

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, MARCH 2, 2015**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on March 2, 2015, at the Citizens Center, Commissioners' Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chairman  
Bill Beam, Vice Chairman  
Martin Oakes  
Cecelia Martin  
Alex Patton

Planning Board Members Present:

Christine Poinsette, Chairman  
Dr. Crystal Mitchem, Secretary  
Jeffrey Todd Burgin  
John Dancoff  
Floyd Dean  
Jamie Houser  
Keith Johnson

Others Present:

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

**Call to Order:** Chairman Mitchem called the meeting to order.

**Invocation:** Pastor JV Allen gave the Invocation and Chairman Mitchem led in the Pledge of Allegiance.

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

**AGENDA**  
**Lincoln County Board of Commissioners Meeting**  
**Monday, March 2, 2015**  
**6:30 PM**

**James W. Warren Citizens Center**

**115 West Main Street  
Lincolnton, North Carolina**

Call to Order

Invocation - J.V. Allen

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
  - Tax Requests for Releases - Over \$100
    - January 16 - February 15, 2015
  - CDBG (Community Development Block Grant) Status Updates
  - Resolution #2015-9: Resolution Honoring Eagle Scout
  - Waived Fees - Hunger Relief Concert
  - Memorandum of Agreement Between Lincoln County and North Carolina Division of Emergency Management Geospatial and Technology Management Office to Establish a Spatial Data Redundancy Partnership for Emergency Preparedness and Response
3. Zoning Public Hearings - Randy Hawkins

ZMA #614 Scott Soorus, applicant (Parcel ID# 81319) A request to rezone 0.7 acre from B-N (Neighborhood Business) to B-G (General Business). The property is located on the northern corner of N.C. 16 Business and south Triangle Circle in Catawba Springs Township.

CUP #341 Freemont Solar Center, LLC, applicant (Parcel ID# 30054 and 51301) A request for a conditional use permit to establish a solar farm in the R-T (Transitional Residential) district. The proposed 40-acre site is located on the east side of N.C. 16 bypass about 3,500 feet south of Sedgebrook Drive West in Catawba Springs Township

WSCUP #19 Newna Properties, LLC, applicant (Parcel ID# 89695) A request for a conditional use permit to allow the use of the high-density option in the

WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop 0.92 acre with a 6,000-square-foot medical office building and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 50 percent of the site, with the use of engineered stormwater controls. The property is located on the west side of N.C. 16 Business about 500 feet north of Townsend Drive in Catawba Springs Township.

4. Proposed Changes to UDO (Unified Development Ordinance) - Sam Houser and Keith Gaskill
5. Public Comments (15 minutes allowed per Rules of Procedure – 3 minutes per person)
6. Other Business

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

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

#### Consent Agenda

- Tax Requests for Releases - Over \$100
  - November 16 - December 15, 2014
- Tax Requests for Refunds - Over \$100
  - November 3 - 16, 2014
- CDBG Status Updates
- Surplus Property
- Budget Ordinance Amendment #6
- Vehicle Tax Refunds for November
- Amendment to Retention Schedule for Tax Administration

\*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

#### **New Business/Advertised Public Hearings:**

**ZMA #614 Scott Soorus, applicant: (Parcel ID# 81319):** Randy Hawkins presented the following information concerning ZMA #614 – Scott Soorus, applicant.

The applicant is requesting the rezoning of a 0.7-acre parcel from B-N (Neighborhood Business) to B-G (General Business). The owner of the property has authorized the rezoning request. The applicant is proposing to develop the lot for a business (Lake Norman Marble & Granite) that would include outdoor storage of materials. Under the Unified Development Ordinance, outdoor storage is permitted only in the B-G, I-L (Light Industrial) and I-G (General Industrial) districts. The UDO requires an outdoor storage area to be screened from any road. Because this property is located in the Eastern Lincoln Development District, vegetative screening would have to be provided.

The property is located on the northern corner of N.C. 16 Business and south Triangle Circle. It is adjoined by property zoned B-N and R-SF (Residential Single-Family). Land uses in this area include residential and business. This property is located in an area designated by the NC 16 Corridor Vision Plan as a community center, where commercial development should be concentrated.

Chairman Mitchem opened the public hearing concerning ZMA #614 – Scott Soorus, applicant.

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

**Conditional Use Permit # 341 Freemont Solar Center, LLC, applicant:**

Randy Hawkins presented the following:

The applicant is requesting a conditional use permit to establish a solar farm in the R-T (Transitional Residential) district. Under the Unified Development Ordinance, a solar farm may be permitted in the R-T district only where approved by the Board of Commissioners through conditional use review.

The proposed 40-acre site is located on the east side of N.C. 16 bypass about 3,500 feet south of Sedgebrook Drive West. The site would be accessed via Avenel Lane, a private road off Sedgebrook Drive West, a state-maintained road. The site is adjoined by property zoned R-T and PD-MU (Planned Development Mixed Use) and by a railroad. Land uses in this area are primarily residential and agricultural. The site is located in an area designated by the Lincoln County Land Use Plan as Residential Suburban.

**SOLAR FARM STANDARDS**

The UDO establishes the following standards for a solar farm:

**§4.3.7. Solar Farm**

A. All structures and security fencing shall be set back a minimum of 50 feet from property lines and road right-of-ways.

B. Where a site abuts a public road or property with a residential use, the following screening shall be provided unless a modification is approved by the Board of

Commissioners: two parallel rows of evergreen trees or shrubs, a minimum of five feet in height at planting, arranged in a staggered manner a maximum of 10 feet apart in each row, with the rows a maximum of 10 feet apart.

C. No panel structures shall be greater than 20 feet in height.

D. The electrical collection system shall be placed underground except near points of interconnection with the electric grid.

E. A map analysis showing a radius of five nautical miles from the center of the project with any airport operations in the area highlighted shall be submitted with the conditional use permit application. If a Federal Aviation Administration (FAA) regulated airport is located within the radius, all required information shall be submitted to the FAA for review. Proof of delivery of notification and date of delivery shall be submitted with the permit application. F. A decommissioning plan signed by the party responsible for decommissioning and the landowner shall be submitted with the permit application and shall be recorded with the Register of Deeds prior to final electrical inspection. The plan shall include the following information: defined conditions upon which decommissioning will be initiated, the anticipated manner in which the solar farm project will be decommissioned and the site restored, a timetable for completion of decommissioning, description of any agreement with the landowner regarding decommissioning, the party responsible for decommissioning, and plans for updating the decommissioning plan.

G. A solar farm that ceases to produce energy on a continuous basis for 12 months shall be considered abandoned and the property owner and other responsible party shall be required to decommission the facility and restore the site to its prior condition within 12 months from the time that the facility is deemed to be abandoned, unless substantial evidence is presented to the Director of the intent to maintain and reinstate the operation of the facility.

H. In the event the property owner and/or responsible party fail to timely decommission the solar farm facility as required above, Lincoln County and the Director shall be entitled to take all measures allowed by this UDO and the North Carolina General Statutes, including, but not limited to, the right to levy penalties as provided in §11.2.1, the right to obtain a permanent injunction ordering the removal of such solar farm facility, and the right to obtain a court order permitting Lincoln County to remove such solar farm facility.

Commissioner Oakes asked Attorney Deaton who has the burden of proof on finding of fact #3. Mr. Deaton answered that the applicant does.

Chairman Mitchem asked if this is a private or state maintained road. Mr. Hawkins stated that Avenel Lane is a private road and Sedgebrook Drive is a state maintained road.

Planning Board member Keith Johnson asked about the property being on both sides of the road and also about decommissioning of the site.

Commissioner Oakes asked if anyone had spoken to the applicant and asked them to connect to Sifford Road instead of Sedgebrook Drive. Mr. Hawkins stated that they have

shared some concerns about traffic for construction coming through The Gates with the applicant. He said the property owner has an easement that allows access through The Gates.

Chairman Mitchem said that if the applicant has an easement, he has a right to use that property.

Chairman Mitchem opened the public hearing concerning Conditional Use Permit #341 – Freemont Solar Center, LLC, applicant.

Kyle West, Director of Project Development with Heliosage, submitted evidence which included a revised findings of fact, construction period impacts summary and a comprehensive independent appraisal.

Commissioner Oakes asked why this information was not received last week. Mr. West said he had it available but was told he could bring it to the meeting. Commissioner Oakes said this is a conditional use process and like a court hearing, and the applicant is showing up with evidence that nobody else has seen. He said he will not be able to read that information and ask sensible questions tonight.

Mr. Deaton said this does not violate any rules, so long as what is being submitted, if it has testimony that will be submitted as evidence, as otherwise testified to. In other words, you cannot submit an affidavit of someone who is not here and cannot be cross examined. He said the timeliness of these documents do not violate any rules.

Mr. West stated that the applicant is Freemont Solar Center, LLC and Heloisage is the parent company. Their company is based in Charlottesville, VA and a nation solar energy firm, focusing exclusively on utility scale solar projects. They are the 4<sup>th</sup> largest solar energy market in America with over 722 Megawatts (MW) installed, 3,100 full time jobs, and 161 companies. They have \$787 million invested in North Carolina solar projects in 2013. He said utility scale solar projects are often referred to as solar farms. Solar farms are large, ground mounted projects that feed electricity directly to the grid or commercial customer under a contract known as a Power Purchase Agreement (PPA). Solar energy systems typically require 6 – 10 acres per MW installed. Systems produce power for 25+ years. A power purchase agreement will be with Duke Energy. Mr. West said the land owner is Gary Duckworth and the total parcel is over 160 acres, they will only be impacting 40 acres. This will be a conditional use permit, not a rezoning.

Mr. West focused on the findings of fact.

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan.

Yes – the solar PV facility will be designed and built to code and will not materially endanger the public health and safety. All electrical components will be UL-listed and NEC-complaint. Components will be surrounded by chain link fencing for

security and safety of the public. The facility will not produce any emissions or contain hazardous materials. They are already screened with existing vegetation. It is screened on all sides by existing trees, except for the road frontage, where vegetative screening will be installed.

2. The use meets all required conditions and specifications.

Yes – A solar power generation facility is a conditional use in R-T districts. The site plan meets all setback, screening, height, and wiring requirements listed as part of the Lincoln County Unified Development Ordinance. The facility is located greater than 5 miles from any FAA-regulated airport. A decommissioning plan for the facility has been drafted and provided as part of the conditional use permit application. He said the decommissioning plan, based on their numbers today, is accurate information and they can provide additional documentation to back that up.

Mr. West presented the FAA plan and site plan. He noted on the site plan that they are pursuing how to interconnect with Duke Energy. What they are planning to do is actually cross the highway on to the landowner's property, then follow the existing transmission line and go out onto old Highway 16. He said they would not be on anyone else's property.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.

Yes – There is considerable research proving that the value of properties adjoining or abutting solar installations is not negatively impacted due to the presence of a solar installation. In fact, an independent, site-specific appraisal performed by Bidencope & Associates found, "the proposed Solar Farm will not substantially injure the value of abutting properties". The facility will not generate significant noise, traffic, emissions, or glare, and will be visually screened in accordance with the Lincoln County ordinance.

Damon Bidencope, certified by the State of North Carolina by Statute 93e to give opinions on value of property, said he has done significant research into properties surrounding solar farms installations here in North Carolina. He said his findings show that the solar farm will not substantially injure the value of abutting properties if developed as shown on the plans and that the solar farm will be in harmony with the area in which it is to be located and in general conformity with the zoning and plans of Lincoln County.

Commissioner Oakes asked Mr. Bidencope how many times he has testified for a solar farm in the last year in the state. Mr. Bidencope said he has testified 3 or 4 times. He said he met Mr. West this evening for the first time and this is the first appraisal he has done for his company. He said he testified for another solar farm in Lincoln County, that one was right outside of Sailview, which there were many residents here. He said he was also involved with a property in Shelby and one in Union County. He said he has not

seen or heard any evidence of any damage in any of these hearings. He said he is paid independent of the outcome of the appraisals. He said is his independent professional belief that there is no harm to properties and what they are in fact seeing is just a general rate of appreciation in the examples where there is significant residential development adjoining or adjacent to other installations.

Commissioner Oakes said that on pages 26 and 27, there is a comparable with a solar farm called Spring Gardens and adjoining properties sold before and after and those do not show any difference. He said in the rest of the report, starting on page 37, Mr. Bidendope lists at least a dozen solar farms but no comparable properties to any of those.

Mr. Bidendope said on the first thing mentioned with Spring Garden, some of the information was provided at an earlier meeting, but has been updated and revised on pages 28, 29 and 30. The sales quantified on page 30 are some of the most meaningful data, because what that shows is that the properties sold prior to the solar farm installation had an average sale price of \$236,000, then the sales after the installation are showing an average price of \$250,000. So it's showing substantial appreciation in the market and one thing it's absolutely showing is that there is no diminution in value. He poke concerning other subdivisions with adjoining solar farms, one in particular in Zebulon in which a developer is developing a subdivision beside an existing solar farm. He said there is not uniformity of a product, properties that are not comparable to each other in the 18 other solar farms used.

Chairman Mitchem asked Mr. Bidendope if the burden of proof is on the applicant. He asked if this will devalue any property in the area where the solar farm is going.

Mr. Bidendope said that yes, it is his burden of proof and no it will not devalue property values.

Mr. West said that solar farms are passive and almost always shielded from view. He said they have met the requirement for finding of fact number 3.

Chairman Mitchem asked the closest home to this site. Mr. West said this land is currently a cattle farm, and agricultural use that meets all the setback requirements. He said it is quite a distance from any home and pointed out on the map where the closest home is located. He said they easily exceed all setback requirements. He said if you visit the site, you would not know a solar farm is there.

Randy Hawkins said it is approximately 400 feet to the nearest panel from a home on Mac Lane. He said the nearest lot in the future Gates development would be 450 feet.

Commissioner Beam asked about the driveway access, if there is a road that goes through the housing development to get to it.

Mr. West said that all the roads in the housing development are state roads and the landowner has an access right of way that predates all development and allows access to



his property via Avenel Lane. He said there are houses on Avenel Lane, but they are set back quite a bit. He said one of the concerns the community has is construction period impact. He said to address traffic and the impact of construction, after construction, there will be almost no traffic at all. During construction period, which is about 3 to 4 months, there will be regular working hours, 7 am to 8 pm. The whole site will be secured and there will be onsite security. The noise will be just truck noise. He said right now The Gates at Waterside Crossing is in Phase 10 and they are seeing substantial construction going on. Their construction will require far less frequency of vehicles and the loads will be much lighter. The roads through The Gates at Waterside Crossing are all state maintained roads, so access cannot be denied by Lincoln County. He said construction of a solar farm is very low impact, most of the materials and equipment arrive in a modular form so much of the work is just assembly and electrical work. It doesn't require a lot of land disturbance or heavy equipment.

Commissioner Oakes said Mr. West is wrong on one account, because the section they plan on entering is a finished section of The Gates and further construction of The Gates, by agreement of the developer, will come in from Sifford Road.

Mr. West said the complaints they heard from residents was that they were worried about the trucks that had been building homes in The Gates at Waterside Crossing, that they were going too fast and making noise impacting residents.

Chairman Mitchem said a statement was made a prior solar farm public hearing that trucks haul the power out of the site. Chairman Mitchem said he would just like to confirm that no trucks haul power off the site. Mr. West said that this is correct.

Commissioner Oakes asked if the applicant has looked at getting access to Mac Lane or the other part of The Gates. Mr. West responded that they did look at Mac Lane and are still pursuing it, but because there is the existing access easement that the landowner holds, that is a sure route. Mac Lane would require them to acquire another easement.

Commissioner Oakes asked the largest piece of solar tower that will be moved in to the site. Mr. West said that he could not answer that. He said the racking system are 8 feet tall at the highest point and are modular. He said there will be mostly 10 by 10 pieces.

Commissioner Oakes said the residents are concerned about losing mailboxes, because the corners are very tight roads in there and designed for residential use, not construction traffic.

Mr. West said they build these all over the country and go to great lengths to adhere to all the standards of Lincoln County and the building code. He said they will adhere to the posted speed limits. He said there is and has been construction going on that is far more impactful than they will be.

Commissioner Patton asked if trucks will come every day once construction starts or if they will all come at one time. Mr. West said it depends on the stage of construction, it

can be from 1 truck to 15 at the busiest. The construction period is only about 3 months and you are trying to get the equipment on the site as it is set to go in, so you will bring in your fence 1<sup>st</sup>, racking system 2<sup>nd</sup>, panels 3<sup>rd</sup>.

Mr. West continued with the findings of fact with number 4.

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 – the site is remotely located away from residences and will be visually screened as necessary. The passive nature of this use fits well with this rural, agricultural, and low-density residential area. Mr. West said the site is remotely located, away from residences and will be visually screened as necessary. There is a tremendous amount of existing screening. The passive nature of this use fits well with this rural agricultural and low density residential area.

Mr. West stressed that the Commissioners should visit the site. He said this will significantly increase the tax revenue, will create or support 100 – 150 jobs during construction; all personnel will be utilizing community services and investing in the local economy, and supports a clean energy, which leads to a safer, sustainable environment.

The landowner likes this use, because it is complementary to his agricultural operation. These things can come out of the ground in fifteen years, the land will not be disturbed, it's not going to have concrete all over it. Everything is coming out at the cost of the project and they can continue to farm the land.

Chairman Mitchem asked the approximate amount of money that will be invested there. Mr. West said approximately \$10 million.

Keith Johnson, Planning Board member, asked what is currently at the end of Avenel Lane. Mr. West said there is a gate there into the cattle farm, he pointed this access out on the location map.

Commissioner Oakes said solar farms get an 80% tax rebate so they will be paying taxes on \$2 million tax assessment instead of the whole \$10 million.

Commissioner Oakes said he has serious problems with the people who are signing to be responsible for the decommissioning plan. He said Freemont Solar is effectively a shell corporation and Heliosage is in the business of building these solar farms and then selling them. He said he doesn't believe they will be around in 15 years to decommission this. His other questions are with the numbers in the decommissioning plan.

Mr. West said they do usually sell their projects to Fortune 500 companies. He said Heliosage was recently acquired by Coronal Panasonic and Panasonic will most likely own all their projects going forward. Panasonic is a \$70 billion entity and they will likely

go into a holding company owned by Panasonic. The agreement with the landowner has a decommissioning clause, which makes the project legally liable for removal.

Kenny Henkle asked if Mr. and Mrs. Duckworth pays taxes every year. He said if they pay taxes they should be able to do what they want to with their land. He said Mr. Duckworth was there long before any of these residences or The Gates.

Richard Putnam, 714 Avenel Lane, said there are plenty of tractor trailers going in there now fertilizing and hauling logs. He said if these guys are coming through, he would appreciate it if they are taking care of the road, because that's a lot of traffic. He said he signed an agreement to let the fire department to come into the property, but he did not sign for a solar farm to be back there. He asked them to be respectful of his road and house.

Keith Johnson asked Mr. Putnam how long he has lived on Avenel Lane and if there is a cellular tower at the end of that road.

Mr. Putnam said he has been there 10 years and that yes, there is a cellular tower that has been there as long as he is. He said there is plenty of traffic coming to service it. He said this is a dirt road, but he has gotten tired of putting gravel on it for everyone to use.

Ron Rajeck, 445 Selmot Way, said he lives in The Gates I, in which there are almost five hundred homes. He said Avenel Road is a dirt road and a mess. He said a bunch of kids live on that road and tractor trailers that fly in and out. He said nobody knows the environmental impact of solar farms. Mr. Rajeck said the roads are bad enough already and the state does not maintain them. He said the housing market is just starting to come back up and the appraiser's information was from 5 years ago.

Gary Caton, 7143 Sedgebrook Drive West, stated that he is Vice President of the Homeowner's Association for The Gates II. He said they have no objection to the solar farm, but do object to them using Sedgebrook Drive and Avenel Lane entrances, because the traffic will be considerable until it is done. There is an agreement that all traffic for the new homes being built will come in from Sifford Road.

Floyd Dean, Planning Board member, said once this construction is finished there will be virtually no traffic. If they by right put a mobile home park or duplexes in, there would be considerable traffic. He said this is the lowest impact use possible for the property.

Carlos Caulder, 7819 Sedgebrook Drive, said he hears all the talk about construction traffic. He said something that is supposed to take 3 months could take longer. He said Gates I has been there for a long time. He said there is damage to their roads and he has never seen DOT fix anything. This construction traffic will cause more damage to the roads that are not being maintained now. He said just because you can come through Gates I doesn't mean you should.

Joan Elliott said she is on the HOA Board for Gates I. She handed out maps showing where the solar farm will be. She said up until tonight she has heard nothing but good about the solar farm coming there, but safety first. She said there was a concern for speeding through their neighborhood and an ad hoc committee was formed. She presented copies of the results of the study on traffic. She said in 1964 there was a right of way put in for public access and she's sure the subdivision was not even dreamt of. She said the HOA Board for Gates I will not support, as written, this proposal and will not grant an easement on their common space. She asked what the traffic frequency is to install and decommission, the timeframe, and what kinds of loads and equipment. She asked if there have been any measures to replace, repair or resurface Sedgebrook Drive. She asked if the developer is willing to put up security cameras and a bond. Ms. Elliott said there are numerous blind spots. She asked if the applicants really believe they can safely go through this neighborhood with the construction traffic.

Commissioner Patton asked who the primary users of Sedgebrook Drive are now. Ms. Elliott answered that the people that live in The Gates are, which is Gates I and II. Commissioner Patton said it's the people that live there that are speeding and asked why we should hold these people accountable for not being able to use the neighborhood when it is the residents putting the children at jeopardy.

Ms. Elliott said there are other roads that can be used other than The Gates roads. She said she would like this evaluated before they are allowed through their neighborhood.

John Kosempa spoke about the health risks involved with a solar farm. He said it's hard to say what will happen to property values with this solar farm. He said that there are houses for sale and someone takes the rezoning signs down for the open houses and then put it back up when they are finished.

William Wojowicz, 7373 Sedgebrook Drive West, said he has no concerns with the solar farm on this site. He said alternate access should be considered before they go through a neighborhood to not jeopardize the safety of the community. He said it makes the most sense to come off Sifford Road and follow the utility lines to the site. He asked the max allowable weight on Sedgebrook. Mr. Wojowicz said he lives on the corner and has had to move his car numerous times so someone could make that turn.

Commissioner Patton asked if they park on the state road. Mr. Wojowicz said they do.

Commissioner Patton asked Mr. Deaton if the Board of Commissioners have any authority to prevent someone from using a state road. Mr. Deaton said they do not.

Chairman Mitchem asked Mr. Deaton to confirm that it does not matter what date an easement was signed, that it would still be valid. Mr. Deaton confirmed this.

Mr. West, applicant, said it seems to him that the roads are main issue. He said the roads are state maintained and if there is a problem with the roads, it needs to be taken to DOT. He said they have agreed to maintain Avenel Lane, it is in the lease with the landowner

because he asked for the same thing. He said they need to maintain it to get their vehicles in and out of there. He said they will maintain during construction period. He said if the landowner wants to do anything with this land one day, whether it is a subdivision, a solar farm, any allowed use in R-T, there will have to be access there. He said this also has one of the shortest construction times of any use. He said they will be happy to pursue other access routes, but there is an existing access easement and have agreed to maintain Avenel Lane.

Keith Johnson asked if there are any standards in the lease for maintaining the road. He said there need to be standards. Mr. West said he had no problem with that during the construction period.

Chairman Mitchem said this is a conditional use permit and conditions can be placed on it.

Commissioner Oakes asked if the applicant would be willing to place a bond to repair mailboxes and road repairs during construction. Mr. West asked if this would be required on all state roads. He said they have the same rights to a state road as anyone else in North Carolina.

Kelly Atkins, County Manager, informed the Board that the Board should possibly consider looking at a letter of credit for decommissioning, 1.25 times the amount of what it would cost just to ensure that the decommission is governed.

Mr. West said this was a very good suggestion. He said NCC looked at that issue and determined that it was 1.5 times decommissioning cost minus salvageable value, which is determined by an independent certified state contractor.

Mr. Atkins stated that Planning and Inspections does something very similar with cell towers and some solid waste. He said it is pretty common throughout North Carolina and other states.

Commissioner Oakes said the decommissioning plan assumes some enormous scrap value, which is pretty hard to figure out 15 years hence. He said he does not think anyone cares whether the solar towers are removed from the property, maybe would care if they are laid underground or something like that so some kind of partial decommissioning cost would be all you would have to bond for. Commissioner Oakes said he does not think they should be taking credit for it because then they wouldn't have to bond for anything according to the plan. He said the decommissioning plan says they would make \$25,000 when decommissioning occurs, that is based on assumed scrap values and so therefore they would not have to bond any money.

Mr. West said an independent certified contractor would come up with those numbers. He said he would recommend that the Planning Board place the condition that would make it fair and there is template language that does exactly that.

Chairman Mitchem asked Randy Hawkins to read the list of things that could go on that property by right with no public hearing. Mr. Hawkins said he could do any type of agricultural use from chicken to hog farms, cattle and crops. He could divide into 10 acre tracts and do a subdivision. If he wanted to do a subdivision with smaller lots, he would have to acquire a dedicated right of way and he could put 40 to 50 homes on the 40 acres. He said a church or duplexes could go there.

Richard Putnam said when they built the new 16, they gave Mr. Duckworth the opportunity to put an underpass in there and he opted not to do it. If he had done that, he would have through passage with no problems.

Mr. Bidencope stated that in response to a comment from the audience concerning values used in the appraisal, he said they were as recent as August of 2014 and were not 5 to 6 years old.

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

#### **WSCUP #19 Newna Properties, LLC, applicant:**

The applicant is requesting a conditional use permit to allow the use of the high-density option in the WS-IV Critical Area of the Catawba/Lake Norman Watershed. The applicant is proposing to develop a 0.92-acre lot with a 6,000-square-foot medical office building and parking areas. The high-density option would allow the development to have a built-upon surface area covering up to 50 percent of the site, with the use of engineered stormwater controls. (Otherwise, in this watershed district, non-residential developments that require an erosion control plan are limited to a built-upon area of 24 percent.)

#### **SITE AREA AND DESCRIPTION**

The property is located on the west side of N.C. 16 Business about 500 feet north of Townsend Drive in Catawba Springs Township. It is zoned B-N (Neighborhood Business) and is adjoined by property zoned B-N, CZ B-G (Conditional Zoning General Business). I-G (General Industrial) and R-CR (Residential and Commercial Recreational). Land uses in this area include business, industrial and residential. This property is part of an area identified by the NC 16 Corridor Vision Plan as the South Triangle community center, where services and activities for the surrounding area are recommended to be concentrated.

#### **HIGH-DENSITY OPTION REQUIREMENTS**

Under the water-supply watershed regulations of the Lincoln County Unified Development Ordinance, the Catawba/Lake Norman Watershed is designated for the use of the high-density option. The option requires the use of stormwater control structures to control and treat the runoff from the first one-inch of rain. The structures must be designed to meet the Best Management Practices (BMP) standards of the N.C.

Department of Environment and Natural Resources. In this case, the plans call for a bioretention basin and an area of pervious pavement.

The regulations require the developer to post a bond or other financial security in an amount not less than 1.25 times the cost of constructing the necessary stormwater control structures. In addition, a binding agreement must be signed, requiring the owner to maintain, repair and, if necessary, reconstruct the structure in accordance with an approved operations and maintenance plan. Once the stormwater control structure have been constructed and inspected, and prior to the release of the financial security, the applicant is required to deposit with the county either cash or a similar approved instrument in an amount equal to 15 percent of the total construction cost or 100 percent of the cost of maintaining the structure over a 20-year period, whichever is greater.

Chairman Mitchem opened the public hearing concerning WSCUP #19.

Dan Brewer, Engineer for the project said he is here to answer any questions.

Keith Johnson asked if the engineer has reviewed the stormwater maintenance plans. He asked if this plan complies with the rules and regulations of North Carolina and Lincoln County and if this plan is scaled and in the proper location. Mr. Brewer stated that they do comply and he has reviewed them.

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

**Proposed Changes to UDO (Unified Development Ordinance) - Sam Houser and Keith Gaskill:** Sam Houser and Keith Gaskill presented the Board with a request to schedule a public hearing for proposed changes to the UDO.

The West Lincoln and East Lincoln area councils of the Lincolnton-Lincoln County Chamber of Commerce have reviewed sections of the Unified Development Ordinance that apply to commercial development across the county and have reached an agreement on a set of proposed changes. The Chamber's board of directors has endorsed the councils' proposal and is recommending that a public hearing be scheduled on amending the UDO to incorporate the changes.

**UPON MOTION** by Commissioner Beam, the Board voted unanimously to schedule a public hearing for the first meeting in April to hear the proposed changes to the UDO.

The Planning Board reconvened to the second floor balcony to deliberate the cases.

Chairman Mitchem declared a brief recess and called the meeting back to order.

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

Rudy Bauer, 8252 Blades Trail, said that the newspaper article by Mr. Fortenberry stepped on a few toes. He said there is a rumor from a reliable source that the Board is talking about removing the C&D boxes from convenience sites.

Chairman Mitchem said he can stop the rumor right now because it is not true.

Mr. Bauer said that he recently saw a hole and one man in the hole with 6 other men above. He said each one drove a county car and if they would carpool, it would save. Commissioner Oakes asked Mr. Bauer to take pictures when he sees events like this.

Trish Patrick asked the difference between the UDO and Route 16 Vision Plan in Denver. Commissioner Oakes explained these to Ms. Patrick.

Being no additional speakers, Chairman Mitchem declared the Public Comments section closed.

**Other Business:** Mr. Atkins announced the hiring of Candy Burgin as the new Human Resources Director after Audrey Setzer's retirement and John Davis as the new Recreation Director after Erma Deen Hoyle's retirement.

Commissioner Oakes said Duke is in the process of fixing their ash pond under Marshall and lowered the pond this week to repair the pipes. He said he asked Mr. Chamblee to get some numbers for him and would like him to bring additional information to the next meeting.

**Recess:** **UPON MOTION** by Commissioner Martin, the Board voted unanimously to recess until 8:00 a.m. tomorrow, March 3, 2015 outside the Clerk of Court's office for a discussion and tour of the Courthouse.

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Amy S. Atkins, Clerk  
Board of Commissioners

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Carrol Mitchem, Chairman  
Board of Commissioners