

**LINCOLNTON PLANNING BOARD
AGENDA**

**November 17, 2020
At 4:00 P.M. in City Council Chambers**

1. Roll Call
2. Call to Order
3. Approval of minutes from the October 20, 2020 meeting
4. CU-ZMA 6-20- Application from Sparty Holdings requesting conditional use rezoning from Residential-Office (R-O) and Single and Two-Family Medium Density Residential (R-8) to CU-General Manufacturing and Commercial (CU-GMC).of approximately 4.92 acres for the purpose of operating a manufacturing business. The subject property is located at 215 Bonview Avenue (Parcel ID 00602).
5. CU-ZMA 5-20- Application from Wade Roberts requesting the conditional use rezoning of approximately 1.5 acres of land from Residential-25 (R-25) to Conditional Use General Business (CU-GB) for the purpose of operating a Collision Repair Business. The subject properties are located at 216 Old Lincolnton Crouse Road (Parcel Id 54858, 54861, 54862)
6. ZTA 4-20- Application from Shawna and Kyle Moore requesting a zoning text amendment of section 153.113 Central Business District (CB) and 153.115 General Business District (GB) of the Lincolnton Unified Development Ordinance. The requested change would allow the following uses to be added to the ordinance: Full Art Retail, Permanent Art Studio, and Tattoo Studio.
7. 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; Jamel Farley, Vice-Chair afarley2351@gmail.com; Worth Roberts, worth.roberts@charter.net; Gene Poinsette, poinsetteg@charter.net; Jerry Hoffman, jlskhoffman@charter.net; Rebecca Abernethy, rabernethy21@bellsouth.net; Greg McBryde, Gregory.McBryde@gmail.com; Stephen Silva, soundcity1@ymail.com

Tuesday, October 20, 2020 Meeting

Present: Gene Poinsette, Änd Lynn, Jamel Farley, Jerry Hoffman, Stephen Silva and Greg McBryde

Absent: Rebecca Abernethy and Trenton Mason

Call to Order

Chair Änd Lynn called the meeting to order and recognized that Rebecca Abernethy and Trenton Mason were absent.

Approval of Minutes

Chair Änd Lynn asked the Board if there were any additions or corrections to the minutes of the August 18, 2020 meeting.

Motion: Gene Poinsette made a motion to approve the minutes. Greg McBryde seconded. Motion carried unanimously.

ZMA-5-2020 – Application from Jacob Putnam requesting rezoning of 0.474 acres from Neighborhood Business (N-B) to General Business (G-B)

Laura Elam presented the staff report provided in the agenda packet to the board.

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

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

CU-ZMA-4-2020- Application from Lom Realty requesting conditional use rezoning from Residential-25 (R-25) to CU-General Manufacturing and Commercial (CU-GMC)

Gene Poinsette recused himself from this case.

MEMO TO: Planning Board Members

FROM: City of Lincolnton Planning Department

SUBJECT: CU-ZMA-6-2020- Application from Sparty Holding, LLC
requesting conditional use rezoning from Residential-Office (R-O)
and Single and Two-Family Medium Density Residential (R-8) to
CU-General Manufacturing and Commercial (CU-GMC).

DATE: November 17, 2020

SITE AND AREA DESCRIPTION

The subject property is a 4.92 acre site, made up of three lots located at the intersection of Bonview Avenue and N. Government Street (Parcel ID 00602). One of the three lots is located south of Bonview Avenue and is developed with an approximately 145,571 square foot former mill. The other two lots are located to the north of Bonview Avenue and include gravel parking areas. The building was constructed in 1905 and was associated with approximately ten textile companies before operations ceased.

The subject property is zoned R-O and R-8. Nearby properties are zoned R-O, R-8 and CB. Nearby land uses include single family residential, a church and commercial.

CURRENT ZONING MAP



CURRENT AERIAL VIEW



PROPOSED REUSE OF EXISTING BUILDING

The applicant requests conditional use rezoning in order to reuse and occupy the existing building for a manufacturing business.







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 manufacturing business.

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.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- (1) Building plans must be approved by Lincoln County prior to issuance of building permits.
- (2) Fire Code requirements must be reviewed and approved by the Fire Inspector.

LAND USE PLAN

The Lincolnton Land Use Plan shows this property in the Mixed Use Residential/Commercial planning area. The proposed request is not in compliance with the Land Use Plan. The Land Use Plan would need to be amended as part of the rezoning process.

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.
- (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 Use Plan.

STAFF RECOMMENDATION

Staff recommends the following actions:

- (1) If the applicant satisfactorily proves the findings of fact, recommend approval of rezoning of the property from R-O to CU-GMC.
- (2) If the applicant satisfactorily proves the findings of fact, recommend approval of the Conditional Use Permit for a manufacturing business subject to Staff Review Committee conditions.
- (3) If approved, the land use plan will need to be amended to show the property in the industrial planning area.

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

Case No. CU-ZMA-6-2020

Applicant: Sparty Holdings, LLC

Parcel ID#: 00602

Location: 215 Bonview Avenue

Request: Rezone from R-0 and R-8 to CU-GMC to permit a manufacturing business.

Proposed Consistency and Reasonableness Statement:

The proposed rezoning request **is not consistent** with the Lincolnnton Land Use Plan. However, the property was developed as a manufacturing facility in 1905 and the proposed re-use will be beneficial to the surrounding community and the City. 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-6-2020

Applicant: Sparty Holdings, LLC

Parcel ID#: 00602

Location: 215 Bonview Avenue

Request: Rezone from R-0 and R-8 to CU-GMC to permit a manufacturing business.

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 mixed use. 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 development.

MEMO TO: Planning Board Members

FROM: City of Lincolnton Planning Department

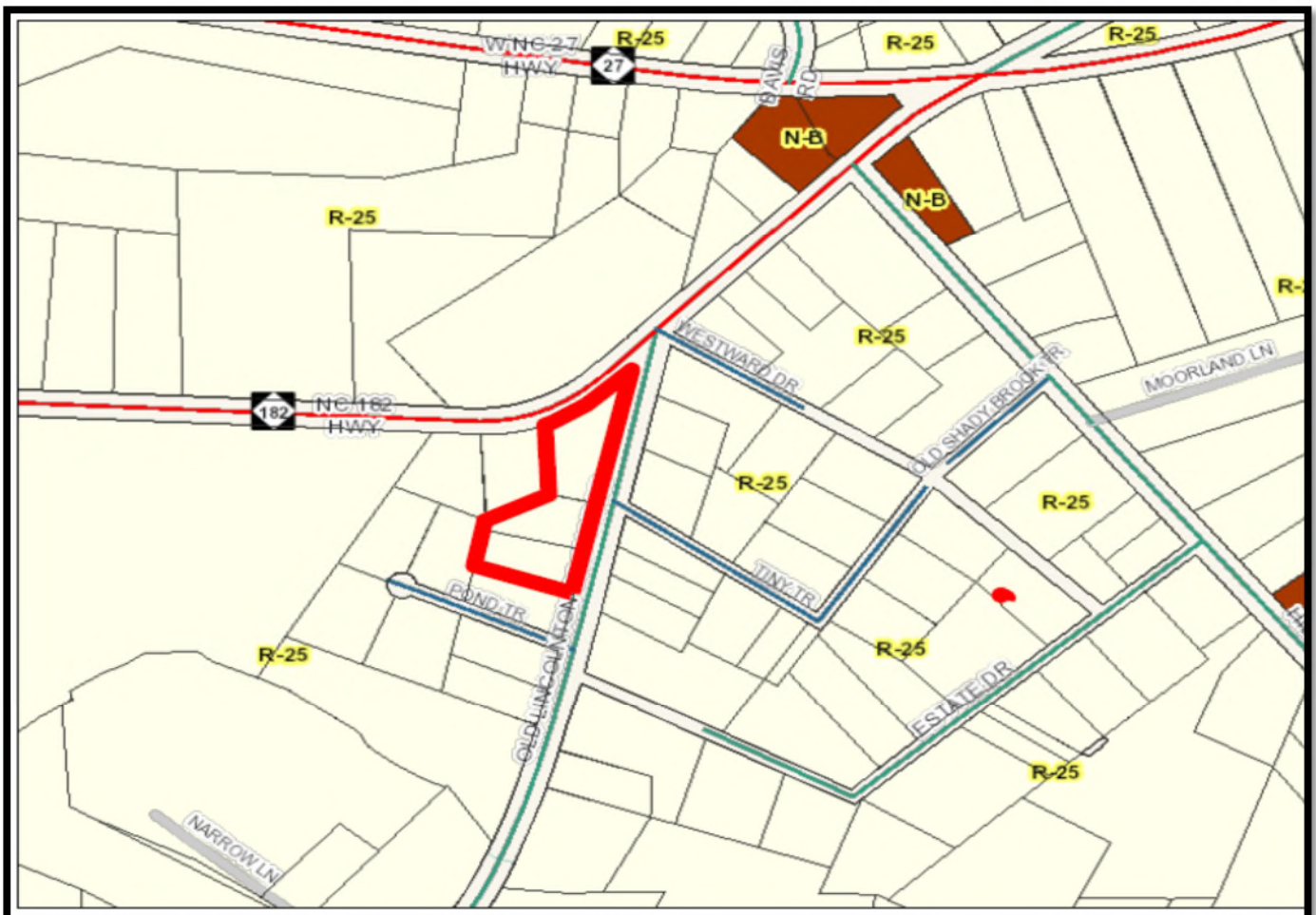
SUBJECT: CU-ZMA-5-2020- Application from Wade Roberts requesting conditional use rezoning from Residential-25 (R-25) to CU-General Business (CU-GB)

DATE: November 17, 2020

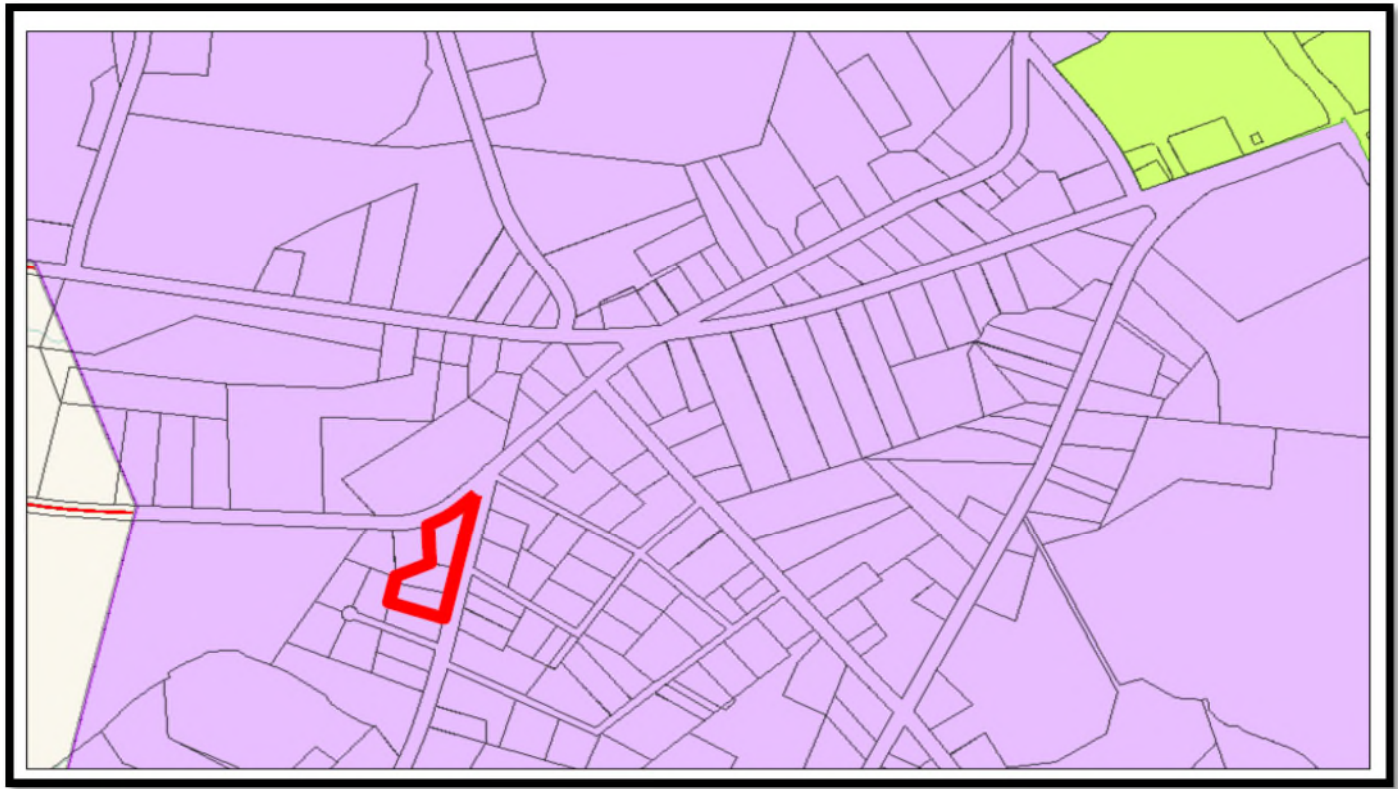
SITE AND AREA DESCRIPTION

The subject property is a 1.5 acre site, made up of three lots, located at the southwest corner of NC Highway 182 and Old Lincolnton Crouse Road (Parcel ID 54858, 54861, and 54862). The property has a 7,500 square foot building located on it along with a gravel parking area and several accessory structures. The building was constructed in 1989, prior to zoning in the area, and has been used as a manufacturing facility. The subject property is zoned R-25. Adjacent land uses are zoned R-25. Land uses in the vicinity of the site are mostly single family residential and a church.

CURRENT ZONING MAP



CITY LIMITS / ETJ BOUNDARY MAP



CURRENT AERIAL VIEW



PROPOSED USE AND REUSE OF EXISTING BUILDING.

The applicant requests conditional use rezoning in order to reuse and occupy the existing 7,500 square foot building for a collision repair business. There are two access points onto the property: one at the front of the building and one to the side with a dock and small garage door. The applicant stated that he will be adding one additional full size garage door to the side of the building, no additional parking will be added, and a fence will be erected for security purposes. No additions will be made to the building.





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 collision repair business.

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 exceptions:

1. Proposed phasing, and approximate completion time of project
2. Proposed number, size, and type of freestanding signs.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- (1) Building plans must be approved by Lincoln County prior to issuance of building permits.
- (2) Fire Code requirements must be reviewed and approved by the Fire Inspector.
- (3) A driveway permit is required from NCDOT. The driveway connections shall be paved, with improved radius and drainage pipe extended as needed for the larger radius.
- (4) Street landscaping, per UDO standards, across the front of the property will be required. The applicant can use 4 large trees per 100 linear feet or 4 small trees and 12 shrubs per 100 linear feet.
- (5) Screening is required, per UDO standards, around the perimeter of the properties, as needed.
- (6) Any outdoor storage of vehicles will be required to be screened with opaque fencing a minimum of six (6) feet in height.
- (7) Hours of operation will be limited to 7:00 a.m. until 6:00 p.m. Monday through Friday.
- (8) Signage will be limited to a non-lighted, 32 square foot ground-mounted sign not exceeding 8 feet in height and wall signage not exceeding 32 square foot per wall.

LAND USE PLAN

The Lincolnton Land Use Plan shows this property in the Rural Residential Planning area. This is not in compliance with the Land Use Plan. The Land Use Plan would need to be amended as part of the rezoning process.

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 of the items 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 Use Plan.

STAFF RECOMMENDATION

Staff recommends the following actions:

- (1) If the applicant satisfactorily proves the findings of fact, recommend approval of rezoning of the property from R-25 to CU-GB.
- (2) If the applicant satisfactorily proves the findings of fact, recommend approval of the Conditional Use Permit for a collision repair business subject to Ordinance requirements and the Staff Review Committee conditions.
- (3) If approved, the land use plan will need to be amended to show the property in the mixed use residential/commercial area.

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

Case No. CU-ZMA-5-2020

Applicant: Wade Roberts

Parcel ID#: 54858, 54861, and 54862

Location: Old Lincolnton Crouse Road

Request: Rezone from R-25 to CU-GB to permit a collision repair business

Proposed Consistency and Reasonableness Statement:

The proposed rezoning request **is not consistent** with the Lincolnton Land Use Plan. However, the property has been used for a manufacturing facility for the last 31 years and could continue with this use. Therefore, approval of the proposed amendment is reasonable and in the public interest provided all the conditions in the staff review committee comments are met.

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

Case No. CU-ZMA-5-2020

Applicant: Wade Roberts

Parcel ID#: 54858, 54861, and 54862

Location: Old Lincolnton Crouse Road

Request: Rezone from R-25 to CU-GB to permit a collision repair business.

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 Rural Residential. 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 commercial development.

MEMO TO: Planning Board Members

FROM: Lincolnton Planning Department

SUBJECT: ZTA-4-2020 Application from Shawna and Kyle Moore to allow “Tattoo Studio” as a permitted or conditional use in the CB (Central Business) and GB (General Business) zoning districts.

DATE November 17, 2020

Background

The city’s zoning regulations do not allow tattoo studios in any zoning district.

Request

The applicant is requesting amendment of the UDO to allow tattoo studios in the Central Business (CB) and the General Business (GB) districts as either a permitted use or a conditional use.

Research

Staff researched the ordinances of several other cities in North Carolina and found a wide range of regulations regarding tattoo studios:

- Some cities do not allow tattoo studios in any location. (Davidson, Lincolnton, Marvin, Weddington).
- Some cities do not allow tattoo studios in their downtowns but do allow them in other locations. (Concord, Gastonia, Morganton, Newton, Troutman).
- Some cities allow tattoo studios in their downtowns and/or other areas but subject to a conditional use permit and/or limitations such as separation standards. (Mooresville, Shelby)
- Some cities allow tattoo studios in all commercial zoning districts. (Conover, Hickory, Huntersville)

A summary of the results of the research is attached.

Staff Recommendation

If the ordinance is amended to allow tattoo studios, Staff recommends one of the following options:

1. Limit the amendment to the GB district only or
2. Allow tattoo studios as a permitted use in the GB district and subject to City Council approval of a conditional use permit in the CB district.

If the ordinance is amended, the following definitions of the terms “tattoo studio” and “salon” should be added so that the difference between a tattoo studio and a salon that offers a range of beauty services including permanent makeup is clear:

- **Salon.** An establishment where people go to receive beauty treatments, and/or purchase beauty products. These treatments primarily include one or more of the following: 1) cutting, trimming, shampooing, weaving, coloring, waving, or styling hair; 2) providing facials; 3) applying makeup (including permanent makeup, but not Body Art); and 4) providing nail care services, such as manicures, pedicures, and nail extensions. Tattoo studio shall not be included under this definition.
- **Tattoo Studio (Body art).** A facility licensed by the North Carolina Department of Public Health to administer body art, including body piercing, artistic and cosmetic tattooing. See the following subsection definitions for clarity:
 1. **Body art:** Art that is made on the human body, including body piercing, artistic and cosmetic tattooing.
 2. **Body Piercing:** The act of penetrating the skin to make, generally permanent in nature, a hole, mark, or scar. Body piercing does not include practices that are considered medical procedures or the puncturing of the outer perimeter or the lobe of the ear using a pre-sterilized, single use stud and clasp ear piercing.
 3. **Tattooing:** any method of placing designs, letters, scrolls, figures, symbols or any other marks upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

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

Case No. ZTA-4-2020

Applicant: City of Lincolnton Planning Department

Request: Amend Section 153.031 (Definitions), Section 153.113 (Central Business District) and Section 153.115 (General Business District) of the Unified Development Ordinance to allow tattoo studios in the Central Business and General Business districts.

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..**

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

Case No. ZTA-4-2020

Applicant: City of Lincolnton Planning Department

Request: Amend Section 153.031 (Definitions), Section 153.113 (Central Business District) and Section 153.115 (General Business District) of the Unified Development Ordinance to allow tattoo studios in the Central Business and General Business districtst.

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.**

CITY OF LINCOLNTON
PETITION FOR ZONING TEXT CHANGE

Date of Petition 10/16/2020

Petition Number _____

1. Petitioner's Name Shawna Lee Moore & Kyle Travis Moore

Address 429 Cedar Grove Church Rd Vale NC, 28168

Phone 704-437-4218

(Include name, address, and phone number of any co-petitioners.)

2. State the exact nature of text change desired. Please make references to sections, page number, etc. Please make specific references to language that you desire deleted and/or language you desire to be added or to be put in place of deleted language. Interrelated changes may be made a part of the same application. Any change that is not interrelated to this change shall require a separate application. An example of an interrelated change is where a change in one section causes the need to change another section.

I would like to petition the text "Full Art Retail", " Permanent Art Studio " or "Tattoo Studio" be added to the Code of Ordinances. To Read As Followed.

*153.113 CB Central Business District

(A)Permitted Uses

- (1) Retail uses

(ddd) Full Art Retail

- (2) Services

(aa) Permanent Art Studio , and or Tattoo Studio(B) Conditional Uses

- (2) Services

(r) Permanent Art Studio , and or Tattoo Studio

*153.115 G-B General Business District

(A)Permitted Uses

- (1) Retail uses

(qqq) Full Art Retail

- (2) **Services**

(bbb) Permanent Art Studio , and or Tattoo Studio(B) Conditional Uses

- (2) **Services**

(l) Permanent Art Studio , and or Tattoo Studio

I own and operate a very well established Tattoo Studio in Dallas Nc. We have very high standards and feel we would be an asset to Lincolnton. We always put our community first and value the people in it. From hosting blood drives to giving away art supplies during the pandemic we focus on the positive ways to make a difference and use our platform for good. Our business will not only create more customers adding to the foot traffic for business downtown but it will generate out of state customers to shop around when they fly in from all over the United states to get their pieces from my artist. We have been voted best shop in Gaston county for the last five years and running. We run a very high end style of shop and do not allow or condone anything other than professional business. We have worked incredibly hard to get as far as we have and we feel the sky's the limit. I am a lincoln county girl , born and raised and I deserve a fair opportunity to open my business in the town I love. I want to continue my passion of permanent makeup and permanent art in a building on main street. We now have two locations more than willing and excited to be a part of this movement. Our ultimate goal would be 214 E Main , beside the once before dance studio(also where I took my sister growing up) The space is ideal to house myself and three other artists. We would host multiple art nights to get the community involved and educated on this art form. We have met with the owner Terry and he is more than open and inclusive to our business being in his building. I have deep roots in this community and all I want is to have the fair opportunity to give back and provide the best , cleanest , most sterile services to my clients.

Let's be progressive ! The Tattoo industry is the 6th fastest growing American Industry, it's a quick moving train and it's going to come sometime or another. Why not allow the Best Shop Locally to be the pioneer studio for this town and join the diverse business community we already have. If a concern is that too many shops would be trying to come in,(which we don't foresee that) we can require a non compete clause that would give us , for example, a five mile radius. No other shops could come in unless they are that far away. We are open to hear ideas, please give us feedback but I'm not giving up. I love my business and you will too, once you get to know us. We have the support and the people of Lincolnton want this to happen. Americans spend 1.65 billion in Tattoos yearly, look at the amount of revenue we could bring to lincolnton. Thank you for your time and consideration of this Text Change.

."Change can be scary, but you know what's even scarier? Allowing fear to stop you from Growing , Evolving , and progressing."

-Mandy Hale

Shawna Moore

SIGNATURE OF APPLICANT__Shawna Moore DATE 10/16/2020

Application Processing Fee: \$200 Checks should be made payable to City of Lincolnton
Petition for zoning text change