



**CITY OF LINCOLNTON
PLANNING BOARD
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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, November 19, 2019 Meeting

Present: Änd Lynn, Worth Roberts, Gene Poinsette, Becky Burke, Jerry Hoffman, Jamel Farley, Rebecca Abernethy and Greg McBryde

Absent: n/a

Call to Order

Chairman Änd Lynn called the meeting to order and recognized that all members were present.

Approval of Minutes

Chairman Änd Lynn asked the Board if there were any additions or corrections to the minutes of the October 15, 2019 meeting.

Motion: Greg McBryde made a motion to approve the minutes. Jerry Hoffman seconded. Motion carried unanimously.

CUP-3-2019 – Application for a Conditional Use Permit from Shu Zheng Zhao to allow for an amusement, arcade or game room business located in the Lincoln Station Shopping Center at 906-920 East Main Street (PID 87719).

Laura Elam addressed the board noting the following:

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

Chairman Lynn asked Captain Greene to speak to the public safety concerns that had been expressed at the October Board meeting. Captain Greene made the following points:

- This is not a traditional arcade business that caters to children. It is generally adults that frequent this type of game room.
- The way this type of game room typically operates is that a winning player accumulates credits that typically can be traded for cash.
- The machines themselves are not illegal. However, the way these businesses typically operate with cash payouts is illegal. State gambling laws prohibit cash payouts and limit prizes to a ten dollar value.
- My research indicates that some of the larger operations bring in about \$50,000 a week in cash and smaller operations bring in about \$10,000 a week in cash. The type of clientele attracted to this kind of business could lead to an increase in crime in the area.
- My concern is that if the business operates legally, then it is out of business in 6 months because potential customers have no incentive to play without a cash payout. If it operates illegally, then it is out of business in 6 months because the police department will shut it down.

The applicant was present but does not speak English and did not have an interpreter. The representative of the shopping center indicated that the applicant fully understands the state regulations and intends to operate legally. The lease requires compliance with all local and state regulations and imposes penalties for non-compliance.

There was consensus among Planning Board members that the game room as requested presented public safety concerns but that a traditional arcade similar to Kids Rock would be a positive for the City.

There was discussion with the shopping center representative about whether the applicant and shopping center could work together on a plan for a traditional arcade. The shopping center representative indicated she is already working towards that goal, is in discussions with the applicant about that concept and that the shopping center has adequate space for an arcade. However, she also noted that the applicant had previously stated he would like to start small with one type of game and then expand later if it goes well.

The discussion was left with the shopping center representative indicating she would do some research on locations of game rooms in other cities similar to the one being requested along with information on any subsequent impact on crime in the area and have that information available for the public hearing.

After lengthy discussion, Chairman And Lynn asked if there was a motion. The motion is as follows:

Motion: Jerry Hoffman made a motion to recommend denying the conditional use permit. Gene Poinsette seconded. Motion carried unanimously.

CUP-4-19- Application from Alex Patton/John Pagel of the Hesed House of Hope requesting a conditional use permit to expand the current homeless shelter, located in the R-8 district, by 900 square feet. The Subject property is located at 100 Ann Gaither Court (Parcel ID 59996).

Laura Elam addressed the board noting the following:

SITE AND AREA DESCRIPTION

Hesed House of Hope is requesting amendment of the previously approved conditional use permit for the homeless shelter at 100 Ann Gaither Court. The site is zoned R-8 (Medium Density Residential) and a conditional use permit was approved in 2009 to allow the homeless shelter. Surrounding properties are zoned a combination of R-8, RMF, GMC and G-B.

The subject property is the homeless shelter. Nearby properties to the south are devoted to residential uses. Nearby properties to the north are devoted to commercial uses.

BACKGROUND AND APPROVED SITE PLAN

A conditional use permit was approved in 2009 to allow the homeless shelter. The approved site plan notes the approximately 4,500 square foot shelter, one driveway to East Lincoln Street and a 15-space parking lot.

PROPOSED ADDITION

The applicant proposes a 900 square foot addition to the front of the shelter.

STAFF REVIEW COMMITTEE COMMENTS

The Staff Review Committee had no comments.

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 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.
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 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.

John Pagel introduced himself and spoke about the project.

After some discussion, Chairman And Lynn asked if there was a motion. The motion is as follows:

Motion: Jerry Hoffman made a motion to recommend approving the conditional use permit. Gene Poinsette seconded. Motion carried unanimously.

CUP-5-19- Application from Townhomes at Lincoln Country Club, LLC requesting a conditional use permit to increase the approved number of townhomes from 33 units to 40 units on the 5.25 acre parcel located in the CU-RMF District. The subject property is located on Lincoln Country Club property approximately 650 feet north of Country Club Road approximately 450 feet east of Lithia Inn Road north of the driving Range Facility (Parcel ID 86678)

Laura Elam requested that the petition be tabled for 30 days to allow the applicant time to submit a revised site plan and for the Staff Review Committee to review the revised plan.

Chairman And Lynn asked for a motion to table the case until the December meeting to allow additional time for the applicant to resolve site plan issues. The motion is as follows:

Motion: Jerry Hoffman made a motion to table the conditional use permit application until the December meeting. Gene Poinsette seconded. Motion carried unanimously.

Chairman And Lynn asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

Motion: Jamel Farley made a motion to adjourn. Gene Poinsette seconded. Motion carried unanimously.

Jean Derby