

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, DECEMBER 5, 2005**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on December 5, 2005, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

**Commissioners Present:**

Thomas R. Anderson, PE, Chairman  
Carrol D. Mitchem, Vice Chairman  
James Buddy Funderburk  
Marie Moore  
Alex E. Patton

**Planning Board Members Present:**

Dean Lutz  
John Pagel  
Terry Whitener  
Clyde Brown  
Jerry Geymont  
Darrell Harkey  
Harold Howard Jr.  
Louis McConnell

**Others Present:**

Stan B. Kiser, County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Delores Alfaro, Assistant Clerk to the Board  
Kelly Atkins, Director of Building and Land Development  
Randy Hawkins, Zoning Administrator  
Candi Cornwell, Associate Zoning Administrator  
Brad Dyer, Associate Planner  
Steve Gilbert, Director of Public Works  
Barry McKinnon, Utility Engineer  
Leon Harmon, Director of Finance  
Karen Leonhardt, Director of Senior Services

**Call to Order:** Stan Kiser, County Manager, called the December 5, 2005, meeting of the Lincoln County Board of Commissioners to order.

**Invocation:** Commissioner Marie Moore gave the Invocation and led in the Pledge of Allegiance.

**Election of Chair:** Stan Kiser opened the floor to nominations for Chairman. Commissioner Funderburk made the motion to appoint Commissioner Tom Anderson as Chairman.

Commissioner Patton motioned that the nominations be closed, and Commissioner Anderson be elected as Chairman.

Vote: Unanimously approved.

**Election of Vice Chairman:** Chairman Anderson conducted the election of Vice Chairman.

Commissioner Patton nominated Commissioner James “Buddy” Funderburk for Vice Chairman.

Commissioner Mitchem motioned that the nominations be closed, and Commissioner Funderburk be elected as Vice Chairman.

Vote: Unanimously approved.

**Adoption of Agenda:** Chairman Anderson presented the agenda for the Board’s approval.

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to adopt the agenda.

## **AGENDA**

### **LINCOLN COUNTY BOARD OF COMMISSIONERS**

**DECEMBER 5, 2005**

6:30 PM	Call to Order
	Invocation – Commissioner Marie Moore
	Pledge of Allegiance
	Election of Chair
	Election of Vice-Chair
1.	6:35 PM
	Adoption of Agenda

2. 6:40 PM Consent Agenda

- Tax Requests for Refunds – November 21 – 27, 2005
- Tax Requests for Releases – October 16 - November 15, 2005
- Budget Adjustment No. 38
- Approval of Minutes
  - November 8, 2005
  - November 21, 2005
- Reimbursement Resolution for Sewer Line to Industrial Park and Elementary School

3. 6:45 PM Public Hearing – Proposed Industrial Incentive Grant for Timken – Laura Foor

4. 6:50 PM Public Hearing – Proposed Industrial Incentive Grant for Cataler – Laura Foor

5. 6:55 PM New Business/Advertised Public Hearings

ZMA #511 Donald and Carlean Sain, applicants (Parcel ID# 00139) A request to rezone a 0.6-acre parcel from I-G (General Industrial) to R-SF (Residential Single-Family). The property is located at 7287 Houser Farm Road in North Brook Township.

ZMA #512 Boyce Lynch, applicant (Parcel ID#02302 and 02303) A request to rezone 3.1 acres from B-N (Neighborhood Business) to B-G (General Business). The property is located at 3618 N. Hwy. 16 in Catawba Springs Township.

ZMA #513 Fredda Robinson, applicant (Parcel ID# 26943) A request to rezone a 2.2-acre parcel from R-SF (Residential Single-Family) to B-N (Neighborhood Business). The property is located on the northern corner of Hwy. 27 and Randleman Road in Ironton Township.

ZMA #514 Mark Robinson, applicant (Parcel ID# 81518) A request to rezone a 2.9-acre parcel from B-N (Neighborhood Business) to B-G (General Business). The property is located on the north side of Hwy. 150 about 500 feet west of Quinlan Lane in Ironton Township.

ZTA #515 Lincoln County, applicant. A proposal to amend Sections 4.5, 4.6, 4.8 and 4A.7 of the Lincoln County Zoning Ordinance to state that the Planning Board, in considering any proposed zoning text amendment or zoning map amendment, shall provide a written statement to the Board of Commissioners to advise and comment on whether the proposal is consistent with any comprehensive plan that has been adopted and any other adopted plan that is applicable; that if no written report is received from the Planning Board within 30 days of referral of an amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report; that the Board of Commissioners, prior to adopting or rejecting any proposed amendment,

shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest; and that, in the case of a parallel conditional use rezoning, only those conditions mutually approved by the Board of Commissioners and the applicant may be incorporated into the permit requirements.

PCUR #125 Ronnie Caldwell, applicant (Parcel ID# 29863 and 29852) A request to rezone 1.5 acres from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit the use of an existing house as an office. The property is located at 6596 Campground Road in Catawba Springs Township.

PCUR #126 Lauth Property Group, applicant (Parcel ID# 29940, 31309, 73118 and 55694) A request to rezone 38.6 acres from R-T (Transitional Residential), B-G (General Business) and I-G (General Industrial) to CU B-G (Conditional Use General Business) to permit a 225,410-square-foot shopping center, including a 139,410-square-foot store. The property is located on the south side of Hwy. 73 about 2,000 feet west of Hwy. 16 in Catawba Springs Township.

CUP #268 Greenway of NC Inc., applicant (Parcel ID# 55025 and 70464) A request for a conditional use permit to establish a composting operation in the I-G (General Industrial) district.

The 7.6-acre site is located at the end of Joshua Court off Hwy. 27 in Ironton Township.

6. 8:15 PM Verdict Ridge Phases 3-7 – Randy Hawkins
7. 8:25 PM Public Hearing - Community Transportation Program – Karen Leonhardt
8. 8:35 PM Public Hearing – Road Naming Petition for John Flowers Lane
9. 8:45 PM Update on Gaston College – Dr. Pat Skinner
10. 9:00 PM NCDOT Road Abandonment
11. 9:10 PM BellSouth Contract – Dante' Patterson
12. 9:20 PM Resolution to Approve Waiver of Bidding Requirements for Purchase of 2006 Compactor and Resolution for Purchase of Compactor by Lincoln County, North Carolina
13. 9:30 PM Other Business
14. 9:40 PM Closed Session – Personnel and Real Estate

Adjourn

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

- Tax Requests for Refunds – November 21 – 27, 2005

LINCOLN COUNTY TAX DEPARTMENT  
MOTOR VEHICLES

**REQUEST FOR REFUNDS**

PERIOD COVERED (November 21, 2005 – November 27, 2005)

G.S.#105-381(B) ALL REFUNDS MORE THAN \$100.00  
(and) #105-325 including (A) (6)

<b>NAME</b>	<b>YEAR</b>	<b>DIST</b>	<b>A/C#</b>	<b>AMOUNT</b>
Lawing, Gary L.	2001-04	City	15272	829.39
		<b>TOTAL</b>		<b>\$829.39</b>

- Tax Requests for Releases – October 16 - November 15, 2005

Freestone, James David	2005	0187552	\$ 319.64
Gechter, Gary L.	2005	0115087	\$ 132.16
Giron, Francisco A.	2005	0169038	\$ 209.13
Griffin, James Timothy	2005	0187666	\$ 224.41
Hamrick, Connie Parker	2005	0185529	\$ 219.13
Justice, Jacob Theodore	2004	0171221	\$ 208.15
Lee, Virginia Dianne	2005	0187739	\$ 122.68
Mullineaux, Gordon W.	2005	16923	\$ 171.15
Roach, Sherre Bice	2005	0160365	\$ 104.54
Schronce, Brandy Nicole	2003/04	0128560	\$ 123.55
Self, Janis Ruth	2004	0082110	\$ 153.28
Sibert, Wayne Edison	2005	0074435	\$ 186.02
Stolzenberg, Lori Sue	2005	0185538	\$ 107.38
Town Square Ford Inc			
Rental	2005	0089603	\$ 238.56
White, Sara Still	2005	0169806	\$ 137.94
Yang, Vang	2005	0161471	\$ 186.62
		<b>TOTAL</b>	<b>\$ 4,937.45</b>
Forever Young	2004	0155797	\$ 113.27
Frye, Leslie Kay	2005	0097425	\$ 1,288.12
Grass-Hoppers Landscape	2004/05	0148099	\$ 1,463.00
Hager, Alice (Heirs)	2005	17327	\$ 2,498.37
Hager, J. Holland Mrs. (Heirs)	2005	17368	\$ 5,733.29

Hoyle, Allen C.	2005	0183736	\$ 335.55
Jeffers, Martin Lee	2005	0101217	\$ 118.84
Little, Stacie	2005	0189037	\$ 305.45
Nolen, Norman	2004/05	19182	\$ 258.69
Otten, Lloyd Elwood	2005	10884	\$ 145.20
Peach, Donald Edward	2005	11321	\$ 192.03
Ramsey, Kevin	2005	0189044	\$ 330.33
Shire The	2005	0179020	\$ 257.40
Sidetrax Bar & Grill	2005	0180665	\$ 481.79
Toscano, Alexander	2005	0188941	\$ 175.03
Ziegler, Chris J.	2005	0171723	\$ 232.16
		<b>TOTAL</b>	<b>\$ 16,533.83</b>

- Budget Adjustment No. 38  
Re: Encumber Recreation Funds
- Approval of Minutes
  - November 8, 2005
  - November 21, 2005
- Reimbursement Resolution for Sewer Line to Industrial Park and Elementary School

#### **REIMBURSEMENT RESOLUTION**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN, NORTH CAROLINA, (THE "ISSUER") DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL IMPROVEMENTS**

WHEREAS, Lincoln County (the "Issuer") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the Issuer [has paid, beginning no earlier than October 5, 2005 and] will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the construction and installation of wastewater pump station, force mains and collection lines to serve an industrial park off Highway 321 North and a new elementary school off Highway 27 West of Lincolnton (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the Board of Commissioners for the County of Lincoln, North Carolina, (the "Board") has determined that those moneys [previously advanced no more than 60 days prior to the date hereof and] to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Issuer for the Expenditures

from the proceeds for one or more issues of tax-exempt financing (the "Financing");

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

Section 1. The Board hereby declares the Issuer's intent to reimburse the Issuer with the proceeds of the Installment Financing for the Expenditures with respect to the Project made on and after [October 5, 2005, which date is no more than 60 days prior to] the date hereof. The Issuer reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Financing.

Section 2. Each Expenditure [was and] will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case of the date of the Expenditure), (b) a cost of issuance with respect to the financing, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Issuer as long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Issuer.

Section 3. The maximum principal amount of the Installment Financing expected to be issued for the Project is \$2,210,500.

Section 4. The Issuer will make a reimbursement allocation which is a written allocation by the Issuer that evidences the Issuer's use of the proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Issuer recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain de minimus amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 5<sup>th</sup> day of December, 2005.

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Thomas R. Anderson, Chairman  
Board of Commissioners

ATTEST:

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Amy S. Atkins  
Clerk to the Board

**Public Hearing – Proposed Industrial Incentive Grant for Timken – Laura Foor:**

Ms. Foor stated that Timken is competing with other Timken locations across the U.S. for this project, and has not been awarded this project yet. She stated that community and government support has played a significant role previously in awarding new lines. The total grant amount would be \$320,250 over a five-year period.

Chairman Anderson opened the public hearing concerning the proposed industrial incentive grant for Timken.

Being no speakers, Chairman Anderson declared the public hearing closed.

Jeff Taylor, County Attorney, advised the Chair to entertain a motion to rescind the original incentive grant dated December 1, 2003.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to rescind the incentive grant agreement dated December 1, 2003.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the incentive grant agreement this 5<sup>th</sup> day of December, 2005.

**Public Hearing – Proposed Industrial Incentive Grant for Cataler – Laura Foor:**

Ms. Foor stated that Cataler is considering a facility expansion that would increase their production capability in this area. The bulk of this project will come in machinery and equipment, but there will be a substantial expansion to the facility as well. This project would total \$25,450,000, and would create a minimum of 30 new jobs in Lincoln County, with an average weekly wage of \$600. Their annual grant would be \$104,659.22, paid per year for a five-year period.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the grant.

**New Business/Advertised Public Hearings:** Chairman Anderson announced that this was the date, Monday, December 5, 2005 and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on November 25 and December 2, 2005.

**Zoning Map Amendment No. 511 – Donald and Carlean Sain, applicants:** A request to rezone a 0.6-acre parcel from I-G (General Industrial) to R-SF (Residential Single-Family). The property is located at 7287 Houser Farm Road in North Brook Township.

Randy Hawkins stated that the applicants are seeking lower property taxes as the property is no longer being used for industrial purposes.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 511 – Donald and Carlean Sain, applicants.

Being no speakers, Chairman Anderson declared the public hearing closed.

**Zoning Map Amendment No. 512 – Boyce Lynch, applicant:** A request to rezone 3.1-acres from B-N (Neighborhood Business) to B-G (General Business). The property is located at 3618 N. Hwy. 16 in Catawba Springs Township.

Randy Hawkins stated that mini storage units, auto repair and auto sales are permitted uses by right in the General Business district, but not in the Neighborhood Business district. He stated that auto sales is a conditional use in the B-N district.

John Pagel, Planning Board, asked what the intended use is. Randy Hawkins stated that, according to the application, it would be used for Climate Control storage or a car lot/repair shop.

Commissioner Moore asked if all of the surrounding property was B-G. Randy Hawkins stated that it is all B-G, except 3 lots on the north side that are B-N. Commissioner Moore asked about the residential area in the center. Mr. Hawkins explained that those lots were rezoned years ago, and left a small hole in B-G area. He added that there are no homes on those lots.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 512 – Boyce Lynch, applicant.

Being no speakers, Chairman Anderson declared the public hearing closed.

**Zoning Map Amendment No. 513 – Fredda Robinson, applicant:** A request to rezone a 2.2-acre parcel from R-SF (Residential Single-Family) to B-N (Neighborhood Business). The property is located on the northern corner of Hwy. 27 and Randleman Road in Ironton Township.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 513 – Fredda Robinson, applicant.

Donald Crump, a realtor, stated that the applicant is requesting the rezoning to allow her the greatest financial gain for her retirement as well as the best use of the property, which would be as a commercial enterprise. Mr. Crump stated that the rezoning would be consistent with the area.

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

**Zoning Map Amendment No. 514 – Mark Robinson, applicant:** A request to rezone a 2.9-acre parcel from B-N (Neighborhood Business) to B-G (General Business). The

property is located on the north side of Hwy. 150 about 500 feet west of Quinlan Lane in Ironton Township.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 514 – Mark R, applicant.

Mark Robinson, applicant, deferred.

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

**Zoning Map Amendment No. 515 – Lincoln County, applicant:** A proposal to amend Sections 4.5, 4.6, 4.8 and 4A.7 of the Lincoln County Zoning Ordinance to state that the Planning Board, in considering any proposed zoning text amendment or zoning map amendment, shall provide a written statement to the Board of Commissioners to advise and comment on whether the proposal is consistent with any comprehensive plan that has been adopted and any other adopted plan that is applicable; that if no written report is received from the Planning Board within 30 days of referral of an amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report; that the Board of Commissioners, prior to adopting or rejecting any proposed amendment, shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest; and that, in the case of a parallel conditional use rezoning, only those conditions mutually approved by the Board of Commissioners and the applicant may be incorporated into the permit requirements.

John Pagel, Planning Board, asked if, with a 30-day proviso, the Planning Board would be able to table a request if the submission was incomplete. Randy Hawkins stated that the time frame starts upon receipt of the packet, and yes, the Board of Commissioners could send it back at that point.

Louis McConnell, Planning Board, asked if they would still be able to recommend conditions. Randy Hawkins stated that they would, and that it would be up to the Board of Commissioners to accept them.

Chairman Anderson stated that this changes quite a lot in regards to a PCUR, noting that mutual consent between the boards was required. Chairman Anderson stated that this is “handcuffing” the Board of Commissioners. Randy Hawkins stated that it only applies to PCURs.

Chairman Anderson referred to the more detailed and extensive cases, stating that the language is essentially state law, whether the Board adopts it or not. Randy Hawkins agreed.

Commissioner Funderburk stated that they would have no choice but to deny (a request). Randy Hawkins suggested that the Board discuss the conditions with the applicant before voting to rezone.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 515 – Lincoln County, applicant.

Being no speakers, Chairman Anderson declared the public hearing closed.

**PCUR #125 – Ronnie Caldwell, applicant:** A request to rezone 1.5-acres from R-SF (Residential Single-Family) to CU B-N (Conditional Use Neighborhood Business) to permit the use of an existing house as an office. The property is located at 6596 Campground Road in Catawba Springs Township.

John Pagel, Planning Board, asked what the proposed use is. Randy Hawkins stated that it is limited to use as an office. Mr. Pagel then asked if there were restrictions as to the type of office. Mr. Hawkins stated that it could be used as any type of office.

Commissioner Moore asked what was between that property and the property zoned B-N. Randy Hawkins stated that the applicant owns the small parcel, the next lot which separates the larger parcel from the B-N is the site of an older house. He presented photos of the older house and an existing house on the other property. Commissioner Moore asked if there was a residence on the other side of the property. Mr. Hawkins stated that there is, but it is boarded up and unoccupied.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Rezoning 125 – Ronnie Caldwell, applicant.

***Todd Wulhorst, PA***, distributed a brochure created by the applicant, stating that the applicant's ultimate goal is to have an office in the building. In the interim, he wants to rent it as an office. Mr. Wulhorst presented photos Mr. Caldwell has taken of other houses in the area that have been converted into businesses. In regards to previous concerns about storing chemicals at the site, he explained that they would not be stored at the site. Instead, they would be mixed at the sites being treated, adding that the applicant wants to preserve the home.

Commissioner Mitchem pressed for more information about transportation and mixture of the chemicals, asking about the type of chemicals that would be used, and where exactly they would be stored. Mr. Wulhorst stated that the chemicals would be in pellet form (grain and/or gel – not liquid), and that they would be stored and locked in the trucks.

***Ronnie Caldwell***, applicant, stated that he services hospitals and restaurants, in addition to doing real estate inspections, stressing that his company is not a chemical company. He stated that he is governed by the Department of Agriculture.

Harold Howard Jr., Planning Board, asked him to describe the improvements to the house. Mr. Caldwell stated that, out of good faith, he made the following improvements:

- 1) installed piers to raise the house

- 2) replaced a front supporting beam
- 3) installed a gas-pack heat system, adding there was previously no air/heat/insulation
- 4) added new vinyl siding
- 5) put new floor in

He added that, because of the financial investment he has made in improvements, he is at a stopping point until he knows for certain what his options are.

Darrell Harkey, Planning Board, asked Mr. Caldwell if he was aware that the rezoning of his business would destroy the historic integrity, and kill the proposal for the historic district in that area. Mr. Harkey stated that the oldest continuous campground in the U.S., a predominantly black historical church and the houses all contribute to the historic integrity of that area. Mr. Caldwell stated that he was not aware of anything historic significance of that particular house. He added that a lot of historic houses in the area that have been on the brink of destruction have been salvaged by others who have established businesses in them, and that he would try to save the house and beautify the area.

**Sue Murdock**, owner of an adjacent house, stated that it was not her intent to allow her house to deteriorate to the point that it has. She stated that her three options are to repair it, tear it down or sell it for salvage, her first choice being to repair it. Ms. Murdock explained that she boarded the house up to keep vagrants out. She stated that it is the historic P. A. Thompson house. She does not want to deter growth or the tax base in the county, but is concerned about changing its historical value if the rezoning is approved. She indicated that others on Campground Road are also opposed to this request. She expressed concern about the chemicals being across the road from a mobile home park where children reside. She identified her home in a photo at Planning Board Chairman Dean Lutz's request.

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

**PCUR #126 – Lauth Property Group, applicant:** A request to rezone 38.6-acres from R-T (Transitional Residential), B-G (General Business) and I-G (General Industrial) to CU B-G (Conditional Use General Business) to permit a 225,410-square-foot shopping center, including a 139.410-square-foot store. The property is located on the south side of Hwy. 73 about 2,000 feet west of Hwy. 16 in Catawba Springs Township.

John Pagel, Planning Board, asked if another traffic study has been done. Randy Hawkins stated that there had not, noting that the Wal-Mart project included this proposed development. Mr. Pagel then asked if, in the previous study, Lowe's was adjacent to Wal-Mart. Mr. Hawkins stated that the traffic study did refer to an adjacent property, but that Lowe's was looking at the property across the road at that time.

Chairman Anderson opened the public hearing concerning Parallel Conditional Use Rezoning 126 – Lauth Property Group, applicant.

Walter Fields, Lauth Property Group, introduced the Lowe's group: Paxton Hollar and Houston Roberts/Lauth Group; Gene Hinkel, Site Planner and Engineer/Freeman and Kaufman; Nikki Wagoner/Lowe's. Mr. Fields thanked ELBA and other interested citizens for their support of the proposed Lowe's. He stated that the store will front Hwy. 73 because it offers the greatest degree of safety traffic-wise, although it will adjoin the new Hwy. 16 without any access. He stated that it includes a 225,400 square foot shopping center proposal anchored with a Lowe's Home Improvement Center and at least one other mini-anchor small store, a number of small shops, and 5 out-parcels. None of the out-parcels will have direct access to Hwy. 73. There will be a significant amount of landscaping, 2 full access points to Hwy. 73 along with another access point on the eastern edge of the site with a right/in, right/out only lane to Hwy. 73. There will be a connection to the adjoining property, providing connectivity and allowing quick access without having to enter Hwy. 73. In regards to architectural requirements, they paid close attention to the discussion/citizens' requests at the Wal-Mart hearing. The Lowe's store, which will be a high-scale store, will consist of brick on 3 sides, with the rear being block, painted to match the brick, and well-screened. The landscaping, which will consist of canopy-type trees, will serve as a buffer, a break between shops and ornamentation. There will be pedestrian access and connectivity. Stormwater management will be in a larger area than required, and if the additional space is not used for that, it may be used for additional parking, but no additional buildings. The façade of the building that relates to the parking field and the internal street and out to Hwy. 73 will have significant articulations which create shadowlines which create a sense of entry. The most unusual feature is that the façade of the building will extend across the entire length of the store to include the garden center, to make it more aesthetically pleasing. That area will be filled with an aluminum, ornamental wrought-iron fence which will permit light and air to pass through the garden center. Lowe's will bring 98-100 jobs to the county. The total square footage of the store will be 225,000 square feet, significantly less than the 290,000 square feet factored into a previous traffic study. Mr. Fields stated that they opted to submit a technical memo, rather than have another traffic study done since they were included in the previous study. He stated that even without Wal-Mart and Lowe's, traffic improvements are needed, and a lot of incremental improvements could be made now by NCDOT. Mr. Fields also stated that upcoming developments would also be able to contribute to road improvements.

Richard Adams presented a technical memorandum he did for Lauth/Lowe's. Mr. Adams stated that the department received the Wal-Mart Traffic Study, noting that it was slightly ambiguous as to the location of the Lowe's development. No turning movements were shown at the driveways, which is why DOT may have asked them to study the 2 access points along with the right/in; right/out driveway, and make sure they are going to work in an acceptable condition. Going beyond the intersections, the traffic in the adjacent development is included in all of the other intersection studies. He filled in the gaps at those intersections. He also conducted trip generation for the Lowe's site, noting that the development is of a lesser intensity than what was included. On a daily basis, Ramey-Kemp projected about 18,000 trips for the Lowe's site as opposed to 12,000 trips that we're projecting, adding that the difference is not so great in the peak hours.

Chairman Anderson asked Mr. Adams if he was stating that, of the 18,026 trips per day projected in the Ramey-Kemp study, 12,000 of those trips will be projected as the result of Lowe's, leaving only 6,000 attributable to Wal-Mart. Mr. Adams referred him to Page 14/Table 3 of the study. He stated that the adjacent development is 6,000 less than projected, and that 2 separate trip studies were conducted in the Ramey-Kemp study. Chairman Anderson stated that 18,026 were projected for Wal-Mart, and 18,069 were projected for the adjacent development at 290,000 square feet. Mr. Adams confirmed that was correct. He went on to state that trips for this site were included in the Wal-Mart study submitted to DOT. He noted that the only thing missing from the study was the actual turning movements at the site access points. DOT indicated that was what they needed, and requested a technical memo on that. They've conducted that study, met with DOT, and DOT has approved the access points. They do want to take a closer look at the right/in, right/out drive. He stated that the applicant is prepared to either move or eliminate that driveway, in coordination with the adjacent developer, so as not to hinder the approval of the adjacent property developer. He stated that they are also prepared to stub out to that adjacent property and coordinate off site cross access agreements with them. Mr. Adams stated that DOT has the moving ahead funding, but are holding off on what they're committing that funding to. Another development may result in additional road improvements. According to DOT, Wal-Mart and Lowe's combined have met their road requirements. He stated that DOT told him that the current grading project for the next phase of the 16 by-pass construction to the north is approximately one year ahead of schedule. He stated that his study did show that another signal is warranted at the intersection closest to the new by-pass, and that Lauth Property Group and Lowe's are committed to funding it, assuming DOT agrees to it. Both intersections will operate at LOS "B" in the a.m., and LOS "C" in the p.m., which will be an acceptable Level of Service, along with the improvements on Hwy. 73 that DOT is requiring. Chairman Anderson stated that an increase of about 30,000 cars per day will occur. Mr. Adams stated that the increase will be dispersed in at a minimum of two different directions, cutting it in half. Chairman Anderson asked if there was a sharing of cost/funding between Wal-Mart and Lowe's for road improvements. Mr. Adams stated that he could not answer that, but that someone with Lauth Property Group or Lowe's could.

Commissioner Moore asked if they looked at the 16/73 interchange. Mr. Adams stated that they did not, noting that DOT didn't require it since it was included in the previous study. Chairman Anderson stated that the Ramey-Kemp Traffic Study contains in the Executive Summary and other locations, 4 or 5 improvements specifically.

John Pagel, Planning Board, asked about the stacking lanes. Mr. Adams stated that the only additional demand is a new signal, and that the current stacking lanes have been deemed adequate, and he concurs with the Ramey-Kemp study.

Harold Howard Jr., Planning Board, asked about the current LOS for the existing 16/73 interchange in the Ramey-Kemp study. Mr. Adams stated that, overall, it is at LOS "E" in the a.m. and p.m.

John Pagel, Planning Board, stated that it also shows an additional burden on that intersection with the adjacent development. He asked if Lowe's was prepared to subsidize improvements at 16/73. Mr. Adams stated that DOT, Lauth and Lowe's is consistent with the improvements (the 5-laning of 73 between the new freeway and 16 creates a lot of improvement at that intersection, along with the other improvements coming on line will be enough to mitigate the traffic that will occur in the interim until the freeway is open all the way). In addition to that, DOT will require a traffic impact study from the next applicant for the development adjacent to Lowe's.

Walter Fields stated that it is not unusual to make a joint effort in regards to (road) improvements. Mr. Fields stated that there is an emerging discussion between Lauth and the developer next door to implement plans. After distributing copies, he read a Findings of Fact sheet in regards to Section 4A.7.1 of the Zoning Ordinance, which notes the attributes of the proposed site. This concluded his presentation.

Commissioner Mitchem stated that, whether Lowe's is approved or not, Wal-Mart has already done significant road improvements, and asked what Lowe's, specifically, was offering. Richard Adams stated that, in addition to the 5-laning of Hwy. 73 between old 16/new 16, Lowe's is adding the turn lane improvements at their intersections (right turn lanes at all 3 intersections and a traffic signal at the intersection closest to the new freeway interchange). Commissioner Mitchem then asked what the estimated cost for that would be. A representative of Lauth/Lowe's stated that it would cost in the range of \$300,000-400,000 for the supplemental improvements.

John Pagel, Planning Board, asked about the time frame for completion. Randy Hawkins stated that both Lowe's and the road improvements are scheduled for completion in the first quarter of 2007, and that Hwy. 16 is scheduled for completion December 2006 or the first quarter of 2007.

**Peter Browne** distributed copies of a document with conditions that ELBA and others have suggested. Mr. Browne stated that they support the proposed Lowe's. Mr. Browne stated that they did request that approval be delayed. Homing in on the Ramey-KempTraffic Study, Mr. Browne disputed some of the information contained in it, citing that 1) the traffic counts included an adjacent site, rather than the one across the road, and may skew results, due to an additional traffic signal which will add additional blockage, 2) 30% of traffic is pass-by, which is suspect and may be high, 3) grading of LOS was from "A-F" to "A-D", which is suspect and should be LOS "E-F", and 4) the suggested changes (the two double turn lanes) at the 16/73 intersection are not in anyone's plans to be completed.

**Liz Craig**, stated that ELBA met with Lauth Group and Lowe's last week. Ms. Craig stated that she was mostly impressed, with the exception of a few changes noted in the document they submitted to them. Ms. Craig stated that she does have a problem with additional traffic, particularly the 16/73 interchange. She credited Richard Adams with having answered some of her questions in regards to traffic issues. Ms. Craig also stated that she has no faith that DOT will do road improvements in a timely manner, adding that

this is a public safety issue at this point. She encouraged the Board to be as strict as they could in placing independent conditions on this developer and future developers.

**Connie Zmejewski**, distributed handouts depicting the architectural structure of a more upscale Lowe's that is developed in Charlotte. She stated that we need to do long term planning for this area. Ms. Zmejewski stated that she supports Lowe's and future developers, but added that improvements are needed in the design of the store. She stated that she thought the proposed structure was too large and big box, and that the rear needed to be brick as well. She also stated that conditions should be placed to address the manner in which lawn mowers and sheds are housed, since restaurants and sit-down eating areas will be adjacent to their store.

**Jim Hughes**, stated that he supports Lowe's and ELBA. Mr. Hughes stated that the main issue is 16/73, comparing it to other congested interchanges. He suggested having developers advance funds to NCDOT, as Huntersville did, to provide more immediate relief.

**Greg Coffey**, stated that he supports the Lowe's development, provided it's done properly. Mr. Coffey stated that he thought Lowe's had delivered above and beyond expectations. His issue also was the NC 16/73 interchange, describing it as inadequate. He dismissed the traffic studies, stating that it should be experienced firsthand. Mr. Coffey stated that we need to focus on improving that as soon as possible, and concluded by stating that we can't continue to allow developers to build in that area without road improvements.

Chairman Anderson asked Walter Fields who would control the architectural appearance of the other stores and those on the outparcels. Mr. Fields stated that Lowe's and Lauth Group will review and approve the designs, materials, construction and architectural character of all the other buildings on the site – the small shops, the mini-anchor as well as the outparcels.

**Eric Hahne** stated that his company owns a 42-acre parcel between Food Lion and the proposed Lowe's, which is across from about 30-acres of undeveloped property that is being considered for a Wal-Green's. Mr. Hahne stated that the parcels directly across from him make up the northwest quadrant of the existing 16/73 undeveloped. He is trying to determine the best use for his property, and like Lauth, wants to insure that they're good neighbors and benefit the community. Mr. Hahne stated that he does have an issue with the connectivity to the Lowe's property and proper access to Hwy. 73. He stated his appreciation for Lauth's willingness to work with adjoining owners to insure internal connectivity and proper access to Hwy. 73. Mr. Hahn stated that the right/in, right/out lane needs to be deleted, as it would severely devalue his company's property (restrict access to his development).

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

**CUP #268 – Greenway of NC Inc., applicant:** A request for a conditional use permit to establish a composting operation in the I-G (General Industrial) district. The 7.6-acre site is located at the end of Joshua Court, off Hwy. 27 in Ironton Township.

Chairman Anderson opened the public hearing concerning Conditional Use Permit 268 – Greenway of NC Inc., applicant.

Craig Frederick, speaking on behalf of Greenway, stated that this will be a non-hazardous water and starch mixture from a paper mill in South Carolina. Mr. Frederick stated that this mixture would be mixed with sawdust into a solid mass and composted at the facility. He explained that it would be continuously mixed, aerated and broken down into a quality product that can be used as an environmentally friendly product. Mr. Hahne stated that DENR have agents who find different applications for these products. He stated that the water/starch mixture and sawdust, along with proper aerating, should eliminate the issue of odor. Mr. Hahne explained that the water has a nitrogen rating of 28.7%, and should eliminate the need for manure.

Commissioner Patton asked if the products were from the paper plants in South Carolina. Mr. Frederick confirmed that they were, whereupon, Commissioner Patton stated that odors emanate from those plants. Mr. Hahne stated that the paper mill has had no complaints about odors or emissions. He explained that, when the water is mixed with sawdust, it eliminates odors.

Commissioner Mitchem asked Mr. Hahne if he had seen the process done, and if he had hands on experience. Mr. Frederick answered “yes” to both questions. Commissioner Mitchem then asked how rotten, wet sawdust smells. Mr. Frederick stated that it was not an overabundant or fugitive odor. Commissioner Mitchem asked how it was mixed. Mr. Frederick stated that it is mixed with a compost mixture (a bladed apparatus), which breaks it down. Commissioner Mitchem asked how long this process takes. Mr. Frederick stated that it takes 90 days, and the Department of Agriculture takes samples. If it is not a viable product, it goes through another 90-day cycle, at which time, it is tested again. At that time, if it is still not a viable product, it is disposed of. Commissioner Mitchem asked how it was transported once it was composted. Mr. Frederick stated that it was transported, whole bulk, in a tandem dump truck.

John Pagel, Planning Board, asked how many truckloads were transported on a daily basis. Mr. Frederick stated that, currently, 1-2 loads per day. It is either transported to Clarion in Mt. Holly for wastewater treatment, or to Wall’s Farms, Huntersville. Mr. Pagel then asked what the incentive was for moving from Cowpens, S.C., to Lincolnton. Mr. Frederick stated that, logically, it was closer for the driver as well as himself.

Commissioner Mitchem asked about the NPK value on the product. Mr. Hahne stated that the nitrogen level is 28.7%. He stated that they work for the Department of Agriculture, and that Wall’s Farms sells it as compost at Lowe’s.

Commissioner Funderburk asked where it was disposed. Mr. Frederick stated that it was disposed of by Allied Waste and Waste Management.

John Pagel, Planning Board, asked if Wallace Farms in Huntersville is identical to what the applicant is proposing. Mr. Frederick stated that it is.

**Larry Taylor**, a 35-year resident, asked if the shipments would be enclosed, and if manure was used, how much. Mr. Taylor stated that the proposed business would be on a dead end street, and that it would create a traffic problem due to it's proximity to 27/73, churches, residences and schools. He also mentioned concerns about air quality, dust, odor and run-off.

**Shirley Martin**, who has lived in the area since 1963, asked the group she represented to stand. They are opposed to the business. Ms. Martin noted air and water quality, noise, stormwater runoff and devaluation of property as concerns. She stated that the request is not in line with the zoning, and that NCDOT in Mooresville will have significant concerns. Ms. Martin stated that a remote location would be more suitable for this type of business.

**Carol Beam** deferred.

**Ann Sneed** deferred to her brother, Danny Sharp.

**Danny Sharp** stated that he has an Environmental Degree in Forestry Management. Mr. Sharp stated that composting varies, and that this sounds like an industrial treatment facility. He stated that the by-product is a beneficial use, which is good. Mr. Sharp also stated that his sister uses ground water for drinking water, and that the property is not suitable for this type of operation.

**Fred Crisson**, owner of Saunders Furniture Mart, stated his opposition of the business. Mr. Crisson stated that he knew what wet sawdust and manure smell like. He suggested to anyone who didn't to drive to Canton. Mr. Crisson stated that he is now retired and enjoys being outdoors with his grandchildren.

**Mike Williams**, owner of Air Supply on Joshua Court, distributed a handout. Mr. Williams stated that compost is debris. As for the structure, he stated that Mr. Frederick is buying two additional lots, one of which contains a gulley, which water will leach into when it rains. He stated that it would be noxious and offensive. He noted that he has 2-6 tractor trailers daily plus Fed Ex/UPS traffic.

**Aaron Wood**, business owner at 210 Joshua Court, stated that he owns a recycling company. Mr. Wood stated that the proposed business would be detrimental to his business due to property value, flies, airborne dust in addition to diseases/fungus due to dust, noise and the fact that it mirrors a farm. He ended by stating that it is not conducive to his business.

**Jeff Byrd** stated that he has a garage at 224 Joshua Court. Mr. Byrd stated that the dirt and dust would affect the cars he sells. Mr. Byrd stated that he was also in agreement with what had previously been stated by others opposed to it.

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

**Verdict Ridge Phases 3-7 – Randy Hawkins:** Randy Hawkins explained that each phase must be reviewed, with Phases 1 and 2 having previously been reviewed and approved. He stated that Eddie Knox is now requesting approval of Phases 3-7, along with a revision of Phase 2. He noted that a zoning map is attached.

Randy Hawkins stated that, in July 1997, the Board approved a Conditional Use Rezoning for the Verdict Ridge Golf Course Community. The concept plan for this 525-acre development called for 500-plus homes, including some condos and patio homes. This was the first planned district approved in Lincoln County, and one of the conditions of the permit was that each phase be reviewed and approved by the Board. Phases 1 and 2 were previously approved. Developer Eddie Knox is now requesting approval of the remaining phases, Phases 3-7, and a revision of Phase 2. The revision calls for a total of 475 homes, including 34 patio homes, rather than 500 homes that included 55 townhomes.

John Pagel, Planning Board, confirmed that the total number of homes is less (from over 500 to 475) based on the revision.

The Planning Board reconvened to the 2<sup>nd</sup> floor balcony.

**Public Hearing – Community Transportation Program – Karen Leonhardt:** Karen Leonhardt presented a request asking the Board to approve and adopt a resolution to provide the required local match for a Community Transportation Program Grant.

Chairman Anderson opened the public hearing concerning the Community Transportation Program.

Being no speakers, Chairman Anderson declared the public hearing closed.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to adopt the Transportation Program Resolution as proposed.

**Public Hearing – Road Naming Petition for John Flowers Lane:** Leroy Buff presented the request, stating that this was a previously unnamed private road. A third residence was built on the road, which required that the road be named to comply with the Addressing Ordinance. Mr. Buff stated that the road name has been researched, and that there is no duplicate or anything deceptively similar to the proposed name.

Chairman Anderson opened the public hearing concerning the Road Naming Petition for John Flowers Lane.

Being no speakers, Chairman Anderson declared the public hearing closed.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the petition.

**Update on Gaston College – Dr. Pat Skinner:** *Dr. Skinner* introduced ***Don Ballard***, a Board Member from Lincoln County, to do the presentation. Mr. Ballard introduced the rest of the Gaston College representatives present: Dr. Skinner, President; Ralph Houdin, Vice President of Finance; Carl Stewart, Attorney for Gaston College; Wayne Lowe, Trustee; Dennis Williams, Architect/Williams Design; Don Ammons, Vice President of Academics; Sylvia Bjorak, Executive Director of Gaston College Foundation; Jerry Cochrane, previous Chairman of Lincoln County Board of Commissioners and Rozlyn Welder, Dean of Lincoln Campus. Mr. Ballard stressed how important the Lincoln Campus is to Lincoln County, based on convenience, cost and distance. He stated that courses are convenient and available. Mr. Ballard turned the floor over to ***Wayne Lowe***, Trustee. Mr. Lowe stated that he is a native of Lincoln County and still lives here, having graduated from Lincolnton High School when it was housed in the building that is now the Lincoln Campus. He stated that the new facility will offer a complete Associate of Science and Associate of Arts degree right here in Lincolnton. He stressed that many people attend the Lincoln Campus, who would otherwise be unable to attend for various reasons, with distance and the economy (layoffs) being two of the main reasons. Mr. Lowe stated that the group is here tonight to ask the Board to approve an additional commitment of \$250,000 in the upcoming budget year.

***Debbie Garner***, a Lincoln County native and Gaston College Nursing graduate, who is now a nurse at Lincoln Medical Center, stressed the importance of opportunity (being able to attend a local campus) and a positive attitude for success.

***Jennifer Sherrill***, a previous Gaston College student from Cat Square, who transferred to Lenoir Rhyne College, touted the benefits of a local campus. Ms. Sherrill stated that, due to higher tuition at Lenoir Rhyne, she is returning to Gaston College to complete her education. She also noted the convenience of a local college.

Commissioner Funderburk stated that he understands the need, and that Gaston College has been as asset to Lincoln County, especially for those who can't afford to go anywhere else.

Chairman Anderson stated that having Ms. Garner and Ms. Sherrill speak was invaluable.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the request for additional funding of \$250,000.

**NCDOT Road Abandonment:** Andrea Lydle, Planner for the Town of Maiden, provided some background information for the request. Ms. Lydle stated that the request is for Fourth Fairway Drive and Glen Oaks Drive, which is on the Catawba/Lincoln line.

She stated that the property owner was unable to attend tonight, and asked her to come in his place. Ms. Lydle explained that he wishes to put in a road, and develop a subdivision of approximately 8 upscale homes on approximately an acre each. The current speed limit in the area is 55 MPH. DOT has stated that, due to lack of development, they cannot reduce the speed limit; however, because of the hill just before Mr. Lynn's property, he cannot get a driveway permit at the current speed of 55 MPH. He appeared before the Town of Maiden to ask them to consider annexation of his property, and request ownership and maintenance of Fourth Fairway Drive. When he spoke to DOT, he was told that he would also need to take over ownership and maintenance of Glen Oaks Drive, because the only access to it is Fourth Fairway Drive. If the town takes over ownership and maintenance, it will drop the speed limit to 35MPH, and Mr. Lynn will be able to proceed with his development. In order for them to take over ownership, Lincoln County Board of Commissioners must agree to allow NCDOT to abandon these two roads. This would actually enhance the safety in that area for pedestrians as well as drivers, since a golf course is in the area, and golfers frequently cross the road. Ms. Lydle submitted a petition with signatures of 66 residents/golfers requesting that the Board approve the request. She stated that Maiden assume all maintenance of the roads.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt a resolution requesting the abandonment of Fourth Fairway Drive and Glen Oaks Drive.

**BellSouth Contract – Danté Patterson:** Danté Patterson presented a request for approval of the contract renewal for BellSouth.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the contract.

**Resolution to Approve Waiver of Bidding Requirements for Purchase of 2006 Compactor and Resolution for Purchase of Compactor by Lincoln County, NC:**

Steve Gilbert presented a request for the approval of a resolution to approve waiver of bidding requirements for a 2006 compactor and resolution for purchase of compactor.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to adopt the resolution to approve waiver of bidding requirements for purchase of a compactor.

**Other Business:** *Stan Kiser*, County Manager, stated that Teresa Scott, MIS, requested that the Commissioners meet at the Board of Elections, Friday, December 9, at 3:30, for a demonstration of election software and equipment. He presented information to them regarding the requirements for the new equipment. ***Chairman Anderson*** referred to the Resolution in Opposition to Inner Basin Transfer, stating the Board's opposition to two cities being able to take something on the order of 38 million gallons of water a day from the Catawba River Basin. Chairman Anderson noted that Barry McKinnon, Public Works, attended a joint meeting between Lake Norman and Mountain Island Marine Commission.

**UPON MOTION** by Commissioner Patton, the Board voted unanimously to approve the Resolution in Opposition to Inner Basin Transfer.

**Closed Session – Personnel and Real Estate:** UPON MOTION by Commissioner Mitchem, the Board voted unanimously to go into closed session to discuss a personnel matter.

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to end the closed session.

The Board returned to open session.

Chairman Anderson stated that no decisions were made in closed session, and no action was taken.

Commissioner Funderburk presented information to the Board regarding a real estate matter.

Commissioners Funderburk and Patton suggested having the Board evaluated anonymously by department heads

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to have individual, anonymous evaluations of the Board by Department Heads, Assistant Clerk and Clerk, Manager and County Attorney and the School Superintendent, and that the results be brought to the Board in public session.

**MOTION WAS AMENDED** to be concluded by the second meeting in January 2006.

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

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Delores Alfaro, Assistant Clerk  
Board of Commissioners

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Thomas R. Anderson, PE, Chairman  
Board of Commissioners