~—(2) The City Council must adopt during the decision-making process a statement of whether the amendment is consistent with the city's land use plan and is reasonable and in the public interest. Statements are not subject to judicial review.~~

(2) Prior to adopting or rejecting any zoning amendment, City Council shall adopt one of the following statements which shall not be subject to judicial review:

- (a) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and why the action taken is reasonable and in the public interest.
- (b) 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.
- (c) A statement approving the zoning amendment and containing at least all of the following:
 - i. A declaration that the approval is also deemed an amendment to the comprehensive plan.
 - ii. An explanation of the change in conditions the City Council took into account in amending the zoning ordinance to meet the development needs of the community.
 - iii. Why the action was reasonable and in the public interest.

Section 2. That this ordinance shall become effective upon its adoption.

Zoning Amendment

Staff's Proposed Statement of Consistency and Reasonableness

Case No. ZTA-5-2017

Applicant: City of Lincolnnton Planning Department

Request: Amend Section 153.315 of the Unified Development Ordinance to conform to recently adopted state legislation that requires a governing board that is considering a request for a rezoning or an amendment to its zoning ordinance to adopt a statement that describes consistency with their adopted comprehensive plan and an explanation of why the governing board deems the action reasonable and in the public interest.

Proposed Consistency and Reasonableness Statement:

The proposed amendment **is consistent** with the adopted Lincolnnton Land Use Plan and other adopted plans in that it is not contrary to the goals and objectives outlined by the Plan and the proposed amendment **is reasonable and in the public interest** in that it will make the relevant provisions in the UDO consistent with recently adopted state legislation.

ITEM #

6

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: ZTA-6-2017 Application from Lincolnton Planning Department requesting amendment to Section 153.031 of the Unified Development Ordinance to amend the definitions of the terms “Subdivision” and “Minor Subdivision” to comply with recently adopted state legislation

DATE: November 2, 2017

BACKGROUND

The North Carolina General Statutes outline local authority to regulate the subdivision of land. As part of the State enabling legislation for subdivision authority, four types of divisions of land are specifically exempted from local subdivision regulation including:

- Recombination of lots when the total number of lots is not increased and the resultant lots meet standards;
- Divisions creating lots greater than 10 acres where no street right-of-way is involved,
- Public acquisition for widening or opening of streets, and
- Division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots where no street right-of-way is involved and where the resultant lots meet standards.

The City of Lincolnton, like most jurisdictions, has regulations and standards for new streets, infrastructure, open space, etc along with requirements for recording of a plat of the subdivision with the register of deeds. Large subdivisions involving the creation of new roads, more than 10 acres or more than 10 lots are reviewed and approved as “Major Subdivisions” which require submittal of a sketch plan, preliminary plan and final plat approval. Small subdivisions are reviewed and approved through the “Minor Subdivision” process which involves only the submittal, approval and recording of a final plat.

STATE REGULATORY REFORM ACT

During the 2017 legislative session, the State adopted the 2016 - 17 Regulatory Reform Act. The Act makes the following two changes regarding subdivision regulation:

1. The subdivision of a tract in accordance with the terms of a probated will or in accordance with intestate succession is added to the list of exempt subdivisions and
2. A city may require only a plat for the recording of a subdivision that involves the division of a tract greater than five acres in single ownership that meets the following criteria:

- A. The tract is not exempted under the “greater than 10 acres / no right-of-way” exemption,
- B. The tract has not been subdivided as an exempt subdivision in the past 10 years,
- C. The tract is greater than five acres,
- D. No more than three lots will be created, and
- E. All resulting lots will comply with the lot dimension size requirements of the zoning regulations; the use of the lots will conform with zoning requirements, and the lots will have a permanent means of ingress and egress.

PROPOSED AMENDMENT

The attached proposed text amendment makes the changes to the City’s Subdivision Ordinance necessary to conform to the recently adopted legislation.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend approval of the amendment as outlined above in order to conform to recent state legislation.

**AN ORDINANCE TO AMEND THE
CITY OF LINCOLNTON
UNIFIED DEVELOPMENT ORDINANCE
TO CONFORM TO RECENTLY ADOPTED STATE LEGISLATION
REGARDING SUBDIVISION
(O-17-17)**

Section 1. Amend Section 153.031, DEFINITION OF SPECIFIC TERMS AND WORDS, Amendments to Text and Map, to modify the definition of the terms “Subdivision,” and “Subdivision, Minor” as follows. Newly adopted language is underlined and highlighted in blue.

Section 153.031 **DEFINITION OF SPECIFIC TERMS AND WORDS**

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition and is not subject to any regulations enacted pursuant to this chapter:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as shown in its subdivision regulations;
- (2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets; and
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the city as shown in this chapter.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

SUBDIVISION, MAJOR. A subdivision where:

- (1) New roads are proposed or rights-of-way are dedicated;
- (2) The entire tract to be subdivided is greater than ten acres; or
- (3) More than ten lots are created after the subdivision is completed.

SUBDIVISION, MINOR. A subdivision where:

- (1) No new roads are proposed or road rights-of-way dedicated;
- (2) The entire tract to be subdivided is ten acres or less in size; and
- (3) Where ten or fewer lots will result after the subdivision is completed.

(4) Subdivision of a tract or parcel of land in single ownership meeting the following criteria:

- A. The tract or parcel to be divided is not exempted under Paragraph 2 of the definition of the term “Subdivision” above,
- B. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division,
- C. The entire area of the tract or parcel to be divided is greater than five acres,
- D. After division, no more than three lots result from the division.
- E. After division, all resultant lots comply with all of the following:
 - i. Any lot dimension size requirements of the applicable land use regulations, if any,
 - ii. The use of the lots is in conformity with the applicable zoning requirements, if any,
 - iii. A permanent means of ingress and egress is recorded for each lot.

Section 2. That this ordinance shall become effective upon its adoption.

Zoning Amendment

Staff's Proposed Statement of Consistency and Reasonableness

Case No. ZTA-6-2017

Applicant: City of Lincolnton Planning Department

Proposed Amendment:

Amend Section 153.031 of the Unified Development Ordinance to amend the definitions of the terms "Subdivision" and "Minor Subdivision" to comply with recently adopted state legislation.

Proposed Consistency and Reasonableness Statement:

The proposed amendment **is consistent** with the adopted Lincolnton Land Use Plan in that it is not contrary to the goals and objectives outlined by the Plan and the proposed amendment **is reasonable and in the public interest** in that it will make the relevant provisions in the UDO consistent with recently adopted state legislation.

ITEM #

7

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: CUP-6-2017 Conditional Use Permit Application from William McDaniel

DATE: November 2, 2017

SITE AND AREA DESCRIPTION

The applicant is requesting a conditional use permit to open a tavern/pub. The subject property is located in the Lincolnton Plaza Shopping Center. (See attached maps).

The property is zoned Planned Business (P-B) and the proposed use requires conditional use permit approval. Surrounding land uses are mostly retail and commercial.

REQUEST

The applicant proposes a tavern/pub and describes it as a place to relax, enjoy alcoholic beverages, with a DJ or Live Music as entertainment. Hours of operation will be from 8:00 pm – 2:00 am and no food will be served.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Section 153.236 of the Lincolnton Unified Development Ordinance requires that conditional use permit applications contain specific terms and meet specific conditions. The application meets all the requirements of that section.

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Section 153.237 of the Lincolnton Unified Development Ordinance requires that the City Council make the following findings:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Lincolnton Land Use

Plan and other plans for the physical development of the city as officially adopted by the City Council.

COMPLIANCE WITH SECTION 153.237

1. The applicant will need to provide evidence that the use will not endanger the public health or safety.
2. The proposed use meets all required conditions and specifications.
3. The applicant will need to provide evidence that the use will not have any negative impacts on the value of adjoining or abutting properties.
4. The use is in conformity with the Lincolnnton Land Use Plan in that the site is located within the Planned Business Planning Area.

STAFF REVIEW COMMITTEE COMMENTS

The Staff Review Committee made the following comments:

- (1) Building permits for the upfit of the space will need to be obtained from Lincoln County Inspections.
- (2) A permit may be needed from Lincoln County Environmental Health.
- (3) All requirements of State ABC Commission must be met and all permits obtained.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend approval of the conditional use permit subject to the applicant satisfactorily proving the findings of fact and subject to the Staff Review Committee comments.



Lincoln County, NC

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 Date: 10/23/2017 Scale: 1 Inch = 431 Feet



PHOTOS



PARCEL INFORMATION FOR 3634-12-0600

Parcel ID	57488	Owner	LINCOLNTON PLAZA LLC	
Map	3634-13	Mailing	955 CONEY ISLAND AVE	
Account	0259631	Address	BROOKLYN NY 11230-1401	
Deed	2634-739	Last Transaction Date	12/16/2016	Sale Price 0
Land Value	\$1,567,098	Total Value	\$2,712,404	Previous Parcel 00535
----- All values are for tax year 2017. -----				
Description	LINC. PLAZA SHOP C R			Deed Acres 0
Address	1557 79 N ASPEN ST			Tax Acres 14.57
Township	LINCOLNTON			Tax/Fire District CITY OF LINCOLNTON
Main Improvement	SHOPPING CENTER			Value \$1,051,591
Main Sq Feet	96888	Stories	1 Year Built	1973
Zoning District	Calculated Acres	Voting Precinct		Calculated Acres
P-B	7.33	HICKORY GROVE (HG17)		14.58
G-B	7.25			
Watershed Class		Sewer District		
Not in a watershed	5.88	Not in the sewer district		14.58
WS-IVP	8.7			
2000 Census County		Tract	Block	
37109		070200	2007	14.58
Flood	Zone Description	Panel		
X	NO FLOOD HAZARD	3710363400		14.58

ITEM #

8

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: CUP-7-2017 Application for renewal of Conditional Use Permit from HWP Realty, LLC

DATE: November 2, 2017

BACKGROUND

On October 1, 2015, the Lincolnton City Council approved a conditional use permit to construct a new 4,000 square foot pharmacy on property located on the south side of East Main Street approximately 350 east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 91738). The permit expires this month and the applicant is asking for a 24 month extension.

Section 153.243 of the Lincolnton Unified Development Ordinance states that the applicant shall have a period of twenty-four (24) months from the date of issuance of the conditional use permit to secure a building permit for the project. If the applicant fails to obtain a building permit within the time allowed, the Zoning Administrator notifies the applicant of such finding, and within sixty (60) days of notification, the Planning Board is to make a recommendation concerning rescinding or extending the conditional use permit to the City Council. The City Council, after having conducted a public hearing to consider the matter, may extend the life of the conditional use permit for a specified period of time.

ACTIONS BY APPLICANT SINCE 2015

Since the renewal of the conditional use permit in 2015, no activity has taken place and no building permits have been issued. The owner has applied for an extension asking that the permit be renewed.

PLANNING BOARD AND STAFF RECOMMENDATION

The applicant is not asking for any changes to the permit or the conditions attached to it by the City Council when it was approved originally in 2015. The Planning Board and Staff recommend that the permit be extended for a period of two (2) years.



Lincoln County, NC

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 Date: 10/23/2017 Scale: 1 Inch = 200 Feet



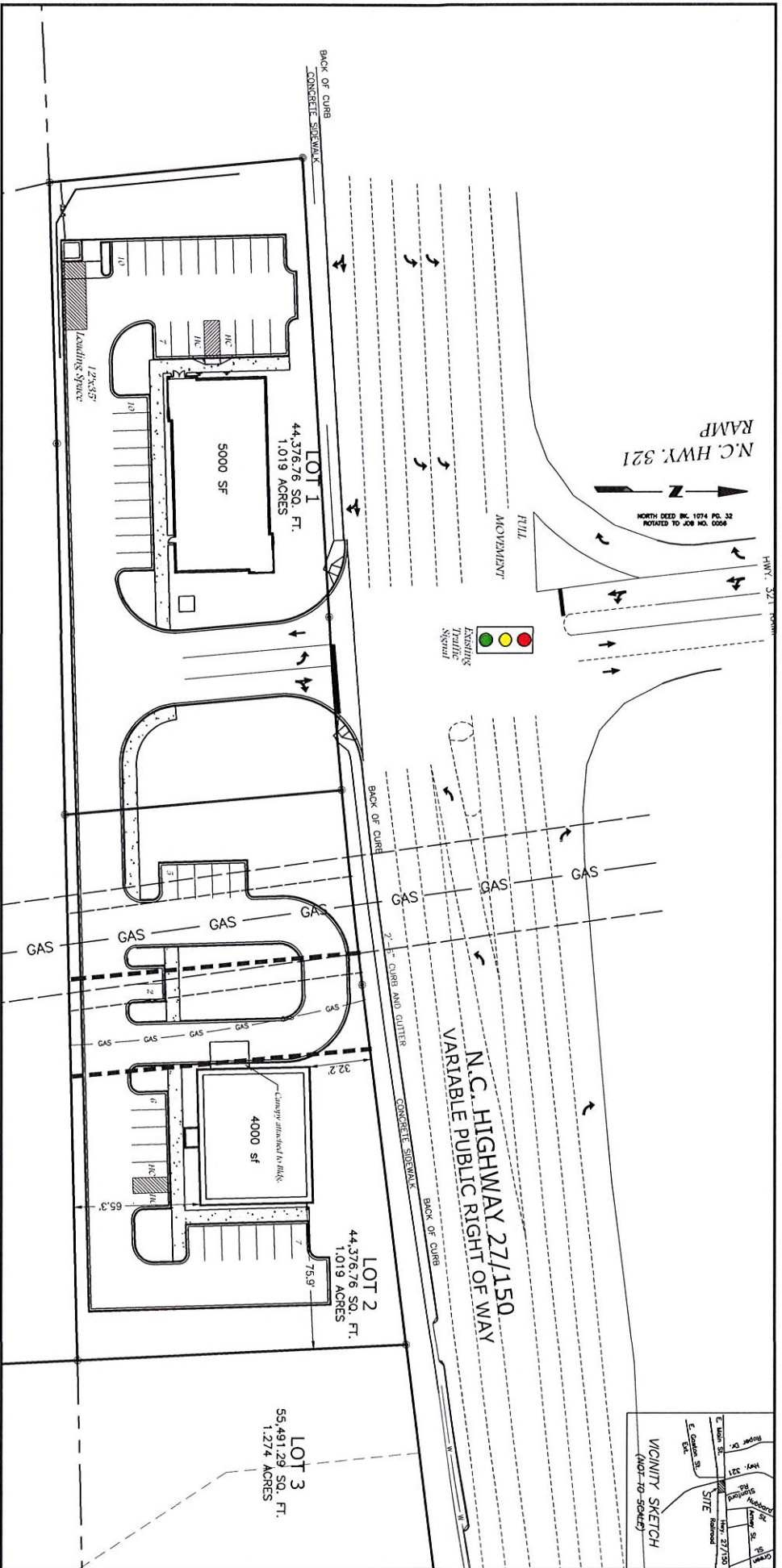
PHOTOS



Photo Not
Available

PARCEL INFORMATION FOR 3633-66-9254

Parcel ID	91738	Owner	HWP REALTY LLC	
Map	3633-11	Mailing	PO BOX 6726	
Account	0260628	Address	RALEIGH NC 27628	
Deed	2628-671	Last Transaction Date	11/16/2016	
Land Value	\$352,450	Total Value	\$352,450	
		Sale Price	\$300,000	
		Previous Parcel	87366	
----- All values are for tax year 2017. -----				
Subdivision	Lot 2 LINCOLNTON PROFESSIONAL PARK REVIS*		Plat	16-287
Description	2 LINCOLNTON PROF PK REV		Deed Acres	1.01
Address	EAST MAIN ST		Tax Acres	1.01
Township	LINCOLNTON		Tax/Fire District	CITY OF LINCOLNTON
Improvement	No Improvements			
Zoning	Calculated	Voting Precinct	Calculated Acres	
District	Acres	BOGER CITY (BC13)		1.01
P-B	1.01			
Watershed Class		Sewer District		
WS-IVP	1.01	Not in the sewer district		1.01
2000 Census County		Tract	Block	
37109		070200	1020	1.01
Flood	Zone Description	Panel		
X	NO FLOOD HAZARD	3710363300		1.01



Project:	LINCOLNTON SITE		
Geoscience Project No.	CH:CV		
Drawing Ref.:	Date:	Bulletin No.:	
	8.21.15		
Scale:	1"=50'		

ITEM #

9

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: CUP 8-2017- Conditional Use Permit Application from Concord Properties

DATE: November 2, 2017

SITE AND AREA DESCRIPTION

Concord Properties is requesting a conditional use permit to construct a new 4,988 square foot restaurant with a drive through on property located on the south side of East Main Street approximately 650 east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 22484).

The property is zoned Planned Business (P-B) and Special Highway Overlay (SHO) districts. Most of the nearby properties are zoned P-B.

The property is bounded by East Main Street to the north, Peoples Bank to the east, CSX Railroad to the south, a vacant parcel immediately to the west and an urgent care center further to the west.

SITE PLAN

The site plan proposes a new restaurant building of approximately 4,988 square feet. Access will be provided by two proposed driveway connections to East Main Street plus a connection to the existing urgent care center driveway. The site's western driveway will be channelized to prevent left turns out and the eastern driveway will be configured to serve as an exit with right turns out only. Forty two (42) parking spaces will be provided.

COMPLIANCE WITH WATER SUPPLY WATERSHED STANDARDS

The property is located in the WS-IV watershed protected area which allows up to 70% built upon area through the "10/70 Option". The site plan indicates that 63 % of the site will be impervious cover.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Section 153.236 of the UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The site plan needs to include the following information:

A landscaping plan noting parking lot landscaping and street landscaping.

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Section 153.237 of the Unified Development Ordinance requires that four findings be determined by City Council. They are as follows:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Lincoln Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH SECTION 153.237

1. It does not appear that the use will endanger the public health or safety.
2. The use meets all required conditions and specifications with the exception of the item listed above.
3. It does not appear that the use will substantially injure the value of adjoining or abutting property.
4. The use is in conformance with the land use plan.

STAFF REVIEW COMMITTEE

The Staff Review Committee made the following comments:

- (1) Erosion control plan must be submitted to and approved by Lincoln County.
- (2) Building plans must be approved by Lincoln County Inspections and the City Fire Marshal.
- (3) NCDOT driveway permit must be reviewed and approved by the NCDOT.
- (4) Utility plans must be coordinated with and approved by the Public Works and Utilities Department. A grease trap will be required.
- (5) The existing sidewalk along East Main Street must be preserved or replaced with new sidewalk meeting City and ADA requirements.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend approval of the conditional use permit subject to the ordinance requirements and Staff Review Committee comments noted above.

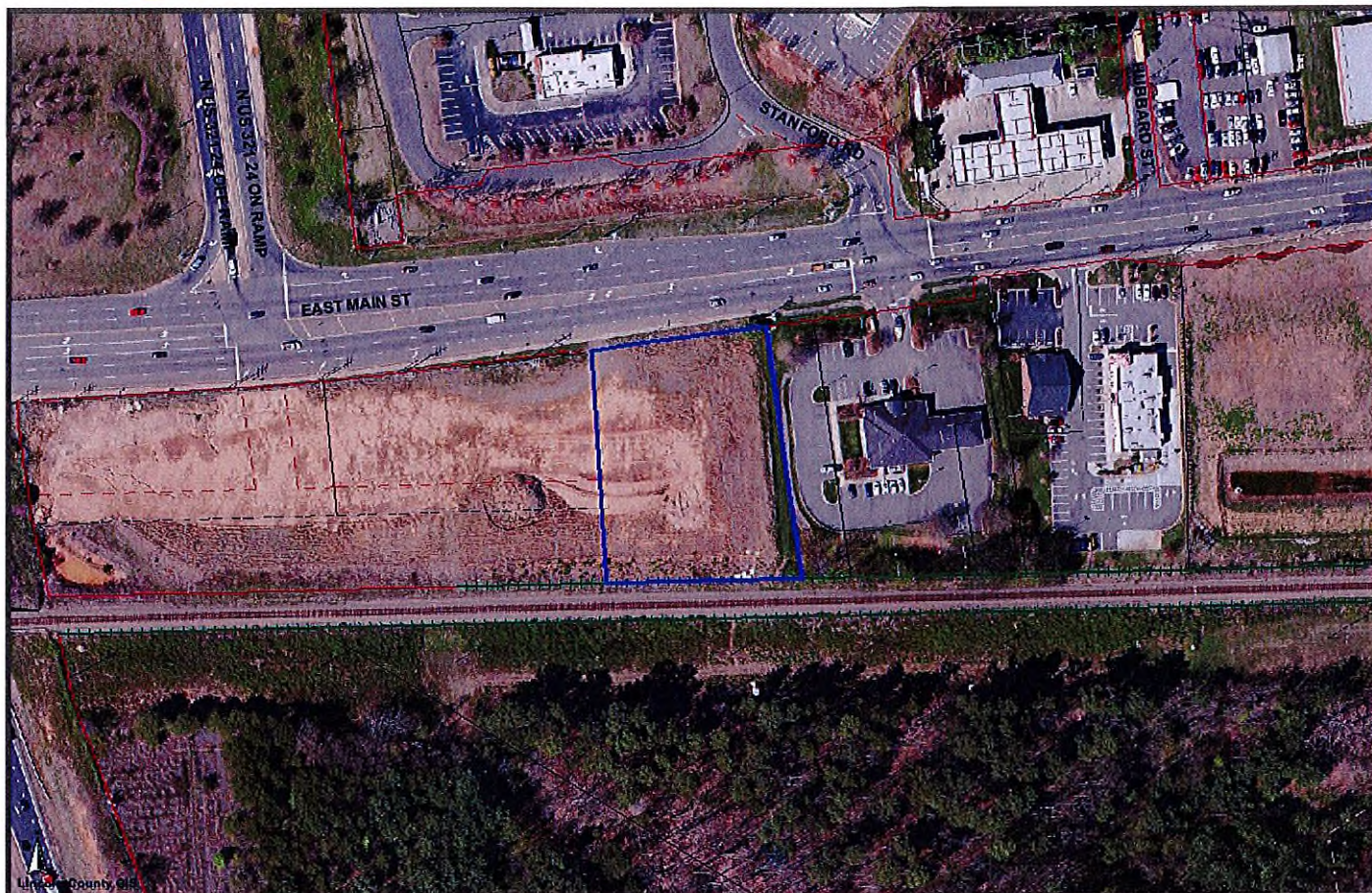


Lincoln County, NC

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Date: 10/23/2017 Scale: 1 Inch = 200 Feet



PHOTOS



Photo Not
Available

PARCEL INFORMATION FOR 3633-76-1291

Parcel ID	22484	Owner	LINCOLNTON MAIN STREET LLC		
Map	3633-11	Mailing	13000 S TRYON ST STE F-222		
Account	0254675	Address	CHARLOTTE NC 28278-7652		
Deed	2665-117	Last Transaction Date	5/12/2017	Sale Price	\$300,000
Land Value	\$381,500	Total Value	\$381,500	Previous Parcel	
----- All values are for tax year 2017. -----					
Subdivision	Lot 3 LINCOLNTON PROFESSIONAL PARK REVIS*			Plat	16-287
Description	3 LINCOLNTON PROF PK REV			Deed Acres	1.27
Address	1904 EAST MAIN ST			Tax Acres	1.18
Township	LINCOLNTON			Tax/Fire District	CITY OF LINCOLNTON
Improvement	No Improvements				
Zoning	Calculated	Voting Precinct	Calculated Acres		
District	Acres	BOGER CITY (BC13)	1.18		
P-B	1.18				
Watershed Class		Sewer District			
WS-IVP	1.18	Not in the sewer district	1.18		
2000 Census County		Tract	Block		
37109		070200	1020	0.98	
37109		070300	1005	0.2	
Flood	Zone Description	Panel			
X	NO FLOOD HAZARD	3710363300	1.18		

ITEM #

10

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: CU-ZMA-3-2017- Application from Greg Houser requesting conditional use rezoning from Residential-25 (R-25) to Conditional Use Neighborhood Business (CU-NB).

DATE: October 17, 2017

SITE AND AREA DESCRIPTION

The subject property is a 1.45 acre site located on the east side of Startown Road, approximately 750 feet north of the intersection of Startown Road and Reepsville Road (Parcel ID 21757). The site is undeveloped. Land uses in the area are mostly single family residential. Nearby to the north is a parcel owned by Lincoln County which has most recently been used for the Parks and Grounds Department but the building is now vacant. There are other commercial uses at the intersection of Startown and Reepsville Roads. (See attached maps.)

The subject property and all surrounding properties are zoned R-25. Several properties located at the intersection of Startown and Reepsville Roads are zoned NB.

The property is currently one parcel with two owners but will be subdivided into two lots with two separate owners.

The existing R-25 zoning allows low density residential development and agricultural uses. Single family dwellings and Class A manufactured homes are allowed on lots ranging from minimums of 20,000 to 25,000 square feet depending on availability of public water and sewer services. Two family dwellings (duplexes) are allowed on lots ranging from minimums of 20,000 to 50,000 square feet depending on availability of public water and sewer services.

The applicant is requesting the site be rezoned from Residential-25 (R-25) to Conditional Use Neighborhood Business (CU-NB) in order to allow construction of a 5,000 square foot dance studio. Because the rezoning consists of two lots, the second lot, when developed, will require a conditional use permit prior to any development.

SITE PLAN

The applicant requests conditional use rezoning in order to construct a 5,000 square foot dance studio on the property. The site plan indicates access will be provided by one entrance onto Startown Road. The parking lot will be gravel and there will be approximately seven (7) parking spaces. Street landscaping and parking lot landscaping

will be provided. Screening will be required on the north and west sides of the property adjacent to residentially zoned land.

The dance studio will consist of two instructors with up to 25 students there at one time. The use will operate Monday, Tuesday, Wednesday, and Thursday evenings from approximately 4:00 PM until 9:00 PM.

N-B NEIGHBORHOOD BUSINESS DISTRICT GENERAL REQUIREMENTS

This district is designed primarily for local business centers for retailing of merchandise such as groceries, drugs, and household items and for furnishing certain personal, business, and professional services. Unlike some of the other commercial zones, this district is established to serve local neighborhoods and other relatively small trading areas. The standards established for these business areas are designed to promote sound, permanent business development and also to protect abutting or surrounding residential areas from undesirable aspects of nearby business developments. These districts are located at accessible places with respect to traffic circulation in order to conveniently serve the trading population and to promote the grouping of several places of business at locations so designated. Since this district is established to provide for small neighborhood oriented businesses, limitations on gross floor areas are established for certain uses. A Neighborhood Business District is typically a relatively small area but shall consist of at least two lots in separate ownership or at least two acres regardless of ownership.

DESCRIPTION OF CONDITIONAL USE DISTRICT REZONING PROCESS

Conditional use rezoning is a process whereby a conditional use permit and a rezoning are acted upon simultaneously. The use that is proposed in the conditional use permit portion of the process must be the use constructed on the property after it is rezoned. Unlike a standard zoning in which all the uses permitted in the district are potentially allowed on the rezoned site, a conditional use rezoning limits the potential use of the property. In this case, the applicant wishes to limit the use of the property to a Dance Studio.

Because the rezoning consists of two lots, the second lot, when developed, will require a conditional use permit prior to any development.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

The UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The site plan meets the requirements of this section with the following exception:

Additional parking may be required once maximum capacity is determined. The ordinance requirement is one space for every three persons that the facilities are designed to accommodate when fully utilized.

COMPLIANCE WITH WATER SUPPLY WATERSHED

The applicant will be disturbing less than one acre of land. Therefore, compliance with the Water Supply Watershed standards is not required.

LAND USE PLAN

The Lincolnton Land Use Plan shows this property in the Residential Suburban Planning Area. These planning areas are primarily single family in character and where the primary development pattern should continue to be single family dwellings.

In Staff's opinion, the rezoning request does not comply with the Land Use Plan. For the use to be consistent with the Plan, it would need to be amended to include the property in the Neighborhood Business Planning Area.

The Neighborhood Business Planning Area states that "these planning areas are for small business clusters that cater to the needs of a small trading area. They are appropriate for smaller sized stores and establishments."

Staff feels that there is some merit to amending the land use plan in this case. The property is located along a minor thoroughfare between commercially developed areas. However, any amendment of the land use plan should be contingent on a determination that the proposed dance studio would be a compatible use in the area.

STAFF REVIEW COMMITTEE

The Staff Review Committee made the following comments:

- (1) Building plans must be approved by Lincoln County and the City Fire Marshal prior to issuance of building permits.
- (2) NCDOT will require a driveway permit for access to Startown Road. Paving will be required from the street to the NCDOT Right of Way Boundary.
- (3) Erosion control permit will be required from Lincoln County Natural Resources.

- (4) Additional parking may be required once maximum capacity is determined. The ordinance requirement is one space for every three persons that the facilities are designed to accommodate when fully utilized.

FINDINGS OF FACT

Section 153.237 of the UDO requires that four findings be determined by City Council as follows:

- (1) The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- (2) The use meets all required conditions and specifications, and
- (3) The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
- (4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH FINDINGS OF FACT

- (1) The applicant will need to provide evidence that the use will not endanger the public health or safety.
- (2) The proposed use meets all required conditions and specifications with the exception noted above.
- (3) The applicant will need to provide evidence that the use will not have any negative impacts on the value of adjoining or abutting properties.
- (4) The use is not in compliance with the Lincolnton Land Development Plan. However, City Council may consider a change to the land use plan which would make this use consistent with the plan.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend the following three actions:

- (1) If the applicant satisfactorily proves the findings of fact, approve rezoning of the property from R-25 to CU-NB and attached Statement of Consistency and Reasonableness.
- (2) If the applicant satisfactorily proves the findings of fact, approve the Conditional Use Permit for a 5,000 square foot dance studio subject to Ordinance requirements and Staff Review Committee conditions.
- (3) If rezoning request is approved, amend the Land Use Plan to show the two parcels in the Neighborhood Business Planning Area.

**Zoning Amendment
Staff's Proposed Statement of Consistency and Reasonableness
for APPROVAL of Application**

Case No. CU-ZMA-3-2017

Applicant: Greg Houser

Parcel ID#: 21757

Location: East side of Startown Road approximately 750 feet north of the intersection of Startown Road and Reepsville Road

Request: Rezone from R-25 (Residential -25) to CU-NB (Conditional Use Neighborhood Business) to permit construction of a 5,000 square foot dance studio.

Proposed Consistency and Reasonableness Statement:

The proposed amendment **is not consistent** with the Lincolnnton Land Use Plan in that the property is part of an area designated by the Lincolnnton Land Use Plan as Residential Suburban. However, **approval of the proposed amendment is reasonable and in the public interest** in that the property is located on a minor thoroughfare near a residentially zoned site developed for commercial purposes. Other properties zoned NB are located at the nearby intersection of Startown Road and Reepsville Road. Because this is a rezoning to a conditional use district, the development and use of the property will be limited to the approved plan.

Zoning Amendment
Staff's Proposed Statement of Consistency and Reasonableness
for DENIAL of Application

Case No. CU-ZMA-3-2017

Applicant: Greg Houser

Parcel ID#: 21757

Location: East side of Startown Road approximately 750 feet north of the intersection of Startown Road and Reepsville Road

Request: Rezone from R-25 (Residential -25) to CU-NB (Conditional Use Neighborhood Business) to permit construction of a 5,000 square foot dance studio.

Proposed Consistency and Reasonableness Statement:

The proposed amendment **is not consistent** with the Lincolnnton Land Use Plan in that the property is part of an area designated by the Lincolnnton Land Use Plan as Residential Suburban. Denial of the proposed amendment **is reasonable and in the public interest** in that the area is primarily residential in character and should be protected from encroachment of incompatible business development.



Lincoln County, NC

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Date: 10/23/2017 Scale: 1 Inch = 200 Feet



PHOTOS



Photo Not
Available

PARCEL INFORMATION FOR 3623-47-4174

Parcel ID	21757	Owner	HOUSER GREG
Map	3623-10	Mailing	SCRONCE MARK
Account	0125453	Address	3206 DAVIS HEAFNER RD
Deed	1013-776	Last Transaction Date	CROUSE NC 28033
Land Value	\$17,113	Total Value	\$17,113
----- All values are for tax year 2017. -----			
Subdivision	Lot PT 6 RICHARD	Plat	A-118
Description	ROY RICHARD LD 1005	Deed Acres	2.5
Address	STARTOWN RD	Tax Acres	1.23
Township	LINCOLNTON	Tax/Fire District	NORTH 321
Improvement	No Improvements		
Zoning	Calculated	Voting Precinct	Calculated Acres
District	Acres	OAK GROVE (OG10)	1.24
R-25	1.24		
Watershed Class		Sewer District	
WS-IVP	1.24	Not in the sewer district	1.24
2000 Census County		Tract	Block
37109		070800	4005
37109		070800	4012
Flood	Zone Description	Panel	
X	NO FLOOD HAZARD	3710362300	1.24

Time)



Map Features

Road Easement
Conflict Line
(cont)

Major Rivers,
Creeks
Creeks
Interior Lot Line
(cont)

Drainage Easement
Utility Easement
Right-of-Ways
(cont)

Roads
Railroads
Public Walkway

Parcels
2015 State Ortho

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ITEM #

11

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

SUBJECT: CU-ZMA-4-2017-Application from Carl Jenkins requesting conditional use rezoning Residential -8 (R-8) to Conditional Use Residential Office (CU-RO).

DATE: November 2, 2017

SITE AND AREA DESCRIPTION

The subject property is located on a 1.49 acre site at 406 Battleground Road (Parcel ID 17847). The site is developed with an approximately 4,800 square foot historic home built around 1890. Properties surrounding the site are a mixture of R-8 and RO. Land uses in the area are single family dwellings, a church, and a medical office. (See attached maps.)

The existing R-8 zoning district allows single-family dwellings on lots with a minimum of 6,000 square feet and two-family dwellings (duplexes) on lots with a minimum of 12,000 square feet. Additional forms of residential development could also be permitted subject to review and approval by the City Council.

The applicant is requesting the site be rezoned from Residential-8 (R-8) to Conditional Use Residential Office (CU-RO) to allow use of the existing dwelling as a funeral home.

SITE PLAN

The site plan proposes use of the existing 4,800 square foot dwelling as a funeral home plus addition of a 625 square foot accessory building to be used for a private garage for unloading and preparation. A new paved parking lot with 28 parking spaces would be added. The two existing access points onto Battleground Road will be kept but will be widened to meet commercial driveway widths.

The applicant indicates the funeral home will be operating an office on site daily from 9:00 a.m. until 5:00 p.m. There will be two rooms for viewing only. Hours for viewing services are typically in the evening. There will be no chapel on site for any service to be held. No cremations will be done on site.

DESCRIPTION OF CONDITIONAL USE DISTRICT REZONING PROCESS

Conditional use rezoning is a process whereby a conditional use permit and a rezoning are acted upon simultaneously. The use that is proposed in the conditional use permit portion of the process must be the use constructed on the property after it is rezoned. Unlike a standard rezoning in which all the uses permitted in the district are potentially

allowed on the rezoned site, a conditional use rezoning limits the potential use of the property. In this case, the applicant wishes to limit the use of the property to a funeral home.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

The UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The site plan is missing the following items:

1. Detailed landscaping plan including street trees and parking lot landscaping. Existing trees may count toward these requirements.
2. Additional parking may need to be provided based on maximum occupancy.

COMPLIANCE WITH WATER SUPPLY WATERSHED

The applicant will be disturbing less than one acre of land. Therefore, compliance with the Water Supply Watershed Standards is not required.

LAND USE PLAN

The Lincolnton Land Use Plan shows this property in the Traditional Single Family Planning area. The purpose of the planning area is for single family dwellings to be maintained in older established portions of the community. As these areas are primarily residential in character, they should be protected from encroachment of incompatible business and industrial development.

Adjacent properties located to the east and south are located in the Mixed Use/Residential/Commercial Planning Area. This planning area is in select, older portions of the City where true, “urban villages” consisting of high density residential uses (both single family and multifamily) and associated small-scale and pedestrian oriented office and retail uses may be located.

In Staff’s opinion, the rezoning request is not consistent with the Land Use Plan. For the proposed use to be consistent with the Land Use Plan, the Plan would need to be amended to include the property in the Mixed Use/Residential/Commercial Planning Area.

Staff feels that there is some merit to amending the land use plan in this case. The property is located on a somewhat heavily-traveled minor thoroughfare in a transitional area with a mixture of land uses. However, any amendment of the land use plan should

be contingent on a determination that the proposed funeral home would be a compatible use in the neighborhood.

STAFF REVIEW COMMITTEE

The Staff Review Committee made the following comments:

- (1) Building plans must be approved by Lincoln County Inspections prior to issuance of building permits.
- (2) The owner/operator is responsible for storm water leaving the site. Storm water must be configured so as to have no more harmful effect on streets and adjacent properties than the current situation. A storm water management plan is to be reviewed and approved by the Public Works Department prior to issuance of a certificate of occupancy.
- (3) The applicant will need to contact Chris Wilson, Electrical Superintendant, about electrical upgrade issues that may be needed for the new use.
- (4) Use of the site is limited to a funeral home only through re- use of the existing structure and grounds. New development is limited to the accessory garage noted on the site plan.
- (5) There will be no chapel on site for any services to be held and no cremations will be done on site.
- (6) Any outdoor lighting to be added is to be downwardly directed so as not to cast glare on adjoining properties.
- (7) Hours of operation to be limited to between 7:00 am and 9 pm.
- (8) No changes to be made to the building's exterior other than for routine maintenance.

FINDINGS OF FACT

Section 153.237 of the UDO requires that four findings be determined by City Council as follows:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Lincolnnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH FINDINGS OF FACT

1. The applicant will need to provide evidence that the use will not endanger the public health or safety.
2. The proposed use meets all required conditions and specifications.
3. The applicant will need to provide evidence that the use will not have any negative impacts on the value of adjoining or abutting properties.
4. The use is not in compliance with the Lincolnnton Land Use Plan. However, City Council may consider a change to the land use plan which would make this use consistent with the plan.

PLANNING BOARD AND STAFF RECOMMENDATION

Planning Board and Staff recommend the following three actions:

1. If the applicant satisfactorily proves the findings of fact, approve rezoning of the property from R-8 to CU-RO and attached Statement of Consistency and Reasonableness.
2. If the applicant satisfactorily proves the findings of fact, approve the Conditional Use Permit for the funeral home use subject to Ordinance requirements and Staff Review Committee conditions.
3. If rezoning request is approved, amend the Land Use Plan to show the property in the Mixed Use/ Residential/Commercial Planning Area.

Zoning Amendment
Staff's Proposed Statement of Consistency and Reasonableness
for APPROVAL of Application

Case No. CU-ZMA-4-2017

Applicant: Carl Jenkins

Parcel ID#: 17847

Location: Intersection of N. Aspen Street, Battleground Road and Bonview Avenue

Request: Rezone from R-8 (Residential -8) to CU-RO (Conditional Use Residential Office) to allow use of the existing dwelling as a funeral home.

Proposed Consistency and Reasonableness Statement:

The proposed amendment **is not consistent** with the Lincolnton Land Use Plan in that:the property is part of an area designated by the Lincolnton Land Use Plan as Traditional Single Family. However, **approval** of the proposed amendment **is reasonable and in the public interest** in that:the property is located on a minor thoroughfare in a transitional area with a mixture of land uses. Surrounding properties to the north, south and southeast are zoned RO. Because this is a rezoning to a conditional use district, the development and use of the property will be limited to the approved conditional use zoning plan. The conditional use zoning plan permits adaptive re-use of the existing structure for a specific commercial use which allows for preservation of the historic building which is in harmony with the character of the area.

**Zoning Amendment
Staff's Proposed Statement of Consistency and Reasonableness
for DENIAL of Application**

Case No. CU-ZMA-4-2017

Applicant: Carl Jenkins

Parcel ID#: 17847

Location: Intersection of N. Aspen Street, Battleground Road and Bonview Avenue

Request: Rezone from R-8 (Residential -8) to CU-RO (Conditional Use Residential Office) to allow use of the existing dwelling as a funeral home.

Proposed Consistency and Reasonableness Statement:

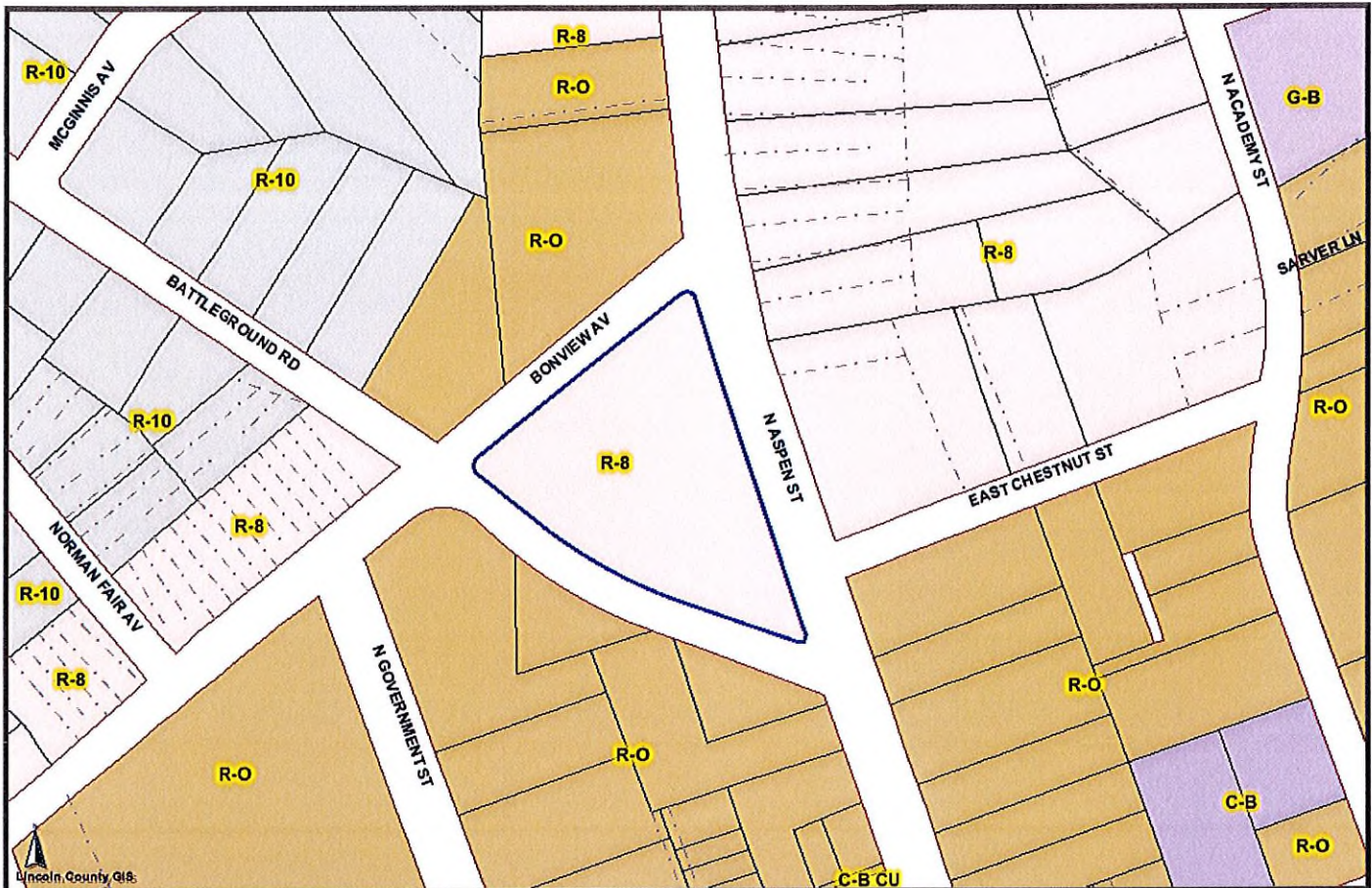
Proposed Consistency and Reasonableness Statement:

The proposed amendment **is not consistent** with the Lincolnnton Land Use Plan in that: the property is part of an area designated by the Lincolnnton Land Use Plan as Traditional Single Family. **Denial** of the proposed amendment **is reasonable and in the public interest** in that the area is primarily residential in character and should be protected from encroachment of incompatible business development.



Lincoln County, NC

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 Date: 10/23/2017 Scale: 1 Inch = 200 Feet



Lincoln County GIS

PHOTOS



17847

PARCEL INFORMATION FOR 3623-75-5223

Parcel ID	17847	Owner	GILBERT LARRY W SOLOMON MICHAEL A 406 BATTLEGROUND RD LINCOLNTON NC 28092		
Map	3623-12	Mailing			
Account	0241185	Address	406 BATTLEGROUND RD LINCOLNTON NC 28092		
Deed	2330-930	Last Transaction Date	7/26/2012	Sale Price	\$148,000
Land Value	\$39,700	Total Value	\$310,755	Previous Parcel	
----- All values are for tax year 2017. -----					
Description	406 BATTLEGROUND	Deed Acres	1.48		
Address	406 BATTLEGROUND RD	Tax Acres	1.48		
Township	LINCOLNTON	Tax/Fire District	CITY OF LINCOLNTON		
Main Improvement	COLONIAL	Value	\$270,018		
Main Sq Feet	4739	Stories	1.82	Year Built	1890
Zoning District	R-8	Calculated Acres	1.49	Voting Precinct	LINCOLNTON NORTH (LN11)
Watershed Class	WS-IVP	1.49	Sewer District	Not in the sewer district	1.49
2000 Census County			Tract	Block	
	37109		070100	3018	0.21
	37109		070100	3022	1.28
Flood	Zone Description	Panel			
X	NO FLOOD HAZARD	3710362300			1.49

Time)

 legend

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1415 Depot Street
Iron Station, N.C. 28080
(704) 732-1831

2701 1000 0000



20241
R-5

17240
K.O

17795
R-0

01234
12-0

DATE PLANNED - 26 MARCH 1970

THANK THE LORD.
IT'S BY HIS MERCIES
THAT I'M NOT CONSUMED.

JENKINS FUNERAL HOME

ITEM #

12

MEMO TO: Mayor and City Council Members

FROM: Laura Elam

SUBJECT: Resolution to Authorize and Direct City Attorney to Petition for Court Order
Directing Compliance with Order from Code Enforcement Officer:
702 North Grove Street

DATE: November 2, 2017

Background

The enclosed information involves a code enforcement case involving dilapidated structures located at 702 North Grove Street.

In March of this year, the Code Enforcement Officer initiated a case due to several complaints and visual inspection of the exterior condition of the structures indicating roof damage and lack of maintenance.

The city's building inspection consultant observed the structure and noted the following issues:

- 1) Facial board decay
- 2) Exterior siding and lack of maintenance (paint)
- 3) Porch flooring showing signs of decay and lack of maintenance.
- 4) Waste debris and accumulation of trash located on side porch.
- 5) Extensive damage to rear roof system due to a fallen tree. Roof structure appears to be open to the elements of weather.
- 6) Chimney vegetation and overgrown vegetation around the structure would create difficulty for firefighting personnel in event of a fire.
- 7) Violations of Abandoned Structure Ordinance as follows:
 - Section 150.053 (B)(1) Holes and cracks in roof.
 - Section 150.053 (B) (3) Fire Prevention Code, pertaining to overgrown vegetation. (NCFC) Article 304
 - Section 150.053 (B) (4) Garbage and rubbish and combustible material accumulation, fire hazard.

Notices of violation were sent to the property owner in March and May of this year. A hearing was held on June 28, 2017 and no one appeared. The following is a summary of enforcement activity to date:

- March 30, 2017- Letter sent to owner requesting inspection of property for abandoned structure violation due to complaints received (Owner did not respond)
- May 11, 2017- Letter sent to owner regarding overgrown lot and that tree had fallen in yard and on several accessory buildings creating a dangerous situation and a Nuisance Violation on property (Owner did cut grass but tree was not removed)

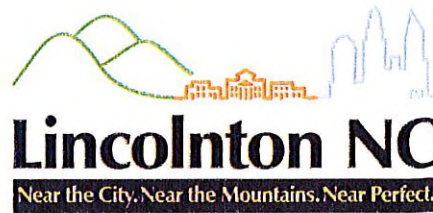
- May 16, 2017- Letter sent to owner, from TJ Wilson City Attorney, requesting that the city be allowed to do an inspection of the property. (Owner did not respond)
- June 2, 2017- Property was inspected by City Staff, as observed from adjoining properties. Wayne Godfrey, Building Inspections Consultant, noted that house was in a dilapidated condition and a violation of the City Abandoned Structure Ordinance.
- June 6, 2017-Letter sent to Owner regarding abandoned structure violation and informing him of hearing scheduled for June 28, 2017.
- June 28, 2017- Hearing was held concerning violation of abandoned structure ordinance. Owner did not attend hearing.
- June 28, 2017- Letter sent to owner, in follow up to hearing, informing him that a violation of the abandoned structure ordinance existed on site and that he had until September 26, 2017 to either repair home to meet building code or demolish home.
- June 29, 2017- Received letter from owner, dated June 26, 2017. Owner stated that he did not feel the home was abandoned and that he did not have the monetary means to remove the tree or repair the house.
- September 27, 2017- Letter sent to owner from City Attorney stating that since no action had been taken to correct the violation, the matter would be brought before the City Council on November 2, 2017 to consider a court action.

The attached letter dated June 26, 2017 was the only response received by the property owner to date. It does not appear that the owner has any plans to remedy the violations and staff is not aware of any progress being made to remedy the violations.

Staff Recommendation

In accordance with Section 150.054 of the Abandoned Structure Ordinance, it is staff's recommendation that the City Council authorize and direct the City Attorney to petition Superior Court for an order directing the owner to comply with the Code Enforcement Officer's order to comply with the Ordinance by causing the structures either to be repaired, removed or demolished and the lot cleared of all debris.

CITY COUNCIL
Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
David M. Black
Roby D. Jetton
Tim Smith



CITY MANAGER
Steve Zickefoose, MBA
szickefoose@lincolntonnc.org
CITY CLERK
Donna C. Flowers, MMC, NCCMC
donnaflowers@ci.lincolnton.nc.us
CITY ATTORNEY
Thomas J. Wilson, Jr.

**RESOLUTION AUTHORIZING AND DIRECTING CITY ATTORNEY
TO PETITION SUPERIOR COURT FOR AN ORDER
REQUIRING THE OWNER OF CERTAIN PROPERTY
TO COMPLY WITH THE ORDER
OF THE CODE ENFORCEMENT OFFICER:
702 NORTH GROVE STREET
(R-11-17)**

WHEREAS, the City Council of the City of Lincolnton finds that the structure herein described is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property and that all of the procedures of the Code of the City of Lincolnton, North Carolina, have been complied with; and

WHEREAS, the owner of this structure has failed to comply with a lawful Order of the Code Enforcement Official to repair or demolish the same within the time therein prescribed; and

WHEREAS, G. S. 160A-432 and Section 150.054 of the Code of the City of Lincolnton, North Carolina, empowers the City of Lincolnton to seek enforcement when an Order of the Code Enforcement Official is not complied with;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lincolnton that the City Attorney is hereby authorized and directed to proceed, as authorized by G. S. 160A-432, to petition the Superior Court of Lincoln County for a petition requiring the owner, **David E. Watson**, of the structure located at **702 North Grove Street** in the City of Lincolnton, North Carolina, to take such steps as may be necessary to comply fully with the Order of the Code Enforcement Official issued pursuant to the Abandoned Structure Ordinance contained in Chapter 150 of the Code of the City of Lincolnton, North Carolina.

This Ordinance shall become effective upon adoption.

ED HATLEY
MAYOR

ATTEST:

DONNA C. FLOWERS
CITY CLERK

ITEM #

13

CITY OF LINCOLNTON

CITY COUNCIL
 Ed L. Hatley, Mayor
 Martin A. Eaddy, Mayor Pro-Tem
 Devin Rhyne
 David M. Black
 Roby D. Jetton



CITY MANAGER
 Steve Zickefoose, MBA
szickefoose@lincolntonnc.org
CITY CLERK
 Donna C. Flowers, MMC, NCCMC
donnaflowers@ci.lincolnton.nc.us
CITY ATTORNEY
 Thomas J. Wilson, Jr..

(BA-04-17)

BE IT ORDAINED by the Governing Board of the City of Lincolnton, North Carolina, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2018.

Section 1: To amend the General Fund, the expenditures are to be changed as follows:

<u>ACCOUNT NUMBER</u>	<u>DEPARTMENT/ACCOUNT DESCRIPTION</u>	<u>INCREASE</u>	<u>DECREASE</u>
10-00-4110-450	PROPERTY & CASUALTY INS		(1,900.00)
10-00-4120-450	PROPERTY & CASUALTY INS		(2,300.00)
10-00-4130-450	PROPERTY & CASUALTY INS		(5,600.00)
10-00-4280-450	PROPERTY & CASUALTY INS	136,000.00	-
10-10-4310-450	PROPERTY & CASUALTY INS		(60,000.00)
10-10-4340-450	PROPERTY & CASUALTY INS		(25,000.00)
10-20-4510-450	PROPERTY & CASUALTY INS		(3,400.00)
10-20-4520-450	PROPERTY & CASUALTY INS		(18,000.00)
10-20-4530-450	PROPERTY & CASUALTY INS		(2,000.00)
10-30-4710-450	PROPERTY & CASUALTY INS		(10,000.00)
10-40-4910-450	PROPERTY & CASUALTY INS		(1,000.00)
10-40-4930-450	PROPERTY & CASUALTY INS		(400.00)
10-80-6100-450	PROPERTY & CASUALTY INS		(6,400.00)
10-20-4520-501	SIDEWALK CONNECTOR PROJECT	35,127.00	-
		<u>171,127.00</u>	<u>(136,000.00)</u>

This will result in a net increase of \$ 35,127.00 expenditures of the General Fund.
 the following revenues have also been changed with a corresponding net effect.

<u>ACCOUNT NUMBER</u>	<u>DEPARTMENT/ACCOUNT DESCRIPTION</u>	<u>INCREASE</u>	<u>DECREASE</u>
	<u>GRANTS</u>		
10-00-3315-300	STATE GRANTS	0.00	(6,873.00)
10-00-3330-300	GRANTS-OTHER	42,000.00	-
		<u>42,000.00</u>	<u>(6,873.00)</u>

Section 5: To amend the Water & Sewer Fund, the expenditures are to be changed as follows:

<u>ACCOUNT NUMBER</u>	<u>DEPARTMENT/ACCOUNT DESCRIPTION</u>	<u>INCREASE</u>	<u>DECREASE</u>
61-91-7100-450	PROPERTY & CASUALTY INS	-	(29,000.00)
61-91-7110-450	PROPERTY & CASUALTY INS	-	(15,000.00)
61-91-7120-450	PROPERTY & CASUALTY INS	-	(23,000.00)
61-91-7130-450	PROPERTY & CASUALTY INS	67,000.00	-
		<u>67,000.00</u>	<u>(67,000.00)</u>

This will result in a net increase of \$ 0.00 in the expenditures of the Water & Sewer Fund.

Section 13: Copies of these budget amendments shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and the Finance Director for their direction.

Adopted this 2nd day of November, 2017.

Donna C. Flowers
City Clerk

Ed L. Hatley
Mayor

ITEM #

14

CITY COUNCIL
Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
David M. Black
Roby D. Jetton
Tim Smith



CITY MANAGER
Steve Zickefoose, MBA
szickefoose@lincolntonnc.org
CITY CLERK
Donna C. Flowers, MMC, NCCMC
donnaflowers@ci.lincolnton.nc.us
CITY ATTORNEY
Thomas J. Wilson, Jr..

MEMORANDUM

TO: Mayor and Council

FROM: Steve Zickefoose, City Manager *Steve*

SUBJECT: Property and Liability Insurance Policy

DATE: October 24, 2017

Staff has reviewed insurance quotes from Travelers and the NCLM for property and liability coverage. The unanimous recommendation is to accept the quote submitted by the NCLM.

David Ramsey will provide background information regarding this recommendation.

October 20, 2017

Steve Zickefoose
City Manager

Re: Insurance Proposal from NCLM

Steve,

As you are aware, we received insurance quotes for the City of Lincolnton last year and chose Travelers as our carrier. At the time the quotes were requested there was a time constraint on the NC League of Municipalities to provide us with a detailed quote. They have now provided us with their quote which is attached. After reviewing their proposal compared to the proposals that we received last year, along with the renewal that has been received from Travelers for next year, it is my recommendation that we change carriers and accept the proposal submitted by the league. Mary Huffman and I have met to discuss this at length and she is in agreement with this recommendation as well. There are many reasons that we agree this move is in the best interest of the City and they are listed as follows:

1. **Price:** Travelers renewal premium for 2017-2018 is \$175,727.00 which has increased by \$17,709.00 over last year. The NCLM price for the year is \$168,505.00. This results in a \$7,222.00 savings. (Not including the 3% discount we will receive on our Workers Compensation Insurance price)
2. **Understanding:** The NCLM only deals with municipalities, there are no other insured's allowed into the League. Their scope of understanding how we operate and the inner workings of how all our departments operate is very specialized.
3. **Locality:** NCLM is located in NC and they have adjusters and reps throughout the State which will provide timely resolutions to whatever may arise.

In addition to the above, the NCLM also offers an abundance of no-cost services to their member pool. These services provide an additional value to the City of about \$40,000 to \$50,000.00 per year. Some of those services are listed below and can be taken advantage of at any time based on our need.

1. Property appraisals for any facility with a value over \$250,000 along with pump and lift stations.
2. A 12 member advisory committee made up of 12 former police chiefs to assist other police chiefs in or with crisis.
3. Law enforcement training – Advance Force Training
4. Police Department Certifications
5. Police Officer driver training (simulator training in vehicles)
6. Law Enforcement Risk Management Review program –with plaque presented to officers at completion.

7. DENR Training
8. H/R Consulting that includes free legal advice (Atty. on staff) and if an outside attorney is recommended then there is \$5,000 free consultation set up by the NCLM.
9. \$5,000.00 matching Safety Grant
10. Partners with Compliance Training Associates – currently our safety Vendor.
11. Land Use Training
12. School of Government Classes
13. Underwriting meetings with review of our policies along with their recommendations as to what is in the best interest of the City.
14. Numerous training webinars and on-line training services that deal with a large variety of topics for all departments.

As you can see this would be a win/win for the City. We feel the benefits for changing our coverage to NCLM is a very good decision at this time. The NCLM has a common renewal date with all members and this is July 1st which falls in line with our fiscal year. We recommend making this change effective Nov.15, 2017 when our Travelers policy expires. The NCLM has advised us that they will pro-rate our premium from that date until July 1st, 2018. That pro-rated premium is \$109,746.00. The NCLM also offers several options for payment including a monthly plan if we choose.

Thank you for the time and consideration of this proposal.



David Ramsey
Business Services Mgr.



Mary Huffman
Accounting Services Mgr.

Attch: NCLM Binder Proposal

ITEM #

15



City Policy Regarding Small Claims & Sanitary Sewer Backup Reimbursement

Effective Date: December 1, 2017

Adopted: November 2, 2017

Purpose: To establish guidelines and criteria as to when the City of Lincolnton will reimburse or pay claimants/residents for damages incurred due to low dollar amount accidents or due to sanitary sewer blockages which result in reverse flow into residential or commercial dwellings or structures.

Background: The City of Lincolnton recognizes that there are occasions where property owners/claimants will experience relatively low dollar amount claims as a result of the failure of the Sewer Main or service line resulting in damages to their property. Additionally, there are times when other accidents may happen that cause low dollar amount claims to be submitted to the City's Insurance carrier – such as pot holes, minor backing accidents, glass claims, etc. The total amount of claims, regardless of the dollar amount, is taken into consideration when the City's liability insurance rates are calculated. It is therefore in the City's best interest to adopt a policy which establishes when more in-depth investigation should occur and when City Staff should be encouraged to negotiate and resolve claims without submitting to our liability insurance carrier. Also, there is ambiguity at times as to whether the loss occurred as a result of failure on the City's behalf to maintain and service.

Procedures Sewer Backup Reimbursement:

- A. Owners seeking reimbursement for damages incurred due to sanitary sewer backup must submit the following information to the City in writing:
 - 1. Name of Property owner and occupant;
 - 2. Property address
 - 3. Contact Number
 - 4. Date of damage and loss
 - 5. Itemized list of property damaged and approximate value of same
 - 6. Expenses incurred attempting to mitigate damages and clean the property
 - 7. Any other pertinent information as may assist in evaluating the request
- B. If a sanitary sewer back up does occur, and it is the result of infrastructure failure, it is the Policy of the City of Lincolnton to resolve claims resulting in actual damages of

twenty-five hundred (\$2500.00) or less without submitting the same to its insurance carrier.

- C. This policy is not to be construed as an admission of liability on the part of the City nor any negligence nor wrongdoing on its part, nor is it an admission of a breach of its agreement with sanitary sewer customers. It is, instead, an attempt to resolve a dispute without the need to resort to litigation.
- D. In order to qualify under this policy, the following criteria must be met:
 - 1. The sewer backup must clearly occur in the public sanitary sewer system and not in the customer's lateral line or private plumbing system.
 - 2. The sewer backup must have occurred through no negligence on the part of the property owner or occupant seeking damages, nor by any third party who is on the property at the invitation of the owner or occupant or otherwise.
 - 3. Reimbursement is limited to the actual cost incurred by the owner for damages to the property and cleanup expenses involved, and shall not exceed the amounts established herein.
 - 4. Reimbursement will not be paid under this policy for personal injury, loss of income, temporary lodging or meals, emotional stress, or any other consequential damages.
 - 5. The owner must agree to the installation of an approved water backflow valve at the expense of the owner.
 - 6. The owner must execute a release discharging the City from any further liability upon payment of the claim, and must certify that no other payment has been received for the damages alleged from any other source, including any other insurance policy.
- E. Owners who do not wish to limit their claims to the amounts established herein may submit their claims to the City Staff member who handles claims submission. Claims will thereafter be exempt from this policy once submitted to the City's liability carrier and will no longer be eligible to have a claim processed under this policy. If after processing by the insurance carrier it is determined that there is no liability or that damages are less than the amount provided under this policy, the claim cannot be reconsidered under the terms of this policy.

Procedures for Small Claim Payment:

- A. Claimants seeking payment for damages incurred due to an unforeseen accident or an accident in which the City of Lincolnnton may be liable must submit the following information to the City in writing:
 - 1. Name of Claimant and/or Owner
 - 2. Address where incident occurred
 - 3. Contact number
 - 4. Date & time of damage and loss

5. Details of damaged property and how it happened
 6. Details of reason City may be liable
 7. Any other pertinent information as may assist in evaluating the request
- B. If an unforeseen accident does occur and it is the result of an infrastructure failure or any other small claim situation such as a minor fender bender or backing accident or minor property damage, it is the Policy of the City of Lincoln to resolve these claims resulting in actual damages of one thousand dollars (\$1,000.00) or less without submitting the same to its insurance carrier.
- C. In order to qualify under this policy, the following criteria must be met:
1. The claim must clearly occur within the City limits of Lincoln or occur from a City of Lincoln employee operating City of Lincoln property.
 2. The claim must have occurred through no negligence on the part of the claimant.
 3. Payment is limited to the actual cost for damages to the property and shall not exceed amounts established herein.
 4. Payment will not be paid under this policy for personal injury, loss of income, emotional stress or any other consequential damages.
 5. This policy will NOT apply if any personal injuries are present or possible.
 6. The owner must execute a release discharging the City from any further liability upon payment of the claim and must certify that no other payment has been received for the damages alleged from any other source.
 7. The claimant must provide the City with at least 2 verifiable estimates to be considered valid.
 8. For small fender bender or backing accident, the Lincoln Police Department must be called to the scene to issue a police report. The owner & driver's names, the make, model, year and VIN of the claimant vehicle are required.
- D. The City of Lincoln, at its discretion, may deny this policy at any time and submit the information to be considered by their liability insurance carrier.
- E. Claim settlement under this policy will be payable to the Claimant and to the repair facility submitted when applicable.
- F. Claimants who do not wish to limit their claim to the amounts established herein or foresee their claim to be more than the amounts established herein may submit their claim to the City Staff member who handles claims submission. Claims will thereafter be exempt from this policy once submitted to the City's liability carrier and will no longer be eligible to have a claim processed under this policy. If after processing by the insurance carrier it is determined that there is no liability or that damages are less than the amount provided under this policy, the claim cannot be reconsidered under the terms of this policy.

ITEM #

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Executive Summary

September 2017 Year-To-Date

General Fund		Budget 17-18	Actual 17-18	% of Budget	Budget 16-17	Actual 16-17	Difference
Fund 10	Revenues	10,252,739	3,350,890	30%	10,662,262	3,271,813	79,078
	Fund Balance	785,301	-	-	1,366,107	-	-
		11,038,040	3,350,890		12,028,369	3,271,813	79,078
	City Manager/Clerk	333,365	103,988		309,730	64,533	39,455
	Human Resources	235,030	61,985		215,848	55,237	6,748
	Finance	279,012	139,985		273,609	135,888	4,097
	General Expense	809,520	351,962		878,154	275,424	76,537
	General Debt Service	463,524	24,179		425,535	27,525	(3,346)
	Police	3,344,770	776,901		3,153,942	748,063	28,837
	Fire	2,030,690	496,454		2,206,450	521,700	(25,245)
	Public Works	181,356	57,952		246,538	47,437	10,515
	Street	1,229,141	186,312		1,534,891	332,792	(146,480)
	Equipment Services	132,120	39,848		157,819	66,401	(26,553)
	Solid Waste	718,328	144,554		820,485	171,391	(26,837)
	General Services	-	-		212,559	61,235	(61,235)
	Plannin/Zoning	277,060	68,423		276,258	47,078	21,345
	Bus & Comm. Dev	132,454	5,927		160,693	43,281	(37,354)
	Recreation	871,670	267,939		1,155,858	180,027	87,912
	Expenses	11,038,040	2,726,409	25%	12,028,369	2,778,012	(51,603)
	Difference		624,481			493,800	130,681

Water & Sewer Fund		Budget 17-18	Actual 17-18	% of Budget	Budget 16-17	Actual 16-17	Difference
Fund 61	Revenues						
	Fund Balance	7,449,995 390,000 7,839,995	2,052,290 - 2,052,290	26%	7,867,135 1,265,399 9,132,534	2,186,257 2,186,257	(133,966) (133,966)
	Water Treatment	1,501,500	335,883		1,476,528	303,545	32,338
	Dist & Collection	1,356,250	330,693		2,390,175	784,609	(453,916)
	Wastewater	1,537,900	213,631		1,648,076	226,149	(12,518)
	W & S Intangibles	3,444,345	115,966		3,617,755	110,107	5,859
	Expenses	7,839,995	996,174	13%	9,132,534	1,424,410	(428,236)
	Difference		1,056,117			761,847	294,270
Electric Fund		Budget 17-18	Actual 17-18	% of Budget	Budget 16-17	Actual 16-17	Difference
Fund 63	Revenues						
	Fund Balance	7,791,714 - 7,791,714	2,016,330 - 2,016,330	26%	8,000,000 79,000 8,079,000	2,081,569 - 2,081,569	(65,239) (65,239)
	Electric Dept.	7,791,714	1,596,973		8,079,000	1,545,826	51,147
	Expenses	7,791,714	1,596,973	20%	8,079,000	1,545,826	51,147
	Difference		419,357			535,743	(116,386)
Overtime	80+ hours		82,338			97,444	(15,106)