

**MINUTES  
LINCOLN COUNTY BOARD OF COMMISSIONERS  
MONDAY, NOVEMBER 5, 2018**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on November 5, 2018, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Bill Beam, Chair  
Anita McCall, Vice Chair  
Martin Oakes  
Richard Permenter  
Carrol Mitchem

Planning Board Members Present:

Todd Burgin, Chairman  
Floyd Dean, Vice-Chairman  
Jamie Houser, Secretary  
Matt Fortune  
Keith Gaskill  
Milton Sigmon  
John Marino

Others Present:

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

**Call to Order:** Chairman Beam called the meeting to order. He led in a Moment of Silence and led the Pledge of Allegiance.

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

**AGENDA  
Lincoln County Board of Commissioners Meeting  
Monday, November 5, 2018  
6:30 PM**

**James W. Warren Citizens Center  
115 West Main Street  
Lincolnton, North Carolina**

Call to Order - Chairman Beam

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
  - VTS Refunds
  - Proclamation - National Apprenticeship Week
  - Minutes for Approval
  - 2019 Meeting Schedule
  - Surplus Property
  - Termination of Purchase and Sale Agreement (Block Smith Gym)
3. Resolution Proclaiming November 10 - 18, 2018 as Hunger and Homelessness Awareness Week in Lincoln County - John Hall
4. **PUBLIC HEARINGS**

**Quasi-Judicial Cases**

CUP #387 Marvin and Jennie Simmons, applicants (Parcel ID# 31502) A request for a conditional use permit to allow an accessory structure to be located in front of the front building line of a house on a lot adjacent to Lake Norman. The 0.83-acre lot is located at 8353 Luckey Point Road in Catawba Springs Township.

CUP #388 Tracy Godfrey, applicant (Parcel ID# 23332) A request for a conditional use permit to allow a guest house as an accessory use to a single-family dwelling. The 22-acre parcel is located at 4242 John Ritchie Road in Ironton Township.

**Legislative Cases**

PD #2018-3 Blum, Inc., applicant (Parcel ID# 02372 and 34251) A request to rezone 68 acres from I-G (General Industrial) and R-T (Transitional Residential) to PD-I (Planned Development-Industrial) to permit expansions of manufacturing, warehousing and office facilities and allow a building height in excess of 60 feet and not more than 100 feet for a high-bay warehouse. The property is located at 7733 Old Plank Road, on the north side of Old Plank Road about 600 feet west of N.C. 16 Business, in Catawba Springs Township.

PD #2018-4 Provident Land Services, Inc., applicant (Parcel ID# 02465, 34170, 34189, 34190, 55690, 57451, 74300, 86960 and portions of 34201 and 86959) A request to rezone 123 acres from R-SF (Residential Single-Family) and R-T (Transitional Residential) to PD-R (Planned Development Residential) to permit a subdivision with up to 225 single-family detached houses. The property is located on the west side of Little Egypt Road about 2,000-4,000 feet north of N.C. 73 in Catawba Springs Township.

5. Review and Approval of the Guiding Principles of the Land Use Plan - Andrew Bryant
6. Performance Guarantee for Canopy Creek, Phase 2 - Jeremiah Combs

7. Approval of Special Appropriations Funding for Lincoln County Senior Services - Kathryn Saine
8. Approval of Veterinary Services Contract with Lincolnton Animal Hospital - Hannah Beaver
9. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
10. Vacancies/Appointments
11. Other Business

Adjourn

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to adopt the agenda as presented.

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

**Consent Agenda**

- VTS Refunds
- Proclamation - National Apprenticeship Week
- Minutes for Approval – October 1, 2018; October 15, 2018
- 2019 Meeting Schedule
- Surplus Property
- Termination of Purchase and Sale Agreement (Block Smith Gym)

**Resolution Proclaiming November 10 - 18, 2018 as Hunger and Homelessness Awareness Week in Lincoln County** - John Hall presented the Resolution Proclaiming November 10 – 18, 2018 as Hunger and Homelessness Awareness Week in Lincoln County.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the Resolution as presented.

**A RESOLUTION PROCLAIMING NOVEMBER 10-18, 2018 AS  
HUNGER AND HOMELESSNESS AWARENESS WEEK IN LINCOLN COUNTY  
BY THE LINCOLN COUNTY COMMISSIONERS**

WHEREAS, for over 25 years the National Coalition for the Homeless and National Student Campaign Against Hunger and Homelessness have sponsored National Hunger and Homelessness Awareness Week and the Gaston Lincoln Cleveland Continuum of Care has been actively working to end hunger and homelessness in Lincoln County; and

WHEREAS, the purpose of the proclamation is to educate the public about the many reasons people are hungry and homeless including the shortage of affordable housing in Lincoln County for very low-income residents; and to encourage support for homeless assistance service providers as well as community service opportunities for citizens, students and school service organizations; and

WHEREAS, there are many organizations and agencies committed to sheltering, providing supportive services as well as meals and food supplies to people experiencing homelessness in Lincoln County and working collaboratively through the Gaston Lincoln and Cleveland Continuum of Care to end homelessness;

WHEREAS, the Lincoln County Commissioners recognize that hunger and homelessness continues to be a fundamental problem for many individuals and families in Lincoln County; and

WHEREAS, the intent of National Hunger and Homelessness Awareness Week is consistent with the activities of the Gaston Lincoln Cleveland Continuum of Care.

NOW THEREFORE BE IT RESOLVED that the Lincoln County Commissioners hereby proclaims November 10-18, 2018 as Hunger and Homelessness Awareness Week.

BE IT FURTHER RESOLVED that the Lincoln County Commissioners encourages all citizens to recognize that many people do not have housing and need support from citizens, and private/public nonprofit service entities.

Signed: \_\_\_\_\_

**New Business/Advertised Public Hearings:** Mr. Wesley Deaton gave information on the zoning cases and asked if any Board member has had ex parte communication on the Conditional Use Permits. He explained standing in quasi-judicial cases.

Commissioner Permenter disclosed that he received a letter, which he read.

**CUP #387 – Marvin and Jennie Simmons, applicants:** Randy Hawkins presented the following:

The applicant are requesting a conditional use permit to allow an accessory structure to be located in front of the front building line of a house on a lot adjacent to Lake Norman. This request involves a 384-square foot existing structure and a house that's under construction. The existing structure was formerly used as a cottage. The applicants are proposing to use it as a bonus room. Under Section 4.6.2.C.2(a) of the Unified Development Ordinance, an accessory structure cannot extend in front of the front line of the principal structure unless it is set back a minimum of 100 feet from the edge of the road right-of-way; or, in the case of a lot adjacent to Lake Norman, the Board of Commissioners may approve a conditional use permit to allow an accessory structure to be located in the road yard, a minimum of 30 feet from the edge of the road right-of-way. The existing structure is located approximately 65 feet from the edge of the road right-of-way.

#### SITE AREA AND DESCRIPTION

The 0.83-acre lot is located at 8353 Luckey Point Road. It is zoned R-SF (Residential Single-Family) and is adjoined by property zoned R-SF and by Lake Norman. Land uses in this area are primarily residential. This property is part of an area designated by the Lincoln County Land Use Plan as Single-Family Neighborhood.

Chairman Beam opened the public hearing for CUP #387 – Marvin and Jennie Simmons, applicants.

Marvin Simmons, applicant, said they purchased the lot earlier in the year and there was a small cottage on the property. They plan to build a home there and use this as an accessory building. He said it will be compatible in appearance to the house. The neighbors have no objections as long as they are compatible to the home. Mr. Simmons said he drafted the findings of fact and incorporated them into his testimony.

Gary Garlow said he lives next door to the Simmons and is in agreement with the request. He left the minutes of the property owner's association which say they support the request provided that the improvements are made to the exterior of the structure so that it conforms to the main building on the property. He asked for this to be made a condition of approval.

Jennie Simmons asked who will make the decision as to the appearance.

Commissioner Mitchem said Mr. Garlow was a former Planning Board member.

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

**CUP #388 – Tracy Godfrey, applicant:**

The applicant is requesting a conditional use permit to add a guest house to serve as an accessory use to a single-family dwelling. Under the Unified Development Ordinance, a guest house may be permitted as a conditional use in any residential district, subject to certain requirements. In this case, the applicant is proposing a 960-square-foot guest house to go along with an existing 2,083-square-foot house.

## SITE AREA AND DESCRIPTION

The request involves a 22-acre parcel located at 4242 John Ritchie Road, on the south side of John Ritchie Road about 1,800 feet east of Brevard Road, in Ironton Township. The property is zoned R-SF (Residential Single Family) and R-T (Transitional Residential) and is adjoined by property zoned R-SF and R-T. Land uses in this area are primarily residential and agricultural. This property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential.

## ORDINANCE STANDARDS

Under the UDO, the term used for a guest house is “private residential quarters.” The following standards are set:

### §4.6.5. Residential Accessory Use Standards

#### K. Private Residential Quarters

Private residential quarters may be permitted by conditional use permit (See §9.11) as an accessory use to a detached single-family dwelling, subject to the following requirements:

1. Private residential quarters approved as a conditional use shall be subject to annual review for continued compliance in accordance with the requirements of §9.11.
2. Private residential quarters may be attached to or detached from the principal dwelling in the form of a guest house or garage apartment.
3. Private residential quarters shall not be rented or occupied for gain.
4. The area of private residential quarters shall not exceed 1000 square feet or half the size of the principal dwelling, whichever is less.
5. Private residential quarters shall not have a separate electrical meter.
6. The owner of the property shall occupy either the primary structure or the private residential quarters.

7. One additional parking space on the same premises shall be required for the private residential quarters.
8. Private residential quarters shall be architecturally consistent with the principal structure.
9. Manufactured homes may not be used as private residential quarters.

Chairman Beam opened the public hearing for CUP #388 – Tracy Godfrey, applicant.

Tracy Godfrey, applicant, said she is looking to relocate her father from Charlotte. She said since she has the land, she would like to place him a guest home on her property. She said her current septic tank will be able to handle the additional guest home. Ms. Godfrey said she prepared the proposed findings and incorporated them into her testimony.

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

**PD #2018-3 – BLUM, Inc., applicant:**

The applicant is requesting the rezoning of 68 acres from I-G (General Industrial) and R-T (Transitional Residential) to PD-I (Planned Development-Industrial) to permit expansions of manufacturing, warehousing and office facilities and allow a building height in excess of 60 feet but not more than 100 feet for a high-bay warehouse. A site plan had been submitted as part of the rezoning application. Under the Unified Development Ordinance, the PD-I district is intended to allow greater flexibility in design and provide for appropriate use of land that is significantly unique in its circumstances to warrant special methods of development. A main reason for the rezoning request is a proposed 98-foot-tall warehouse. The standards for the I-G district set a maximum building height of 60 feet. In a PD-I district, standards are established at the time of approval by the Board of Commissioners. An existing automated warehouse on the Blum site is 85 feet in height. A variance was approved in 1998 to allow the warehouse to exceed the I-G district's maximum height, which at that time was 50 feet. In 2004, another variance was approved to allow an addition to the warehouse. Rezoning the property to PD-I was recommended by staff as a more appropriate way to address the height issue. Blum's existing facilities and the site of the proposed facilities are located on a 36- acre parcel. As part of the rezoning request, Blum has opted to include an adjoining 38- acre undeveloped tract that it owns. No facilities are proposed on that tract at this time. Included with the rezoning application are minutes of a community involvement meeting that was held on Oct. 4.

**SITE AREA AND DESCRIPTION**

The subject property is located at 7733 Old Plank Road, on the north side of Old Plank Road about 600 feet west of N.C. 16 Business. It is adjoined by property zoned IG, R-T, B-N (Neighborhood Business) and B-G (General Business). Land uses in this area include industrial, business and residential. The subject property is part of an area designated by the Land Use Plan as an Industrial Center.

## STAFF'S RECOMMENDATION

Staff recommends that the rezoning request be approved.

Chairman Beam opened the public hearing for PD #2018-3 – BLUM, Inc., applicant.

Patty Korn spoke in favor of the request. She said she supports it wholeheartedly.

Sean Coldren, Civil Engineer for the project, presented visuals of what the expansion will look like on the site.

John Dancoff spoke in favor of the request saying Lincoln Economic Development fully supports this.

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

### **PD #2018-4 - Provident Land Services, Inc., applicant:**

The applicant is requesting the rezoning of 123 acres from R-SF (Residential SingleFamily) and R-T (Transitional Residential) to PD-R (Planned Development-Residential) to permit a subdivision with up to 225 lots for single-family detached homes. Under the Lincoln County Unified Development Ordinance, any proposed subdivision with 50 or more lots is subject to approval through the planned development process. The applicant is also proposing lots smaller in size than the minimum area permitted in the R-SF and R-T districts. A concept plan and a PD-R report with terms and conditions for the proposed development, Bella Vista, have been submitted as part of the rezoning application and would serve as the master plan for the development if the rezoning request is approved. The PD-R report includes commitments by the applicant to provide certain traffic improvements. The improvements are based on a traffic impact analysis that is included with the application. In addition, the applicant has provided minutes from a community involvement meeting that was held on Oct. 8.

**Phasing and amenities:** The initial three phases shown on the original concept plan have been combined into one phase that includes the amenity area, and the PD-R report stipulates that the amenity features, including a swimming pool and cabana, will be installed as part of Phase 1.

**Off-site road improvements:** In addition to constructing a westbound right-turn lane with 100 feet of storage on Optimist Club Road at North Little Egypt Road prior to the recording of the plat for Phase 1, the developer will pay the sum of \$100,000 to Lincoln County to be used for future road improvements in the area, with the payment to be made prior to the



issuance of a certificate of occupancy for the last home in Phase 1 or prior to the recording of the plat for Phase II, whichever comes first.

#### SITE AREA AND DESCRIPTION

The property is located on the west side of Little Egypt Road about 2,000-4,000 feet north of N.C. 73. It is adjoined by property zoned R-SF, R-T, PD-R and CU R-S (Conditional Use Residential Suburban). Adjoining properties include Christ Church, the Windsor Forest subdivision, and the site of the planned Creek Park residential development. (A secondary access to Bella Vista would be provided via a connection to Creek Park.) Land uses in this area are primarily residential. A portion of the subject property along Killian Creek is located in a 100-year floodplain.

#### PUBLIC UTILITIES

The proposed development would be served by public water and public sewer. A water main is located along Little Egypt Road, and a sewer line that serves Windsor Forest crosses the subject property and connects with a sewer main that runs through the western end of the Bella Vista site along Killian Creek. The applicant has been advised that Lincoln County currently could not allocate sewer capacity for the proposed development.

#### LAND USE PLAN AND UDO CONFORMANCE

The subject property is part of an area designated by the Lincoln County Land Use Plan as Single-Family Neighborhood, suitable for densities of 1-2 dwelling units per acre. The proposed density for Bella Vista is 1.83 units per acre. The UDO requires that a planned development include a minimum of 12.5% recreation and open space. Approximately 30% of the acreage in this proposed development would be reserved as recreation and open space. The proposed plan complies with the UDO's subdivision standards for external access, internal connectivity, block length and cul-de-sac length.

#### STAFF'S RECOMMENDATION

Staff recommends that the rezoning request be approved.

Chairman Beam opened the public hearing for PD #2018-4 – Provident Land Services, Inc., applicant.

Robert Davis introduced the development team.

Tom Waters, with Provident Land Services, said he has developed residential property for 27 years. He said they bring a nice community development to Lincoln County and its citizens.

Alan Kerley, with Taylor Morrison, said they plan to be the builders for this development and are excited to be in the Denver market. Mr. Kerley said they use local subcontractors and buy materials from local suppliers.

Matt Mandle, with ESP Associates, presented information concerning the Bella Vista Development.

Paul James, 430 N. Little Egypt Road, said they have done a nice job designing the subdivision. He mentioned there not being a clear line of sight at the entrance to the development.

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

**Public Hearing – Review and Approval of the Guiding Principles of the Land Use Plan:** Andrew Bryant presented the following:

The Future Land Use Map and the Community Type Designations were approved by the Board in April 2018. The Guiding Principles that are being presented form the policy framework behind the plan. The principles and goal contained within represent the aspirational values of the community and department.

Chairman Beam opened the public hearing for the Guiding Principles of the Land Use Plan.

Patty Korn stated that she agrees with the guiding principles, but said there is a significant gap between these principles and reality in Denver.

The Board discussed the wording of “should” versus “may” on Strategy 2.1.4. Commissioner McCall said she would like the use of the word may and Commissioner Permenter said he originally wanted the word “shall”, but thinks “should” needs to be used and not “may”. Commissioner Oakes also disagreed with the use of the word “may”

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

Chairman Beam called for a brief recess while the Planning Board moved their meeting to the 2<sup>nd</sup> floor balcony. Chairman Beam called the meeting back to order.

**Performance Guarantee for Canopy Creek, Phase 2:**

Andrew Bryant presented a Performance Guarantee Application Approval for Canopy Creek, Phase 2.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve a Performance Guarantee Application Approval for Canopy Creek, Phase 2.

**Approval of Special Appropriations Funding for Lincoln County Senior Services:**

Kathryn Saine, Senior Services Director, informed the Board that Lincoln County Senior Services has been awarded \$231,155.00. Of these funds, \$56,155 will be used for the purchase of a van and \$175,000 for furnishings and technology for the new building located on Center Drive.

**UPON MOTION** by Commissioner Oakes, the Board voted unanimously to approve the Special Appropriations Funding for Lincoln County Senior Services.

**Approval of Veterinary Services Contract with Lincolnton Animal Hospital:**

Hannah Beaver thanked Dr. Mitchell for her service and hard work over the years.

Animal Services is requesting approval of a new contract for veterinary services with Lincolnton Animal Hospital.

**UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve a new contract for veterinary services with Lincolnton Animal Hospital

**STATE OF NORTH CAROLINA  
LINCOLN COUNTY**

THIS CONTRACT dated November XX, 2018 between Lincolnton Animal Hospital, P.A. (the "Hospital"), and the County of Lincoln (the "County") for professional consultation and Veterinary Medical Services ("VMS") to Lincoln County.

**WITNESSETH**

Whereas, the County operates and maintains an Animal Services Division (hereinafter, "Department"), which, as its principal function, provides animal sheltering and medical care to animals of the shelter; and

Whereas, the County wishes to have associated with this program certain veterinary consultants from the Hospital to provide guidance, advice and professional services from licensed veterinarians, and;

Whereas, the Hospital, has duly licensed Doctors of Veterinary medicine in the State of North Carolina, and wishes to provide this service for the County; and

Whereas, the Hospital, has agreed to provide certain services as mutually agreed upon by the parties to this agreement, and

**NOW THEREFORE**, in consideration of the premises and the mutual covenants and conditions set forth below, the County and the Hospital, agree as follows:

1. The Hospital, agrees to provide six (6) Veterinary Consultants to Lincoln County Animal Services to perform the services described hereunder, and at all times herein to maintain licensure and certification as a veterinarian licensed to practice veterinary medicine in the State of North Carolina.
  
2. For and in consideration of the monthly fee described in Paragraph 5 herein, the Hospital shall provide, on an as-needed basis (the "retained services"):
  - a. Maintain office hours on site at Lincoln County Animal Services for at least one hour, once a week, during the weekdays.

- b. Provide on-site examinations, diagnoses, recommendations, prescriptions and treatment plans for shelter animals during weekly visit.
  - c. Provide animal medical records as requested by Animal Services.
  - d. Allow Lincoln County Government to purchase approved animal-related medications and supplies under the veterinarian's license.
  - e. Sign off on agreed upon treatment protocols and documents developed by Animal Services staff for the treatment of minor conditions commonly seen with shelter animals, and the operation of the shelter medical program at LCAS.
  - f. Provide examinations at Lincolnton Animal Hospital for Lincoln County Animal Services animals at no charge.
3. In the event that the Hospital becomes unwilling or unable to perform the duties required by this Contract, then the County shall have the right to terminate this agreement upon 30 days written notice to the Hospital.
  4. The term of this Contract will be a month to month agreement beginning on November XX, 2018 at 11:59 p.m. and automatically renewing each month unless being terminated as described in paragraph 8 of this Contract.
  5. The County shall compensate the Hospital for the retained services provided pursuant to this Contract in the amount of \$4,000 dollars (\$4,000) per month for services provided from November XX, 2018 forward. The Hospital will present invoices for services delivered monthly and payment shall be made on a monthly schedule.
  6. The Hospital shall provide the services required hereunder on an "Independent Contractor" basis.
  7. The County shall designate the Director of Animal Services as its official contact person for purposes of implementing and administering this Contract.
  8. Except as otherwise provided in paragraph 3, this Contract may be terminated, without the fault of either party, at any time by either party giving sixty (60) days notice to the other party in writing. If either party defaults in its obligations and does not cure such default

within ten (10) days of receipt of notice of such default, the non-defaulting party may immediately terminate the Contract.

9. The Hospital and the County hereby agree that, in their educational and/or employment practices, each will comply with such non-discrimination laws as may be applicable to them in the performance of this Contract.

10. This Contract contains the entire understanding of the parties and shall not be altered, amended, or modified, except by an agreement in writing executed by the duly authorized officials of both parties.

11. The laws of North Carolina shall govern the validity and interpretation of the provisions, terms, and conditions of the Contract.

IN WITNESS WHEREOF, the parties hereto have duly and validly authorized and executed this Contract on this \_\_\_\_\_ day of November 2018.

COUNTY OF LINCOLN

Lincolnton Animal Hospital, P.A.

BY: \_\_\_\_\_  
Kelly Atkins, County Manager

BY: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**Public Comments:** Chairman Beam opened Public Comments.

Shanavery Cherry spoke concerning walking along Highway 27 and an issue with dogs running loose. She asked for the Board to help with her situation and for them to implement a leash law.

Being no additional speakers, Chairman Beam closed Public Comments.

**Vacancies/Appointments:**

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to make the following appointments:

**Airport Authority**

**Appoint**

- Daniel Olson (replacing Alan Brown who resigned)

**Board of Adjustment - Alternate**

**Appoint**

- Jeffery Allen Younce

**Vol Ag District Advisory Board**

**Appoint**

- Jeff Lingerfelt.

**Other Business:** Nothing reported.

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

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Amy S. Atkins, Clerk  
Board of Commissioners

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Bill Beam, Chairman  
Board of Commissioners