

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 14, 2020

The Lincoln County Board of County Commissioners met on September 14, 2020, at the Commissioners Room, Administration Building, 353 N. Generals Blvd, Lincolnnton, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chair
Anita McCall
Milton Sigmon
Bud Cesena

Commissioner Absent:

Richard Permenter, Vice Chair

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
Keith Gaskill
Jenni Boyles
James Dean
Jeff Pariano
John Marino
Robert Shugarman
Tracy Ledford

Staff Present:

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

Call to Order: Chairman Mitchem called the September 14, 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, September 14, 2020
6:30 PM**

**Lincoln County Administration Office
353 N. Generals Blvd
Lincolnton, NC 28092**

Call to Order - Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 - Approval of Minutes - August 17, 2020
 - VTS Refunds
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.

WSCUP #24 Damon Lusk, applicant (Parcel ID# 50203) 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 0.77-acre site for a 7,340-square-foot office/warehouse. 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 and south side of Balsom Ridge Road in Catawba Springs Township.

~~PA #50 C2C Ventures LLC, applicant (Parcel ID# 52852 and 92292) A request for preliminary plat approval for a 25 lot residential subdivision with new public roads. The 34.7-acre site is located on the north side of Kidville Road about one-half mile southeast of the intersection with Beth Haven Church Road in Catawba Springs Township.~~

Legislative

CZ #2020-5 Sawyer's Towing & Transport, LLC, applicant (Parcel ID# 25208 and 91011) A request to rezone 5.3 acres from B-G (General Business) to CZ I-G (Conditional Zoning General Industrial) to permit vehicle storage, vehicle service and offices. The property is located at 3592 Gastonia Hwy., on the south side of Gastonia Highway about 200 feet west of its intersection with Salem Church Road, in Ironton Township.

4. Adoption of Resolution by Governing Body of Applicant of the SRF Loan - Deanna Rios
5. Public Comments
6. Approval to purchase a Model GR64FR - 2021 Mack Roll-Off from Transource Truck and Trailer Centers for an amount not to exceed \$ 162,770.17 - Don Chamblee
7. Other Business
- 7a. Closed Session, pursuant to NCGS 143-318.11 – Closed Sessions. (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged

Adjourn

UPON MOTION by Commissioner Cesena, the Board voted unanimously to adopt the agenda adding Item 7a – Closed Session.

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

- Approval of Minutes - August 17, 2020
- VTS Refunds

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

CUP #417 - Mount Zion Baptist Church, applicant: Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to allow the use of a private recreational facility, a lighted ballfield, in the R-R (Rural Residential) district. Under the Unified Development Ordinance, private (that is, privately owned) recreational facilities are permitted in the R-R district subject to the issuance of a conditional use permit. In the church's application, as part of its proposed findings of fact, the following conditions are proposed: 1) Two rows of Leyland cypresses, 2-4 feet tall at time of planting, shall be planted eight feet apart on 10-foot staggered centers along the shared property line between the house on the adjoining property and the ballfield, starting at the corner past the view of the ballfield from the house and crossing the entire field of view. 2) Along the remainder of the shared property line, pine trees shall be planted in rows 10 feet apart with trees 12 feet apart. 3) The ballfield shall not be used for commercial purposes. 4) Lights shall be shut off by 10 p.m.

Lighting poles and field lights were installed on an existing ballfield at the church last June under an electrical permit that was issued without a review for zoning compliance. After the permit was issued, a church leader inquired about whether there were any lighting or noise ordinances that the church should be aware of. Around the same time, the owner of an adjoining property questioned the installation of lights. The church leader Page 2 of 2 was advised that a conditional use permit was required if the church wanted to use a lighted ballfield for league play or allow other groups to use the lighted field.

The 16.1-acre site of the church and ballfield is located at 2151 Mount Zion Church Road in Ironton Township. It is adjoined by property zoned R-R and R-SF (Residential Single Family). Land uses in this area included residential and agricultural. This property is part of an area designated by the Lincoln County Land Use Plan as Large Lot Residential, suitable for primarily single-family homes, with a church, community center, and a pool and amenities listed among secondary land uses.

Commissioner Cesena asked how many letters were sent out for this case. Mr. Hawkins said it was less than thirty. He said the closest home is an estimated 150 feet from the property line.

Commissioner Sigmon said after reading the supporting information, he saw where the church committed to turning off the lights at 10:00 PM. He asked what will happen if they are in the middle of a game at 10:00 PM, if it would just be cut off. Mr. Hawkins said the church gave it a good bit of thought and are prepared to stop the game if it approaches 10:00 PM. He said they will possibly do a church league.

Chairman Mitchem opened the public hearing concerning CUP #417 – Mount Zion Baptist Church, applicant.

Luther Mize, Chairman of the Deacons at Mount Zion Baptist Church, said he is here representing the church. He said there is a high probability they are not doing a league at the time being, but may in the future. He said they would like to use their facility if they are part of a league. He said the church was established in 1869, but the ballfield has not been there that long. He said his recollection is that the house was there before the ballfield. Mr. Mize said they may use the field for youth soccer and softball, but they are not ruling anything out at this time. He said they anticipate the lighting only being used for softball.

Jeff Hager, 2049 Mt. Zion Church Road, said he is a lifelong member of the Mt. Zion community and a church member. He said he feels like the ballfield is an asset to the community and they should be able to use it, making the church the center of the community.

Heath Jenkins, 2145 Mt. Zion Church Road, spoke representing himself and his wife. He spoke concerning the impact on his property of these ballfield lights. He said in the summer of 2019, he learned of the intention of Mt. Zion Baptist Church of installing ball lights on the ballfield that has never been used. He inquired as to how the church could install this lighting and it was discovered that the church should apply for a CUP. Six months after installation,

they applied for the CUP. He said he has the upmost respect for the gentlemen from the church. He said they met with members of the church when no one reached out to them. He spoke concerning property values and how the ball lights take away from their property values. Mr. Jenkins presented pictures of the ballfield lighting as evidence. He reviewed the findings of fact submitted by the church. He argued that it will substantially injure the property value and argued that the use is not a public necessity. He argued that it is not in general conformity and said it is not in harmony with a 10.7 acre farm and home. He said the actual appearance of the lights bothers him the most.

Mr. Deaton said that without an expert testifying on property values, the Board cannot consider testimony about it.

Mr. Jenkins said he met with Mr. Mize and came to an agreement where Mt. Zion Church will convey 1 acre of property to Heath and Tracy Jenkins, install a fence the length of the property line to protect the property from pedestrian and vehicle traffic caused by the ballfield operation, Mt. Zion will install a line of cypress trees along the property line, Mt. Zion will not use the ballfield for commercial purposes and the lights shall be shut off by 10 PM.

Commissioner Cesena explained that the Board will not agree to those terms and said that is between Mr. Jenkins and the church.

Mr. Deaton said he would only recommend that the Board accept the conditions listed on the application. He said the land transfer would be a private deal between the two parties.

Mr. Mize said he is a little confused and has had numerous discussions with Mr. Jenkins. He said they reached an agreement if Mr. Jenkins did not oppose this request. He said from what he heard tonight, Mr. Jenkins is opposing it so what they are offering with the land and fence do not apply. He said they will still honor the conditions listed in the permit.

Mr. Jenkins said he wanted to go on record, to make sure the conditions they agreed upon were met. He said he is just trying to protect himself. He said if the conditions are met in the signed agreement, he is in favor of the request.

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

WSCUP #24 – Damon Lusk, applicant: Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to allow the use of the high density option in the WS-IV Protected Area of the Catawba River/Lake Norman Watershed. The applicant is planning to develop a 0.77-acre site for a 7,340-squarefoot office/warehouse. 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 61 percent is proposed.

The subject property is located on the east side of N.C. 16 Business and south side of Balsom Ridge Road. It is zoned I-G (General Industrial) and is adjoined by property zoned I-G, CZ I-G (Conditional Zoning General Business and B-N (Neighborhood Business). 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.

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 the use of a sand filter. 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 WSCUP #24 Damon Lusk, applicant.

Damon Lusk, applicant, said he is here to answer any question and stated that he prepared and incorporated the Findings of Fact into his testimony.

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

CZ #2020-5 – Sawyer’s Towing and Transport, LLC, applicant: Randy Hawkins presented the following information:

The applicant is requesting the rezoning of 5.3 acres from B-G (General Business) to CZ I-G (Conditional Zoning General Industrial) to permit vehicle storage, vehicle service and offices. Vehicle service (oil change, brake service, alignment, etc.) and offices are permitted uses in the B-G and I-G districts. Vehicle storage is a permitted use in the I-G district, but not in the B-G district.

A site plan has been submitted as part of the rezoning application. Also included are minutes from an Aug. 6 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.

The subject property is located at 3592 Gastonia Hwy., on the south side of Gastonia Highway about 200 feet west of its intersection with Salem Church Road, in Ironton Township. It is adjoined by property zoned B-G and R-S (Residential Suburban). Land uses in this area include business and residential. The subject 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-G zoning, vehicle service, retail sales, offices, personal services, etc. Under proposed CZ I-G zoning: vehicle storage, vehicle services and offices.

Adjoining zoning and uses

East: zoned B-G and R-S, vacant commercial building, vacant lot and abandoned house. South: zoned R-S, undeveloped property. West: zoned B-G, residence. North (opposite side of Gastonia Highway): zoned B-G, undeveloped property.

Staff recommends approval of the rezoning request.

Chairman Mitchem opened the public hearing concerning CZ #2020-5 – Sawyer’s Towing and Transport, LLC, applicants.

Teresa Sawyer, applicant, said she is here to answer any questions.

Wes Campbell said he works for the applicant and is here to answer any questions.

David Ledford said he prepared the site plan and he thinks they took care of all the questions at the community meeting. He said the vehicle storage is the reason for the permit, everything else is already allowed.

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

Chairman Mitchem announced that the Planning Board would recess their meeting to Room 310 to deliberate the cases.

Adoption of Resolution by Governing Body of Applicant of the SRF Loan: Deanna Rios asked for the Board’s adoption of the following Resolution.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to adopt the Resolution as presented.

RESOLUTION BY GOVERNING BODY OF THE APPLICANT

WHEREAS, the North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects, and

WHEREAS, the North Carolina Department of Environmental Quality has offered a State Revolving Loan in the amount of \$14,000,000 for the expansion of the Wastewater Treatment Plant, and

WHEREAS, Lincoln County intends to construct said project in accordance with the approved plans and specifications,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY, NORTH CAROLINA:

That Lincoln County does hereby accept the State Revolving Loan offer of \$14,000,000.

The Lincoln County does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II – Assurances will be adhered to.

That Kelly Atkins, County Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That Lincoln County has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to Federal and State grants and loans pertaining hereto.

Chief Executive Officer
September 14, 2020

Public Comments: Chairman Mitchem opened Public Comments.

Alan Hoyle spoke concerning be proactive and not reactive. He spoke concerning the First Amendment.

Being no additional speakers, Chairman Mitchem closed Public Comments

Approval to purchase a Model GR64FR - 2021 Mack Roll-Off from Transource Truck and Trailer Centers for an amount not to exceed \$ 162,770.17: Mark Bivens requested the Board's approval of the purchase of a Model GR64FR – 2021 Mack Roll-Off from Transource.

UPON MOTION by Commissioner Sigmon, the Board voted unanimously to approve to purchase a Model GR64FR - 2021 Mack Roll-Off from Transource Truck and Trailer Centers for an amount not to exceed \$ 162,770.17.

Other Business: Commissioner Cesena commented on the Sheriff's Deputies shot recently. He said it was an outstanding learning experience, where a lot was learned from an awful event. He thanked everyone for the fine work.

Closed Session: **UPON MOTION** by Commissioner Sigmon, the Board voted unanimously to enter Closed Session, pursuant to NCGS 143-318.11 – Closed Sessions. (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged

The Board returned to Open Session and Chairman Mitchem announced that no action was taken in Closed Session.

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

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners