LINCOLNTON PLANNING BOARD
AGENDA
March 16, 2021
At 4:00 P.M. in City Council Chambers

1. Roll Call

2. Call to Order

3. Approval of minutes from the February 16, 2021 meeting

4. CZ-1-2021- Request from Workforce Solutions, LLC to rezone 6.722 acres from PB and RMF to the Planned Residential District (PRD) to allow for a planned residential multifamily development consisting of 72 units. The subject property is located at 2350 North Aspen Street (Parcel ID 21600 and 21599).

5. CZ-2-2021-Request from Lance Herman to rezone 1818 North Aspen Street from PB to Highway Commercial (HC) District to allow a Tattoo Studio. The subject property is located at the Colonial Village Shopping Center, 1818 North Aspen Street (Parcel ID 00468)

6. Updates to Rules of Procedure to conform to recently approved changes to the UDO

7. Adjournment

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

BOARD MEMBERS: Jamel Farley, Chair afarley2351@gmail.com; Greg McBryde,Vice-Chair, Gregory.Mcbryde@gmail.com; Gene Poinsette, poinsetteg@charter.net; Jerry Hoffman, jlskhoffman@charter.net; Rebecca Abernethy, rabernethy21@bellsouth.net; Stephen Silva, soundcity1@ymail.com; Trent Mason, trentonmason@gmail.com; Joy Smith, joysmithmsnrn@gmail.com

Tuesday, February 16, 2021 Meeting

Present: Gene Poinsette, Jamel Farley, Jerry Hoffman, Rebecca Abernethy, Greg McBryde, Trent Mason and Joy Smith

Absent: Stephen Silva

Call to Order

Chair Jamel Farley called the meeting to order and recognized that Stephen Silva was absent.

Approval of Minutes

Chair Jamel Farley asked the Board if there were any additions or corrections to the minutes of the January 16, 2021 meeting.

Motion: *Gene Poinsette made a motion to approve the minutes. Rebecca Abernethy seconded. Motion carried unanimously.*

ZMA-1-2021 Application from Tom Engle requesting the rezoning of 3.67 acres from R-25 to GB

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

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

Motion: *Gene Poinsette made a motion to recommend approval. Trent Mason seconded. Motion carried unanimously.*

ZTA-1-2021 Application from Lincolnton Planning Department requesting amendment of the City of Lincolnton Unified Development Ordinance, Chapter 153 of the City Code, to comply with recently adopted state enabling legislation (Chapter 160D).

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

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

Motion: *Gene Poinsette made a motion to recommend approval. Rebecca Abernethy seconded. Motion carried unanimously.*

Chair Jamel Farley asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

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

_____

Jean Derby

PB22021 minutes

MEMO TO: Planning Board Members

FROM: City of Lincolnton Planning Department

SUBJECT: CZ-1-2021 Request for rezoning of approximately six acres from PB and RMF to PRD from Workforce Solutions

DATE: March 16, 2021

SITE AND AREA DESCRIPTION

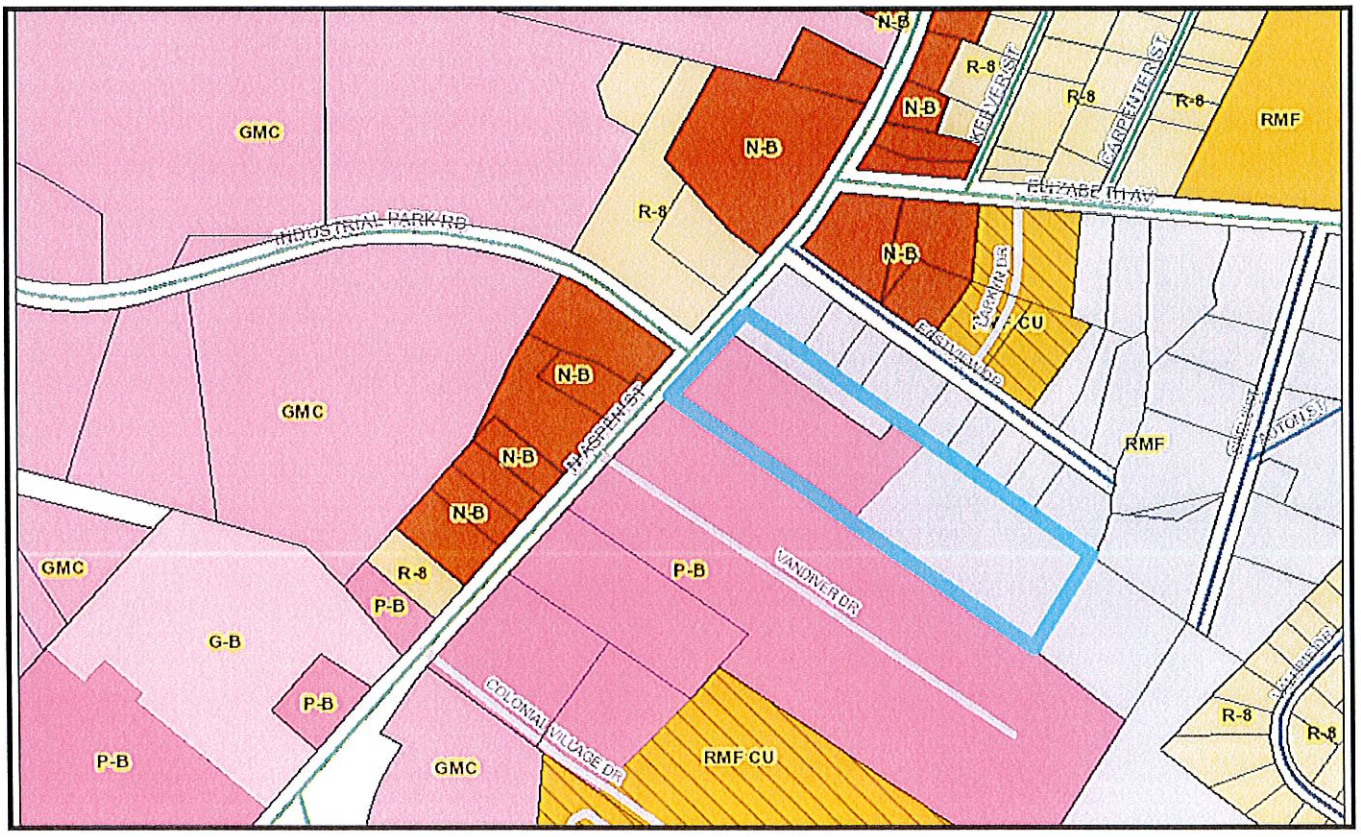
The applicant is requesting a conditional rezoning from PB (Planned Business) and RMF (Residential Multi Family) to the Planned Residential District (PRD) in order to allow a multifamily residential development consisting of 72 units.

The subject property consists of two (2) lots located at 2350 North Aspen Street (Parcel ID 21600 and 21599). The property currently is developed with two single family dwellings.

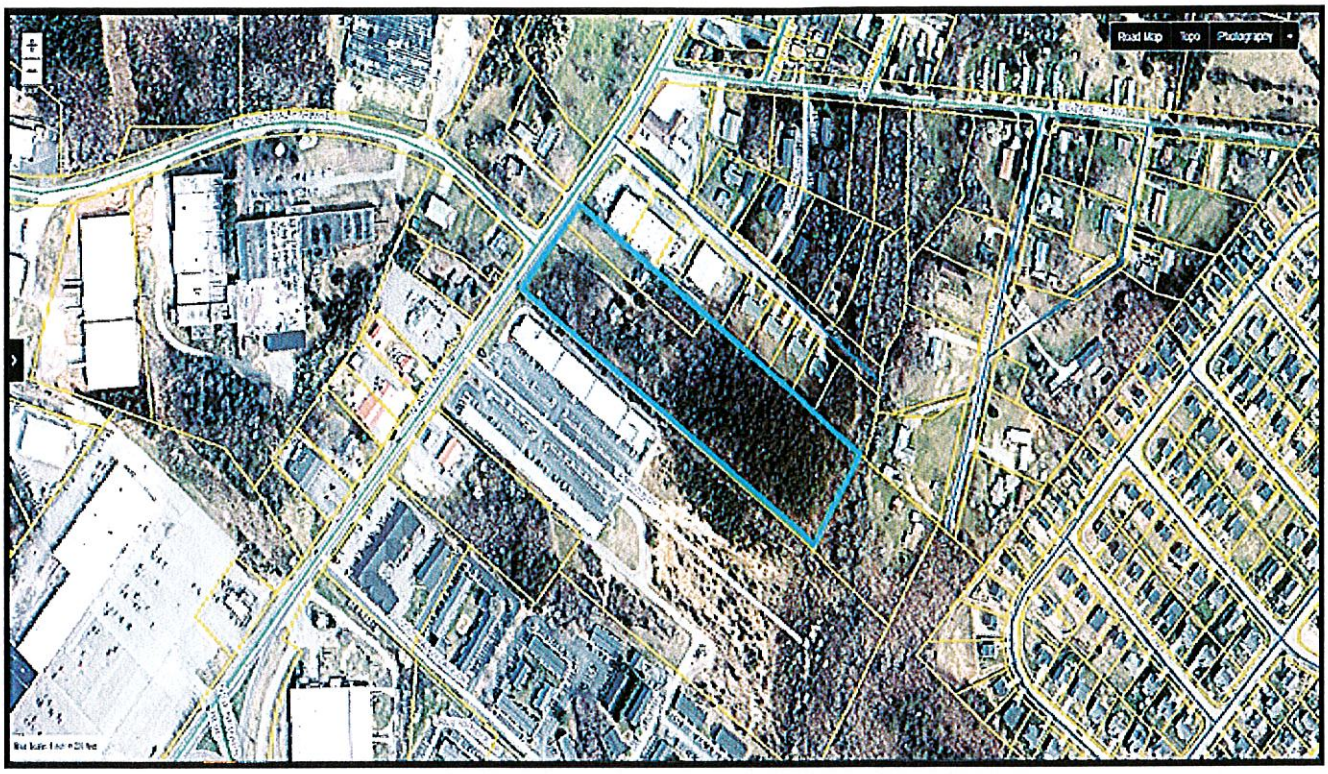
The majority of the site is located outside of the city limits but within the ETJ. A small portion of the site is located in the city limits.

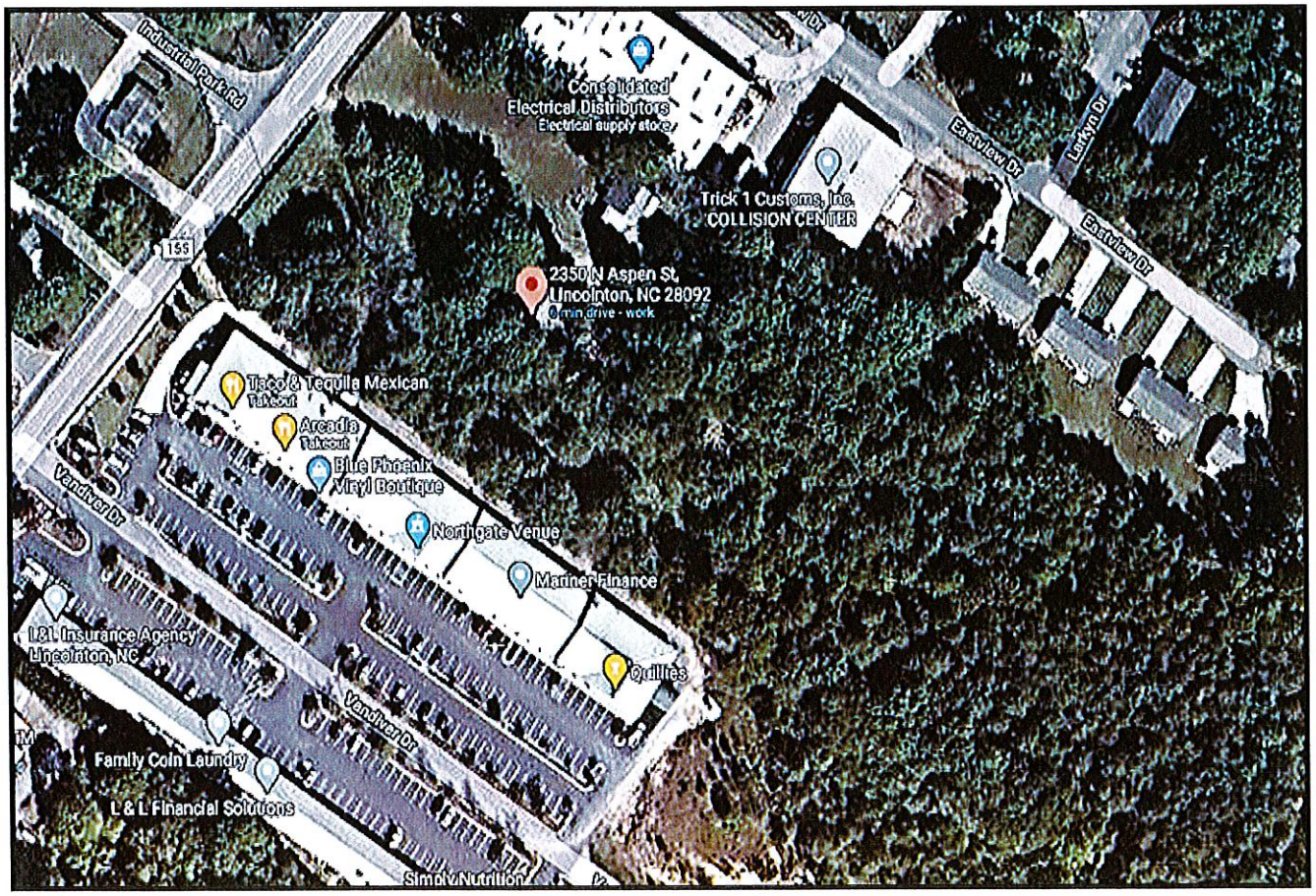
The adjacent properties are primarily commercial or multifamily with several single family dwellings in the vicinity. Zoning around the site is a mixture of commercial and residential.

CURRENT ZONING MAP

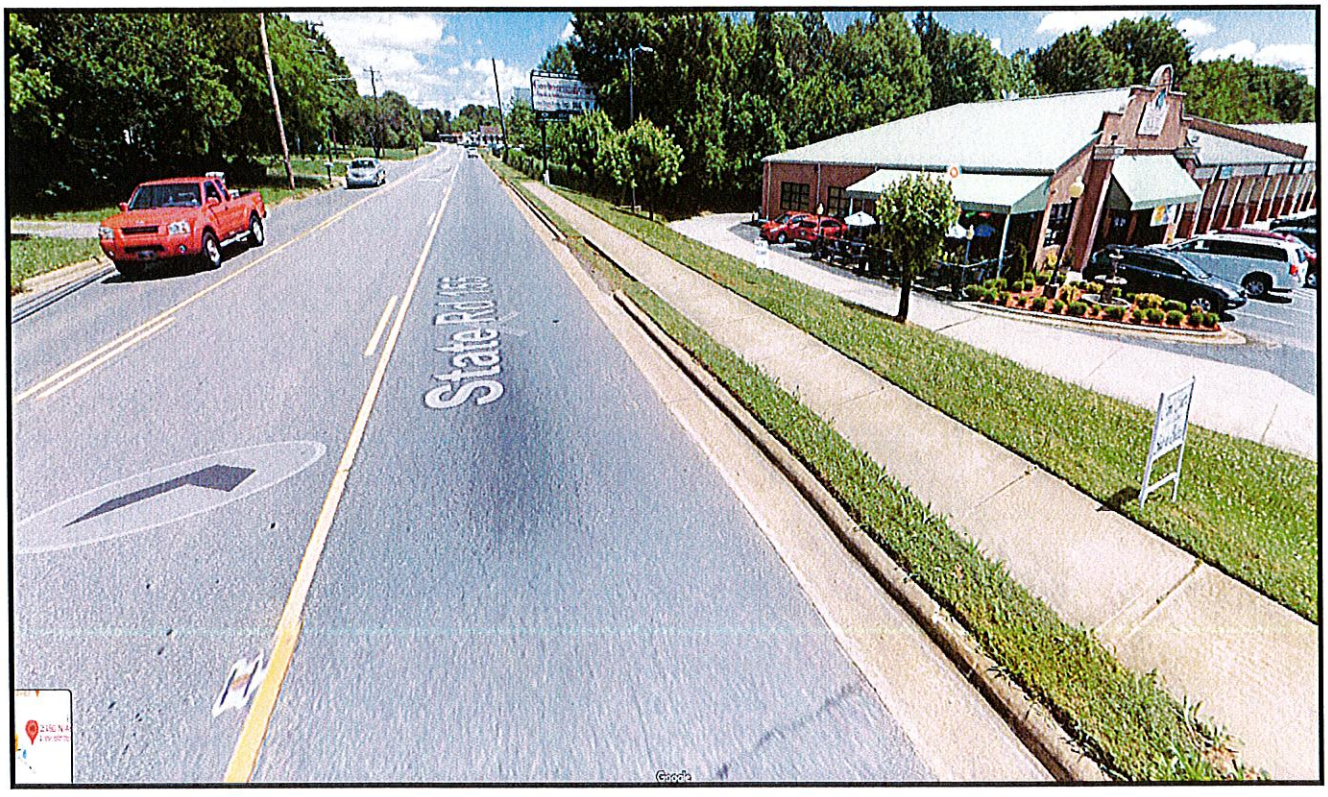


AERIAL VIEWS

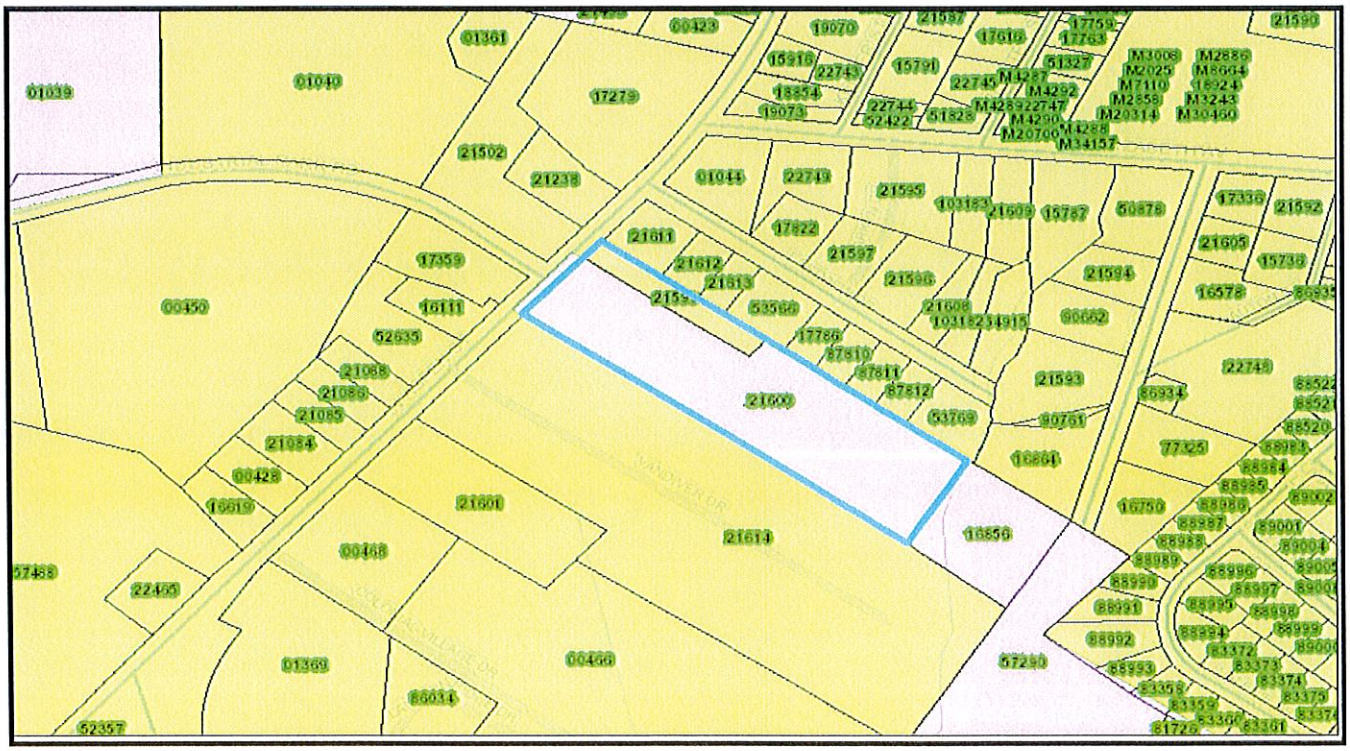




STREET VIEWS

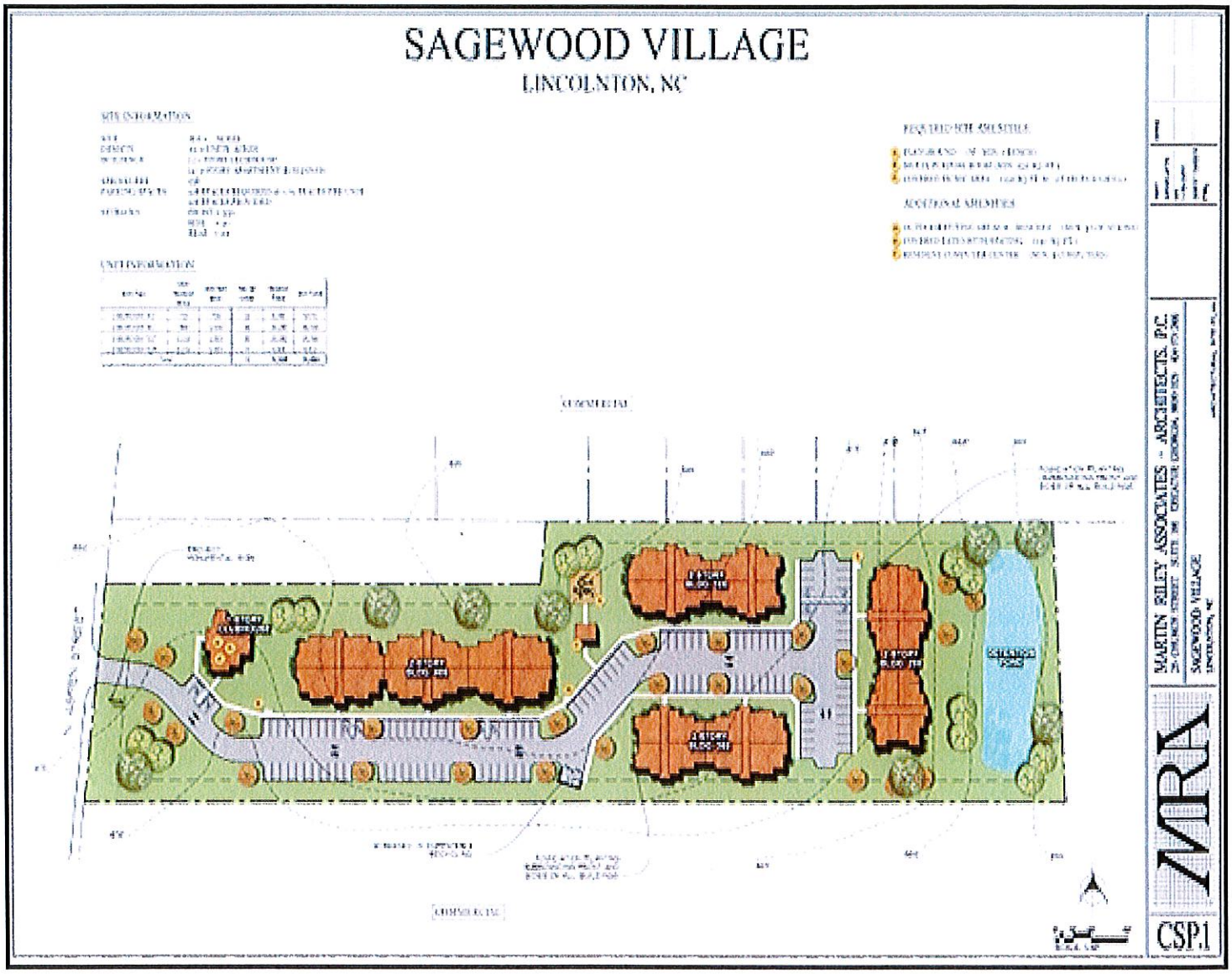


CITY LIMITS / ETJ BOUNDARY MAP



PROJECT DETAILS

- The project is approximately six (6) acres in size with 12 units per acre for a total of 72 units.
- There will be one entrance into the site from North Aspen Street.
- There will be four (4) two-story multifamily buildings, a one story clubhouse, and site amenities including a playground, picnic area, covered patio, and sitting area with benches.
- The applicant's site plan is below.



LAND USE PLAN

The Land Use Plan shows the property in the Mixed Use Residential Commercial Planning area. The rezoning of the property to Planned Residential (PRD) District would comply with the land use plan in staff's opinion.

CONDITIONAL ZONING

Because this is a proposed rezoning to a conditional zoning district, if the request is approved, the property could only be used for the specified use in accordance with the approved site plan. Any major modification or change in use would require approval by the City Council through a public hearing process.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

1. Prior to final approval, an engineered plan meeting all requirements for planned residential development and UDO requirements must be submitted to and approved by staff.
2. A maximum of 70% of the site can be impervious surface, due to water supply watershed restrictions. Detailed calculations must be given.
3. A sidewalk constructed to City of Lincolnton specifications must be constructed along the entire frontage along North Aspen Street.
4. The City Utility Department is requiring a master meter for the project and the property owner will be responsible for all utility lines within the project boundaries and to the tap.
5. The applicant will be responsible for making the utility tap.
6. The sewer line located adjacent to the detention pond needs to have 20 foot of separation between the line and the pond.
7. City Fire Inspector will need to review and approve all plans prior to development.
8. Detailed landscaping and screening plan will need to be provided.
9. NCDOT driveway permit required, access should line up with Industrial Park Road, need to utilize a street type connection with a minimum 30 foot radii., encroachment agreement may be needed for sidewalks and utility connections, and proposed monument sign should be outside of 10' x 70' sight triangles.
10. Erosion control plans must be submitted and approved by Lincoln County Soil and Erosion prior to development.
11. Building plans must be submitted and approved by Lincoln County Inspection prior to development.

STAFF RECOMMENDATION

Staff recommends the following actions:

- approval of the request for rezoning from PB and RMF to the Planned Residential district (PRD) subject to the staff review committee comments being made conditions of approval,

- approval of the statement of consistency for approval of the rezoning request, and

- the rezoning being effective upon receipt by the Zoning Administrator of written agreement from the applicant and property owner to abide by the conditions of approval.

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

Case No. CZ-1-2021

Applicant: Workforce Solutions

Parcel ID#: 21600 and 21599

Location: 2350 North Aspen Street

Request: Rezone from PB and RMF to PRD for the use of the property for 72 multifamily units

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential Commercial Planning Area. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. 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. CZ-1-2021

Applicant: Workforce Solutions

Parcel ID#: 21600 and 21599

Location: 2350 North Aspen Street

Request: Rezone from PB and RMF to PRD for the use of the property for 72 multifamily units

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential Planning Area. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. However, the proposed use is not viewed as desirable in the area and therefore, **denial of the proposed amendment is reasonable and in the public interest.**

MEMO TO: Planning Board Members

FROM: City of Lincolnton Planning Department

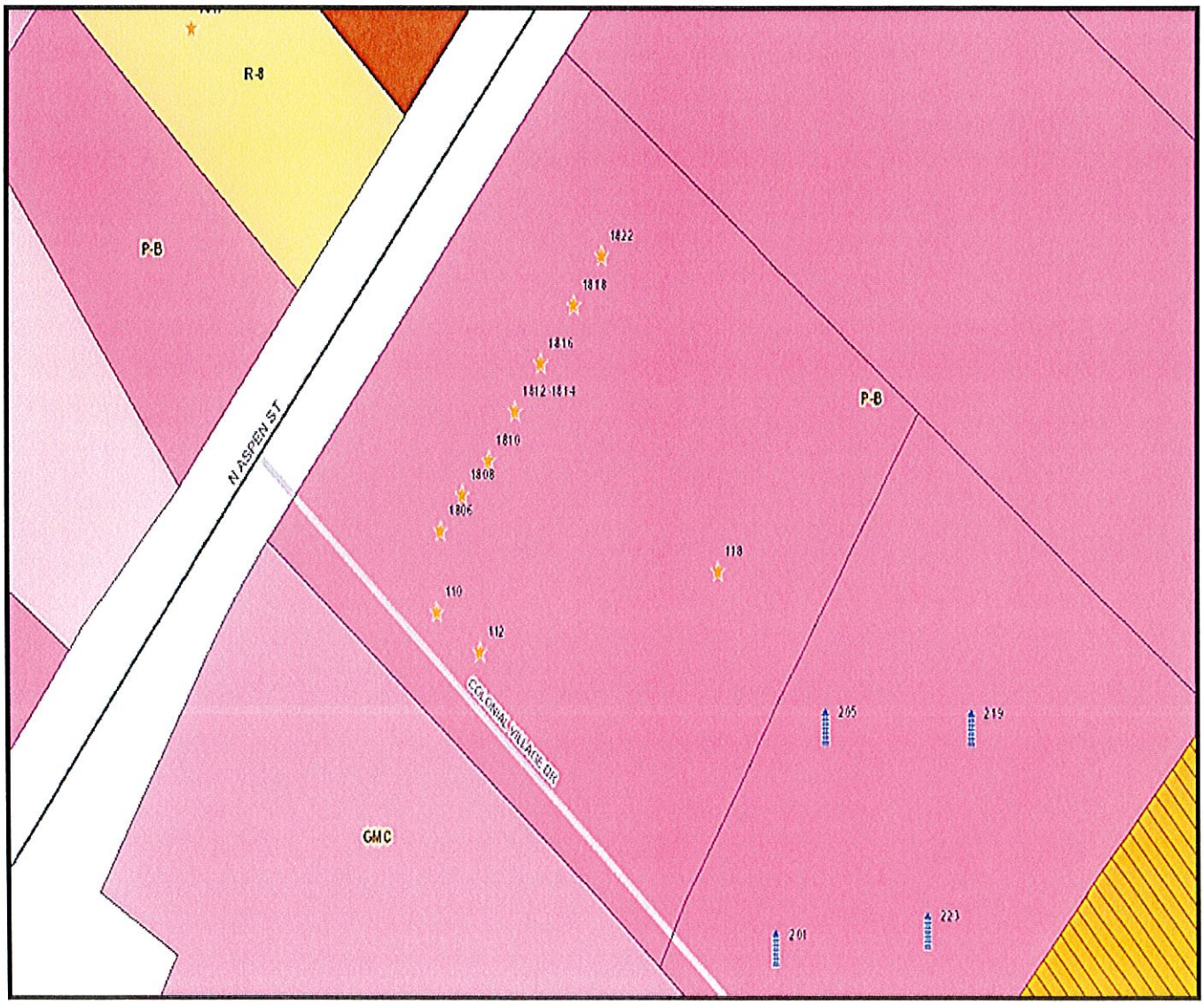
SUBJECT: CZ-2-2021, Request for Rezoning from PB to HC(CD) from Lance Herman

DATE: March 16, 2021

SITE AND AREA DESCRIPTION

The applicant is requesting a conditional rezoning from PB (Planned Business) to HC(CD) (Highway Commercial Conditional District) in order to allow a tattoo studio at 1818 North Aspen Street in the Colonial Village Shopping Center (Parcel ID 00468). The site is a 900 square foot commercial space located within the shopping center and has been used for various retail and service uses over the years. The site has ample parking and is surrounded by commercial and multifamily uses. No changes will be made to the exterior of the site.

CURRENT ZONING



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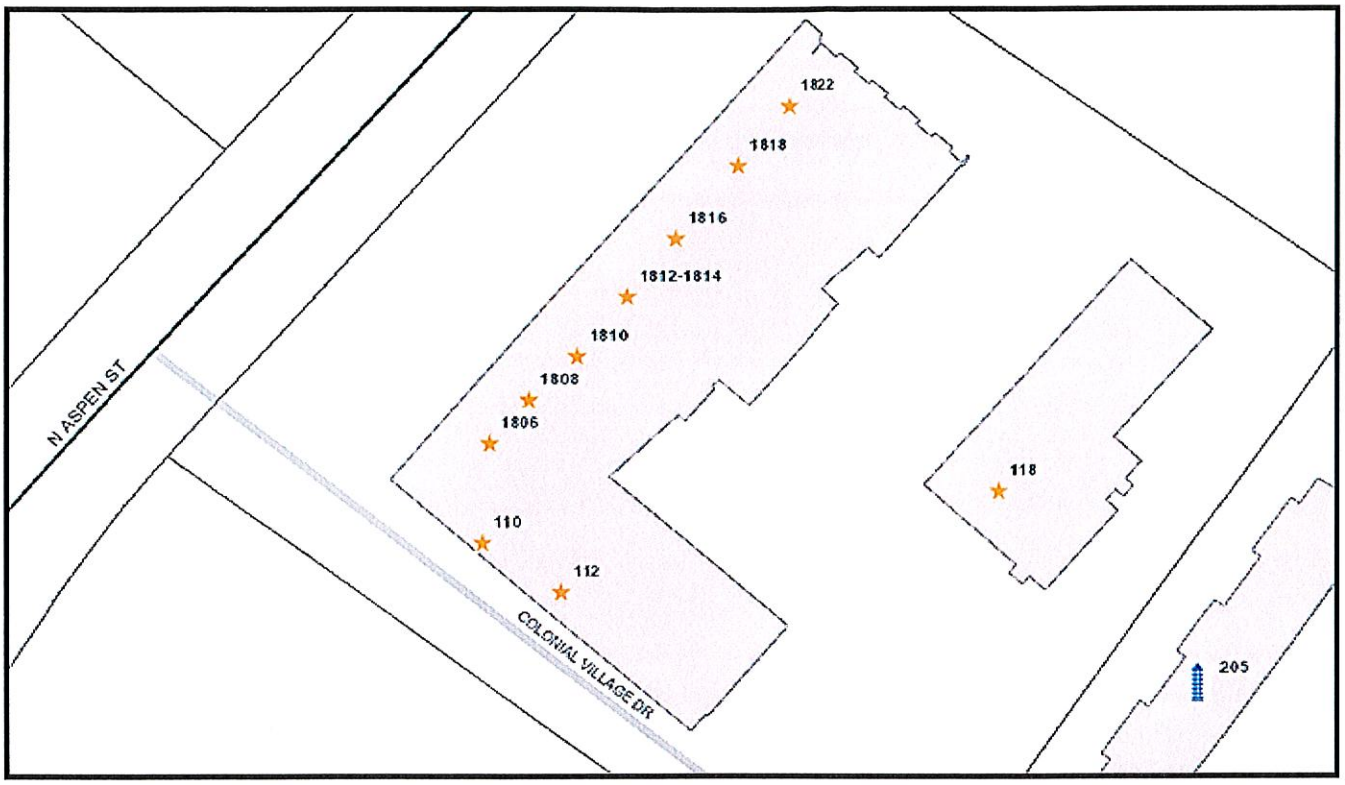

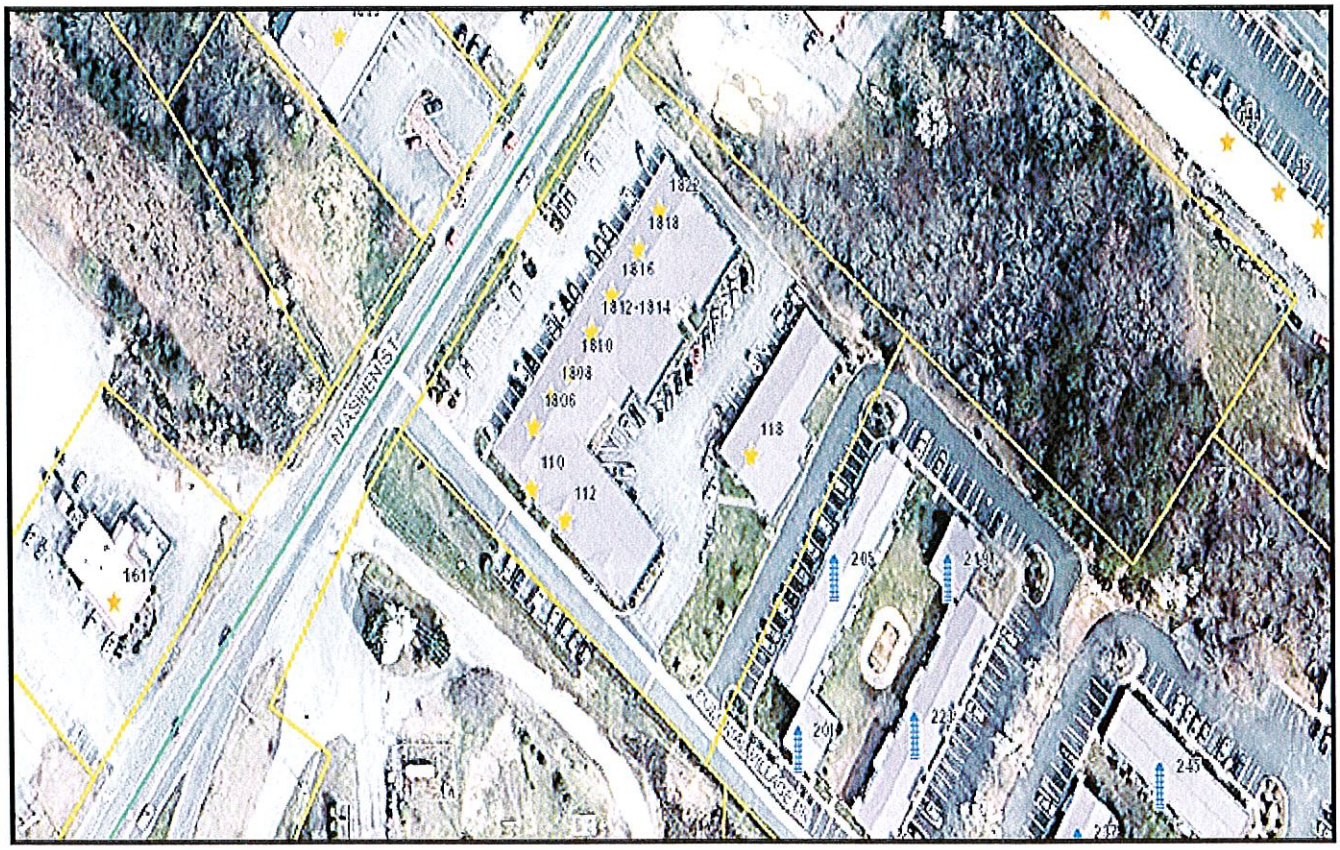

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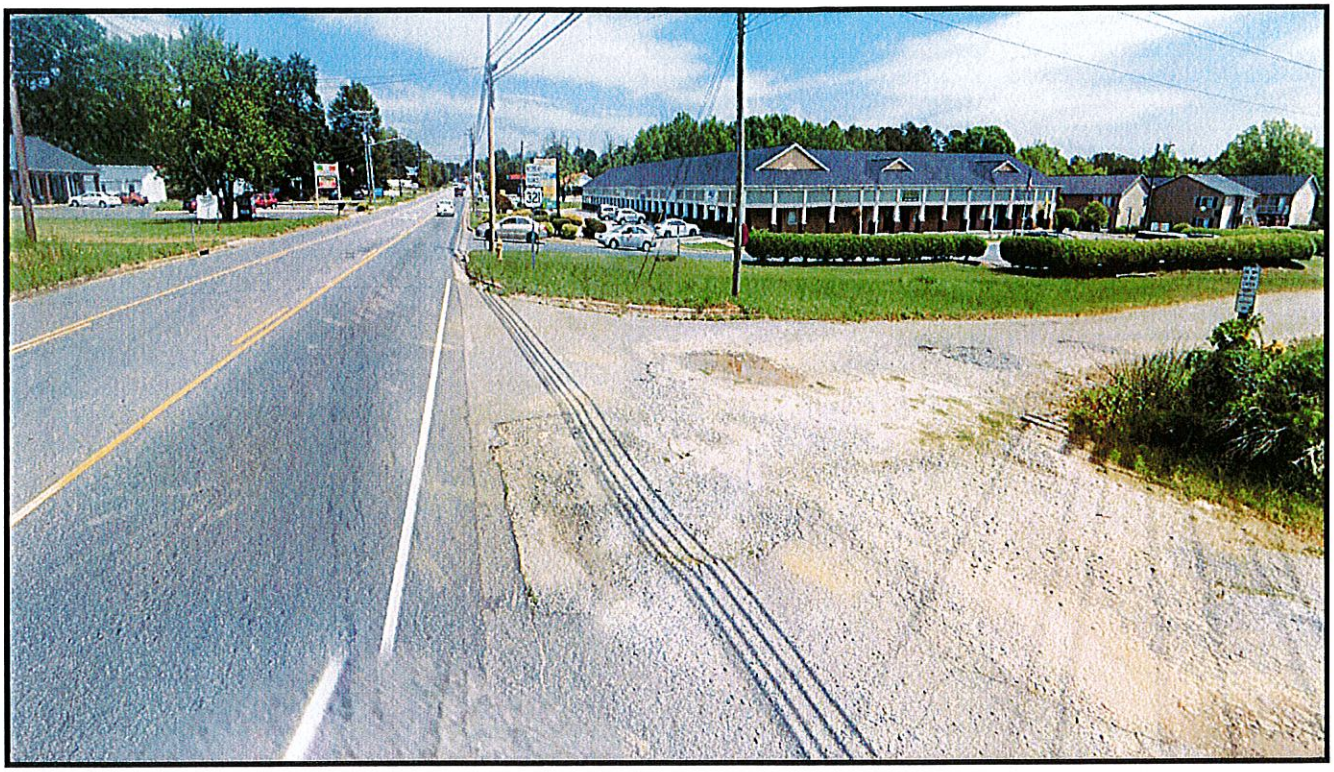

LAND USE PLAN

The Land Use Plan shows the property in the Mixed Use Residential Commercial Planning area. Rezoning of the property to the Highway Commercial (HC) district is consistent with the land use plan in staff's opinion.

CONDITIONAL ZONING

Because this is a proposed rezoning to a conditional zoning district, if the request is approved, the property could only be used for the specified uses in accordance with the approved conditional rezoning. Any major modification or change in use would require approval by the City Council through a public hearing process.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- Use of the property to be limited to a tattoo studio, office or commercial uses as allowed in the PB district.
- Building plans must be approved by Lincoln County prior to issuance of building permits.
- Fire code requirements must be reviewed and approved by the Fire Marshal.

STAFF RECOMMENDATION

Staff recommends the following actions:

- approval of the request for rezoning from PB to HC(CD) subject to the staff review committee comments being made conditions of approval,
- approval of the statement of consistency for approval of the rezoning request, and
- the rezoning being effective upon receipt by the Zoning Administrator of written agreement from the applicant and property owner to abide by the conditions of approval.

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

Case No. CZ-2-2021

Applicant: Lance Herman

Parcel ID#: 00468

Location: 1818 North Aspen Street

Request: Rezone from PB to HC(CD) to allow a Tattoo Studio

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential Commercial Planning Area. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. 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. CZ-2-2021

Applicant: Lance Herman

Parcel ID#: 00468

Location: 1818 North Aspen Street

Request: Rezone from PB to HC(CD) to allow a Tattoo Studio

Proposed Consistency and Reasonableness Statement:

The Lincolnton Land Use Plan designates this property as part of the Mixed Use Residential Planning Area. The proposed rezoning request **is consistent** with the Lincolnton Land Use Plan. However, the proposed use is not viewed as desirable in the area and therefore, **denial of the proposed amendment is reasonable and in the public interest.**

MEMO TO: Planning Board

FROM: City of Lincolnton Planning Staff

SUBJECT: Updates to Rules of Procedure for the Planning Board to conform to recently approved changes to the UDO and as per Chapter 160.

DATE: March 16, 2021

Attached are proposed revisions to the Rules of Procedure for the Planning Board to conform to recently approved changes to the UDO and in accordance with Chapter 160D. The following are the proposed changes:

1. The total number of members of the Planning Board will go from 8 to 7.

2. The number of ETJ members will go from 2 to 1.

3. The conflict of interest provisions will be amended to conform to state statute as follows:

    - Members are to avoid conflicts of interest.

    - Members would not vote on cases where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

    - Members would not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half and in-law relationships.

4. The provision related to voting by the chair will be updated to reflect actual practice.

CHANGES TO PLANNING BOARD RULES OF PROCEDURE		
	Current Rules of Procedure	Proposed Rules of Procedure
Total Number of Members	8	7
Number of ETJ Members	2	1
Conflict of Interest Provision	PB members to avoid even the appearance of conflicts of interest. No voting on matters that would substantially effect, directly or indirectly his or her personal financial interests or the financial interests of a member of his household.	PB members to avoid conflicts of interest. No voting on matters where the outcome is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. No voting on zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
Voting by Chair	Chair votes only in case of a tie and when there are only three other voting members present.	Chair votes like any regular member.

RULES OF PROCEDURE
LINCOLNTON PLANNING BOARD

ARTICLE I
Planning Board

1-1 The official name of the Planning Board shall be the Lincolnton Planning and Zoning Board, hereafter referred to as the "Planning Board."

ARTICLE II
Objective and Purpose

2-1 The primary objective of the Planning Board is to develop and maintain a continuing, cooperative planning program to benefit the people of the City of Lincolnton and its extraterritorial jurisdiction.

2-2 The purposes of the Planning Board are:

(a) To make studies of the City and its extraterritorial jurisdiction;

(b) To determine objectives to be sought in the development of the areas under study;

(c) To prepare and adopt plans for achieving these objectives;

(d) To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(e) To advise the City Council the use and amendment of means for carrying out these plans; and

(f) To exercise any functions in the administration and enforcement of various means for carrying out plans that the City Council may direct; and,

(g) To perform any other related duties that the City Council may direct.

ARTICLE III
Membership

3-1 Members of the Planning Board shall be appointed by the Lincolnton City Council and Lincoln County Board of Commissioners for three (3) year terms on a staggered basis. The Planning Board shall consist of ~~eight (8)~~ seven (7) members. Six (6) members shall be residents of the City of Lincolnton and shall be appointed by the Lincolnton City Council; ~~two (2)~~ one (1) member~~s~~ shall be a resident~~s~~ of the City of Lincolnton's extraterritorial jurisdiction and shall be appointed by the Lincoln County Board of Commissioners.

3-2 If a vacancy occurs on the Planning Board by reason of death, resignation, change of residence, or any other cause, it shall be filled by a City Council or Board of Commissioners appointment for the duration of the unexpired term.

ARTICLE IV
Election of Officers

4-1 Annually, at the regular meeting of the Planning Board held in the month of January, a Chairperson and Vice-Chairperson shall be elected. These officers shall be elected for a term of one year and may be re-elected for successive terms to the same office. Members shall be notified of the date, time and place of the election of officers, at least seven (7) days prior to the regular January meeting. Each officer shall serve until relieved of his/her duties as herein provided.

4-2 The Chairperson shall preside at all meetings of the Planning Board, appoint all standing and temporary committees, and have the duties normally conferred on such office. The Chairperson shall have the privilege of directing discussion on all matters before the Planning Board and, as needs arise, place time limitations on individual presentations before the Planning Board.

4-3 In the event of the absence of both the Chairperson and Vice-Chairperson from a meeting of the Planning Board, the members present may elect a temporary Chairperson for that meeting and proceed with the order of business.

4-4 Minutes of each Planning Board meeting shall be taken. Copies of all approved minutes shall be kept on file in the office of the Planning and Zoning Administrator and Secretary and shall be made available to the public during normal business hours.

ARTICLE V
Meetings

5-1 Regular meetings of the Planning Board shall be held on the third Tuesday of each month at 4:00 P.M. in the Lincolnton City Hall; provided that meetings may be held at another convenient place in the City or its extraterritorial jurisdiction if directed by the Chairperson in advance of the meeting. On days when a Board of Adjustment meeting takes place, the Planning Board meeting shall immediately follow the Board of Adjustment meeting. Each member shall be notified of each regular meeting by the Zoning Administrator (or his/her designee).

5-2 Special meetings may be called only by the Chairperson, provided that at least seven (7) days' notice of the time and location of such meeting shall be given to each member.

5-3 Whenever there are no rezoning requests, petitions for zoning text changes, ~~requests for conditional use permits~~ or other business for the Planning Board, or whenever so many members notify the Secretary of their inability to attend that a quorum will not be available, the Chairperson may dispense with a regular meeting by having the Secretary give written or oral notice to all members at least one week prior to the time set for the meeting. The Secretary or Zoning Administrator (or his/her designee) shall post notice at the meeting site that said meeting has been cancelled.

5-4 ~~Notification of all regular and special Planning board meetings shall appear in the Lincolnton Times-News at least seven (7) days prior to such meeting.~~

5-5 Four (4) members of the Planning Board shall constitute a quorum. A quorum shall be present before any business is transacted.

5-6 The Chairperson shall decide all points of procedure unless otherwise directed by a majority of the Planning Board in session at the time.

5-7 All regular and special meetings of the Planning Board shall be open to the public.

ARTICLE VI
Attendance

6-1 In order for the Planning Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any member is absent for three (3) consecutive Planning Board meetings, the Chairperson may direct the Secretary to notify such member in writing of his/her absences and if such member fails to attend the next regular meeting, the Planning Board, by a majority vote of the remaining members, may request that the position be vacated and that a replacement be made by the City Council or Lincoln County Board of Commissioners.

ARTICLE VII
Order of Business

7-1 The order of business shall be as follows:

(a) Roll Call and Determination of Quorum
(b) Approval of Previous Minutes
(c) Old Business
(d) New Business
(e) Adjournment

7-2 Items of business at the regular meeting shall appear on the agenda. Business which is not identified on the agenda may be considered only after approval by a unanimous vote of the Planning Board membership present at that meeting.

ARTICLE VIII
Conflict of Interest

8-1 In order to preserve public confidence in the integrity of the governmental process, it shall be the duty of Planning Board members to avoid ~~even the appearance of~~ conflicts of interest. Therefore no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the board in any matter ~~that would substantially affect, directly or indirectly, his or her personal financial interests or the financial interests of a member of his or her household. In applying this rule the following procedure shall govern:~~ where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For the purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half and in-law relationships.

A Planning Board member who determines there exists a conflict of interest shall declare the existence of such conflict and shall remove him/herself from the meeting chamber when said matter is under consideration.

8-2 This provision does not prohibit participation in legislative and advisory decisions that will have similar effect on all citizens of Lincolnton or in which the financial interest is so insignificant or remote that it is unlikely to affect the members official action in any way.

8.3 Any Board member may seek an opinion from the city attorney as to the applicability of this section to a particular decision or set of facts.

8-4 A challenge of the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Board. Such a challenge may be an appeal for a review of the finding of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Board shall be supported by competent evidence and shall be submitted to a properly convened meeting of the Board. The Board shall hear all evidence and by majority vote of the membership present (excluding that member in question), shall make the final determination as to the existence of a conflict in interest. If the Board determines that a member has an impermissible conflict of interest pursuant to this section, that member is disqualified from all participation in the matter and must leave the meeting chamber.

8-5 By majority vote the Board may seek the opinion of the city attorney as to the applicability of this section to a particular decision or set of facts.

ARTICLE IX
Action By the Planning Board

9-1 All actions of the Planning Board shall have been put before the Planning Board members in the form of a motion, duly seconded, and voted upon by all unexcused members present for a quorum. The Chairperson shall not have the authority to introduce or second any motion.

9-2 Any member present (not having a conflict of interest) who abstains from voting shall be considered to have voted "yes" on such matter.

9-3 Voting shall be done by voice or a show of hands. ~~The Chairperson shall vote only in case of a tie and instances where there are only three (3) other voting members present.~~ Only members present at the time a vote is taken shall be eligible to vote on that matter.

9-4 All members of the Planning Board have the right to vote on all matters except as specified in Sections 8-1, 8-2, 10-1, and 10-2.

ARTICLE X
Adoption And Amendment

10-1 These Rules of Procedure may be adopted by a majority vote of the Planning Board membership.

10-2 The Rules of Procedure, within the limits set by law, may be amended by an affirmative vote of the membership present at a regular or special meeting provided that such proposed amendment shall have first been submitted to all Planning Board members at least seven (7) days prior to the meeting at which the proposed amendment is to be discussed.

10-3 Annually, at the regular meeting of the Planning Board held in the month of January, these by-laws shall be reviewed and proposals for updates and amendments be presented.

ADOPTED: FEBRUARY 17, 1998

REVISED MARCH 16, 2021