

**MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 6, 2003**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on October 6, 2003 at the Citizens Center, Commissioner's Room, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

Jerry W. Cochrane, Chairman
Larry S. Craig, Vice-Chairman
Carrol Mitchem
Buddy Funderburk

Commissioner Absent:

Thomas R. Anderson, PE

Planning Board Members Present:

Dean Lutz
Mike Baker
Ken Hovis
Terry Whitener
John Pagel
Harold Howard, Jr.
Clyde Brown

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of BALD
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Cochrane called the October 6, 2003 meeting of the Lincoln County Board of Commissioners to order. He gave the Invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the agenda as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARINGS

OCTOBER 6, 2003

- 6:30 PM Call to Order
- 6:31 PM Invocation
- 6:34 PM Pledge of Allegiance
1. 6:35 PM Adoption of Agenda
2. 6:40 PM Approval of Minutes
- September 22, 2003
3. 6:45 PM 4H Proclamation
4. 6:50 PM Continuation of Public Hearing

ZMA #464 – Lake Norman Dredging & Marine Construction, applicant

5. 7:15 PM New Business/Advertised Public Hearings

PCUR #97 American Land Corporation-Charlotte Inc., applicant (Parcel ID# 79187, 79991, 80465, 80464, 80463, 80462 and part of 80460) A request for a parallel conditional use rezoning to rezone 119.8 acres from Transitional Residential (R-T) and Residential Single-Family (R-SF) to Planned Residential (P-R) to permit the development of a major subdivision with 57 lots for single-family homes. The proposed development would be Phase II of the Evondale subdivision. The property is located on George Brown Road in Howards Creek Township.

PCUR #98 J. Michael Murphy, applicant (Parcel ID# 58903) A request for a parallel conditional use rezoning to rezone a 1.3-acre parcel from Residential Single-Family (R-SF) to Neighborhood Business (B-N) to permit the operation of a retail garden center. The property is located on the east side of Highway 16 about 200 feet north of McIntosh Road in Catawba Springs Township.

CUP #224 Anatech Ltd., applicant (Parcel ID# 59483) A request for a conditional use permit to operate a metal-coating facility in the General Industrial (I-G) district. The 1.3-acre parcel is located at 771 Crosspoint Drive in Catawba Springs Township.

CUP #225 Howard Cline, applicant (Parcel ID# 31457) A request for a conditional use permit to place a Class B (doublewide) mobile home in the Residential Suburban (R-S) district. The home would be placed on a 1.05-acre lot to be subdivided from a 25.57-acre parcel located at 3266 Mack Ballard Road in Ironton Township.

6. 8:00 PM Public Hearing Concerning Ordinance Regulating Pre-hospital and Emergency Medical Services
7. 8:10 PM Region F Area Aging Advisory Committee Report – Betty Neal and Laurie Abounder
8. 8:20 PM Home and Community Care Block Grant Increase – Erma Deen Hoyle
9. 8:30 PM Lincoln County Health Department Renovation and Facility Plan – Dennis Williams
10. 8:40 PM Other Business

Adjourn

Approval of Minutes – September 22, 2003: Chairman Cochrane presented the minutes of the September 22, 2003 meeting for the Board’s approval.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the minutes of the September 22, 2003 meeting with a correction on the last page.

4-H Proclamation: Hannah Reynolds, President of the Lincoln County 4-H Council, presented the 4-H Proclamation to the Board and asked for their approval.

4-H Proclamation

WHEREAS, 4-H has been serving the young people of North Carolina with educational and leadership opportunities since 1914; and

WHEREAS, 4-H work is an educational youth development program of the North Carolina Cooperative Extension Service, and North Carolina State University and is supervised on the county level by the 4-H Staff along with the help of local 4-H volunteers who are outstanding men and women in their communities, countries, and world; and

WHEREAS, North Carolina 4-H reaches 250,000 youth and 25,000 volunteers annually; and

WHEREAS, 4-H'ers pledge their Heads, Hearts, Hands and Health to the improvement of their clubs, communities, countries, and world; and

WHEREAS, 4-H members working with educational learn-by-doing projects put into practice new skills and science as they strive "To Make the Best Better", the motto of 4-H; and

WHEREAS, provides a unique opportunity for young people to develop life skills through hands on learning experiences, including educational workshops, project work, presentation experiences, camps, conferences, before- and after-school programs, and other events at local, county, district, state, national and international levels; and

WHEREAS, the citizenship and leadership training which 4-H members receive in this program is a valuable asset to our democratic way of life; and

NOW, THEREFORE, We, Lincoln County Board of Commissioners, do hereby proclaim October 5 – 11, 2003 as National 4-H Week in Lincoln County and urge the people of this community to take advantage of the opportunity to become more aware of this special program which gives youth the chance to learn together and on their own as part of Lincoln County 4-H, and to join us in recognizing the unique partnership between our county and our University System.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the 4-H Proclamation and commend them on a job well done.

Continuation of Public Hearing: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 464 – Lake Norman Dredging & Marine Construction Inc., applicant.

The applicant is requesting to rezone approximately 17 acres from Transitional Residential (R-T) to General Business (B-G). The property is part of a 42.2-acre tract of land (Parcel ID# 56199) located on Campground Road at Pine Ridge Drive. A public hearing was held on this request on Sept. 6. Following the hearing, the Lincoln County Planning Board voted 3-1 to recommend approval.

Prior to the Board of Commissioners meeting on Sept. 22, the applicant agreed to amend the request to leave out a 40-foot strip along the eastern boundary of the property to provide a buffer. At the Sept. 22 meeting, Commissioners voted to table the case until their October 6 meeting. The zoning office sent out a letter and a map to surrounding property owners to notify them about the change and about the Oct. 6 meeting.

At the Sept. 22 meeting, there was some discussion concerning the possibility of a further reduction in the area requested to be rezoned. The applicant, however, has declined to further amend the request.

According to Section 4.8 of the Lincoln County Zoning Ordinance, the Board of Commissioners may:

- A. Grant the rezoning as requested.
- B. Grant the rezoning with a reduction of the area requested.
- C. Grant the rezoning to a more restrictive zoning district or districts.
- D. Grant the rezoning with a combination of A, B, and C.
- E. Deny the rezoning request.

Chairman Cochrane reopened the public hearing concerning Zoning Map Amendment No. 464.

Ron Fryer stated that he lives at the end of Woodbeach Lane. He stated that he has talked to the Commissioners at length on the telephone. He is concerned about possible pollution and does not believe the real reason for the rezoning is for mini-warehouses. He stated that he does not understand why the parcel has to be that much bigger than the rest of the General Business zoned property in the area, especially with the opposition. Mr. Fryer stated that he has not changed his opposition to this and believes it should be left as it is.

Jeanne Nuhfer, 4122 Woodbeach Lane, stated that their homes are so deep in there that people do not realize they are there and she cannot see why this land would be rezoned. She stated that Mr. Miller should not have bought this property if he wanted business-zoned property. Ms. Nuhfer stated that she is just trying to save her property.

Being no additional speakers, Chairman Cochrane declared the public hearing closed.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to put the item back on the table.

A MOTION by Commissioner Mitchem to approve the rezoning, moving the south property line 300' towards the road and with the 40' buffer on the east side.

Discussion: Commissioner Craig stated that this will not be acceptable with the Millers and is not acceptable to him. He stated that it is fair and reasonable to create a 40' buffer. Commissioner Craig stated that Ms. Nuhfer has spoken about having business abutting her property, but may be in violation herself. He presented pictures of a warehouse, which was approved through a Conditional Use Permit, that had trucks sitting around outside. A neighbor has told him that they use this building to store things for their business. In the Conditional Use Permit it says they will be storing personal items in the building. He stated that he has asked Code Enforcement to look into this matter.

Commissioner Mitchem called for a vote, saying that no one is here to pounce on Ms. Nuhfer.

Commissioner Craig stated that the Land Use Plan says development should be considered in an intricate part of the county, and encourage locations for economic development where there is adequate water, sewer, and major roads. There could be between 25 – 30 mobile homes on the property, which would create a strain on the county.

**Vote: 2 – 2 AYES: Mitchem, Cochrane
NOES: Craig, Funderburk**

A MOTION by Commissioner Mitchem to reconsider this matter when Commissioner Anderson is back.

**Vote: 2 – 2 AYES: Mitchem, Cochrane
NOES: Craig, Funderburk**

Jeff Taylor, County Attorney, stated that the rezoning is effectively denied, because it failed to get a majority of the vote.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, October 6, 2003 and the time, which was advertised in the *Lincoln Times-News* on Friday, September 26 and October 3, 2003.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, Oct. 6, 2003, at 6:30 p.m. to consider the following zoning matters:

PCUR #97 American Land Corporation-Charlotte Inc., applicant (Parcel ID# 79187, 79991, 80465, 80464, 80463, 80462 and part of 80460) A request for a parallel conditional use rezoning to rezone 119.8 acres from Transitional Residential (R-T) and Residential Single-Family (R-SF) to Planned Residential (P-R) to permit the development of a major subdivision with 57 lots for single-family homes. The proposed development would be Phase II of the Evondale subdivision. The property is located on George Brown Road in Howards Creek Township.

PCUR #98 J. Michael Murphy, applicant (Parcel ID# 58903) A request for a parallel conditional use rezoning to rezone a 1.3-acre parcel from Residential Single-Family (R-SF) to Neighborhood Business (B-N) to permit the operation of a retail garden center. The property is located on the east side of Highway 16 about 200 feet north of McIntosh Road in Catawba Springs Township.

CUP #224 Anatech Ltd., applicant (Parcel ID# 59483) A request for a conditional use permit to operate a metal-coating facility in the General Industrial (I-G) district. The 1.3-acre parcel is located at 771 Crosspoint Drive in Catawba Springs Township.

CUP #225 Howard Cline, applicant (Parcel ID# 31457) A request for a conditional use permit to place a Class B (doublewide) mobile home in the Residential Suburban (R-S) district. The home

would be placed on a 1.05-acre lot to be subdivided from a 25.57-acre parcel located at 3266 Mack Ballard Road in Ironton Township.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Parallel Conditional Use Rezoning No. 97 – American Land Corporation-Charlotte Inc., applicant: Having been sworn by the Clerk, the following individuals presented information concerning Parallel Conditional Use Rezoning No. 97 – American Land Corporation – Charlotte, Inc., applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Rezoning No. 97 – American Land Corporation – Charlotte Inc., applicant.

The applicant is requesting a parallel conditional use rezoning to rezone 119.8 acres from Transitional Residential (R-T) and Residential Single Family (R-SF) to Planned Residential (P-R) to permit the development of a major subdivision with 57 lots for single-family homes. The proposed development would be Phase II of the Evondale subdivision. Phase I consisted of 50 lots. Five of those lots would be included in Phase II, putting the total development at 102 lots.

The property is located on George Brown Road in Howards Creek Township. It is adjoined by property zoned Transitional Residential and Residential Single-Family.

Chairman Cochrane opened the public hearing concerning Parallel Conditional Use Rezoning No. 97 – American Land Corporation-Charlotte Inc., applicant.

Fred Sansillo stated that he is planning to have 57 lots on 119 acres. The homes will be valued around \$150,000 and will be restricted. There will be 1 home for every 2 acres, which is pretty low density. There is a 7 to 10 year build out on the subdivision. There is currently only 1 house completed and one under construction. American Land Corporation-Charlotte will make a \$10,480.00 to the Lincoln County School system for the impact on the schools.

Donald Hager, 1310 Maple Leaf, stated that he is the 1 house in the subdivision now. He stated that they were sold the property as a mini-farm. He stated that he is in opposition to the change. Mr. Hager stated that the applicant is trying to downplay the situation with the schools, because there will be more of an impact than they are saying. He asked about the county's notification system for zoning changes.

Randy Hawkins stated that property owners within 200' of the property line are notified of property to be rezoned. A sign was placed at the entrance of the subdivision.

Scott Markel stated that he owns lot 10 on Richview Lane. He stated that he is also opposed to this. He stated that he has 4 children, so he feels 20 students for the whole subdivision is a really low estimate. He stated that he bought this property under the premise that it would stay as it is now. Mr. Markel also stated that notifying people within 200 feet is not good enough.

Fred Sansillo stated that the average lot will remain rather large. There will still be plenty of room for horses and animals. There will also be 15 acres of common area with hiking trails, etc.

Being no additional speakers, Chairman Cochrane declared the public hearing closed.

Parallel Conditional Use Rezoning No. 98 – Michael Murphy, applicant: Having been sworn by the Clerk, the following individuals presented information concerning Parallel Conditional Use Rezoning No. 98 – Michael Murphy, applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Rezoning No. 98 – Michael Murphy, applicant.

The applicant is requesting a parallel conditional use rezoning to rezone a 1.3-acre parcel from Residential Single-Family (R-SF) to Neighborhood Business (B-N) to permit the operation of a retail garden center.

The property is located on the east side of Highway 16 about 200 feet north of McIntosh Road in the Catawba Springs Township. It is surrounded by property zoned Residential Single-Family. A Neighborhood Business district is located about 1,000 feet to the south and 1,600 feet to the north. There are also nonconforming (grandfathered) businesses in this area. This site is on the outskirts of what the Lincoln County Land Use Plan identifies as a neighborhood center with a mix of uses. It is also part of a larger area that is identified as a commercial and employment center. County water is available at this location.

Mr. Murphy would also purchase a piece of property with a house on it to live in.

Chairman Cochrane opened the Public Hearing concerning Parallel Conditional Use Rezoning No. 98 – Michael Murphy, applicant.

Mike Murphy, 1218 Heather Lane, Charlotte, stated that he currently owns a growers outlet on Independence Boulevard. Due to the widening of Independence, he is being forced to move. He stated that he has looked at property over several counties and fell in love with this property on Hwy. 16. Mr. Murphy stated that the garden center will enhance the area and he will be hiring help locally.

Rusty Anderson, 1491 S. Hwy. 16, stated that he owns the property adjacent to this property. He stated that in 1980, his dad bought this property for the purpose of moving his family business there. After they moved there, they realized they did not want to move the business there, in the middle of the neighborhood. He stated that the garden center is one thing, but if it fails, what could be there later on.

Hannah Anderson, 1491 S. Hwy. 16, read a statement from Guy McIntosh. She also stated that this business would not be offensive, but if it did not last she is concerned with what could go in there.

Ansley Anderson stated that she will either have to share a driveway with this property or pass this business every time she goes home. She stated that she is speaking on behalf of her community and asked neighbors in opposition to stand. She commented that a garden center would not be that offensive, but she is worried of what could come in there if this closes. She stated that they would like to keep this a family-focused area.

Mary Asher, 1511 S. Highway 16, stated that she totally concurs with Mr. and Mrs. Anderson. She stated that traffic is awful and it is hard to get in and out of their driveways already. She stated that she has had to replace her mailbox 4 times in 3 years. Ms. Asher stated that she is totally against this.

Susan Nunnery stated that she is the property owner for the land in question. She stated that there is a used car lot, Dellinger Building Supply, Martin Truck Sales, and other businesses near this property. She stated that Mr. Murphy will live on the lot in question and be a community member.

Randy Hawkins stated that with a Conditional Use Permit, only a retail garden center would be allowed. They could not replace this with another business unless another Conditional Use Permit was obtained.

Being no additional speakers, Chairman Cochrane declared the public hearing closed.

Conditional Use Permit No. 224 – Anatech Ltd, applicant: Having been sworn by the Clerk, the following individuals presented information concerning Conditional Use Permit No. 224 – Anatech Ltd., applicant.

Chairman Cochrane opened the Public Hearing concerning Conditional Use Permit No. 224 – Anatech Ltd., applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Conditional Use Permit No. 224 – Anatech Ltd., applicant.

The applicant is requesting a Conditional Use Permit to operate a metal-coating facility in the General Industrial (I-G) district.

The 1.3-acre parcel is located at 771 Crosspoint Drive in Catawba Springs Township. It is adjoined on the east and south by property zoned General Industrial and on the west and north by property zoned Transitional Residential (R-T).

George Barr stated that he is requesting the Conditional Use Permit to move the business here from Fairfax, Virginia. The facility is a coatings facility that serves mostly racing venues.

Being no additional speakers, Chairman Cochrane declared the public hearing closed.

Conditional Use Permit No. 225 – Howard Cline, applicant: Having been sworn by the Clerk, the following individuals presented information concerning Conditional Use Permit No. 225 – Howard Cline, applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Conditional Use Permit No. 225 – Howard Cline, applicant.

Howard Cline is requesting a Conditional Use Permit to place a Class B (doublewide) mobile home in the Residential Suburban (R-S) zoning district. The home would be placed on a 1.05-acre lot to be subdivided from a 25.57-acre tract of land

The property is located at 3266 Mack Ballard Road in Ironton Township. It is adjoined by property zoned Residential Suburban. A doublewide and a singlewide are located on nearby lots.

Howard Cline stated that he has lived on this property for 33 years. His plans are to move into the doublewide and his oldest daughter will be moving into his house. The doublewide will be bulldozed when they pass on.

The Planning Board reconvened to the second floor balcony.

Chairman Cochrane called for a brief recess.
Chairman Cochrane called the meeting back to order.

Public Hearing Concerning Ordinance Regulating Pre-hospital and Emergency Medical Services: Chairman Cochrane opened the Public Hearing Concerning the Ordinance Regulating Pre-hospital and Emergency Medical Services.

Being no one wishing to speak, Chairman Cochrane declared the Public Hearing closed.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the Ordinance.

Region F Area Aging Advisory Committee Report: Betty Neal and Laurie Abounder gave the annual report for the Region F Area Aging Advisory Committee.

Home and Community Care Block Grant Increase: Erma Deen Hoyle stated that Lincoln County is eligible to receive an additional \$9,063 in Home and Community Care Block Grant Funds for the 03-04 Budget year.

In May of 2003, when the current budgets for the county service providers were approved, the state totals were not available. To avoid cutting budgets (and services) at a later time, the Council on Aging chose to use the lower budget estimates of July '02, rather than the actual numbers for FY03. When the State Budget was approved, there was a funding loss overall, but the actual amount for Lincoln County was higher.

The Council on Aging had prioritized funding during the preparation of the County Plan and recommended that any increase should be given to the In-Home Aide I program, directed by the Department of Social Services. This decision was reaffirmed at the September Council on Aging meeting.

Ms. Hoyle requested approval of these additional funds for Lincoln County.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the acceptance of the additional \$9,063 and match with local funds.

Health Department Renovation and Facility Plan: Dennis Williams presented a proposal for completing a plan to address the facility needs of the Lincoln County Health Department. The scope of the work is to be divided into two distinct project segments. The first segment of the work is to develop the schematic plans for minor renovations that will be necessary to accommodate the needs of the Health Department facility allowing the improvements of clinical space and the necessary minor improvements to office space for an interim period to allow the Health Department to more properly function for a period of two to four years. The second segment of the study will include a major facility study to assess the needs of the Health Department as it relates to a potential new facility. The cost for this work will not exceed \$11,450.00

There was a discussion concerning spending this money fixing up the old building with plans to possibly build a new building.

Commissioner Mitchem voiced concerns about spending \$11,000 for someone to tell Maggie Dollar what she needs in a new building.

UPON MOTION by Commissioner Craig, the Board voted 3 – 1 (Mitchem against) to approve the contract with Williams Design.

Other Business: Commissioner Craig asked for advice from the County Attorney concerning the zoning case that was a tie-vote earlier.

Jeff Taylor stated that earlier, Commissioner Mitchem made a motion to rezone less than all of the property that was applied for. The vote was 2-2, which means it failed. There was no other motion made to approve or deny the Zoning Map Amendment as it was applied for.

A MOTION by Commissioner Craig to allow the rezoning of Zoning Map Amendment No. 464 – Lake Norman Dredging & Marine Construction, based on putting in the 40'

buffer that begins on Pine Ridge and ends at the back edge of the property, going down the eastern side.

Discussion: Commissioner Mitchem stated that the people in opposition left not knowing it would be changed. He stated that it is poor business letting those people leave tonight in the dark.

Chairman Cochrane stated that Mr. Miller approached him saying that the Board had made an oversight not voting on the original request. He admitted that the Board did not vote on the original request.

Vote: Unanimously approved.

Stan Kiser, County Manager, stated that Chairman Cochrane charged he and staff with improving customer service and safety. He stated that in the next few months he will be making suggestions to the Board as to how to improve safety.

Commissioner Craig stated that he received a phone call today from a man who owns a restaurant. This man's water had been cut off at lunchtime. He came up and paid his bill and had his water cut back on. He asked if the Water Department could get a phone number to the owners or people in charge and try to contact them before water is cut off to their business.

Steve Gilbert presented information concerning customer service improvements in the Public Works Department.

Chairman Cochrane asked the Board for dates for a joint meeting with the Planning Board to discuss an Adequate Public Facilities Ordinance. Commissioner Funderburk is going to check his calendar and get back with the Clerk with some dates.

Chairman Cochrane asked the Board's interest in sponsoring a table at the Annual Prayer Breakfast. The Board agreed to attend this event and sponsor a table.

Commissioner Craig stated that at the last DSS meeting, the Chairman of the DSS Board was speaking about the Pillowtex closing and all legislatures jumped on the bandwagon to get emergency funding. He stated that we are strapped with the same situation with closings. Commissioner Craig asked for the Board to develop a Resolution to send to the Representatives to tell them that we are suffering as well.

Recess: The meeting was recessed until October 13, 2003 at 6:30 p.m. at the School Administration meeting for a joint meeting with the School Board.

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners