

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 17, 2005

The Lincoln County Board of County Commissioners met in regular session on October 17, 2005 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:35 PM.

Commissioners Present:

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

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board

Call to Order: Chairman Anderson called the October 17, 2005 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Commissioner Alex Patton gave the Invocation and led in the Pledge of Allegiance.

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 as presented.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

OCTOBER 17, 2005

6:32 PM	Call to Order
6:33 PM	Invocation
6:34 PM	Pledge of Allegiance
1. 6:35 PM	Adoption of Agenda

2. 6:36 PM Consent Agenda

- Waived fees
 - Lincoln Medical Center
 - City of Lincolnton
- Resolution Supporting the Certified Industrial Site Designation for the Indian Creek Industrial Park
- Approval of Minutes
 - o October 3, 2005

3. 6:40 PM Public Comments

4. 6:55 PM Recommendations from Planning Board

- ZMA #507 – Gary Holbrooks, applicant
- ZMA #508 – Denise Miller, applicant
- ZMA #509 – Rivercross Investments, LLC, applicant
- CUP #264 – Robert Manley, applicant
- CUP #265 – Wayne Mitchem, applicant
- CUP #266 – New Cingular Wireless PCS, LLC, applicant
- PCUR #122 – Wal-Mart, applicant
- Proposed Amendments to the Lincoln County Comprehensive Lane Use Plan
- Adoption of a Synthesis Report

5. 7:35 PM Employee Health Insurance – Audrey Setzer and Leon Harmon

6. 7:45 PM Update on Book Publishing – Michelle Henderson

7. 7:55 PM Sewer Easement at East Lincoln Library – Steve Gilbert

8. 8:05 PM Public Works Capital Project Reports – Steve Gilbert

9. 8:10 PM Finance Officer's Report

10. 8:15 PM County Manager's Report

11. 8:20 PM County Commissioners' Report

12. 8:25 PM County Attorney's Report

13. 8:30 PM Vacancies/Appointments

14. 8:35 PM Calendar

15. 8:40 PM Other Business

Adjourn

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

Waived fees

- Lincoln Medical Center
- City of Lincolnton

Approval of Minutes

- October 3, 2005

RESOLUTION SUPPORTING THE CERTIFIED INDUSTRIAL SITE DESIGNATION FOR THE INDIAN CREEK INDUSTRIAL PARK

WHEREAS, the Lincoln County Board of Commissioners believes it is in the best interests of the citizens of Lincoln County to encourage and support economic development through the expansion of existing industries and the recruitment of new industries; and

WHEREAS, the North Carolina Department of Commerce has developed a Certified Industrial Site program to improve our competitive edge in expanding and recruiting industry; and

WHEREAS, the Indian Creek Industrial Park meets the requirements of the Certified Industrial Park program through the efforts of the Lincoln Economic Development Association.

NOW THEREFORE BE IT RESOLVED, that the Lincoln County Board of Commissioners fully support the Certified Industrial Site proposal for the Indian Creek Industrial Park.

Approved this 17th day of October, 2005.

Public Comments: Chairman Anderson advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

J. C. Beaver presented GIS maps and said that the county has his property wrong.

Chairman Anderson advised Mr. Beaver that staff will look into this matter.

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

Recommendations from the Planning Board: Randy Hawkins, Zoning Administrator presented the following recommendations from the Planning Board.

Zoning Map Amendment No. 507 – Gary Holbrooks, applicant: The Planning Board voted 8 – 0 to recommend approval.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Zoning Map Amendment No. 507 – Gary Holbrooks, applicant.

Zoning Map Amendment No. 508 – Denise Miller, applicant: The Planning Board voted 8 - 0 to recommend approval.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to accept the Planning Board's recommendation and approve Zoning Map Amendment No. 508 – Denise Miller, applicant.

Zoning Map Amendment No. 509 – Rivercross Investments, LLC, applicant: The Planning Board voted 8 – 0 to recommend approval.

Commissioner Moore asked if any neighborhoods will be surrounded by Industrial when this rezoning takes place.

Randy Hawkins stated that there will not be.

Chairman Anderson advised that this is the property where the Denver Days Festival has been held.

UPON MOTION by Commissioner Patton, the Board voted unanimously to accept the Planning Board's recommendation and approve Zoning Map Amendment No. 509 – Rivercross Investments, LLC, applicant.

Conditional Use Permit No. 264 – Robert Manley, applicant: The Planning Board voted 8 – 0 to recommend approval.

Proposed Conditional Use Class B (doublewide) mobile home

Application # CUP 264 Date 10/17/2005

Applicant's Name Robert Manley
 4633 E. Hwy. 150
 Lincolnton, NC 28092

Property location: Hwy. 150 East
Existing Zoning: R-S

Proposed Conditional Use Class E (singlewide) mobile home

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO
Factual Reasons Cited: Based on location and what's located next to it

2. The use meets all required conditions and specifications. YES NO
Factual Reasons Cited: Will meet all required specifications.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO
Factual Reasons Cited: Will not injure value; applicant owns adjoining property.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO
Factual Reasons Cited: Mobile homes in area; applicant owns property on both sides.

After having held a public hearing on October 3, 2005 and in light of the Findings of Fact listed herein, the following action was taken by the Lincoln County Board of Commissioners:

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve Conditional Use Permit No. 264 – Robert Manley, applicant, based on the recommendation and findings of fact being found in the affirmative.

Conditional Use Permit No. 265 – Wayne Mitchem, applicant: The Planning Board voted 8 – 0 to recommend that the request be approved.

Application # CUP 265 Date 10/17/2005

Applicant's Name Wayne Mitchem
 400 Davids Chapel Church Road
 Vale, NC 28168

Property location: Peeler Road
Existing Zoning: R-S

Proposed Conditional Use Class E (singlewide) mobile home

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO
Factual Reasons Cited: Will not endanger the public health and safety
2. The use meets all required conditions and specifications. YES NO
Factual Reasons Cited: Will have to meet all required conditions and specifications.
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO
Factual Reasons Cited: Property is remote to itself; mobile home in vicinity

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

YES X NO

Factual Reasons Cited: Based on surrounding area; mobile homes in area.

After having held a public hearing on October 3, 2005 and in light of the Findings of Fact listed herein, the following action was taken by the Lincoln County Board of Commissioners:

UPON MOTION by Commissioner Patton, the Board voted unanimously to accept the Planning Board's recommendations and findings of fact and approve Conditional Use Permit No. 265 – Wayne Mitchem, applicant.

Conditional Use Permit No. 266 – New Cingular Wireless, PCS, LLC, applicant:
The Planning Board voted 8 – 0 to recommend that the request be approved.

Application # CUP 266 Date 10/17/2005

Applicant's Name New Cingular Wireless PCS, LLC
7800 Airport Center Dr., Suite 400
Greensboro, NC 27409

Property location: Null Road
Existing Zoning: R-R

Proposed Conditional Use 300-foot telecommunications tower

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES X NO

Factual Reasons Cited: Will not endanger the public health and safety

2. The use meets all required conditions and specifications. YES X NO

Factual Reasons Cited: Based upon applicant's submission and review by staff and Airport Authority.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO

Factual Reasons Cited: Fairly remote area; tower will be located in middle of 16-acre tract, buffered from neighboring properties

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

YES X NO

Factual Reasons Cited: Will be in conformity with Land Use Plan, will fit into area.

After having held a public hearing on October 3, 2005 and in light of the Findings of Fact listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Commissioner Mitchem asked about adding the condition that the county would be allowed to place telecommunication equipment on the tower.

Randy Hawkins stated that he spoke to Leroy Buff. Mr. Buff said that currently they do not have their communication equipment on towers, except the one at the jail. He stated that they would be open to that possibility.

Ann Goldman, representative for New Cingular Wireless stated that they would be willing to have antennae of EMS or County communications so long as they do not interfere with the antennae that are on the tower at that time.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to accept the Planning Board's recommendations and findings of fact and approve Conditional Use Permit No. 266 – New Cingular Wireless PCS, LLC, applicant, with the condition that Emergency Services or county communications be allowed to place equipment there in the future, so long as it does not interfere with the antennae there.

Parallel Conditional Use Rezoning No. 122 – Wal-Mart, applicant: The Planning Board voted 8 – 0 to recommend that the request be approved.

Mr. Hawkins stated that the Planning Board asked Wal-Mart to consider the list of unmet conditions that the East Lincoln Betterment Association presented at the public hearing.

Ashley Story, Attorney, stated that there was a list of 24 typed items the citizens still felt like needed work. He stated that there are 67 conditions and they have come to terms on 61 of them. These items are: specific traffic concerns, architectural feedback, signage issues, location of a CATS facility on the premises, agreement to restrict outparcels to have architectural components compatible to Wal-Mart, and vacancy mitigation procedures.

Mr. Story stated that Wal-Mart is happy to have a CATS facility there. He stated that their concern is isolating certain parking spaces just for CATS.

Mr. Story stated that they are happy to have a restriction that buildings on outparcels are architecturally compatible with the Wal-Mart elevation.

Mr. Story stated that the statement from the citizens has a requirement that was not addressed at the last meeting. He stated that traffic is not what the county wants it to be, citizens want it to be, or Wal-Mart wants it to be. He stated that Wal-Mart cannot agree to fund the DOT improvements (Moving Ahead fund projects). He stated that Wal-Mart would prefer not to have a condition that the store could not be opened until the improvements are made, because this issue is out of their control.

Mr. Jay Clapp reviewed improvements Wal-Mart has agreed to and improvements that DOT will fund. He presented a map with DOT improvements outlined in orange and Wal-Mart improvements outlined in yellow.

Ashley Story stated that another issue that has been brought up is about signage at the site. A condition has been discussed that would limit signage to the Wal-Mart name and directional signage, such as food center and merchandise center and not allow slogans Wal-Mart uses. He stated that Wal-Mart would feel better about doing that if there was an ordinance and they were not singled out.

Ashley Story stated that concerning the look of the building, they are not doing everything that the citizens have asked for. He stated that additional modifications have been made and they have incorporated as many of the citizens concerns as possible.

James Kilman with Scott Goble Architects stated that they have proposed ornamental fencing with a screening shea cloth backup with masonry pilasters and a knee wall to give more of an architectural component. They have enhanced the main entrances with brick walkways with entrance overhangs and columns. Wal-Mart would agree to an element in between the vestibules to have a stained, stamped concrete that would be pedestrian friendly. He stated that the residents have asked for a store similar to the Sardis Road store. He stated that Sardis Road was the beginning point for this store and they have enhanced it. Mr. Kilman stated that the residents have asked for storage of trash enclosures with a solid wooden gate along with masonry screen walls around them.

Chairman Anderson asked about the wrought iron fencing in the drawing presented.

Ashley Story spoke concerning vacancy mitigation procedures. He stated that there has never been a Wal-Mart Supercenter that has closed in North Carolina. Wal-Mart does have an entire department to move excess property. He stated that their proposal is to do what the citizens have asked but remove the requirement that all exterior building signs will be removed and exterior building surfaces repaired and repainted within 30 days after the property becomes vacant. He also objected to the statement that reads "and may not condition or restrict future use of the property by entities that may be in competition with applicant or successor owner."

Ashley Story stated that there had been a request from residents concerning restricting outparcels to have the same architectural components. He stated that they have no problems with this.

Commissioner Mitchem asked if the slogans were not allowed to be placed on the building if the project would continue.

Mr. Story stated that this is very important to Wal-Mart.

Commissioner Funderburk asked about Wal-Mart's willingness to wait on traffic improvements before opening.

Mr. Story stated that there is a whole list of improvements that Wal-Mart has agreed to, they are doing more than DOT asked them to. He stated that if the Moving Ahead funds are delayed and the improvements are not made, they cannot make them. He asked the Board to not place the condition that they cannot open until the improvements are made. He stated that their preference is that they do their improvements and everybody push DOT to get the improvements made.

Jay Clapp stated that 16/73 is a priority for DOT now, even without Wal-Mart.

Chairman Anderson asked if he has ever been faced with a situation where Wal-Mart has agreed to fund improvements subject to being reimbursed for it when federal or state funds became available.

Mr. Story stated that DOT has not told them that the funds will be reimbursed.

Commissioner Moore stated that NCDOT will only put conditions for a driveway, but Commissioners do have the authority to place conditions. She stated that without the 16/73 interchange being renovated, there will be very serious, hazardous conditions. There is a five lane road, with short turning lanes on 16 and 73, with 18,000 cars trying to get around.

Mr. Story instructed Wal-Mart to make the assumption that the improvements would be in place before their scheduled opening, towards the end of next year.

Commissioner Mitchem asked about the condition for space allocation for the Sheriff's Office.

Chairman Anderson stated that the Sheriff has been in discussions with Wal-Mart representatives.

Mr. Story stated that Wal-Mart is happy to allocate space to the Sheriff's Department.

Commissioner Moore stated that she does not see many changes from the last drawing to the current one. She asked why Wal-Mart is so resistant to build a store like the one at Sardis Road.

Mr. Story stated that he doesn't think Wal-Mart is being resistant. He stated that they are trying to take the features that were unique about Sardis Road and incorporate them into this site, without making two stores identical.

Mr. Killman stated that the footprint and design are different from the Sardis Road store. He stated that this building is different and unique from the Sardis Road store. He stated that the Sardis Road store is roughly 200,000 square feet and the new store is 203,000 square feet.

Commissioner Mitchem asked if white letters could be used on the building.

Mr. Killman stated that they work with the Wal-Mart sign department to come up with colors to complement the building and stand out from the background.

UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Moore against) to approve the rezoning of the property for Parallel Conditional Use Rezoning No. 122 – Wal-Mart, applicant.

Application # PCUR 122

Date 10/17/2005

Applicant's Name AC&S Engineering Inc., agent for Wal-Mart
111 Mills Ave.
Greenville, SC 29605

Property location: Hwy. 73

Existing Zoning: B-G, R-T

Proposed Conditional Use 203,819-square-foot retail facility

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO

Factual Reasons Cited: On the basis that the proposed road improvements are implemented per the traffic study.

UPON MOTION by Commissioner Patton, the Board voted 4 – 1 (Moore against) to accept the Planning Board's finding of fact #1 for the reasons cited.

Commissioner Moore stated that unless traffic issues are addressed, this is not so. She stated that the highway is used for an evacuation route and is needed for fire and emergency vehicles. Without road improvements made, it will endanger and put the citizens at risk.

2. The use meets all required conditions and specifications. YES NO

Factual Reasons Cited: Staff review.

UPON MOTION by Commissioner Mitchem, the Board voted 4 -1 (Moore against) to accept the Planning Board's finding of fact #2 and find it in the affirmative for the reasons cited.

Commissioner Moore stated that both sides of the property are residential. There is one neighborhood that will be completely surrounded by industrial, commercial, and retail.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO

Factual Reasons Cited: Will not devalue adjoining property, will increase the value.

UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Moore against) to accept the Planning Board’s finding of fact #3 and find it in the affirmative for the reasons cited.

Commissioner Moore stated that increased traffic, noise, and crime associated with the proposed use will injure property values.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.

YES X NO

Factual Reasons Cited: Will be in harmony with the area and is consistent with Land Use Plan, which calls this a commercial area.

UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Moore against) to accept the Planning Board’s finding of fact #4 and find it in the affirmative for the reasons cited.

Commissioner Moore stated that according to our Comprehensive Land Use Plan, this should just be Neighborhood Business and the back is residential.

After having held a public hearing on October 3, 2005 and in light of the Findings of Fact listed herein, the following action was taken by the Lincoln County Board of Commissioners:

Chairman Anderson presented the following suggested conditions as proposed by the County Attorney.

CONDITION
NC 16/73 INTERSECTION

Within ____ days after the issuance of this permit, Applicant must coordinate with the North Carolina Department of Transportation to determine cost estimates for the following improvements to the NC 16/73 intersection recommended by Applicant’s traffic study.

- construction of an additional eastbound left turn lane onto NC 16 from NC 73 with a minimum of 500 feet of storage space per lane with appropriate bay tapers and appropriate widening and traffic signal modifications;
- construction of an additional westbound through lane on NC 73 extending a minimum of 625 feet with appropriate bay taper and widening as necessary;
- construction of dual southbound right turn lanes onto NC 73 from NC 16 with a minimum of 300 feet of storage per lane with appropriate bay taper and appropriate widening and traffic signal modifications;

- extension of the northbound left turn lane to provide 350 feet of storage and an appropriate taper.

Applicant must coordinate with the North Carolina Department of Transportation to have the stated improvements made and to pay for such improvements if they are not otherwise made by the North Carolina Department of Transportation before December 31, 2006.

Chairman Anderson stated that the Board could also add the sentence which says the applicant will not be issued a Certificate of Occupancy until these improvements are made. He stated that there is a serious problem that has to be addressed with traffic. He stated that he does not know whether DOT will have the Moving Ahead funds. He stated that these are critical improvements that need to be made and would like to get to a position that would give the applicant significant encouragement to apply such leverage as a firm of Wal-Mart's might have. He stated that the Board does not have the desire to place conditions that are neither fair or unreasonable. He stated that these conditions are probably more in Wal-Mart's best interest than anyone's.

Commissioner Funderburk asked if a condition could be placed to make Wal-Mart pay for the improvements and have DOT reimbursed them.

Commissioner Patton stated that it is the State's responsibility to fix the road problems, not Wal-Marts. He stated that the road is already bad and it is not Wal-Mart's problem.

Chairman Anderson stated that the Board could adopt the conditions and not issue a Certificate of Occupancy until the improvements are made. This way, Wal-Mart is not required to make the road improvements.

Commissioner Patton stated that he does not feel this is fair and reasonable to have a building that is ready to open, but cannot due to the State not making road improvements.

Commissioner Funderburk agreed with Commissioner Patton.

Commissioner Moore stated that the Board needs to consider the safety issues with the citizens of the county.

Jay Clapp discussed the improvements and Moving Ahead funds.

Randy Hawkins stated that DOT has said that if Wal-Mart is approved, it gives greater priority to the Moving Ahead funds.

Chairman Anderson stated that the Board should consider the conditions, deleting the 1st item for construction of an additional eastbound left turn lane onto NC 16 from NC 73 and changing the 3rd condition to say "construction of a single ~~dua~~ southbound". He suggested putting 10 days as the limit.

A MOTION by Commissioner Moore to approve these conditions and the condition that Wal-Mart will not be issued a Certificate of Occupancy until these improvements are made.

CONDITION
NC 16/73 INTERSECTION

Within 10 days after the issuance of this permit, Applicant must coordinate with the North Carolina Department of Transportation to determine cost estimates for the following improvements to the NC 16/73 intersection recommended by Applicant's traffic study.

- construction of an additional westbound through lane on NC 73 extending a minimum of 625 feet with appropriate bay taper and widening as necessary;
- construction of single southbound right turn lanes onto NC 73 from NC 16 with a minimum of 300 feet of storage per lane with appropriate bay taper and appropriate widening and traffic signal modifications;
- extension of the northbound left turn lane to provide 350 feet of storage and an appropriate taper.

Applicant must coordinate with the North Carolina Department of Transportation to have the stated improvements made.

Certificate of Occupancy will not be issued until these improvements are completed.

VOTE: 2 – 3 **AYES: MOORE, ANDERSON**
NOES: MITCHEM, PATTON, FUNDERBURK

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the following conditions without the Certificate of Occupancy requirement.

CONDITION
NC 16/73 INTERSECTION

Within 10 days after the issuance of this permit, Applicant must coordinate with the North Carolina Department of Transportation to determine cost estimates for the following improvements to the NC 16/73 intersection recommended by Applicant's traffic study.

- construction of an additional westbound through lane on NC 73 extending a minimum of 625 feet with appropriate bay taper and widening as necessary;
- construction of single southbound right turn lanes onto NC 73 from NC 16 with a minimum of 300 feet of storage per lane with appropriate bay taper and appropriate widening and traffic signal modifications;

- extension of the northbound left turn lane to provide 350 feet of storage and an appropriate taper.

Applicant must coordinate with the North Carolina Department of Transportation to have the stated improvements made.

Commissioner Moore stated that by doing this, the Board is not guaranteeing that any improvements will be made.

Chairman Anderson stated that he would like for the picket fence at the garden center and tire and lube to be a masonry screen.

UPON MOTION by Commissioner Moore, the Board voted unanimously to apply a condition that the garden center and the area in front of the tire and lube be enclosed with a masonry screen as opposed to the ornamental iron screen shown on the rendering.

Mr. Killman asked for clarification on this condition. Chairman Anderson stated that the requirement is not for a roof. He stated that a masonry screen wall with airflow can be used.

UPON MOTION by Commissioner Moore, the Board voted 4 – 1 (Patton against) to place a condition that no slogan-type signs be allowed on the building, but that a Retail Center sign be placed at the entrance.

Commissioner Patton stated that the drawings have been tastefully done and the Board can nitpick them to death.

A MOTION by Commissioner Moore to adopt the Vacancy Mitigation Condition.

VOTE: 1 – 4

AYES: Moore

NOES: Anderson, Mitchem, Patton, Funderburk

CONDITION

VACANCY MITIGATION

Applicant (or successor owner of subject property) in the event that the Wal-Mart building becomes vacant at any time after construction of the external shell of the building, shall take the following steps to mitigate the detrimental effects of such vacancy:

- The exterior of the building, parking lot, lighting, landscaping, and irrigation systems shall be completed and shall be operated, maintained, repaired, or replaced in the same manner as if the building were occupied.
- All exterior building signs will be removed and exterior building surfaces repaired and repainted within 90 days after the property becomes vacant.

- Trash and litter will be removed from the premises at least once per week.
- Applicant or successor owner will use commercially reasonable efforts to cause the building to be reoccupied by tenants who will use the property in compliance with zoning requirements and may not condition or restrict future use of the property by entities that may be in competition with applicant or successor owner.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve following Vacancy Mitigation condition.

CONDITION VACANCY MITIGATION

Applicant (or successor owner of subject property) in the event that the Wal-Mart building becomes vacant at any time after construction of the external shell of the building, shall take the following steps to mitigate the detrimental effects of such vacancy:

- The exterior of the building, parking lot, lighting, landscaping, and irrigation systems shall be completed and shall be operated, maintained, repaired, or replace in the same manner as if the building were occupied.
- Trash and litter will be removed from the premises at least once per week.
- Applicant or successor owner will use commercially reasonable efforts to cause the building to be reoccupied by tenants who will use the property in compliance with zoning requirements and may not condition or restrict future use of the property by entities that may be in competition with applicant or successor owner.

UPON MOTION by Commissioner Patton, the Board voted unanimously to add the condition that discussions would continue between the applicant and Sheriff's Department to find an appropriate arrangement for space allocation for the Sheriff's Department.

UPON MOTION by Commissioner Mitchem, the Board voted 4 – 1 (Moore against) to grant the conditional use permit based on the findings of fact with the conditions applied.

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

Proposed Amendments to the Lincoln County Comprehensive Land Use Plan

Regarding the Adequacy of Public Facilities: The Planning Board voted 8 – 0 to recommend approval.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Amendments to the Lincoln County Comprehensive Land Use Plan Regarding the Adequacy of Public Facilities.

Adoption of a Synthesis Report (Assessment and policy recommendations)

Regarding a Proposed Adequate Public Facilities Ordinance: The Planning Board voted 8 – 0 to recommend approval.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the Synthesis Report (Assessment and policy recommendations) Regarding a Proposed Adequate Public Facilities Ordinance.

Employee Health Insurance: Audrey Setzer, Personnel Director, stated that the County presently provides an insurance benefit plan for employees through Blue Cross Blue Shield of North Carolina with the North Carolina Association of County Commissioners (NCACC) as the Administrator of the plan. The county's annual renewal date is January 1, 2006.

An Insurance Review Committee consisting of employees from various County departments, were asked to review the current insurance plan, talk with employees to identify insurance issues, obtain, review, and compare insurance benefits/costs, and to provide a recommendation to the County Manager and Board of Commissioners. Insurance quotes were requested from NCACC/Blue Cross Blue Shield, CIGNA, and United Health Care. United Health Care, after reviewing our benefit package, opted not to provide a quote for consideration.

Over the past four months, the Insurance Review Committee has diligently reviewed and explored various benefit plan options. After much consideration of employee concerns, the benefit package and costs, and continuing to provide the same level of coverage for County employees, the Insurance Review Committee recommends the following for the Board's consideration:

Recommendation:

1. Continue coverage with BCBS with the NCACC as the Administrator of the Plan.
2. Continue to provide the same benefit package with a four Tier option at an 18.3% increase.
3. The County to continue to provide employee health and dental insurance coverage at not cost to employee.
4. The County to absorb cost increase for employees' dependent coverage.

Our health insurance renews on January 1st and is paid at the new rates one month in advance, which is December. Whenever the rates change in a fiscal year, there are five months at the old rates and seven months at the new rates. Each year during budget presentation, we estimate how much we might expect the following year and try to allow in the budget to cover the projected increase.

In the current fiscal year, we have a total of \$3,421,077 budgeted for health insurance. The projected cost for the current year, if we keep the same coverage, is \$3,191,821. The actual cost varies from month to month depending on how many employees are covered and under which tiers. Taking this into consideration, there appears to be adequate funds in the current budget to maintain the current insurance coverage.

The County also will receive an additional savings of \$22,272 by participating in the NCACC Group Benefits, Liability & Property, and Workers Compensation multi-pool discount.

Chairman Anderson stated that the County could qualify for grants now since there are over 500 employees.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the base recommendation for employee medical coverage.

Update on Book Publishing: Michelle Henderson with Harris Connect presented information concerning a book that will be published on Lincoln County. She asked for citizen input for the book.

Sewer Easement at East Lincoln Library: Steve Gilbert, Director of Public Utilities, presented a request from a private developer, Hecht Properties, LLC to allow him to construct a low-pressure sewer line across the front of the East Lincoln Library. His development, Fairfield Forest, is located just to the east of the library property. He plans to serve the development with low pressure sewer, and the sewer is planned to discharge into a pump station to be constructed on the other side of Fairfield Forest Road and further to the west. The pump station will also serve the Walt Shanklin property that is to be developed across the street from the library. He needs to run the line across the library property because the State will not allow a private sewer line to run along the road inside the right of way. The line would be located in a sewer easement the County would grant to the developer, and the maintenance and repair of the line would be the responsibility of the developer. The county would require any damage from the construction to be completely restored to the County's satisfaction.

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the granting of a sewer line to Hecht Properties.

Public Works Capital Project Reports: Steve Gilbert presented the Public Works Capital Project Reports.

Finance Officer's Report: Leon Harmon, Finance Officer, presented the budget performance report for September 2005.

Chairman Anderson asked County Attorney Jeff Taylor to draft a resolution concerning H.R. 3498.

Mr. Harmon spoke concerning the roof at the Animal Shelter, which needs to be repaired. It is estimated that it will cost around \$30,000 to repair the roof, which leaks.

It was the Board's consensus to authorize them to proceed with repairs with them bringing a contract for the Board to approve.

County Manager's Report: Stan Kiser presented the County Manager's Report.

County Commissioners' Report: Commissioner Moore reported from the Centralina Board meeting on non-attainment.

Chairman Anderson reminded the Board to fill out the Manager evaluation forms.

County Attorney's Report: Jeff Taylor, County Attorney, stated that the seller for the Bank of America building would like to delay closing until after the first of the year.

Jeff Taylor reported on the Rhyne Mills Condemnation and foreclosures.

Vacancies/Appointments: Commissioner Funderburk presented the following vacancies and appointments.

VACANCIES

Nursing and Adult Care Home Community Advisory Committee 4
Historic Properties Commission 1
Council on Aging

APPOINTMENTS

Nursing and Adult Care Home Community Advisory Committee
- Appoint Frances Buff

Board of Adjustment
- Reappoint Peter Browne as Alternate

UPON MOTION by Commissioner Funderburk, the Board voted unanimously to approve the appointments.

Calendar: The Board set a joint meeting with the School Board for November 8, 2005 at 6:00 p.m.

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners