

LINCOLNTON PLANNING BOARD
AGENDA
December 15, 2020
At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of minutes from the November 17, 2020 meeting
4. Application from Lincolnton Planning Department requesting amendment to the Subdivision Regulations, Section 153.370 through Section 153.999 of the Unified Development Ordinance to conform to recently adopted state legislation and to amend a provision related to subdivisions in the R-25 zoning district.
5. Adjournment



**CITY OF LINCOLNTON
PLANNING BOARD
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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, November 17, 2020 Meeting

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

Absent: N/A

Call to Order

Chair Änd Lynn called the meeting to order and all members were present.

Approval of Minutes

Chair Änd Lynn asked the Board if there were any additions or corrections to the minutes of the October 20, 2020 meeting.

Motion: Gene Poinsette made a motion to approve the minutes. Jamel Farley seconded. Motion carried unanimously.

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).

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: Jamel Farley made a motion to recommend approval. Rebecca Abernethy seconded. Motion carried unanimously.

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)

Mark Carpenter presented the staff report provided in the agenda packet to the board.

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

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

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.

Mark Carpenter presented the staff report provided in the agenda packet to the board.

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

Motion: Greg McBryde made a motion to recommend approval. Jerry Hoffman seconded. Motion carried unanimously.

Chair And Lynn 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. Jamel Farley seconded. Motion carried unanimously.

Jean Derby

PB112020 minutes

MEMO TO: Planning Board

FROM: City of Lincoln Planning Staff

SUBJECT: Application from Lincoln Planning Department requesting amendment to the Subdivision Regulations, Section 153.370 through Section 153.999 of the Unified Development Ordinance to conform to recently adopted state legislation and to amend a provision related to subdivisions in the R-25 zoning district.

DATE: December 15, 2020

BACKGROUND

In 2019 and 2020, the North Carolina General Assembly adopted updated and consolidated state planning and development regulation statutes commonly referred to as “Chapter 160D.” The new Chapter 160D consolidates and relocates the current statutes for local planning and development regulations that are now located in Chapters 153A and 160A.

All city and county zoning, subdivision, and other development regulations will need to be updated by that date to conform to the new statutes.

Chapter 160D is effective now but local governments have until July 1, 2021 for the development, consideration and adoption of necessary amendments to conform local ordinances to the new statutes.

PROPOSED TEXT AMENDMENT

Chapter 160 D Changes

The City’s Subdivision regulations require only updating of the references to state enabling legislation in order to conform with Chapter 160D.

Change Related to Subdivisions in R-25

This proposed amendment also includes a request to eliminate the current requirement for approval of a conditional use permit in order to approve subdivisions that include over 35 lots in the R-25 district.

REQUIREMENTS OF SUBDIVISION REGULATIONS FOR PRELIMINARY PLAT APPROVAL

The current requirements outlined by the Subdivision Regulations for preliminary plat approval are as follows:

- Preliminary plat approval of subdivisions containing 250 lots or less is made by the Planning Board.
- Preliminary plat approval for subdivisions containing over 250 lots is made by City Council.
- Subdivisions containing over 35 lots and located in the Residential-25 (R-25) zoning district shall automatically be reviewed as a Planned Residential Development. (A Planned Residential Development requires approval of a conditional use permit by City Council).

From staff's perspective, requirement of a conditional use permit for approval of a subdivision that otherwise meets all of the standards of the zoning district within which it is located is unnecessary and inadvisable.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment.

**An Ordinance to
Amend the
City of Lincoln
Subdivision Regulations**

Section 1. Amend Section 153.370 through 153.999, Subdivision Regulations, as follows. Newly adopted language is underlined and **highlighted in yellow**. Language to be deleted is ~~struck through~~ and ~~red~~.

§ 153.370 AUTHORITY, PURPOSE AND CONFLICT WITH OTHER LAWS.

(A) *Authority.* Subdivision provisions enacted herein are under the authority of G.S. § ~~160A-372~~. **160D-804.**

§ 153.379 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.

Pursuant to G.S. § ~~160A-373~~, **160D-803**, a final plat shall be prepared, approved and recorded pursuant to the provisions of these regulations whenever any subdivision of land takes place, except as herein provided.

(Prior UDO, § 17.9) Penalty, see § 153.999

§ 153.380 APPROVAL PREREQUISITE TO PLAT RECORDATION.

Pursuant to G.S. § ~~160A-373~~, **160D-803**, no final plat of a subdivision within the planning jurisdiction of the city as established in § 153.015 of these regulations shall be recorded by the County Deeds Office until it has been approved as provided herein.

(Prior UDO, § 17.10) Penalty, see § 153.999

§ 153.384 PRELIMINARY MAJOR SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) Preliminary and final plat approval shall be required for all major subdivisions. Preliminary plat approval of all major subdivisions containing 250 lots or less may be made by the Planning Board. Final approval of all preliminary plats containing over 250 lots or subdivisions that require the placement of oversized utility lines may only be made by the City Council. ~~Any subdivision in excess of 35 lots and located in the Residential-25 (R-25) zoning district shall automatically be reviewed as a planned residential development (PRD) as outlined in §§ 153.215 through 153.220 of this chapter. (Procedures for accommodating PRDs in the subdivision process are also outlined in § 153.386)~~

§ 153.386 PLANNING UNIT DEVELOPMENTS (PUDs) AND PLANNED RESIDENTIAL DEVELOPMENTS (PRDs).

(A) To accommodate the difference between traditional lot-by-lot subdivisions and PUDs/PRDs, the city may waive or modify the design standards of these regulations and incorporate design standards applicable only to planned developments as set forth in §§ ~~153.215 through 153.220~~ **153.123 through 153.127** of this chapter. The waivers or

modifications shall not be subject to the approval procedures outlined in § ~~153.378~~ of these regulations. To be reviewed under the PRD/PUD procedures a development must meet the criteria set forth in §§ ~~153.215 or 153.216~~ 153.123 or 153.124 of this chapter. ~~Any subdivision in excess of 35 lots and located in the Residential-25 (R-25) zoning district shall automatically be reviewed as a planned residential development (PRD).~~

(B) The subdivision design standards may be waived or modified for PRDs provided that the intent of these regulations is not mollified or lessened and provided that sufficient proof is given substantiating the adequacy of the attentive design. Planned unit developments and planned residential development shall follow the review procedures and development standards as set forth in §§ ~~153.215 through 153.220~~ 153.123 through 153.127 of this chapter.

§ 153.999 PENALTY.

(D) In addition to the other remedies cited in this chapter for the enforcement of its provisions, and pursuant to G.S. §§ ~~160A-175, 160A-365, 160A-375 and 160A-389~~, 160D-807 and 160D-404, the regulations and standards in this chapter may be enforced through the issuance of civil penalties by the Administrator. Additionally, and pursuant to the authority granted by G.S. § ~~160A-175 (b)~~, 160D-404, the city declares that the violation of the aforementioned civil penalty provisions shall not be a misdemeanor or infraction as provided in G.S. § 14-4.

(H) Pursuant to G.S. § ~~160A-389~~, 160D-404(c), if a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter or other regulation made under authority conferred thereby, the city in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

(I) Pursuant to G.S. § ~~160A-175~~, 160D-807, the city may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

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