

LINCOLNTON PLANNING BOARD
AGENDA
October 15, 2019
At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of minutes from the September 17, 2019 meeting
4. CUP-2-2019 - Application for Conditional Use Permit Amendment from Boger City Volunteer Fire Department to allow a fire-training center in the R-25 district located at 410 McAlister Road (PID 50587).
5. CUP-3-2019 – Application for Conditional Use Permit from Shu Zheng Zhao to allow an arcade game room in the General - Business (G-B) district at 906-920 East Main Street (PID 87719).
6. CUZMA-1-2019 - Application from Rebecca Chambers requesting conditional use rezoning from R-10 to NB-CU to allow a beauty salon located at 603 North Flint Street (PID 18016).
7. ZTA-3-2019 Application from Lincolnton Planning Department to create an Abandoned and Junked Vehicle Ordinance and amendment of the Unified Development Ordinance to remove references to junked motor vehicles.
8. ZTA-4-2019 - Application from Lincolnton Planning Department requesting amendment to Section 153.057, (Accessory Structures), of the Unified Development Ordinance to modify accessory structure size requirements.
9. Adjournment



**CITY OF LINCOLNTON
PLANNING BOARD
PO DRAWER 617, LINCOLNTON, NC 28092
www.ci.lincolnton.nc.us**

BOARD MEMBERS: Änd Lynn, Chair, andmlynn@gmail.com; Worth Roberts, Vice-Chair, worth.roberts@charter.net; Gene Poinsette, poinsetteg@charter.net; Jamel Farley, afarley2351@gmail.com; Becky Burke, beckyburke940@gmail.com; Jerry Hoffman, jlskhoffman@charter.net; Rebecca Abernethy, rabernethy21@bellsouth.net; Greg McBryde, Gregory.McBryde@gmail.com

Tuesday, September 17, 2019 Meeting

Present: Worth Roberts, Gene Poinsette, Becky Burke, Jerry Hoffman and Greg McBryde

Absent: Änd Lynn, Jamel Farley and Rebecca Abernethy

Call to Order

Vice Chairman Worth Roberts called the meeting to order and recognized that Änd Lynn, Jamel Farley and Rebecca Abernethy were absent.

Approval of Minutes

Vice Chairman Worth Roberts asked the Board if there were any additions or corrections to the minutes of the August 20, 2019 meeting.

Motion: Gene Poinsette made a motion to approve the minutes. Becky Burke seconded. Motion carried unanimously.

ZMA-7-2019 – Application from Helms Security, Inc. requesting the rezoning of .294 acres from Single-Family Medium Density Residential District (R-10) to Central Business Transitional (CBT).

Brett Hicks addressed the board noting the following:

SITE AND AREA DESCRIPTION

The applicant is requesting the rezoning of a parcel totaling approximately 0.294 acres from the Single-Family Medium Density Residential (R-10) District to the Central Business Transitional (CBT) District. The subject property is located at 419 East Sycamore Street, east of the intersection of North Cedar Street and East Sycamore Street.

The subject property and adjoining properties to the west, north and east are zoned R-10. Properties located to the south of East Sycamore Street are zoned C-B and CBT.

The site is commercially developed with offices for Helms Security and Eddie Sigmon & Associates. Surrounding properties are devoted to residential and commercial uses.

REASON FOR REZONING REQUEST

Commercial use of the property dates to approximately 1966 and is legally non-conforming. The zoning regulations allow the commercial use to continue as a legal, non-conforming use but the use could not be expanded. The zoning regulations similarly apply to legal non-conforming signage. Signage that pre-dates zoning can continue but not expand.

The property owner has indicated he would like to have additional wall signage so that Eddie Sigmon and Associates can be identified on wall signage. The requested rezoning would allow wall signage of up to 100 square feet per building wall.

LAND USE PLAN

The Lincolnnton Land Use Plan shows the property in the Traditional Single-Family Planning Area which is described as “older established portions of the community (primarily residential in character and single-family) which should be protected from encroachment of incompatible business and industrial development.”

COMPLIANCE WITH LAND USE PLAN

The request is not in compliance with the Land Use Plan’s residential designation. However, staff views the request as consistent with the spirit and intent of the Land Use Plan in that the existing 1966 commercial building long pre-dates both the zoning regulations and the land use plan. The existing building is not likely to ever be converted to residential use and rezoning to the CBT district will better support its continued viable use for commercial purposes.

STAFF RECOMMENDATION

Staff recommends the following two actions:

1. Recommend approval of rezoning of the property from R-10 to CBT.
2. If request is recommended for approval, also recommend amendment of the Land Use Plan to extend the Central Business Transitional Planning Area to include the subject property.

Motion: Gene Poinsette made a motion to recommend approval. Greg McBryde seconded. Motion carried unanimously.

Vice Chairman Worth Roberts asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

Motion: Gene Poinsette made a motion to adjourn. Greg McBryde seconded. Motion carried unanimously.

Jean Derby

MEMO TO: Planning Board Members

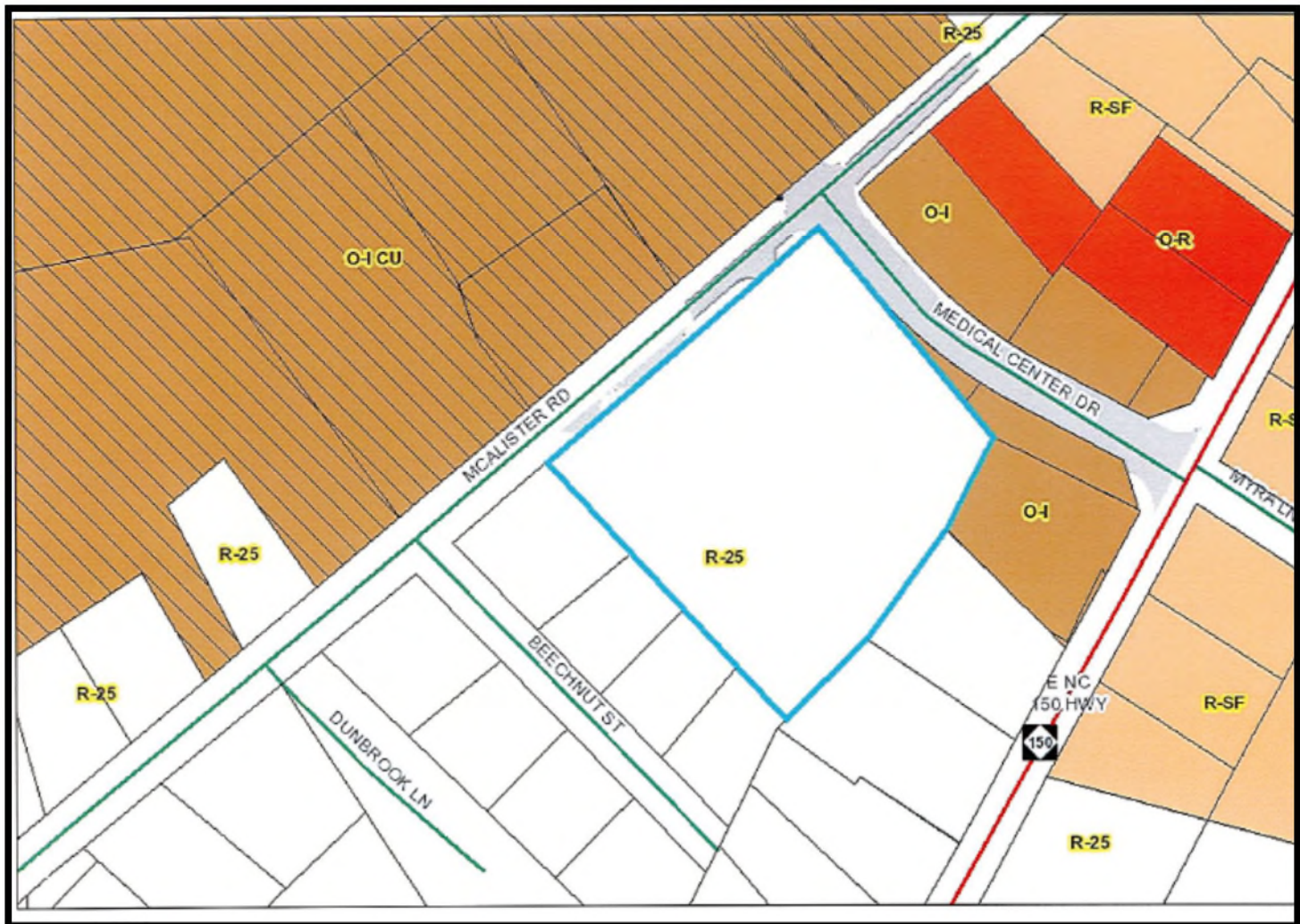
FROM: City of Lincolnton Planning Department

SUBJECT: CUP -2- 2019 Application for Conditional Use Permit Amendment from Boger City Volunteer Fire Department to allow a fire training center in the R-25 district.

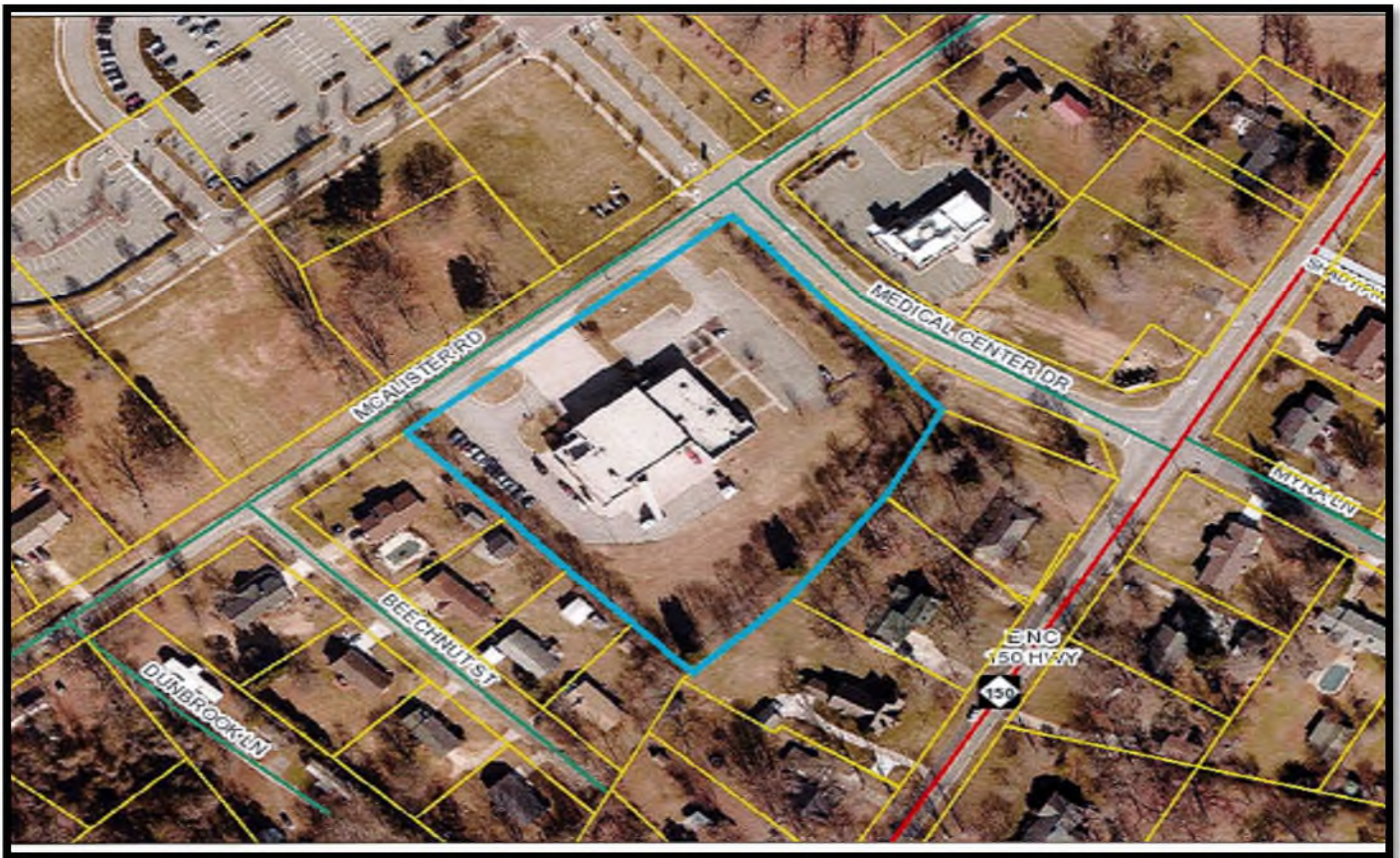
DATE: October 15, 2019

SITE AND AREA DESCRIPTION

The Boger City Volunteer Fire Department is requesting amendment of the previously approved conditional use permit at the VFD site at 410 McAlister Road. The site is zoned R-25 (Rural Residential) and a conditional use permit was approved in 2001 to allow the fire station. Surrounding properties are zoned a combination of R-25 and O-I (Office –Institutional).



The subject property is the site of the Boger City VFD. Surrounding properties are devoted to residential and medical uses.

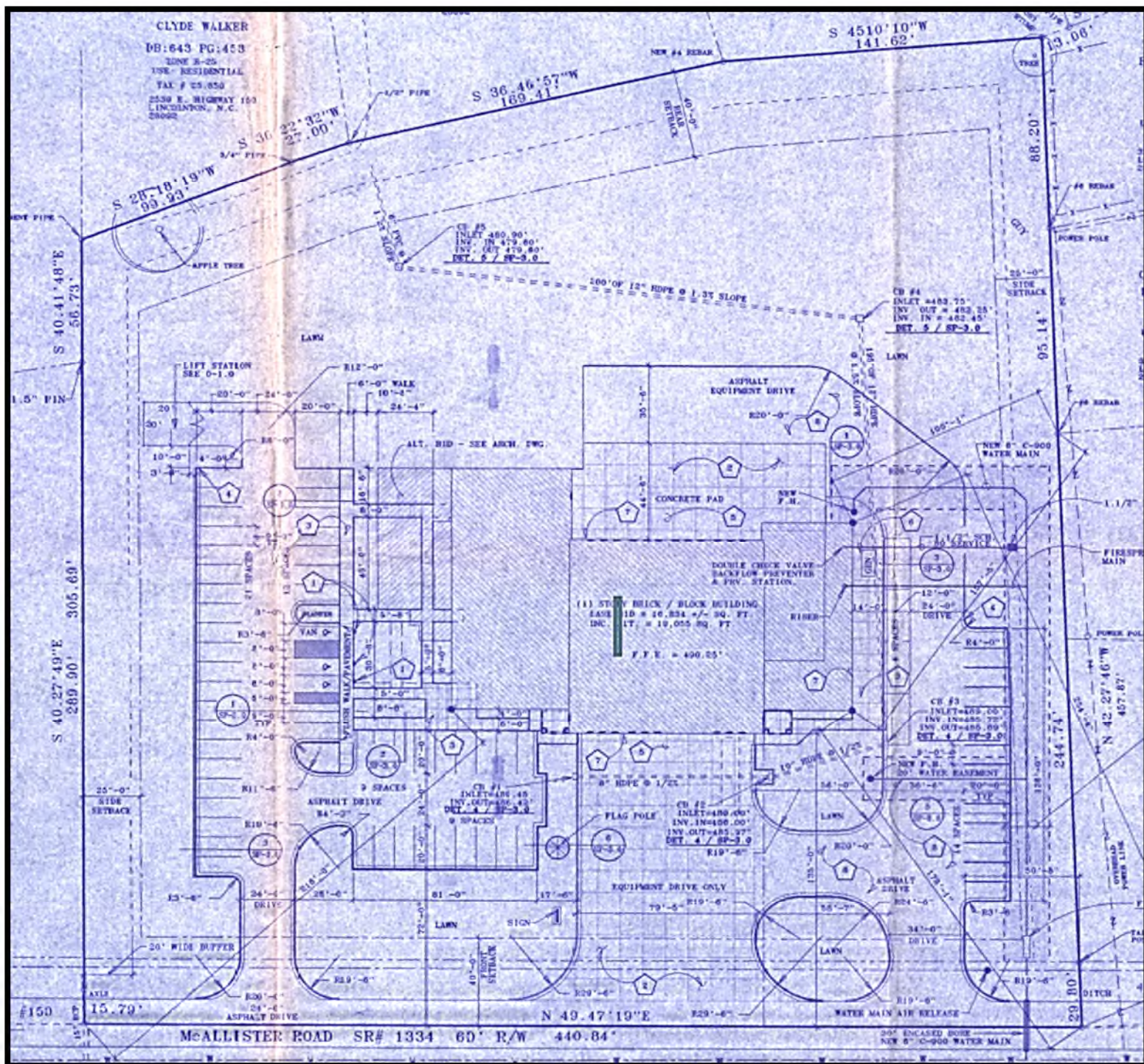


BACKGROUND AND APPROVED SITE PLAN

A conditional use permit was approved in 2001 to allow construction of the fire station. The site plan notes the approximately 17,000 square foot fire station, two driveways to McAlister Road and the parking areas on either side of the station.

One of the conditions of approval of the conditional use permit is a storm water system designed in such a way that storm water will not impact adjacent property owners. A storm water detention pond is provided on the rear portion of the site to address that condition of the conditional use permit.

The approved site plan is below:



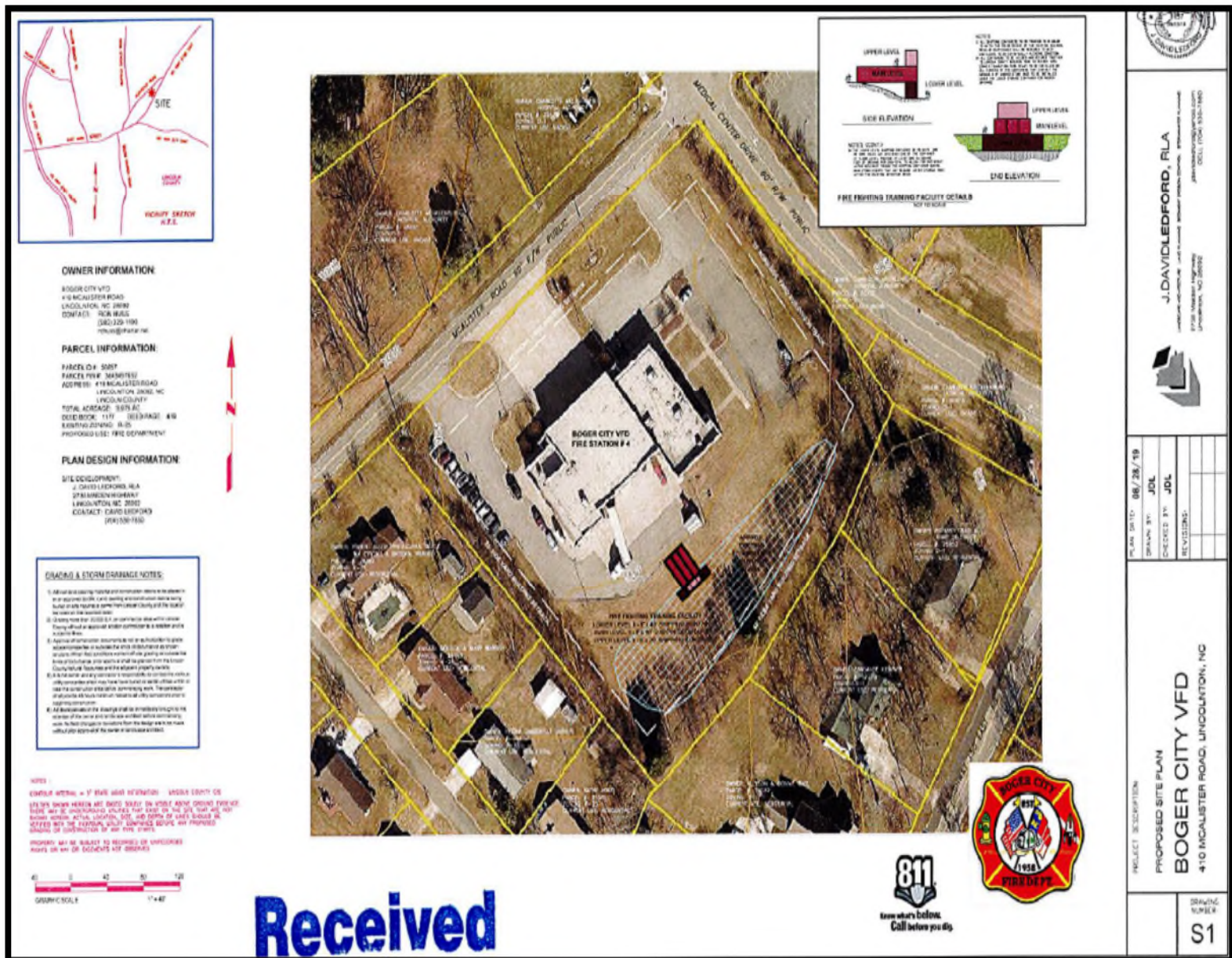
PROPOSED ADDITIONAL STRUCTURES

The applicant proposes the addition of a fire training center to the rear of the fire station. The proposed fire training center would be composed of five shipping containers as follows:

- Lower level: One 8 ft x 40 ft shipping container
- Main level: Three 8 ft x 40 ft shipping containers
- Upper level: One 8 ft x 20 ft shipping container

The site plan indicates all shipping containers to be painted to a color to match the color scheme of the existing building and notes that regular maintenance will be required to keep the containers in good condition.

PROPOSED SITE PLAN



STORM WATER MANAGEMENT MEASURES

The site plan indicates the following measures for storm water management:

- One or more holes cut into each end of the container at floor level.
- Provide at least one square foot of opening per end / total to allow for sufficient water movement through the shipping container during rain storm events that may require water storage area within the existing detention basin.
- A four inch washed stone base is to be installed under the lower storage container for proper drainage.

EXAMPLES OF SHIPPING CONTAINERS

The applicant provided the below images as examples of the type of shipping containers to be used as the proposed fire training center:



STORM WATER DETENTION STRUCTURE IMPACT CALCULATIONS

Staff requested calculations from the applicant to demonstrate that the placement of the shipping containers on the existing storm water detention pond will not negatively impact its capacity. The applicant provided that documentation and it is attached.

STAFF REVIEW COMMITTEE COMMENTS

The Staff Review Committee made the following comments:

- Building permits must be obtained from Lincoln County Building and Inspections.
- All trees and other vegetation located along the edges of the site to be protected during the shipping container installation process.

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 application meets the requirements of that section.

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Section 153.237 of the Unified Development Ordinance requires four findings be determined by City Council prior to issuance of the conditional use permit. 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 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. It does not appear that the use will endanger the public health or safety.
2. The use meets all required conditions and specifications.
3. The applicant will need to provide evidence that the use will not substantially injure the value of adjoining or abutting properties.
4. The applicant will need to provide evidence that the use, if approved, will be in harmony with the area.

STAFF RECOMMENDATION

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

STORM WATER DETENTION STRUCTURE

IMPACT CALCULATIONS

PROVIDED BY APPLICANT

Received

04 SEP 2019

BY: _____



landscape architect

J.DAVIDLEDFORD, RLA

2730 Maiden Highway
Lincolnton, NC 28092
Cell 704-530-7880
jdauidledford@yahoo.com

September 3, 2019

City of Lincolnton Planning & Zoning
c/o **Brett Hicks**
114 West Sycamore Street
Lincolnton, NC 28092

RE: **Boger City VFD**
410 McAlister Road
Lincolnton, NC

Dear Lincolnton City Council & Staff,

This letter is being presented to confirm that the proposed fire fighting training facility by Boger City VFD will not create any measurable impact to the existing Stormwater Detention Structure on-site. The enclosed calculations show that the portion of the lower level shipping container that is within the storage area comprises only 0.1% or 51.2 cu.ft. of the entire 50,878 cu.ft structure. This small percentage of volume added to the existing stormwater detention structure produces no measurable change in the overall stormwater outflow volume or velocity of the structure.

"I have placed my signature and seal on the design documents submitted signifying that I accept responsibility for the design and calculations of the stormwater detention structure. Further, I certify to the best of my knowledge and belief that the design is consistent with the requirements of NC DEMLR Stormwater Design Manual.

Sincerely,

J. David Ledford, RLA



Type.... Master Network Summary
 Name.... Watershed
 File.... C:\HAESTAD\PPKW\SAMPLE\PROJECT1.PPW

Page 1.01

MASTER DESIGN STORM SUMMARY

Default Network Design Storm File, ID RAIN.RNQ Storms 2

Return Event	Total Depth in	Rainfall Type	RNF File	RNF ID	
50	6.4800	Synthetic Curve	SCSTYPES	TypeII	24hr
10	4.8000	Synthetic Curve	SCSTYPES	TypeII	24hr
2	3.1200	Synthetic Curve	SCSTYPES	TypeII	24hr

MASTER NETWORK SUMMARY SCS Unit Hydrograph Method

(*Node=Outfall; +Node=Diversion;)
 (Trun= HYG Truncation: Blank=None; L=Left; R=Rt; LR=Left&Rt)

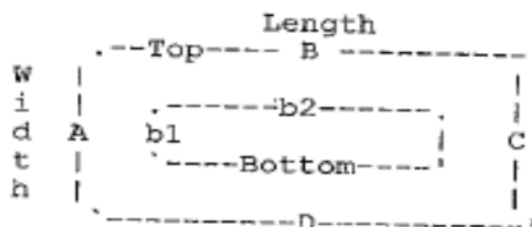
Storage Node ID	Return		HYG Vol		Qpeak	Qpeak	Max WSEL	Max Pond
	Type	Event	ac-ft	Trun	hrs	cfs	ft	ac-ft
POND	IN	POND	50	.717	12.0650	10.15		
POND	IN	POND	10	.374	12.0650	4.92		
POND	IN	POND	2	.115	12.1000	1.01		
POND	OUT	POND	50	.717	12.0650	10.15		
POND	OUT	POND	10	.374	12.0650	4.92		
POND	OUT	POND	2	.115	12.1000	1.01		
PRE DEVELOPED	AREA	50	.717	12.0650	10.15*			
PRE DEVELOPED	AREA	10	.374	12.0650	4.92*			
PRE DEVELOPED	AREA	2	.115	12.1000	1.01*			
*PRE WATER	JCT	50	.717	12.0650	10.15			
*PRE WATER	JCT	10	.374	12.0650	4.92			
*PRE WATER	JCT	2	.115	12.1000	1.01			

Type.... Vol: Trapezoidal
 Name.... POND

Page 1.01

File.... C:\HAESTAD\PPKW\SAMPLE\BOGER CITY VFD.PPW

POND VOLUME CALCULATION FOR TRAPEZOIDAL BASIN



Top Elev. = 484.75 ft
 Top Length = 330.00 ft (A to C)
 Top Width = 45.00 ft (B to D)

Bottom Elev. = 478.60 ft
 Bottom Length = 200.00 ft
 Bottom Width = 15.00 ft

Width Offset = 15.00 ft (B to b2)
 Length Offset = 65.00 ft (A to b1)

Vertical Incr. = 1.00 ft

Computed Side Slopes:

Side A: 10.569:1 (horizontal : vertical)
 Side B: 2.439 " "
 Side C: 10.569 " "
 Side D: 2.439 " "

Elevation (ft)	Planimeter (sq.in)	Area (acres)	$A1+A2+\text{sqr}(A1*A2)$ (acres)	Volume (ac-ft)	Volume Sum (ac-ft)
478.60	-----	.0689	.0000	.000	.000
479.60	-----	.1009	.2532	.084	.084
480.60	-----	.1377	.3565	.119	.203
481.60	-----	.1792	.4740	.158	.361
482.60	-----	.2254	.6057	.202	.563
483.60	-----	.2764	.7515	.251	.81
484.75	-----	.3409	.9243	.354	1.168

Type.... Vol: Void Adjustments
Name.... POND

Page 9.02

File.... C:\HAESTAD\PPKW\SAMPLE\BOGER CITY VFD.PPW

VOLUME COMPLETELY FILLED WITH MATERIAL
(Adjust Volumes for Voids)

Void Spaces = 99.90000 % (water)

HW Elv, ft	Total, ac-ft	Adjusted, ac-ft
-----	-----	-----
478.60	.000	.000
479.60	.084	.084
480.60	.203	.203
481.60	.361	.361
482.60	.563	.563
483.60	.814	.813
484.75	1.168	1.167*

Type.... Master Network Summary

Page 1.01

Name.... Watershed

File.... C:\HAESTAD\PPKW\SAMPLE\BOGER CITY VFD.PPW

MASTER DESIGN STORM SUMMARY

Default Network Design Storm File, ID CHARRAIN.RNQ Meck 2/10/50

Return	Event	Total Depth in	Rainfall Type	RNF File	RNF ID	
A...50		6.4800	Synthetic Curve	SCSTYPES	TypeII	24hr
A...10		4.8000	Synthetic Curve	SCSTYPES	TypeII	24hr
A....2		3.1200	Synthetic Curve	SCSTYPES	TypeII	24hr

MASTER NETWORK SUMMARY SCS Unit Hydrograph Method

(*Node=Outfall; +Node=Diversion;)
(Trun= HYG Truncation: Blank=None; L=Left; R=Rt; LR=Left&Rt)

Node ID	Return Type	Event	HYG Vol ac-ft	Qpeak hrs	Qpeak cfs	Max WSEL ft	Max Pond Stor. ac-ft
DEVELOPED	AREA	50	1.406	12.0350	20.36		
DEVELOPED	AREA	10	.906	12.0350	13.23		
DEVELOPED	AREA	2	.447	12.0350	6.46		
POND	IN POND	50	1.406	12.0350	20.36		
POND	IN POND	10	.906	12.0350	13.23		
POND	IN POND	2	.447	12.0350	6.46		
POND	OUT POND	50	1.343	12.8750	1.4*	483.28	.728
POND	OUT POND	10	.887	12.6350	1.26*	482.00	.436
POND	OUT POND	2	.437	12.4700	.95*	480.46	.185
*POST WATER	JCT	50	1.343	12.8750	1.47		
*POST WATER	JCT	10	.887	12.6350	1.26		
*POST WATER	JCT	2	.437	12.4700	.95		

Type... Pond Routing Summary
Name... POND OUT Tag: A....2
File... C:\HAESTAD\PPKW\SAMPLE\PROJECT1.PPW
Storm... TypeII 24hr Tag: A....2

Page 11.96
Event: 2-yr

LEVEL POOL ROUTING SUMMARY

HYG Dir = C:\HAESTAD\PPKW\SAMPLE\
Inflow HYG file = BCVFD.HYG - POND IN A....2
Outflow HYG file = BCVFD.HYG - POND OUT A....2

Pond Node Data = POND
Pond Volume Data = POND
Pond Outlet Data = OUTFLOW

No Infiltration

INITIAL CONDITIONS

Starting WS Elev = 478.60 ft
Starting Volume = .000 ac-ft
Starting Outflow = .00 cfs
Starting Infiltr. = .00 cfs
Starting Total Qout = .00 cfs
Time Increment = .0050 hrs

INFLOW/OUTFLOW HYDROGRAPH SUMMARY

=====

Peak Inflow	=	6.46 cfs	at	12.0350 hrs
Peak Outflow	=	.95 cfs	at	12.4700 hrs

Peak Elevation	=	480.46 ft
Peak Storage	=	.185 ac-ft

=====

MASS BALANCE (ac-ft)

+ Initial Vol = .000
+ HYG Vol IN = .447
- Infiltration = .000
- HYG Vol OUT = .437
- Retained Vol = .009

Unrouted Vol = -.002 ac-ft (.371% of Inflow Volume)

Type.... Pond Routing Summary
Name.... POND OUT Tag: A...10
File.... C:\HAESTAD\PPKW\SAMPLE\PROJECT1.PPW
Storm... TypeII 24hr Tag: A...10

Page 11.112
Event: 10 yr

LEVEL POOL ROUTING SUMMARY

HYG Dir = C:\HAESTAD\PPKW\SAMPLE\
Inflow HYG file = BCVFD.HYG - POND IN A...10
Outflow HYG file = BCVFD.HYG - POND OUT A...10

Pond Node Data = POND
Pond Volume Data = POND
Pond Outlet Data = OUTFLOW

No Infiltration

INITIAL CONDITIONS

Starting WS Elev = 478.60 ft
Starting Volume = .000 ac-ft
Starting Outflow = .00 cfs
Starting Infiltr. = .00 cfs
Starting Total Qout= .00 cfs
Time Increment = .0050 hrs

INFLOW/OUTFLOW HYDROGRAPH SUMMARY

=====

Peak Inflow	=	13.23 cfs	at	12.0350 hrs
Peak Outflow	=	1.26 cfs	at	12.6350 hrs

Peak Elevation	=	482.00 ft
Peak Storage	=	.436 ac-ft

=====

MASS BALANCE (ac-ft)

+ Initial Vol	=	.000
+ HYG Vol IN	=	.906
- Infiltration	=	.000
- HYG Vol OUT	=	.887
- Retained Vol	=	.016

Unrouted Vol = -.003 ac-ft (.303% of Inflow Volume)

Type.... Pond Routing Summary
Name.... POND OUT Tag: A...50
File.... C:\HAESTAD\PPKW\SAMPLE\PROJECT1.PPW
Storm... TypeII 24hr Tag: A...50

Page 11.129
Event: 50 yr

LEVEL POOL ROUTING SUMMARY

HYG Dir = C:\HAESTAD\PPKW\SAMPLE\
Inflow HYG file = BCVFD.HYG - POND IN A...50
Outflow HYG file = BCVFD.HYG - POND OUT A...50

Pond Node Data = POND
Pond Volume Data = POND
Pond Outlet Data = OUTFLOW

No Infiltration

INITIAL CONDITIONS

Starting WS Elev = 478.60 ft
Starting Volume = .000 ac-ft
Starting Outflow = .00 cfs
Starting Infiltr. = .00 cfs
Starting Total Qout = .00 cfs
Time Increment = .0050 hrs

INFLOW/OUTFLOW HYDROGRAPH SUMMARY

=====

Peak Inflow	=	20.36 cfs	at	12.0350 hrs
Peak Outflow	=	1.48 cfs	at	12.8750 hrs

Peak Elevation = 483.28 ft
Peak Storage = .728 ac-ft
=====

MASS BALANCE (ac-ft)

+ Initial Vol = .000
+ HYG Vol IN = 1.406
- Infiltration = .000
- HYG Vol OUT = 1.343
- Retained Vol = .060

Unrouted Vol = -.003 ac-ft (.219% of Inflow Volume)

MEMO TO: Planning Board Members

FROM: City of Lincolnton Planning Department

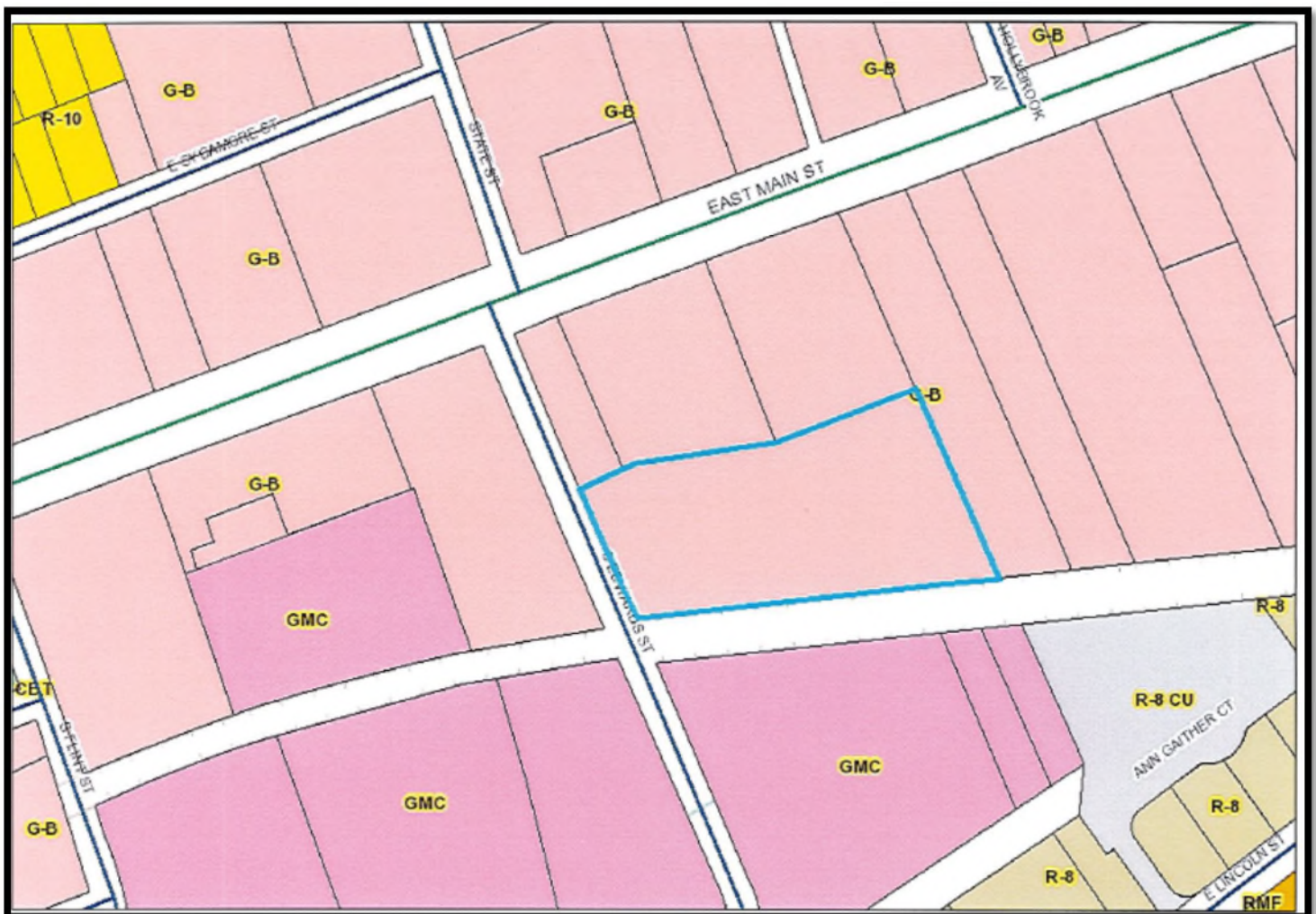
SUBJECT: CUP -3- 2019 - Application for Conditional Use Permit from Shu Zheng Zhao to allow an arcade game room in the General - Business (G-B) district.

DATE: October 15, 2019

SITE AND AREA DESCRIPTION

Shu Zheng Zhao is requesting a conditional use permit to allow an arcade room in the Lincolnton Station Shopping Center located at 906-920 East Main Street.

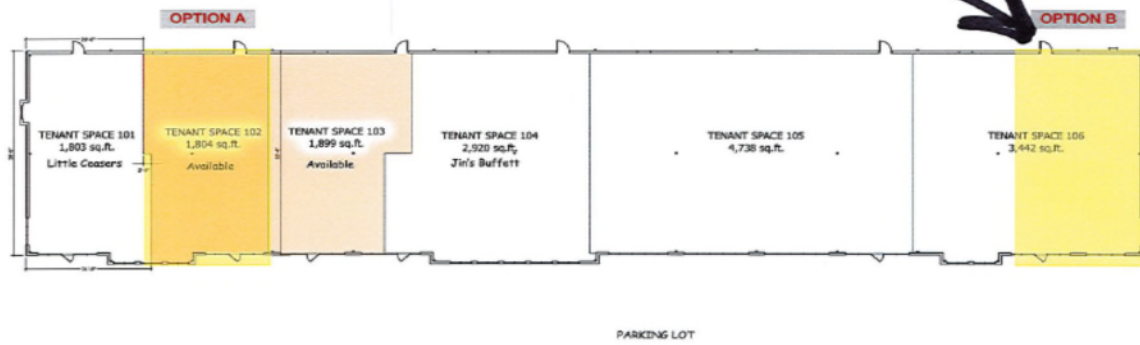
The shopping center is zoned G-B as are nearby properties north of the CSX rail line. Properties to the south are zoned GMC (General Manufacturing-Commercial) and R-8 (Single and Two Family Medium Density Residential).



The subject property is located within the Lincolnton Station Shopping Center. It is a currently vacant storefront located on the west end of the shopping center. Surrounding properties located north of the CSX line are devoted to commercial uses. Properties located to the south are devoted to industrial and residential uses.



PROPOSED ARCADE ROOM



TITLE: OVERALL BUILDING FLOOR PLAN

SCALE: NONE



LINCOLN RETAIL
LINCOLN, NC

DATE: MAY 2008
PROJECT:

LE 1.1



PROPOSED USE

The applicant requests a conditional use permit to allow an arcade game room and submitted the below summary of the proposed use:

Conditional Use Permit Application – Business Information

September 13th, 2019.

Applicant Name: Shu Zheng Zhao

Owner's Name: YDG Lincolnton, LLC; Doug Baumgartner

Property Address: 918 East Main Street, Lincolnton, NC

Business Type: "AMUSEMENT ARCADE OR GAME ROOM" means any premises or arcade operated by any person, corporation, or legal entity, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing "amusement devices" to the public at retail, and/or any premises operated by any person, corporation, or other legal entity, which is the owner, lessee, or occupant of a building the majority of whose gross receipts are derived from the providing of "amusement devices" to the public at retail.

Type of Arcade Games: Predominantly skill based, multi-player arcade games. Example: Skill Fish Arcade Games.

Hours of Operation: Hours of operation will be 2:00 pm – 2:00 am. This is subject to any more stringent limitations and requirements that may be imposed by the Town of Lincolnton or Lincoln County or any other governmental authority having jurisdiction with respect to the property.

Food and Drinks: There will be no food or drink sales.

Signage: Signage will comply with all applicable zoning ordinances, signage ordinances and other governmental requirements. The tenant signage is subject to Landlord's review and approval set forth in Exhibit C (below). This is subject to any more stringent limitations and requirements that may be imposed by the Town of Lincolnton or Lincoln County or any other governmental authority having jurisdiction with respect to the property.

STAFF REVIEW COMMITTEE COMMENTS

The Staff Review Committee made the following comments:

1. The applicant/operator will need to obtain approval of a license in accordance with Chapter 111 of the City Code prior to issuance of a certificate of occupancy.
2. Hours of operation to be limited to between 2 pm and midnight.
3. The use is to be operated in compliance with all state regulations including those regarding gaming.
4. The use is to be operated so that no window or door coverings prevent public view from the outside.
5. The use is to be open for inspection by Lincolnton police and/or zoning officers at any time during normal hours of operation.
6. The use is to be under the supervision of at least one attendant during all hours in which it is in operation.
7. Attendant(s) will not permit persons under the age of 16 on the premises prior to 3:30 p.m. on school days.
8. Attendant(s) will not permit persons under the age of 18 on the premises after 11:00 p.m.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

The Unified Development Ordinance requires that a conditional use permit application contain specific terms and meet specific requirements. The application meets the requirements of that section with the exception of the proposed hours of operation .

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Sections 153.237 and 153.238 of the Unified Development Ordinance require six findings be determined by City Council prior to issuance of the conditional use permit. 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.
5. If the use is not located in a Class C shopping center, it will be located no closer than 300 feet from any residential district.
6. The hours of operation will be limited to the hours between 8 a.m. and 12 a.m.

COMPLIANCE WITH SECTION 153.237 AND 153.238

1. It does not appear that the use will endanger the public health or safety.
2. The proposed use meets all required conditions and specifications with the exception of the hours of operation proposed by the applicant.
3. The applicant will need to provide evidence that the use will not substantially injure the value of adjoining or abutting properties.
4. The applicant will need to provide evidence that the use, if approved, will be in harmony with the area.
5. The use is located more than 300 feet from any residential district.
6. The applicant will need to limit the hours of operation to between 2 pm and midnight in order to comply with this finding.

STAFF RECOMMENDATION

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

MEMO TO: Planning Board Members

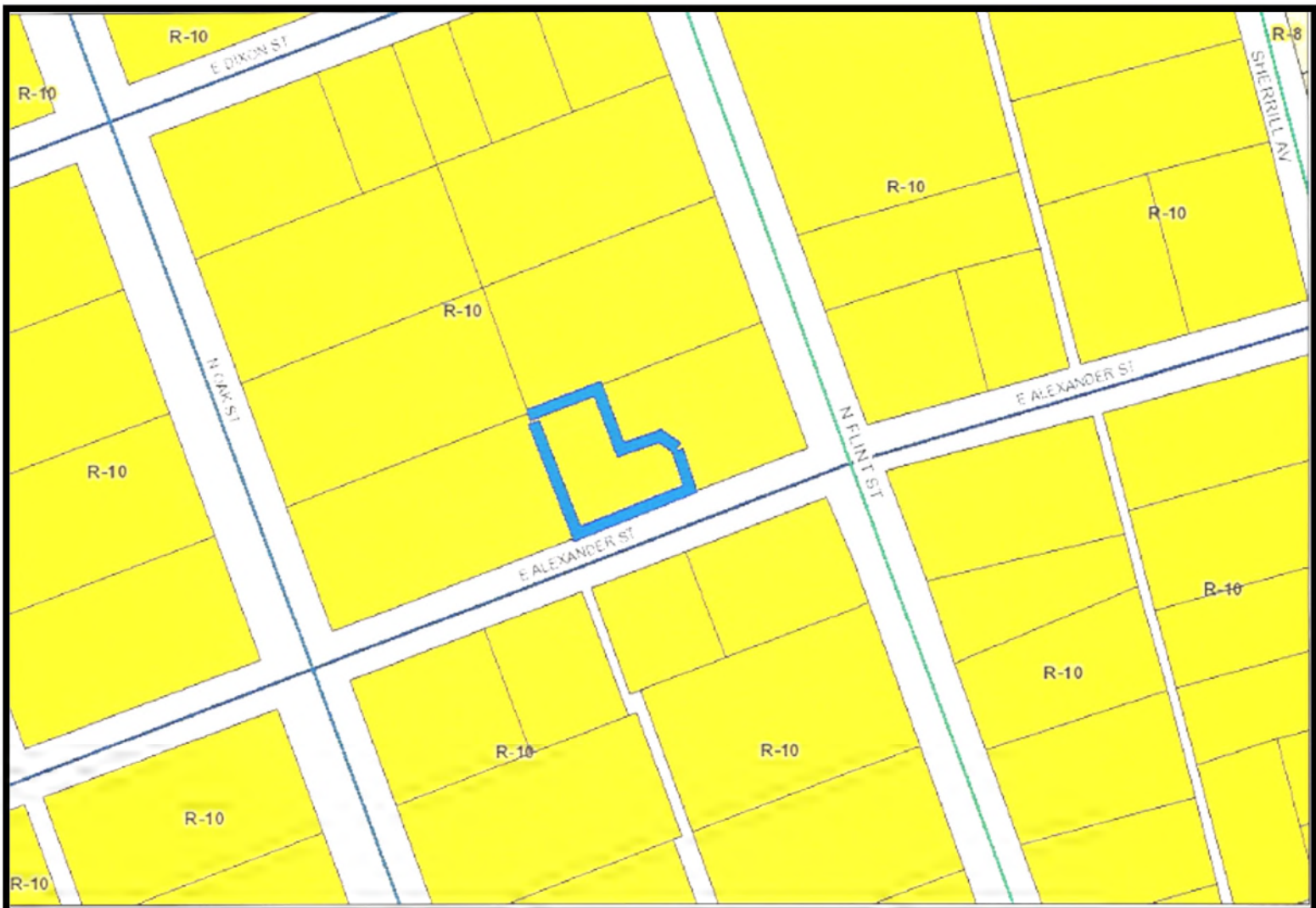
FROM: City of Lincolnton Planning Department

SUBJECT: CU-ZMA-1-2019- Application from Rebecca Chambers
requesting conditional use rezoning from R-10 to NB-CU to allow
a beauty salon

DATE: October 15, 2019

SITE AND AREA DESCRIPTION

The subject property is the rear portion of the parcel located on the northwest corner of the intersection of North Flint Street and East Alexander Street. The subject property and all surrounding properties are zoned R-10.



The area is composed of single family homes. The proposed rezoning site is the rear portion of the lot located on the northwest corner of North Flint Street and East Alexander Street. That portion of the lot is developed with a 1,520 square foot building that was formerly used as a shop.





BACKGROUND

The zoning regulations allow “home occupations” in any residence subject to several standards including the following:

- The home occupation is incidental and subordinate to the residential use of the dwelling and does not change the residential character of the dwelling.
- No accessory buildings or outside storage are to be used in connection with the home occupation.
- Use of the dwelling for the home occupation is limited to 25% of the area of the principal building.
- Residents of the dwelling plus a maximum of one non-resident may be engaged in a home occupation.
- No display of products may be visible from any adjoining lot or street and only articles made or reconditioned on the premises may be sold; except that nondurable articles incidental to a service conducted at the home occupation may be sold on the premises.
- No external alterations inconsistent with the residential character of the building shall be permitted.
- Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
- No traffic is to be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation is to be provided off the road right-of-way.
- Home occupations may only be conducted between the hours of 7:00 a.m. and 9:00 p.m.
- One non-illuminated professional name plate, occupational sign or business identification sign mounted flush to the dwelling unit and not more than two square feet in area is allowed per customary home occupation.
- In lieu of a flush mounted sign, a freestanding sign of up to two square feet and not higher than five feet may be erected in the front yard.

NOTE: Under the existing zoning, a beauty salon could be operated as a home occupation subject to the above standards. In this specific instance, those standards would allow use of 626 square feet of the home as a beauty salon. Residents could be employed at the home-based salon plus one non-resident.

PROPOSED USE AND SITE PLAN

The applicant requests conditional use rezoning in order to allow use of the former shop building for a beauty salon.

The site plan indicates the beauty salon would provide space for up to four beauticians. To the west of the proposed beauty salon is a proposed 24 foot commercial driveway

connection to East Alexander Street along with a proposed parking lot containing 10 parking spaces. A new fence would be provided along the edges of the proposed rezoning site abutting residential zoning.

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 proposes to limit the use of the property to a beauty salon with up to four beauticians.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

The UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The following items are not in compliance:

- Twenty foot screening buffer required along property lines abutting residential zoning
- Twelve parking spaces required
- Twenty foot building setback required along the side and rear yards abutting residential zoning

The applicant indicates she plans on pursuing variances for the above matters.

LAND USE PLAN

The Lincolnton Land Use Plan includes the site in the Traditional Single Family Planning Area. The Plan notes that these areas consist of single family uses on smaller to medium sized lots in older established portions of the community that should be protected from encroachment of incompatible business and industrial development. One of the identified objectives of the Land Use Plan is protection of the integrity and viability of the City's established residential neighborhoods.

This request proposes rezoning from single family residential to conditional Neighborhood Business. Therefore, the requested rezoning is not consistent with the Land Use Plan.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- (1) Twenty foot screening buffer required along property lines abutting residential.
- (2) Twelve parking spaces required.
- (3) Twenty foot building setback required along side and rear yards abutting residential zoning.
- (4) Any outdoor lighting on the site should be directed downward and not cast glare onto neighboring properties.
- (5) Hours of operation. to be limited to between 8 am and 9 pm.
- (6) If the rezoning is approved, the ordinance would allow a freestanding pole or ground mounted sign of up to 20 feet in height and 32 square feet in area. This type of signage would not be appropriate in this location. Any freestanding signage should be limited to signage permitted with a home occupation.
- (7) If the rezoning is approved, the ordinance would allow wall signage with a maximum area of 10 % of the wall area of any wall on the building. This type of signage would not be appropriate in this location. Any freestanding signage should be limited to signage permitted with a home occupation.
- (8) The property deed references an easement for an alley. The site plan needs to identify the location of the alley and clarify whether the proposed fence and/or proposed parking will be located within the alley. If so, documentation must be provided indicating those uses are allowed by the easement.
- (9) All activities, equipment and materials to be contained within the building. No outdoor storage permitted.
- (10) The parking lot should be designed in such a way that stormwater will not impact adjacent property owners.
- (11) A building permit must be obtained from Lincoln County.

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 Lincoln 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) It does not appear that the use will endanger the public health or safety.
- (2) The use does not meet required conditions and specifications of the ordinance. The applicant indicates she plans on pursuing variances for required buffers/screening, required off-street parking and building setbacks.
- (3) The applicant will need to provide sufficient evidence that the use will not substantially injure the value of adjoining or abutting properties.
- (4) The request is not consistent with the Land Use Plan. The applicant will need to provide sufficient evidence that the use, if approved, will be in harmony with the area.

STAFF RECOMMENDATION

Staff recommends operation of the beauty salon as a home occupation in lieu of through the proposed rezoning.

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

Case No. CU-ZMA-1-2019

Applicant: Rebecca Chambers

Parcel ID#: 18016 (portion of)

Location: Rear portion of lot located at 603 N. Flint Street

Request: Rezone from R-10 to NB-CU to permit a beauty salon.

Proposed Consistency and Reasonableness Statement:

The proposed rezoning request **is not consistent** with the Lincolnnton Land Use Plan in that the property is part of an area designated by the Plan as a Traditional Single Family Planning Area.

The request involves a relatively small site and use of an existing structure. Therefore, **approval of the proposed amendment is reasonable and in the public interest.**

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

Case No. CU-ZMA-1-2019

Applicant: Rebecca Chambers

Parcel ID#: 18016 (portion of)

Location: Rear portion of lot located at 603 N. Flint Street

Request: Rezone from R-10 to NB-CU to permit a beauty salon.

Proposed Consistency and Reasonableness Statement:

The proposed rezoning request **is not consistent** with the Lincolnnton Land Use Plan in that the property is part of an area designated by the Plan as a Traditional Single Family Planning Area.

Therefore, **denial of the proposed amendment is reasonable and in the public interest** in that the site is located in an established neighborhood that should be protected from encroachment of incompatible development.

MEMO TO: Planning Board Members

FROM: Planning Staff

SUBJECT: ZTA-3-2019 Application from Lincolnton Planning Department to create an Abandoned and Junked Vehicle Ordinance and amendment of the Unified Development Ordinance to remove references to junked motor vehicles.

DATE: October 15, 2019

Background

The Unified Development Ordinance defines and regulates wrecked or junked motor vehicles on private property. Various sections of the City Code address objects including vehicles that are obstructing the public rights-of-way.

Typically, the Planning Department handles violations of the UDO regarding junked vehicles and the Police Department handles abandoned vehicles that are obstructing travel on public streets.

Neither the UDO nor the City Code outline the required process for vehicle removal or notice to the owner. The state general statutes include several relevant provisions and steps a local government is to take in order to remove abandoned or junked vehicles and many cities have an “Abandoned and Junked Vehicle Ordinance” that outlines their policies and procedures.

Proposed Amendment

The proposed amendment would create an “Abandoned and Junked Vehicles Ordinance” and consolidate the regulations regarding abandoned vehicles on public streets and the regulations regarding abandoned, junked or nuisance vehicles on private property. The ordinance would also outline the City’s policies and procedures regarding removal of such vehicles.

The proposed ordinance mirrors ordinances from other cities in North Carolina and the relevant state statutes. Key provisions in the proposed ordinance are outlined below:

Definitions

The ordinance includes the following terms and definitions:

An **abandoned vehicle** is a motor vehicle that is left:

- on a public street in a no parking zone,
- on a public street for more than seven days,
- on city owned property for greater than 24 hours or

- on private property without the consent of the owner, occupant or lessee for longer than two hours.

A **junked vehicle** is a vehicle that does not display a current license plate *and*

- is partially dismantled or wrecked,
- cannot be self-propelled or moved in the manner it originally was intended to move *or*
- is more than five years old and appears to be worth less than \$100

A **nuisance vehicle** is a vehicle that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

- a breeding ground for insects or pests;
- a point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- a collection point of pools of water;
- a point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- one which has areas of confinement which cannot be operated from the inside, such as trunks or hoods;
- situated that there is a danger of it falling or turning over;
- a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter; and/or
- one which has sharp parts or contains sharp edges of metal or glass.

Exemptions

The proposed ordinance exempts any vehicle which is:

- located in a bona fide automobile graveyard or junk yard as defined by state statute;
- on the premises of an automobile repair business operating legally and the vehicle is being kept pursuant to the operation of that business;
- in an enclosed building;
- parked on the property so that the vehicle cannot be seen from a public street or abutting property;
- in an appropriate storage place or depository maintained in a lawful place and manner by the city; or
- used on a regular basis for business or personal use.

Special Interest Vehicle

Individuals actively restoring not more than one special interest vehicle outside of a garage or other enclosed structure would have a temporary exemption from the ordinance provided that the vehicle is kept in a rear yard.

The vehicle must be made to be in running condition within one year after being brought onto the premises.

Investigation and Determination

The Police Department and the Code Enforcement Officer would be responsible for administration and enforcement of the ordinance.

The Police Department would deal with vehicles that are determined to be abandoned on a public street.

The Code Enforcement Officer would deal with other vehicles that are determined to be abandoned and with vehicles determined to be junked or nuisance vehicles.

Abandoned and Nuisance Vehicles Prohibited

- The proposed ordinance would make it unlawful for the owner of a vehicle to cause or allow the vehicle to be abandoned and allows the city to investigate and determine that a vehicle is an abandoned vehicle and order its removal.
- The proposed ordinance would make it unlawful for the owner of a vehicle or for the owner of the property where the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle. The City could investigate and determine that a vehicle is a nuisance vehicle and order the vehicle removed.

Junked Vehicles Regulated

- The proposed ordinance would make it unlawful for the owner of a junked vehicle or for the owner of the property where a junked vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- The City could order the removal of a junked motor vehicle after a written finding that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. The finding is to be based on a balancing of the monetary loss of the owner against the corresponding gain to the public by promoting community, neighborhood or area appearance.

Removal of Vehicles and Towing Notice Requirements

Abandoned, nuisance or junked vehicles would be removed by the City only after prior notice to the owner.

The exception to the prior notice requirement would be a circumstance in which the authorizing official determines there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare such as an abandoned vehicle on a public street that is obstructing traffic or parked illegally.

Other abandoned, nuisance or junked vehicles would be removed only after prior notice to the owner.

Appeal of City's Determination to Board of Adjustment

With respect to abandoned vehicles on private property and nuisance or junked vehicles for which prior notice is required, the owner may appeal the City's determination that the vehicle is an abandoned or nuisance vehicle.

In the case of a junked vehicle, the owner may appeal the City's determination that the aesthetic benefits of removing the vehicle outweigh the burden on the owner. The appeal would be made to the Board of Adjustment.

Right to Probable Cause Hearing

After the removal of an abandoned vehicle, nuisance vehicle or junked vehicle, the owner may request a hearing to determine if probable cause existed for removing the vehicle. A request for a probable cause hearing would be filed with the county magistrate.

Claimed Vehicles

At any stage in the process, the owner of the vehicle may get possession of a removed vehicle by paying the fee to the towing operator that has the vehicle.

Unclaimed Vehicles

Vehicles that are not claimed by the owner could be disposed of in accordance with the relevant state statute.

UDO Amendments

Section 153.073 of the Unified Development Ordinance outlines regulations related to wrecked or junked vehicles. That section and the related terms and definitions in the UDO would be deleted since the new ordinance would deal with those vehicles.

Staff Recommendation

Staff recommends approval of the amendment.

An Ordinance to Amend the City of Lincoln Unified Development Ordinance to Create Abandoned and Junked Vehicles Ordinance

Section 1. Create new Chapter 98: Abandoned and Junked Vehicles as follows. Newly adopted language is **highlighted in yellow** and language to be deleted is ~~struck through~~ and ~~red~~.

CHAPTER 98: ABANDONED AND JUNKED VEHICLES

§ 98.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, an **ABANDONED MOTOR VEHICLE** is one that is left:

- (1) Upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) On a public street or highway for longer than seven days;
- (3) On property owned or operated by the city for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

AUTHORIZING OFFICIAL. The designated employee of the Police Department or the Code Enforcement Officer, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

ENCLOSED STRUCTURE. A garage or building structure which provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or abutting property.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2, means a vehicle that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$100.

MOTOR VEHICLE or VEHICLE. Any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; and/or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the City Council.

SPECIAL INTEREST VEHICLE. An antique or hobby vehicle being actively restored by its owner. The vehicle may not be in running condition but shall be made to be in running condition within one year after being brought onto the premises. A vehicle that is not being actively restored shall be considered a junked motor vehicle.

§ 98.02 ADMINISTRATION.

The Police Department and Code Enforcement Officer shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the city, and on property owned by the city. The Code Enforcement Officer shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The city may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the City Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

§ 98.03 VEHICLES EXEMPT.

(A) Nothing in this chapter shall apply to any vehicle which is:

- (1) Located in a bona fide automobile graveyard or junk yard as defined in G.S. § 136-143, in accordance with the Junkyard Control Act, the same being G.S. §§ 136-141 *et seq.*;
- (2) On the premises of an automobile repair business operating legally pursuant to Chapter 153 of this code and the vehicle is being kept pursuant to the operation of that business;
- (3) In an enclosed building;
- (4) Parked on property so that the vehicle cannot be seen from a public street or abutting property;
- (5) In an appropriate storage place or depository maintained in a lawful place and manner by the city; or
- (6) Used on a regular basis for business or personal use.

(B) Individuals actively restoring not more than one special interest vehicle outside of a garage or other enclosed structure are exempt from this regulation provided the vehicle is kept in a rear yard. The vehicle shall be made to be in running condition within one year after being brought onto the premises.

§ 98.04 ABANDONED VEHICLES PROHIBITED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned as the term is defined in § 98.01.

(B) Upon investigation, proper authorizing officials of the city may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

§ 98.05 NUISANCE VEHICLES PROHIBITED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) Upon investigation, the Code Enforcement Officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

§ 98.06 JUNKED MOTOR VEHICLES REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) The Code Enforcement Officer may order the removal of a junked motor vehicle, as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

§ 98.07 REMOVAL OF VEHICLES IN VIOLATION; TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 98.08, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by personal delivery or first class mail. The person who mails the notice shall retain a written record to show the names and addresses to which mailed, and the date mailed. If the names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date, but no sooner than seven days after the notice is affixed. The notice shall state that the vehicle will be removed by the city on a specified date, not sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, the appeal shall be made to the Board of Adjustment in writing, heard at the next regularly scheduled meeting of the Board of Adjustment, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(C) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the city, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform the services for the city. Whenever a vehicle is removed, the authorizing city official shall immediately notify the last known registered owner of the vehicle, and the notice shall include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(D) The city shall attempt to give notice to the vehicle owner by telephone. However, whether or not the owner is reached by telephone, written notice, including the information set forth in divisions (C)(1) through (C)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or the owner's agent.

(E) If the vehicle is registered in the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(F) Whenever an abandoned, nuisance or junked motor vehicle is removed, and the vehicle has no valid registration or registration plates, the authorizing city official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify the owner of the information set forth in divisions (C)(1) through (C)(5) above.

§ 98.08 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

(B) The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(1) Vehicles abandoned on the public streets and highways, for which the City Council hereby determines that immediate removal of the same may be warranted when they are:

- (a) Obstructing traffic;
- (b) Parked in violation of an ordinance prohibiting or restricting parking;
- (c) Parked in a no stopping or standing zone;
- (d) Parked in loading zones;

(e) Parked in bus zones; or

(f) Parked in violation of parking restrictions imposed under the City Code.

(2) Other abandoned or nuisance vehicles, and with respect to abandoned or nuisance vehicles left on city owned property other than the streets and highways, and on private property, the vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner so as to pose a traffic hazard, and vehicles causing damage to public or private property.

§ 98.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive the hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11.

§ 98.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of the fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.

§ 98.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of the vehicle shall be carried out in coordination with the city and in accordance with G.S. §§ 44A-1 *et seq.*

§ 98.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the city will not remove a vehicle from private property if the owner, occupant or lessee of the property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the city from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Code Enforcement Officer. The city may require any person requesting the removal of an abandoned,

nuisance or junked motor vehicle from private property to indemnify the city against any loss, expense or liability incurred because of the removal, storage or sale thereof.

§ 98.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of the vehicle as provided in this chapter.

§ 98.14 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the city any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

Section 2 Amend Section 153.031, DEFINITIONS OF SPECIFIC TERMS AND WORDS, to delete the definitions of the term “junked motor vehicles” and “special interest auto” as follows:

~~(A) **JUNKED MOTOR VEHICLES.** A vehicle that is partially dismantled or wrecked; or cannot be self-propelled or moved in the manner in which it was originally intended to move or is more than five years old and worth less than \$100; or does not display a current license plate.~~

~~(B) **SPECIAL INTEREST AUTO.** An antique or hobby vehicle being actively restored by its owner. The vehicle may not be in running condition but shall be made to be in running condition within one year after being brought onto the premises. A vehicle that is not being actively restored shall be considered a junked motor vehicle.~~

Section 3 Amend Section 153.073, WRECKED OR JUNKED VEHICLES, to delete the section in its entirety as follows:

~~SECTION 153.073 WRECKED OR JUNKED VEHICLES.~~

~~Except as otherwise permitted in this chapter, within any zoning district, no stripped, partly wrecked or junked motor vehicle, or part thereof, shall be permitted to be kept out of doors on any street or lot. Each vehicle on the lot or street must display a current license plate or tag and have a current registration card and inspection sticker as required by the State Department of Motor Vehicles. Individuals actively restoring special interest vehicles inside a garage or other approved enclosed structure are exempt from this regulation. Individuals actively restoring not more than one special interest auto outside of a garage or other enclosed structure are exempt from this regulation provided the auto is kept in a rear yard. A junked motor vehicle shall be considered any type of motorized vehicle that cannot be driven on the road or water.~~

Section 4. That this ordinance shall become effective upon its adoption.

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

Case No. ZTA-3-2019

Applicant: City of Lincolnnton Planning Department

Request: Amend Section 153.031 (Definitions) and Section 153.073 (Wrecked or Junked Vehicles) of the Unified Development Ordinance so that city regulations regarding abandoned and junked vehicles are consolidated into the newly created Abandoned and Junked Vehicle Ordinance

Proposed Consistency and Reasonableness Statement:

The proposed amendment is **consistent** with the adopted Lincolnnton Land Use Plan in that it is not contrary to the goals and objectives outlined by the Plan and **approval of the amendment is reasonable and in the public interest** in that it will consolidate the city's regulations, policies and procedures regarding abandoned and junked vehicles into one ordinance that promotes public health and safety.

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

Case No. ZTA-3-2019

Applicant: City of Lincolnton Planning Department

Request: Amend Section 153.031 (Definitions) and Section 153.073 (Wrecked or Junked Vehicles) of the Unified Development Ordinance so that city regulations regarding abandoned and junked vehicles are consolidated into the newly created Abandoned and Junked Vehicle Ordinance

Proposed Consistency and Reasonableness Statement:

The proposed amendment is **not consistent** with the adopted Lincolnton Land Use Plan in that it is contrary to the goals and objectives outlined by the Plan and **denial of the proposed amendment is reasonable and in the public interest.**

MEMO TO: Planning Board Members

FROM: Planning Staff

SUBJECT: ZTA-4-2019 Application from Lincoln Planning Department requesting amendment to Section 153.057, (Accessory Structures), of the Unified Development Ordinance to modify accessory structure size requirements.

DATE: October 15, 2019

Background

The UDO allows accessory structures such as storage sheds and detached garages on any lot containing a principal residential use subject to a maximum size of one-half the heated ground floor area of the principal building. On a fairly routine basis, property owners are encountering issues with this regulation.

Below are several examples of the regulation applied to hypothetical situations:

- A 50 acre lot that is developed with an 1,100 square foot, one story home may have up to 550 square feet of accessory storage structures.
- A 5,000 square foot lot that is developed with an 1,100 square foot, one story home may have up to 550 square feet of accessory storage structures.
- A 5,000 square foot lot that is developed with a 3,000 square foot, one story home may have up to 1500 square feet of accessory storage structures.

Staff researched the ordinances of several other cities and found that many are basing the maximum area allowed for accessory structures on the size of the parcel rather than on the size of the home. Many cities allow accessory structures to cover up to 30 percent of the required rear yard on the lot. Some of the cities using that standard or a similar standard include Conover, Lenoir, Newton, Salisbury, Spencer and Statesville. Staff in each of those cities indicate that they have not encountered problems or concerns.

Proposed Amendment

The proposed amendment seeks to amend the maximum allowable aggregate area for accessory structures on a lot containing a principal residential use to no more than 30 percent of the required rear yard.

Staff Recommendation

Staff recommends approval of the amendment.

**AN ORDINANCE TO AMEND THE LINCOLNTON UDO TO MODIFY
PROVISIONS RELATED TO ACCESSORY STRUCTURES ON ANY LOT
CONTAINING A PRINCIPAL RESIDNETIAL USE**

Section 1. Amend Section 153.057(D) (Accessory Structures), of the Unified Development Ordinance to modify the provisions related to accessory structure size on any lot containing a principal residential use. Newly adopted language is underlined and **highlighted in yellow** the language to be deleted is struck through and ~~red~~.

§ 153.057 ACCESSORY STRUCTURES.

(A) Within any Residential (R) District, accessory structures shall be located as follows.

(1) Except as herein provided, no portion of any accessory structure shall be located within any front yard. Exceptions are:

- (a) Water wells on any lot; and
- (b) Garages used primarily to house automobiles.

(2) Water wells may be located in any front, side or rear yard.

(3) Automobile garages designed to accommodate no greater than three automobiles may be located in any front yard other than in the required front setback. Any garage shall also observe the minimum dwelling side setback requirement for the zoning district in which it is located.

(4) Accessory structures are allowed in any side yard, provided they observe a setback of ten foot side yard from any side yard lot line.

(5) Accessory structures are allowed in any rear yard provided that all accessory structures observe a ten foot setback from any rear lot line.

(C) On any lot containing a principal residential use, no accessory structure shall be permitted that involves or requires any construction features which are not primarily residential in nature or character; provided, however, this requirement shall not apply in the R-25 District to structures erected for agricultural purposes.

(D) On any lot containing a principal residential use, the aggregate area of all accessory structures (excluding barns, farm-related structures and satellite dish antennas) shall not ~~exceed one-half the heated ground floor area of the principal building~~ **cover more than 30 percent of the required rear yard** nor exceed the height of the principal building. All lots, however, shall be allowed to have an accessory garage of no greater than 500 square feet provided that the garage:

- (1) Meets all required setbacks; and
- (2) Is designed primarily to house automobiles.

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

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

Case No. ZTA-4-2019

Applicant: City of Lincolnton Planning Department

Request: Amend Section 153.057 (Accessory Structures) of the Unified Development Ordinance to modify accessory structure size requirements

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 **approval of the amendment is reasonable and in the public interest** in that it will base the size of accessory structures on the size of the lot on which they are located ensuring the protection of abutting residential areas.

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

Case No. ZTA-4-2019

Applicant: City of Lincolnton Planning Department

Request: Amend Section 153.057 (Accessory Structures) of the Unified Development Ordinance to modify accessory structure size requirements

Proposed Consistency and Reasonableness Statement:

The proposed amendment is **not consistent** with the adopted Lincolnton Land Use Plan in that it is contrary to the goals and objectives outlined by the Plan and **denial of the proposed amendment is reasonable and in the public interest** in that it will maintain the current development restrictions intended to protect nearby properties.

