



## COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, SUITE A, LINCOLNTON, NORTH CAROLINA 28092

PLANNING AND INSPECTIONS DEPARTMENT  
704-736-8440 OFFICE

To: Alex Patton, Board of Commissioners Chairman  
George Wood, County Manager  
Jeff Frushtick, Planning Board Chairman

From: Randy Hawkins, Zoning Administrator

Date: March 22, 2011

Re: UDO Proposed Amendments #2011-2  
Lincoln County Planning and Inspections Department, applicant

*The following information is for use by the Lincoln County Board of Commissioners and Planning Board at their meeting/public hearing on April 4, 2011.*

Staff is proposing several amendments to the Lincoln County Unified Development Ordinance to address various issues that have arisen with the current regulations.

Following are summaries and explanations of the proposed amendments.

## **UDO Proposed Amendments 2011-2**

### **1) Private recreation facilities (civic uses)**

**Amend Section 2.2.1, under Civic Uses, to change “recreation facilities, private” from a permitted use to a conditional use in the R-R, R-T and R-S districts and to add it as a conditional use in the B-N and B-G districts.**

#### **Explanation:**

Privately owned, noncommercial recreation facilities, such as athletic fields owned by nonprofit organizations, are currently permitted by right in the R-R, R-T and R-S districts, as a conditional use in other residential districts, and not permitted in the B-N and B-G districts. This proposal would make this use a conditional use in all of the districts.

### **2) Tattoo parlors**

**Amend Section 2.2.1, under Commercial Uses, to add “tattoo parlor/body-piercing establishment” as a conditional use in the B-G district, and amend Section 12.3.2 to add a definition for “tattoo parlor/body piercing establishment.”**

#### **Explanation:**

This use is currently not listed in the Use Table, but it could be argued that it falls under the category of personal services, which would make it a permitted use by right in business districts. This proposal would specify that it is a conditional use, which is how it was listed in the Zoning Ordinance that preceded the UDO.

Proposed definition: *“An establishment whose principal business activity is placing ink under the skin using needles that result in the coloration of the skin, and/or creating an opening in the body of a person for the purpose of inserting jewelry or other decoration.”*

### **3) Maximum building height in I-L and I-G districts**

**Amend Section 2.4.8.B.1 to change the maximum building height in the I-L and I-G districts to 60 feet.**

#### **Explanation:**

The maximum building height is currently 60 feet in the B-G and C-B districts, but it's 50 feet in the I-L and I-G districts. The 50-foot limit has been an issue with companies looking to expand or locate here.

#### **4) Setback for fences, planters, etc.**

**Amend Section 2.6.10.D.7 to delete a one-foot setback requirement for planters, retaining walls, fences, hedges and other landscaping structures.**

**Explanation:**

This requirement is a new one in the UDO and has proved to be an enforcement problem, putting staff in the middle of disputes between neighbors. This requirement also does not allow neighbors to share a common fence on the property line. The old Zoning Ordinance had no minimum setback for fences or landscaping structures.

*Proposed text change:*

**§2.6.10 Yards and Setbacks**

**D. Yard Encroachments**

7. Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard ~~and may be no closer than one foot from the property line~~ subject to visibility restrictions and minimum pedestrian way width.

#### **5) Fencing and walls**

**Amend Section 4.6.2.B to specify that this section applies in residential districts, to set a maximum height of eight feet for fencing and walls, to prohibit barbed wire and electrical fences except for livestock protection fences, and to specify that no zoning permit is required for fencing or walls.**

**Explanation:**

Maximum height and other requirements for fences and walls are found in Section 3.4.8.F, under Screening Requirements. However, this section only applies to nonresidential and multi-family developments; it does not apply to single-family lots. Because Section 3.4.8.F contains a reference to fences in residential districts and because it appears 15 pages after the applicability section, this has caused some confusion.

This proposal would move this reference to Section 4.6.1.B., which would deal with fences and walls in residential districts. Requirements that were in the Zoning Ordinance for fences in residential districts would be added to this section, including a height limit of eight feet. Currently, there's no maximum height for fences in residential districts.

*Proposed text changes (with new text underlined):*

### §3.4.8 Screening Requirements

#### F. Fencing and Walls

1. A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall more than six feet in height but less than eight feet shall comply with the setback requirements for principal uses. A fence or wall in any required front yard shall not exceed four feet in height.
2. Fences and walls should be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood and wrought iron. The finished side of all fences and walls shall be placed on the outside.
- ~~3. In residential districts, barbed wire or concertina wire shall not be permitted in any location.~~
- ~~4.~~3. Breaks in the fence or wall may be provided for pedestrian and vehicular connections to adjacent developments.

The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and/or a change in material.

## §4.6 Accessory Structures and Uses

### §4.6.2 General

#### B. Fencing and Walls In Residential Districts

~~Fencing and walls shall comply with the requirements of §3.4.8.F.~~

1. The maximum height of fencing or walls shall be eight feet.
2. Barbed wire and electrical fences are prohibited, except for livestock protection fences.
3. Concertina wire is prohibited
4. No zoning permit is required for fencing or walls complying with these regulations.

## **6) Access to Thoroughfares**

**Amend Section 3.5.2 to refer to the Functional Classification Maps prepared by NCDOT and to stipulate that where a tract to be developed adjoins a principal arterial, minor arterial or major collector and another public road, the road with the lower traffic volume shall be utilized for primary access and access to the road with the higher traffic volume shall be limited to right-in, right-out movements only, unless additional access is approved by the Board of Commissioners as part of a major site plan review.**

### **Explanation:**

Currently, this section refers to the Comprehensive Transportation Plan (CTP) of Lincoln County and also lists the roads where the regulations apply. The CTP refers to the Functional Classification Maps, a separate document that is updated from time to time. To avoid amending the UDO every time a classification of a road changes, it would be simpler to refer to the official maps. Staff maintains a list and map of the road classifications that are readily available to the public.

This proposal would add “major collector” as a classification of road where subdivisions are not allowed to have driveway cuts for individual lots. Major collectors include N.C. 27, N.C. 182, N.C. 274 and Startown Road.

In addition, this proposal would limit access when a corner lot is developed on a principal arterial, minor arterial or major collector. The primary access would be the side road or, in the case of the intersection of two major collectors, the one with less traffic. The secondary access would be limited to right-in, right-out movements only. However, in the case of a larger development, the Board of Commissioners could approve additional access.

*Proposed text changes:*

## **§3.5 Access Management**

### **§3.5.2 Access to Thoroughfares**

- A.** Where a tract of land to be subdivided adjoins a principal arterial (~~US 321~~) or a minor arterial (~~NC 16, NC 73, NC 27, NC 150, or old US 321/NC 155~~) a major collector as designated on Comprehensive Transportation Plan of the Functional Classifications Map for Lincoln County prepared by NCDOT, the subdivider shall:
1. Provide a major collector road parallel to the principal or minor arterial or major collector; or
  2. Utilize reverse frontage on a minor street for the lots to be developed adjacent to the principal or minor arterial or major collector.

Where a tract of land to be developed adjoins a principal or minor arterial or a major collector and any other public road, the road with the lower traffic volume shall be utilized for primary access and access to the road with the higher traffic volume shall be limited to

right-in, right-out movements only, unless additional access is approved by the Board of Commissioners as part of a major site plan review.

- B.** In addition, the Director may recommend and the Board of Commissioners may require that along other roads with identified capacities at 20 percent or greater ~~or identified as a major collector on Comprehensive Transportation Plan,~~ the subdivider shall provide a collector road parallel to the State road or utilize reverse frontage on a minor street.
- C.** ~~A third option is that~~ In lieu of providing a parallel collector road or utilizing reverse frontage, lots may be subdivided if each of the resultant lots has at least 300 feet of road frontage along the arterial or identified collector.

The following roads within Lincoln County are subject to these regulations:

- |                                  |  |
|----------------------------------|--|
| 1. Airport Rd. (SR 1750);        | 15. NC 150;                            |
| 2. Amity Church Rd. (SR 1362);   | 16. NC 182;                            |
| 3. Buffalo Shoals Rd. (SR 1003); | 17. NC 274;                            |
| 4. Campground Rd. (SR 1373);     | 18. Old Mill Rd. (SR 1351);            |
| 5. Cat Square / Shoal (SR 1002); | 19. Old Plank Rd. (SR 1511);           |
| 6. Ingleside Farm Rd. (SR 1382); | 20. Optimist Club Rd. (SR 1380);       |
| 7. Little Egypt Rd. (SR 1386);   | 21. Philadelphia Church Rd. (SR 1001); |
| 8. Mariposa Rd. (SR 1412);       | 22. Reepsville Rd. (SR 1113);          |
| 9. Killian Rd. (SR 1008);        | 23. Shuford Rd. (SR 1339);             |
| 10. NC 10;                       | 24. St. James Church Rd. (SR 1386);    |
| 11. NC 16;                       | 25. Rufus Rd. (SR 1387);               |
| 12. NC 18;                       | 26. Startown Rd. (SR 1005);            |
| 13. NC 27;                       | 27. Triangle Circle (SR 1387); and     |
| 14. NC 73;                       | 28. US 321 Bus. (NC 155).              |

Here are the roads that are included under each of the categories cited:

**Principal arterial:** US 321 Bypass, US 321 Business, NC 16 Bypass

**Minor arterial:** NC 10, NC 16 Business, NC 18, NC 73, NC 150

**Major collector:** NC 27, NC 182, NC 274, Startown Road

**Other roads with capacities at 20 percent or greater:** Amity Church Road, Buffalo Shoals Road, Campground Road, Car Farm/Shuford Road, Cat Square/Shoal Road, Ingleside Farm Road, Little Egypt Road, Mariposa Road, Optimist Club Road, Old Plank Road, Philadelphia Church Road, Reepsville Road, St. James Church Road, Rufus Road, Triangle Circle.



**UDO Text Amendment Application**

Lincoln County Planning and Inspections Department  
Zoning Administrator  
302 N. Academy St., Suite A, Lincolnton, NC 28092  
Phone: (704)736-8440 Fax: (704)732-9010

**Part I**

Applicant Name Lincoln County Planning and Inspections Department

Applicant Address 302 N. Academy St., Suite A, Lincolnton, NC 28092

Applicant Phone Number (704) 748-1507

**Part II**

Briefly describe the proposed text changes.

- 1) Amend Section 2.2.1, under Civic Uses, to change "recreation facilities, private" from a permitted use to a conditional use in the R-R, R-T and R-S districts and to add it as a conditional use in the B-N and B-G districts.
- 2) Amend Section 2.2.1, under Commercial Uses, to add "tattoo parlor/body-piercing establishment" as a conditional use in the B-G district. Amend Section 12.3.2 to add a definition for "tattoo parlor/body piercing establishment."
- 3) Amend Section 2.4.8.B.1 to change the maximum height in the I-L and I-G districts to 60 feet.
- 4) Amend Section 2.6.10.D.7 to delete a one-foot setback requirement for planters, retaining walls, fences, hedges and other landscaping structures.
- 5) Amend Section 4.6.2.B to specify that this section applies in residential districts, to set a maximum height of eight feet for fencing and walls, to prohibit barbed wire and electrical fences except for livestock protection fences, and to specify that no zoning permit is required for fencing or walls complying with these regulations.
- 6) Amend Section 3.5.2 to refer to the Functional Classification Maps prepared by NCDOT and to stipulate that where a tract to be developed adjoins a principal arterial, minor arterial or major collector and another public road, the road with the lower traffic volume shall be utilized for primary access and access to the road with the higher traffic volume shall be limited to right-in, right-out movements only, unless additional access is approved by the Board of Commissioners as part of a major site plan review.

*I hereby certify that all of the information provided for this application and attachments is true and correct to the best of my knowledge.*

Randy Hawkins  
Applicant

March 17, 2011  
Date



# COUNTY OF LINCOLN, NORTH CAROLINA

302 NORTH ACADEMY STREET, SUITE A, LINCOLNTON, NORTH CAROLINA 28092

PLANNING AND INSPECTIONS DEPARTMENT  
704-736-8440 OFFICE  
704-732-9010 FAX

## Zoning Amendment

### Statement of Consistency and Reasonableness

Adopted by the Lincoln County Planning Board on \_\_\_\_\_

Case No. **UDO Proposed Amendments #2011-2**

Applicant **Lincoln County Planning and Inspections Department**

Proposed amendments

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These proposed amendments are

- consistent  
 inconsistent

with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that:

These proposed amendments are

- reasonable and in the public interest  
 not reasonable and not in the public interest

in that: