

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, AUGUST 3, 2020**

The Lincoln County Board of County Commissioners met on August 3, 2020, at the Auditorium, James W. Warren Citizens Center, 115 W. Main Street, Lincoln, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chair  
Richard Permenter, Vice Chair  
Anita McCall  
Milton Sigmon  
Bud Cesena

Others Present:

Kelly G. Atkins, County Manager  
Wesley Deaton, County Attorney  
Josh Grant, Programs Manager  
Amy S. Atkins, Clerk to the Board

Members Present:

Jamie Houser, Chairman  
Doug Tallent, Secretary  
Jenni Boyles  
James Dean  
Jeff Pariano  
John Marino  
Robert Shugarman

Staff Present:

Andrew Bryant, Director  
Randy Hawkins, Zoning Administrator  
Amy Brown, Clerk to Planning Board

**Call to Order:** Chairman Mitchem called the August 3, 2020 meeting of the Lincoln County Board of Commissioners to order. He called for a moment of silence and led in the Pledge of Allegiance.

**Adoption of Agenda:** Chairman Mitchem presented the agenda for the Board's approval.

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, August 3, 2020**  
**3:30 PM**

**James Warren Citizen's Center**

**Auditorium**  
**115 W. Main Street, Lincolnton, NC**

Call to Order - Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
  - Approval of Minutes - July 20, 2020
- 2a. NCHFA Essential Single Family Rehab Loan Pool Policies - Andrew Bryant
3. Zoning Public Hearings - Randy Hawkins

**Quasi-Judicial**

~~CUP #417 Mount Zion Baptist Church, applicant (Parcel ID# 55396) A request for a conditional use permit to allow a private recreational facility, a lighted ballfield, in the R-R (Rural Residential) district. The 16.1-acre parcel is located at 2151 Mount Zion Church Road in Ironton Township.~~

**CUP #418 Dawn Blackburn, applicant** (Parcel ID# 02782) A request for a conditional use permit to allow a former church to be used to host weddings and other events in the R-T (Transitional Residential) district. The 0.85-acre parcel is located at 5795 Old Plank Road, on the east side of Old Plank Road about 2,400 feet north of Ingleside Farm Road, in Catawba Springs Township.

**PCUR #104A Jeff and Rhonda Harvey** (Parcel ID# 102405) A request to amend the approved plan for the Cline Farm development to designate an existing house as a single-family residence rather than a component of a commercial area and to permit the addition of a 1,000-square-foot detached garage. The request involves a 1.2-acre site located at 1783 Reepsville Road, on the west side of Reepsville Road and south side of Cline Farm Road, in Howards Creek Township.

**Legislative**

**CZ #2020-3 John and Carolyn Prime, applicants** (Parcel ID# 02291) A request to rezone a 0.87-acre lot from B-N (Neighborhood Business) to CZ B-G (Conditional Zoning General Business) to permit vehicle sales in addition to vehicle service. The property is located at 1656 N. NC 16 Business Hwy., on the east side of N.C. 16 Business at Galway Lane, in Catawba Springs Township.

**ZMA #673 Damon Lusk, applicant** (Parcel ID# 89707) A request to rezone 1.5 acres from R-S (Residential Suburban) to B-N (Neighborhood Business). The property is located on the east side of Wexford Lane about 400 feet south of N.C. 16 Business in Catawba Springs Township.

**ZMA #674 Jerry Hartsoe, applicant** (Parcel ID# 70362) A request to rezone a 0.9-acre lot from I-G (General Industrial) to R-SF (Residential-Single Family). The property is located on the north side of

N.C. 27 about 900 feet west of Rock Dam Road in Howards Creek Township.

**ZMA #675 Melia McAbee, applicant** (Parcel ID# 24933) A request to rezone a 0.56-acre lot from R-S (Residential-Suburban) to Neighborhood Business (B-N). The property is located on the north side of N.C. 150 and east side of National Way in Ironton Township.

**Recess until 6:30 PM to continue zoning cases**

4. **Quasi-Judicial**

**WSCUP #23 Scott O'Neil, applicant** (Parcel ID# 34692) A request for a watershed conditional use permit to use the high-density option in the Catawba River/Lake Norman WS-IV Protected Area. The applicant is proposing to develop a 4.1-acre site for a self-storage facility. The high-density option would allow the development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. The property is located on the east side of N.C. 16 Business south of Balsom Ridge Road in Catawba Springs Township.

**CUP #420 Hornet Solar, LLC, applicant** (Parcel ID# 29536, 33495, 33572, 33949, 34232, 54666, 55956, 57984, 57985 and 88482) A request for a conditional use permit to establish a solar farm in the R-T (Transitional Residential) district. The 708-acre Lincoln County portion of the proposed site, which also includes 791 acres in Gaston County, is located south of Old Plank Road, on both sides of portions of June Dellinger Road and about 2,000 feet west of N.C. 16 Business in Catawba Springs Township.

**CUP #421 WynnWorth, LLC, applicant** (Parcel ID# 31275) A request for a conditional use permit to allow contractors' offices with indoor and outdoor storage in the I-L (Light Industrial) district in the ELDD (Eastern Lincoln Development District) overlay district. The 11-acre parcel is located on the north side of Mundy Road about 400 feet west of N.C. 16 Business in Catawba Springs Township.

**CUP #422 Richard Aderholdt, applicant** (Parcel ID# 28850) A request for a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. The 0.87-acre parcel is located at 736 Sandra Lane about 1,100 feet south of Keener Road in Ironton Township.

**CUP #423 Jared Miller, applicant** (Parcel ID# 72225) A request for a conditional use permit to place a Class D manufactured home (a 1973 singlewide) in the R-R (Rural Residential) district. The 0.6-acre parcel is located on the west side of Herter Road about 900 feet north of Ritchie Road in Lincolnton Township.

**CUP #424 David Clark Jr., Caroline Clark, Allison Clark and Walter Clark, applicants** (Parcel ID# 87374) A request for a conditional use permit to allow the operation of a charter school for grades K-8 in the B-G (General Business) district. The proposed 5.25-acre site is located at the end of Forney Creek Parkway on the east side of N.C. 16 bypass about 4,600 feet north of Optimist Club Road in Catawba Springs Township.

**CUP #425 Justin Morrow, applicant** (Parcel ID# 59495) A request for a conditional use permit to

place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. The proposed 1.5-acre site is located on Workman Lane about 1,600 feet west of Cat Square Road in Howards Creek Township.

**CUP #426 Skadoosh Properties, LLC** (Parcel ID# 56204) A request for a conditional use permit to operate a concrete plant in the I-G (General Industrial) district in the Eastern Lincoln Development District (ELDD) overlay district. The 2.5-acre parcel is located on the north side of Quarry Lane about 400 feet west of N.C. 16 Business in Catawba Springs Township.

**CUP #427 John and Joyce Gerlits** (Parcel ID# 102310) A request for a conditional use permit to place a private residential storage building on a lot less than 2.0 acres in size prior to the placement of a home. The 1.0-acre parcel is located on the north side of Lackey Road at its intersection with Tower Road in North Brook Township.

**CUP #428 Big Wheels Trucking, LLC** (Parcel ID# 102324) A request for a conditional use permit to allow a trucking operation in the I-G (General Industrial) district in the Eastern Lincoln Development District (ELDD) overlay district. The 6.2-acre parcel is located at the end of Jameson Way on the west side of N.C. 16 Business about 500 feet north of Quarry Lane in Catawba Springs Township.

5. Public Comments
6. Other Business

Adjourn

**UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to adopt the agenda adding Item 2a - NCHFA Essential Single Family Rehab Loan Pool Policies - Andrew Bryant.

**Consent Agenda:** **UPON MOTION** by Commissioner Cesena, the Board voted unanimously to approve the Consent Agenda.

- Approval of Minutes

**NCHFA Essential Single Family Rehab Loan Pool Policies** - Andrew Bryant presented the following:

The County is implementing an Essential Single Family Rehab Loan Pool program on behalf of the NCHFA. The NCHFA require adoption and implementation of an Assistance Policy and Procurement and Disbursement Policy specific to this program. Lincoln County's procurement policies would still need to be met. He said this is the second round of funding that the county has received from the NCHFA. He said these funds are designed to keep people in their homes.

Lincoln County has been allocated an initial set-aside of \$190,000 which it plans to apply toward the rehabilitation of five houses in Lincoln County. The funds provided by NCHFA come from the US Department of Housing and Urban Development's (HUD) Federal HOME Investment Partnerships Program. Assistance for construction-related costs (hard costs) will be provided as no interest, no payment loans which are forgiven at the rate of \$5,000 per year. Non-

construction-related costs (soft costs including lead/asbestos inspections/clearances, radon testing and environmental reviews) will be provided in the form of a grant.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the NCHFA Essential Single Family Rehab Loan Pool Policies as presented.

**Zoning Public Hearings:** Wesley Deaton, County Attorney, gave information on the Legislative and Quasi-judicial cases on the agenda today. He asked if any Planning Board members or Commissioners had any ex parte communications or conflicts of interest.

**CUP #418 Dawn Blackburn, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to allow a former church to be used to host wedding and other events in the R-T (Transitional Residential) district. An event venue is classified under recreation. Under the Unified Development Ordinance, private recreation facilities are permitted in the R-T district where approved by the Board of Commissioners through the issuance of a conditional use permit.

A site plan has been submitted as part of the application. The applicant is proposing the following conditions:

- 1) The maximum number of attendees at any event shall be 96.
- 2) No parking shall be allowed along Old Plank Road.
- 3) A driveway permit shall be obtained from NCDOT.

The 2,112-square-foot church building previously served as a place of worship for New Hope United Methodist Church, which closed in 2018. The applicant and her husband purchased the property from the Western North Carolina Conference of the United Methodist Church.

#### SITE AREA AND DESCRIPTION

The 0.85-acre parcel is located at 5795 Old Plank Road, on the east side of Old Plank Road about 2,400 feet north of Ingleside Farm Road in Catawba Springs Township. It is surrounded by property zoned R-T. Land uses in this area are primarily residential. The subject property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential, suitable for primarily single-detached detached homes, with a church, community center, and a pool and amenities listed among secondary land uses.

Chairman Mitchem opened the public hearing concerning CUP #418 – Dawn Blackburn, applicant.

Dawn Blackburn, applicant, stated that they would like to preserve the history of the church and make it available to the community. She said they live on the property. Mrs. Blackburn said she prepared and incorporated the Findings of Fact into her testimony.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**PCUR #104A – Jeff and Rhonda Harvey, applicant:** Randy Hawkins presented the following:

The applicants are requesting to amend the approved plan for the Cline Farm development to designate an existing house as a single-family residence rather than a component of a commercial area and to permit the addition of a 1,000-squarefoot detached garage. A site plan has been submitted as part of the application.

Cline Farm was approved as a planned mixed-use development in 2004 in a parallel conditional use rezoning (PCUR #104). A 286-acre site was approved for 203 homes – including 108 “estate lots,” 75 “village lots” and 20 condominiums – and a nine-acre commercial area including an old farmhouse, the subject of this request. The farmhouse was designated on the approved plan as an interim sales center and a future component of the commercial area.

Of the overall plan for Cline Farm, only a portion of the estate lots has been developed.

#### Site Area & Description

The 1.2-acre site of the farmhouse is located at 1783 Reepsville Road, on the west side of Reepsville Road and south side of Cline Farm Road, the entrance to the Cline Farm subdivision. (On the approved plan, the farmhouse was shown on the north side of the road. Staff approved the developer’s request to shift the road to the other side of the house as a minor modification of the approved plan.) The subject property is zoned CU PD-MU (Conditional Use Planned Development-Mixed Use) and is adjoined by property zoned CU PD-MU and R-SF (Residential-Single Family). It is located adjacent to property owned by the Cline Farm Property Owners Association that includes a barn, a swimming pool and another barn that has been converted into a clubhouse. The subject property is part of an area designated by the Lincoln County Land Use Plan as a Walkable Neighborhood, suitable for a mix of uses, primarily residential.

Chairman Mitchem opened the public hearing concerning PCUR #104A – Jeff and Rhonda Harvey, applicants.

Jeffrey Harvey, applicant, said they purchased the Cline Farm house to fix it up and live there. He said they plan to make this their primary residence. This will enhance the Cline Farms neighborhood. He stated that he prepared and incorporated the Findings of Fact into his testimony.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CZ #2020-3 John and Carolyn Prime, applicants** Randy Hawkins presented the following

information:

The applicants are requesting the rezoning of a 0.87-acre lot from B-N (Neighborhood Business) to CZ B-G (Conditional Zoning General Business) to permit vehicle sales in addition to vehicle service, which is already permitted as an existing use. The sales office would be located in an existing commercial building, which features a two-bay garage.

Vehicle sales is not permitted in the B-N district and is a conditional use in the B-G district and in the Eastern Lincoln Development District (ELDD), in which this property is located.

A site plan has been submitted as part of the application. It shows proposed vehicle display areas at the front of the property and on the sides. Also included with the application are minutes from a March 10 community involvement meeting.

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 site plan. Any major modification or change in use would require approval by the Board of Commissioners through a public hearing process.

#### Site Area & Description

The subject property is located at 1656 N. NC 16 Business Hwy., on the east side of N.C. 16 Business at Galway Lane. It is adjoined by property zoned B-N, I-G (General Industrial), CZ I-G and CU B-G (Conditional Use B-G) Land uses in this area include business, industrial, educational and residential. This property is part of an area designated by the Lincoln County Land Use Plan as a Suburban Commercial Center, suitable for general commercial services.

#### Additional Information

##### **Permitted uses**

Under current B-N zoning: vehicle service, retail sales, offices, personal services, etc.

Under proposed zoning: vehicle sales and vehicle service.

##### **Adjoining zoning and uses**

East: zoned B-N and CZ I-G, undeveloped lot and undeveloped portion of tract containing body shop.

South: zoned CZ I-G, body shop.

West (opposite side of N.C. 16 Business): zoned I-G, B-N and CU B-G; parking lot for charter school, undeveloped strip of land, and self-storage facility.

North: zoned B-N, undeveloped lot.

Staff recommends approval of the rezoning request.

Commissioner Permenter said he had the pleasure of meeting Mr. and Mrs. Prine at a social function before this application and also met with them and their son at the community involvement meeting. He said there was a case previously involving a used car lot and

asked how this case differs from that one.

Mr. Hawkins said the previous case was First Class Autos and was located a short distance up the road. The applicant was applying to rezone the property from BN to Conditional Zoning General Business to permit vehicle sales, it was not a vehicle service location and the applicant was not proposing to do vehicle service. That rezoning, CZ 2018-1 was disapproved in a 3-2 vote on February 5, 2018. He said the Board adopted a statement, which he read:

This proposed amendment is **not consistent** with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that:

The Land Use Plan designates this property as part of the NC 16 Corridor.

- 1) The NC 16 Corridor Vision Plan recommends that strip commercial and sprawl development be reduced by placing commercial development at nodes. The location is not at a node, but is part of a strip commercial and sprawl development.
- 2) The NC 16 Corridor Vision Plan recommends the elimination or mitigation businesses with outdoor equipment & storage of raw materials in front. A car lot is the type of business that has storage of outdoor equipment in front. The Corridor Vision Plan envisions for these types of businesses to be concentrated in specific areas of the corridor with other related businesses rather than placed next to, e.g., professional offices and restaurants. The proposed location is in front of a residential development.

The rejection of this proposed amendment is reasonable and in the public interest in that it applies the goals of the Corridor Vision Plan of reducing strip commercial and sprawl development, and reduces businesses with outdoor equipment and materials.

The proposed amendment is not reasonable and not in the public interest in that:

The proposed amendment does not move the NC 16 Corridor toward the stated land use plan and its related goals, but rather, would move the NC 16 Corridor away from its long-stated goals as stated in the Corridor Vision Plan.

Commissioner Cesena asked how this case was different from the case in 2018. Mr. Hawkins responded that this is in a slightly different area, the 2018 case was strictly auto sales and this is an existing auto service so they can continue auto service if this is not approved.

Chairman Mitchem said with this case, they are currently servicing vehicles by right, the only difference would be that they could sell some cars there. He asked about outdoor equipment storage, to which Randy Hawkins responded that he does not consider vehicles outdoor equipment. Mr. Hawkins said with the 2018 case, it was a metal building, which the applicant was proposing to upgrade the front of the building. The current case is a block building, masonry structure, which would meet the current requirements of the ELDD if it was built.



Commissioner Cesena said it is fair to say the building and driveway have been updated dramatically.

Chairman Mitchem opened the public hearing concerning CZ #2020-3 – John and Carolyn Prine, applicants.

John Prine, applicant, said he recalls noise being a factor with the other case and they have about 3 times the buffer to houses than the other case. He said they are here to answer questions.

Ron Barbagli, 2619 Andrew Point Drive, said he was turned down in January 2018 for a car lot. He said his family has been in the Denver community and in business since the 70's. He said the Board needs to grandfather the two applicants that were turned down if this one is approved.

Steve Taylor, 6189 Gold Springs Way, spoke concerning his request that was denied in 2018. He said if the Board and community did not want this in 2018, they do not want it now.

John Prine said these were different proposals and he senses sour grapes. Carolyn Prine said they are beside Industrial property, Caliper Collision and the property owner on the other side has no problems with this request.

Commissioner Cesena asked if the Board approves this request if it opens them up to other lots on Highway 16. Mr. Deaton said every case is based on its merits but it would be harder if someone presented a case very similar to deny it. He said the Board should be consistent.

Mr. Hawkins said under the County's Land Use Plan, this is in an area designed at Suburban Commercial.

Mr. Hawkins said that with Mr. Barbagli's request, it was withdrawn before a vote by the Commissioners.

There was a discussion about outdoor storage versus vehicle sales and Commissioner Sigmon said the Board must make a determination on whether vehicles are outdoor storage and stick with that decision.

Commissioner Permenter voiced concerns about car lots on Highway 16. He said he his exchanges with the applicant were cordial, but he did not give any indication of preapproval of this application.

Commissioner McCall spoke concerning Corridor Vision Planning and the people involved. He said on this particular case she has not received any calls at all, but there have been many staff hours and hours put into these plans.

Being no additional speakers, Chairman Mitchem closed the public hearing.

Chairman Mitchem said the two that spoke against this were done wrong in 2018. He said he voted for the car lots in 2018. He asked if there are so many people in opposition where they are.

**ZMA #673 Damon Lusk, applicant:** Randy Hawkins presented the following:

A request to rezone 1.5 acres from R-S (Residential Suburban) to B-N (Neighborhood Business). The property is located on the east side of Wexford Lane about 400 feet south of N.C. 16 Business in Catawba Springs Township.

The applicant is requesting the rezoning of 1.5 acres from R-S (Residential Suburban) to B-N (Neighborhood Business).

The property is located on the east side of Wexford Lane about 400 feet south of N.C. 16 Business. It is part of a 2.0-acre parcel, the remainder of which is already zoned B-N. The subject property is located in the Eastern Lincoln Development District (ELDD) overlay district. It is adjoined by property zoned R-S and B-N. Land uses in this area include residential, institutional (assisted living center) and business. This property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center.

#### Additional Information

##### **Permitted uses**

Under current R-S zoning: site-built houses, modular homes, duplexes, church.  
Under proposed B-N zoning: retail sales, offices, personal services (hair salon, for example),etc.

##### **Adjoining zoning and uses**

East: zoned R-S, townhouses (The Terraces).  
South: zoned R-S, assisted living center (Wexford House).  
West (opposite side of Wexford Lane): zoned R-S, residence.  
North: zoned B-N, residence.

##### **Staff's Recommendation**

Staff recommends approval of the rezoning request.

Commissioner Sigmon asked about the entrance. Mr. Hawkins said the main entrance would have to be on Wexford Lane.

Chairman Mitchem opened the public hearing concerning ZMA #673 – Damon Lusk, applicants.

Damon Lusk, applicant, said they are looking to incorporate the front two properties. He said they would like to build a building like the one across from Stacy's in Denver. He said

access in and out will not be an issue. He said The Terraces should not be concerned and there is a nice berm there. There will be trees installed. He said there will not be a car lot on this property.

Ronnie Mullins, 6237 Orchid Ct, said he lives about 20 feet from the property line. He presented a petition with 57 signatures against the rezoning of the property in question. He said his main concern is water runoff.

Damon Lusk said there will be the same amount of water as before, the building will have stormwater control. He said the water will run toward the road. He said they will be very considerate of the area and he believes this is a non-issue. He said they are not looking to do anything on that site that has extensive noise, it will be more along the lines of retail sales or a salon. He said it will be a single story building, under 10,000 square foot, stucco exterior with a nice commercial front.

Lee Killian, 6259 Alyssum Pl, said he lives right next to Wexford House. He said the Lusk family is one of the best families to ever move into this area and have done everything real nice. He said if there was an issue with runoff, Damon would fix it.

Matthew Kelly, 3929 Wexford Lane, spoke in opposition of the request saying their house would be across from this property. He said it is a residential area and he is concerned about traffic and water issues.

Rosa Kelly, 3929 Wexford Lane, spoke in opposition of the request saying they bought this property 6 months ago. She said she has a 2 year old and 90 year old mother. She said this will create traffic and devalue their property.

Mr. Kelly said they were told nothing could be built on the property because there was a moratorium on sewer.

Mr. Lusk stated that all the property around the Kelly's is zoned Commercial and the agent is present that told them it was a commercial area.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**ZMA #674 Jerry Hartsoe, applicant:** Randy Hawkins presented the following:

The applicant is requesting the rezoning of a 0.9-acre lot from I-G (General Industrial) to R-SF (Residential-Single Family).

#### Site Area & Description

The property is located on the north side of N.C. 27 about 900 feet west of Rock

Dam Road in Howards Creek Township. It is adjoined by property zoned R-SF and I-G. Land uses in this area include residential, agricultural, business and religious. This property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential, suitable for single-family homes

Additional Information

**Permitted uses**

Under current I-G zoning: body shop, vehicle service, machine shop, cabinet shop, offices, personal services, etc.

Under proposed R-SF zoning: site-built house, modular home.

**Adjoining zoning and uses**

East: zoned R-SF, residence.

South (opposite side of N.C. 27): zoned R-SF, undeveloped property.

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West: zoned I-G, commercial building.

North: zoned R-SF residence.

Staff's Recommendation

Staff recommends approval of the rezoning request.

Chairman Mitchem opened the public hearing concerning ZMA #674 – Jerry Hartsoe, applicant.

Being no speakers, Chairman Mitchem closed the public hearing.

**ZMA #675 Melia McAbee, applicant** Randy Hawkins presented the following:

The applicant is requesting the rezoning of a 0.56-acre lot from R-S (Residential Suburban) to B-N (Neighborhood Business).

The subject property is located on the north side of N.C. 150 and east side of National Way in Ironton Township. It is adjoined by property zoned R-S. It is separated from property zoned I-G (General Industrial) by a 30-foot strip of land that serves as an easement for National Way. Land uses in this area include residential and business. This property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential.

Additional Information

**Permitted uses**

Under current R-S zoning: site-built house, modular home, duplex.

Under proposed B-N zoning: retail sales, offices, personal services (hair salon, for example), etc.

**Adjoining zoning and uses**

East: zoned R-S, residence.

South (opposite side of N.C. 150): zoned R-S, residence and undeveloped tract.

West (opposite side of National Way): zoned I-G, residence.

North: zoned R-S, undeveloped lot owned by applicant.

### Staff's Recommendation

Under the Unified Development Ordinance, prior to adopting or rejecting a zoning amendment, the Board of Commissioners must adopt one of the following statements:

- (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (3) A statement approving the zoning amendment and containing at least all of the following:
  - a. A declaration that the approval is also deemed an amendment to the comprehensive plan.
  - b. An explanation of the change in conditions the governing board took into account in amending the plan to meet the development needs of the community.
  - c. Why the action taken is reasonable and in the public interest.

Staff recommends that the Board of Commissioners exercise Option 3.

Chairman Mitchem opened the public hearing concerning Zoning Map Amendment #675 Milia McAbee, applicant.

Melia McAbee, applicant, said she would like to open a hair salon on her property. She said they currently own the property.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to recess until 6:30 PM.

Chairman Mitchem called the meeting back to order at 6:30 PM to continue zoning public hearings.

**WSCUP #23 Scott O'Neil, applicant:** Randy Hawkins presented the following information:

The applicant is requesting a conditional use permit to allow the use of the highdensity option in the WS-IV Protected Area of the Catawba River/Lake Norman Watershed. The applicant is planning to develop a 4.1-acre site for a self-storage facility. A preliminary plan for the facility was approved in January in a rezoning of the property to a conditional zoning district. The high-density option would allow the

development to have a built-upon surface area covering up to 70 percent of the site, with the use of engineered stormwater controls. Otherwise, in this watershed district, non-residential developments that require an erosion control plan are limited to a built-upon area of 36 percent. In this case, a built-upon area of approximately 63 percent is proposed.

The subject property is located on the east side of N.C. 16 Business south of Balsom Ridge Road. It is zoned CZ I-G (Conditional Zoning General Industrial) and is adjoined by property zoned I-G, B-N (Neighborhood Business) and R-SF (Residential-Single Family). (The property zoned R-SF is part of a parcel that contains a stormwater pond that serves the Balsom Ridge Business Park.) Land uses in this area include industrial, business and residential. The subject property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center, a classification that includes storage as a primary land use.

#### HIGH-DENSITY OPTION REQUIREMENTS

Under the water-supply watershed regulations of the Lincoln County Unified Development Ordinance, the Catawba River/Lake Norman watershed is designated for the use of the high-density option. The option requires the use of stormwater control structures to control and treat the runoff from the first one-inch of rain. The structures must be designed to meet the Best Management Practices (BMP) standards of the N.C. Department of Environment Quality. In this case, the plans call for a stormwater pond. The regulations require the developer to post a bond or other financial security in an amount not less than 1.25 times the cost of constructing the necessary stormwater control structure. In addition, a binding agreement must be signed, requiring the owner to maintain, repair and, if necessary, reconstruct the structure in accordance with an approved operations and maintenance plan. Once the stormwater control structure have been constructed and inspected, and prior to the release of the financial security, the applicant is required to deposit with the county either cash or a similar approved instrument in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining the structure over a 20-year period, whichever is greater.

Chairman Mitchem opened the public hearing concerning Watershed Conditional Use Permit #24 – Scott O’Neil, applicant

Scott O’Neil, applicant, said he is here to answer any questions the Board has. He said he prepared and Incorporated the Findings of Fact into his testimony. He said there will be no outside storage. He said he should be able to store around 100 boats.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #420 Hornet Solar, LLC, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to establish a solar farm in the R-T (Transitional Residential) district and in the Eastern Lincoln Development District (ELDD). The proposed site of the solar farm includes 708 acres in Lincoln County and 791 acres in Gaston County. All of the property in Lincoln County is zoned R-T. Approximately 6.5 acres located south of Old Plank Road lies within the ELDD overlay district. A solar farm is a conditional use in the R-T and ELDD districts.

#### SITE AREA AND DESCRIPTION

The Lincoln County portion of the site is located south of Old Plank Road, on both sides of June Dellinger Road and about 2,000 feet west of N.C. 16 Business. Land uses in this area are primarily residential and agricultural. This subject property is part of an area designated by the Land Use Plan as Large Lot Residential.

#### SOLAR FARM STANDARDS

The UDO establishes the following standards for a solar farm:

##### §4.3.7. Solar Farm

A. All structures and security fencing shall be set back a minimum of 50 feet from property lines and road right-of-ways.

B. Where a site abuts a public road or property with a residential use, the following screening shall be provided unless a modification is approved by the Board of Commissioners: two parallel rows of evergreen trees or shrubs, a minimum of five feet in height at planting, arranged in a staggered manner a maximum of 10 feet apart in each row, with the rows a maximum of 10 feet apart.

C. No panel structures shall be greater than 20 feet in height.

D. The electrical collection system shall be placed underground except near points of interconnection with the electric grid.

E. A map analysis showing a radius of five nautical miles from the center of the project with any airport operations in the area highlighted shall be submitted with the conditional use permit application. If a Federal Aviation Administration (FAA) regulated airport is located within the radius, all required information shall be submitted to the FAA for review. Proof of delivery of notification and date of delivery shall be submitted with the permit application.

F. A decommissioning plan signed by the party responsible for decommissioning and the landowner shall be submitted with the permit application and shall be recorded with the Register of Deeds prior to final electrical inspection. The plan shall include the following information: defined conditions upon which decommissioning will be initiated, the anticipated manner in which the solar farm project will be decommissioned and the site restored, a timetable for completion of decommissioning, description of any agreement with the landowner regarding decommissioning, the party responsible for decommissioning, and plans for updating the decommissioning plan.

G. A solar farm that ceases to produce energy on a continuous basis for 12 months shall be considered abandoned and the property owner and other responsible party shall be required to decommission the facility and restore the site to its prior condition within 12 months from the time that the facility is deemed to be abandoned, unless substantial evidence is presented to the Director of the intent to maintain and reinstate the operation of the facility.

H. In the event the property owner and/or responsible party fail to timely decommission the solar farm facility as required above, Lincoln County and the Director shall be entitled to take all measures allowed by this UDO and the North Carolina General Statutes, including, but not limited to, the right to levy penalties as provided in §11.2.1, the right to obtain a permanent injunction ordering the removal of such solar farm facility, and the right to obtain a court order permitting Lincoln County to remove such solar farm facility.

Chairman Mitchem opened the public hearing concerning Conditional Use Permit #420 – Hornet Solar, applicant

Bradley Risinger, Attorney with Fox Rothschild LLP, spoke on behalf of the applicant. He presented them with supporting information (which is incorporated by reference) for the findings that witnesses will testify to. He said the project straddles Lincoln and Gaston County. The project was unanimously approved by Gaston County, and has passed the RFP stage with Duke Energy, has a certificate of public convenience, has passed the state clearinghouse with regard to environmental policy review and received a no further review and has passed the FAA with regard to nearby airports.

Tom Delafield with Renewable Energy Services, said the project was originated by RES and will be owned and operated by Capital Power. The 75 MW will power 18,000 plus homes and will be on 708 acres in Lincoln County. The site is secluded with minimal road frontage. They have signed a 20 year agreement with Duke and have a private decommissioning agreement. He presented and reviewed the site plan. There will be a 300 foot setback to any residential dwelling along Old Plank and June Dellinger Roads, which is six times the county requirement. Outreach was handled by Mr. Jones and no negative comments or phone calls were received. There is a substantial economic benefit to Lincoln county with a 556% increase in 40 year tax base, from \$198,000 currently to \$1.3 million. Construction there will be approximately 150 people required to install with a 9 month construction period. Applicant will pay 3-year roll back taxes with minimal demand on tax-funded County Services. There will be no stormwater adverse impact. There will be no modules or racking in floodplain or wetlands, no emissions, odor or light pollution. There will be minimal traffic and virtually no noise. There will be consistent and professional monitoring. They will use Bloomberg Tier 1 Modules, state of the art inverters and racking, and all materials will be UL certified. There is a private decommissioning plan with a bond that will benefit the landowners, with periodic cost reassessments. The expected useful life is 35 to 40 years. Mr. Delafield said there are 3 families that own the parcels, which will be leased throughout the project.

Thomas Cleveland, Mechanical Engineer, addressed health and safety. He presented



information on the site, materials and life expectancy. He said solar panels have been out for 40 years and have been studied. The answer is these do not make anyone sick and there is nothing in them or about them that could make someone sick.

Rich Kirkland, Certified Appraiser, gave his professional opinion that there is no impact on property values from solar farms. He presented his detailed report as part of the record.

Siri Jones, 1418 Nature Preserve Trail, said she is the daughter of one of the landowners. She read a letter requesting the approval of the change and support of the project.

Randy Beatty, property owner, said this land has been in their family for probably 200 years. He said this is a way to keep the property in the family.

Bradley Risinger asked the Board to enter the supporting materials into the hearing.

James Patterson said he understands the lifecycle is 40 years. He asked if technology made a strong swing who would be responsible for the removal and disposal of the material. Mr. Delafield said there is a bond in place and a decommissioning plan in place for removal.

David Patterson asked about impact on surrounding properties and if their property tax will increase.

James Randleman, Jr. said he has property in the area. He asked for clarification on the 600 feet in the letter he received. Mr. Hawkins said under the Ordinance, they are required to send out letters to anyone 600 feet of the property line, not 600 feet from the project itself.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #421 WynnWorth, LLC, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to allow contractor's offices with indoor and outdoor storage in the I-L (Light Industrial) district in the ELDD (Eastern Lincoln Development District) overlay district. A contractor's office and a contractor's yard are permitted uses in the I-L district and conditional uses in the ELDD. Approximately one-third of this property is located in the ELDD.

A site plan and building elevations have been submitted as part of the application. Two 21,600-square-foot, multi-tenant buildings are proposed to be developed in two phases, with outdoor storage areas behind them. In addition, a future 3,500-square-foot storage building is proposed behind one of the main buildings.

A conditional use permit was approved for this property for the same uses and a similar development plan on February 18, 2019, but the permit expired. Under the Unified Development Ordinance, a conditional use permit expires 12 months after the date of approval if a complete building permit application is not submitted before then.

#### SITE AREA AND DESCRIPTION

The 11-acre parcel is located on the north side of Mundy Road about 400 feet west of N.C. 16 Business. It is adjoined by property zoned R-SF (Residential-Single Family), BN (Neighborhood Business) and I-G (General Industrial). Land uses in this area include residential, business and industrial. This property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center.

Chairman Mitchem opened the public hearing concerning CUP #421 – WynnWorth, LLC, applicant.

Sam Morgan, applicant, said Weedman is their corporate name and Wynn Worth is their capital holding company. He said they have been delayed with issues such as septic. He said they have most permits and will close on their loan soon. He said he prepared and incorporated the Findings of Fact into his testimony.

Shawn Coldren, Engineer with CES Engineers, said they are just reapplying for the permit since the project design took longer than expected.

Commissioner Sigmon asked about the different names being used on the project, WynnWorth, LLC and Weed Man.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #422 Richard Aderholdt, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. A manufactured home is a conditional use in the R-S district.

#### SITE AREA AND DESCRIPTION

The 0.87-acre parcel is located at 736 Sandra Lane about 1,000 feet south of Keener Road in Ironton Township. It is adjoined by property zoned R-S and R-T (Transitional Residential). Land uses in this area include residential and agricultural. Residential uses in this area include singlewide and doublewide manufactured homes. The subject property is part of an area designated by the Lincoln County Land Use Plan as Single-Family Neighborhood, suitable for single-family homes.

Chairman Mitchem opened the public hearing for CUP #422 – Richard Aderholdt, applicant.

Richard Aderholdt, applicant, stated that he prepared and incorporated the Findings of Fact into his testimony. He said he is trying give his daughter and son in law a place to put their first home.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #423 Jared Miller, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to place a Class D manufactured home in the R-R (Rural Residential) district. A Class D manufactured home is one located in Lincoln County that was constructed prior to July 1, 1976, when the U.S. Department of Housing and Urban Development established construction standards for manufactured homes. This request involves a 1973 singlewide that the applicant wants to move a short distance from its current location and set up on a different parcel.

#### SITE AREA AND DESCRIPTION

The 0.61-acre parcel is located on the west side of Herter Road about 900 feet north of Ritchie Road in Lincolnton Township. A singlewide manufactured home was previously located on this parcel. (The 1973 singlewide is currently located at 4467 Herter Road, about 500 feet to the south.) The subject property is adjoined by property zoned R-R. Land uses in this area are primarily residential and include singlewide manufactured homes. The subject property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential, suitable for single-family homes.

Chairman Mitchem opened the public hearing for CUP #423 – Jared Miller, applicant.

Jared Miller, applicant, said he would like to move this mobile home from the parcel it is on now to the other lot to renovate. He plans to build a house on this parcel and rent out the mobile home. He said he prepared and incorporated the Findings of Fact into his testimony.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #424 David Clark Jr., Caroline Clark, Allison Clark and Walter Clark, applicants** (Parcel ID# 87374) A request for a conditional use permit to allow the operation of a charter school for grades K-8 in the B-G (General Business) district. The proposed 5.25-acre site is located at the end of Forney Creek Parkway on the east side of N.C. 16 bypass about 4,600 feet north of Optimist Club Road in Catawba Springs Township.

The applicant is requesting a conditional use permit to allow the operation of a charter school for grades K-8 in the B-G (General Business) district. A site plan and a traffic impact analysis have been submitted as part of the application. Under the Unified Development Ordinance, a school is a conditional use in the B-G district.

#### SITE AREA AND DESCRIPTION

The proposed 5.25-acre site is located at the end of Forney Creek Parkway on the east side of N.C. 16 bypass about 4,600 feet north of Optimist Club Road. It is adjoined by property zoned B-G, I-G (General Industrial) and R-T (Transitional Residential). It is part of Forney Creek Park subdivision, which includes a YMCA and an outpatient surgical center. County water and sewer are available at this location. The subject property is part of an area designated by the Lincoln County Land Use Plan as a Suburban Office Center,

suitable for concentrating employment and providing services.

Wesley Deaton informed the Board of the changes by the Legislature, which came into effect August 1. Chapter 160D-7-1 says that the regulations may not include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school. He said based on this legislation, the Board is not allowed to deny based on level of service on roads. He advised the Board that they cannot take into account the Traffic Impact Analysis that was submitted and cannot condition the CUP based on traffic conditions.

Chairman Mitchem opened the public hearing for CUP #424 David Clark Jr., Caroline Clark, Allison Clark and Walter Clark, applicants.

Rob Brown, with The Jonas Law Firm, spoke representing the applicants. He introduced the application and the speakers present tonight. He said the Clark family is under contract to sell this property to Red Apple contingent on this application. The school is currently at the Catholic Church in Highway 16. He said he prepared and incorporated the Findings of Fact into his testimony.

David Clark, applicant, said his family owns this property. He said Forney Creek is a vision that was created when he lost his daughter. The YMCA was started in her memory and then Atrium Health partnered with a park for a same day surgery center. He said he has letters of support from surrounding property owners in the park.

Chris Bostic, with Kimley Horne and Associates, said he is here representing the Clark family if there are any questions.

Dillon Turner, with Kimley Horne and Associates, said he is here representing the Clark family if there are any questions.

Danny Hester said he this has been a long process and this is a good location for the charter school. He thanked the Board for their commitment and their consideration of the needs of the citizens.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #425 Justin Morrow, applicant:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. A manufactured home is a conditional use in the R-S district.

#### SITE AREA AND DESCRIPTION

The proposed 1.5-acre site is located on Workman Lane about 1,600 feet west of Cat Square Road in Howards Creek Township. It is planned to be subdivided from a 6.9-acre parcel. It is surrounded by property zoned R-S. Land uses in this area include residential and agricultural. Residential uses in this area include singlewide and doublewide manufactured homes. The subject property is part of an area designated by the Lincoln County Land Use Plan as Rural Living, suitable for single-family homes, including manufactured homes.

Chairman Mitchem opened the public hearing for CUP #425 – Benjamin Workman, applicant.

Benjamin Workman, applicant said he is purchasing the home and wants to put it on his land. He said he prepared and incorporated the Findings of Fact into his testimony.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #426 Skadoosh Properties, LLC:** Randy Hawkins presented the following:

Chairman Mitchem opened the public hearing for CUP #426 – Skadoosh Properties, LLC, applicant.

The applicant is requesting a conditional use permit to operate a concrete plant in the IG (General Industrial) district in the Eastern Lincoln Development District (ELDD). A site plan has been submitted as part of the application. A concrete plant is a conditional use in the I-G district and in the ELDD overlay district.

#### SITE AREA AND DESCRIPTION

The 2.5-acre parcel is located on the north side of Quarry Lane about 400 feet west of N.C. 16 Business. It is part of the planned Prestige Business Park. The subject property is surrounded by property zoned I-G. Land uses in this area include industrial and residential. The industrial uses include a landfill, a quarry, an asphalt plant and an existing concrete plant. The subject property is part of an area designated by the Lincoln County

Land Use Plan as an Industrial Center.

Commissioner Cesena suggested that the Board limit the hours of operation as was done with the previous case. Mr. Deaton advised the Board that testimony would need to be presented by opponents for a condition like this to be applied.

Chairman Mitchem opened the public hearing for CUP #426 – Skadoosh Properties, LLC, applicant.

Jonathan Carter, spoke representing the owner of the property. He said he will be happy to answer any questions.

Dustin Ckezepis, applicant, spoke representing Kadoosh Properties. He said hours of operation have not been fully developed at this point. He said he prepared and incorporated the Findings of Fact into his testimony. He said it is a 2.5 acre parcel and they are not looking at having mixer trucks there.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #427 John and Joyce Gerlits, applicant:** Randy Hawkins presented the following:

The applicants are requesting a conditional use permit to place a private residential storage building on a lot less than two acres in size prior to the placement of a home on the lot. Under the Unified Development Ordinance, a private residential storage building is a conditional use on a lot less than two acres in size that does have a home on it. The applicants are proposing to place a 240-square-foot storage building on the lot. A site plan has been submitted as part of the application.

#### SITE AREA AND DESCRIPTION

The request involves a 1.0-acre lot located on the north side of Lackey Road at its intersection with Tower Road in North Brook Township. The subject property is adjoined by property zoned R-S. Land uses in this area include residential, agricultural and business. This property is part of an area designated by the Lincoln County Land Use Plan as Rural Living, suitable for residential uses.

Chairman Mitchem opened the public hearing for CUP #427 – John and Joyce Gerlits, applicant.

Chairman Mitchem said the Gerlits have applied this and he knows them very well.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**CUP #428 Big Wheels Trucking, LLC:** Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to allow a trucking operation in the I-G (General Industrial) district in the Eastern Lincoln Development District (ELDD). A site plan has been submitted as part of the application. A trucking operation is a permitted use in the I-G district and a conditional use in the ELDD overlay district.

#### SITE AREA AND DESCRIPTION

The 6.2-acre parcel is located at the end of Jameson Way on the west side of N.C. 16 Business about 500 feet north of Quarry Lane. It is part of the planned Prestige Business Park. The subject property is adjoined by property zoned I-G, by a railroad and, on the opposite side of the railroad, property zoned R-T (Transitional Residential). Land uses in this area include industrial and residential. The industrial uses include a landfill and a

quarry. The subject property is part of an area designated by the Lincoln County Land Use Plan as an Industrial Center.

Chairman Mitchem opened the public hearing for CUP #428 – Big Wheels Trucking, LLC, applicant.

Jonathan Carter, spoke representing the owner and buyer of the property. He said he will be happy to answer any questions. He said there will be two trucks right now and approximately 10 trailers for over the road hauling.

Art Howard, 749 South Business 16, asked if there were any more utilities that will be extended that will use a right of way off Highway 16. Mr. Carter responded that they are connecting to the waterline and extending it out Quarry and up Jameson. He said power will be underground.

Being no additional speakers, Chairman Mitchem closed the public hearing.

**Public Comments:** Chairman Mitchem opened Public Comments.

Being no speakers, Chairman Mitchem closed Public Comments

**Other Business:** Kelly Atkins brought a request for the Board to approve waived fees for Bishop Franklin Lowery’s funeral to be held in the Auditorium on August 8, 2020.

**UPON MOTION** by Commissioner Cesena, the Board voted unanimously to approve the request for waived fees.

**Adjourn:** **UPON MOTION** by Commissioner McCall, the Board voted unanimously to adjourn.

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Amy S. Atkins, Clerk  
Board of Commissioners

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Carrol Mitchem, Chairman  
Board of Commissioners