



**CITY OF LINCOLNTON
PLANNING BOARD
PO DRAWER 617, LINCOLNTON, NC 28092
www.ci.lincolnton.nc.us**

BOARD MEMBERS: Änd Lynn, Chair, andmlynn@gmail.com; Worth Roberts, Vice-Chair, worth.roberts@charter.net; Gene Poinsette, poinsetteg@charter.net; Jamel Farley, afarley2351@gmail.com; Jerry Hoffman, jlskhoffman@charter.net; Rebecca Abernethy, rabernethy21@hellsouth.net; Greg McBryde, Gregory.Mcbryde@gmail.com

Tuesday, January 21, 2020 Meeting

Present: Worth Roberts, Gene Poinsette, Jerry Hoffman, Jamel Farley, Rebecca Abernethy and Greg McBryde

Absent: Änd Lynn

Call to Order

Vice-Chair Worth Roberts called the meeting to order and recognized that Änd Lynn was absent.

Approval of Minutes

Vice-Chair Worth Roberts asked the Board if there were any additions or corrections to the minutes of the November 17, 2019 meeting.

Motion: Greg McBryde made a motion to approve the minutes. Gene Poinsette seconded. Motion carried unanimously.

Election of Officers:

Vice-Chair Worth Roberts asked the Board for nominations to fill the Chair position on the Planning Board.

Nominations: Gene Poinsette nominated Änd Lynn and Jamel Farley seconded.

Vice-Chair Worth Roberts asked the Board for nominations to fill the Vice Chair position on the Planning Board.

Nominations: Gene Poinsette nominated Jamel Farley and Worth Roberts seconded.

Motion: Jerry Hoffman made a motion to approve the nominations. Greg McBryde seconded. Motion carried unanimously.

CUP-1-2020 – Application from Brian and Marie Kenyon requesting conditional use permit approval to operate a Brewery, Distillery, Taproom and live event space in the Central Business (CB) District. The subject property is located at 124 East Water Street (Parcel ID 100157)

Laura Elam addressed the board noting the following:

Brian and Marie Kenyon are requesting a conditional use permit to operate a brewery, taproom, distillery and live event space at 124 East Water Street (Parcel ID 100157).

The subject property and all surrounding properties are primarily zoned Central Business (CB). Several properties located at the intersection of S. Academy Street and E. Church Street are zoned Residential –Office (R-O).

The subject property and all surrounding properties are used for commercial purposes.

PROPOSED USE

The current proposal would allow an expansion of Untapped Territory as well as a brewery, distillery and live event space in the adjoining space at 124 East Water Street.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Section 153.236 of the UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The application meets all requirements.

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Section 153.237 of the Unified Development Ordinance requires that four findings be determined by City Council. They are as follows:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
4. The location and character of the 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH SECTION 153.237

1. It does not appear that the use will endanger the public health or safety.
2. The use meets all required conditions and specifications.
3. The applicant will need to provide evidence that the use will not substantially injure the value of adjoining or abutting properties.
4. The use is in conformity with the Lincolnton Land Use Plan in that the site is located within the Central Business Planning Area.

STAFF REVIEW COMMITTEE

The Staff Review Committee made the following comments:

1. Coordinate utility connections with City of Lincoln Public Works.
2. Plans must be reviewed and approved by the City Fire Marshall. Building may be required to be sprinklered for the proposed use.
3. Building plans must be approved by Lincoln County Inspections.

STAFF RECOMMENDATION

If the applicant satisfactorily proves the findings of fact, approval of the Conditional Use Permit, subject to ordinance requirements and the Staff Review Committee conditions.

After some discussion, Vice-Chair Worth Roberts asked if there was a motion. The motion is as follows:

Motion: Gene Poinsette made a motion to approve. Rebecca Abernethy seconded. Motion carried unanimously.

CU-ZMA-1-2020 – Application from Dama and Kevin Chopelas requesting the rezoning of 1.04 acres of land from Residential-8 (R-8) to Conditional Use General Business (CU-GB) to construct a shop and operate a sign/design business. The subject property is located at 1361 South Aspen Street (Parcel ID 22141).

Laura Elam addressed the board noting the following:

SITE AND AREA DESCRIPTION

The subject property is a 1.13 acre site located at 1361 South Aspen Street on the east side of South Aspen Street between Brady Branch Trail and Jonas Drive. (Parcel ID 22141).

The subject property and adjoining properties located along South Aspen Street are zoned R-8. Properties to the north are zoned R-15. Properties located to the south at the intersection of South Aspen Street and Jonas Drive are zoned Neighborhood Business (N-B).

The subject property is developed with a single family home. A duplex is located on the adjoining lot immediately to the south. A bed and breakfast inn and a single family home are located further to south. A convenience store and an office are located at the intersection of South Aspen Street and Jonas Drive. Otherwise, the area is predominantly devoted to single-family homes.

BACKGROUND

The applicants operate a sign shop in Vale and recently relocated the business to a leased location in Lincoln. However, the fire marshal could not approve the opening of the business in the new location due to fire code violations.

The applicants' understanding is that the owner of the leased location does not plan to resolve the outstanding code violations and as a result, they moved the business back to the former location in Vale.

Because the applicants are still interested in relocating to Lincoln, they then decided to pursue relocation of the sign business to the site of their recently purchased home on South Aspen Street. They would like to construct a new detached building for the sign shop in the area of the lot where the existing garage is located.

Staff and the applicants discussed the feasibility of conducting the sign business as a home occupation but the applicants wish to operate the sign shop in a building, zoning regulations do not allow use of an accessory building for a home occupation.

Rezoning to a commercial zoning district is required to allow the business to be located in a building separate from the home.

NOTE: Rezoning of the home to a commercial district will make it a legal, non-conforming use.

PROPOSED USE AND SITE PLAN

The applicant requests conditional use rezoning in order to allow construction of an approximately 1,800 square foot sign shop in the area where the existing garage is now. The existing garage would be removed.

The shop would be accessed through the existing driveway to South Aspen Street and parking for the shop would be provided in the existing parking area. Gravel parking is permitted provided the required use does not require more than 15 parking spaces.

DESCRIPTION OF CONDITIONAL USE DISTRICT REZONING PROCESS

Conditional use rezoning is a process whereby a conditional use permit and a rezoning are acted upon simultaneously. The use that is proposed in the conditional use permit portion of the process must be the use constructed on the property after it is rezoned. Unlike a standard zoning in which all the uses permitted in the district are potentially allowed on the rezoned site, a conditional use rezoning limits the potential use of the property. In this case, the applicant proposes to limit the use of the property to the existing single family home and a new 1,800 square foot sign shop.

COMPLIANCE WITH WATER SUPPLY WATERSHED

The site is located in the water supply watershed protected area. Compliance with the water supply watershed standards is required if more than an acre is disturbed.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Section 153.236 of the UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The application meets the requirements of this section with the following exceptions:

- Twenty foot side yard setbacks are required,
- Twenty foot screening buffer required adjoining residential zoning, and

- Total impervious cover needs to be provided and any applicable watershed requirements must be met.

LAND USE PLAN

The Lincoln Land Use Plan designates properties located along this portion of South Aspen Street as a Traditional Single Family area and the intersection of South Aspen Street and Jonas Drive as a Neighborhood Business area.

The Plan notes that Traditional Single Family areas consist of single family uses on smaller to medium sized lots in older established portions of the community that should be protected from encroachment of incompatible business and industrial development. This request proposes rezoning from single family residential to conditional General Business. Therefore, the requested rezoning is not consistent with the Land Use Plan.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- (1) Due to this location being a predominantly single-family residential area, staff recommends that, if approved, the proposed business operate as much as possible in keeping with the zoning regulations for home occupations.
- (2) The proposed sign shop building should be residential in character with the style, colors and materials to be compatible with that of the house on the same lot or generally with homes in the area. If a metal building is to be installed for use as the proposed sign shop, it should be located to rear of the house to limit visibility from the street.
- (3) Only residents of the home on the same lot plus a maximum of one non-resident to be employed at the site.
- (4) No external alterations to be made to the home on the same lot that are inconsistent with its residential character.
- (5) Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) are permitted in connection with the business.
- (6) Business hours to be limited to between the hours of 8:00 a.m. and 5:30 p.m.
- (7) One non-illuminated professional nameplate, occupational sign or business identification sign mounted flush to the sign shop and not more than two square feet in area is allowed. Any freestanding sign is limited to two square feet in area and five feet in height.
- (8) All activities, equipment and materials to be contained within the building. No outdoor storage permitted.
- (9) No display of products associated with the business may be visible from any adjoining lot or street.

- (10) The larger garage door is not to face South Aspen Street. Both garage doors are to remain closed except when equipment or materials are being moved in or out of the building.
- (11) Storm water management plan to be submitted and new construction to be designed in such a way that storm water will not impact adjacent property owners.
- (12) If the parking area is expanded, paved or relocated, the new parking area should be designed in such a way that storm water will not impact adjacent property owners.
- (13) Any newly added parking area should be located to the side or rear of the home and not in front of the home between South Aspen Street and the home
- (14) No parking associated with the sign shop is to be located in front of the home between South Aspen Street and the home.
- (15) Parking lot landscaping is required.
- (16) Twenty foot screening buffer required along property lines abutting residential zoning. Existing trees and other landscaping located within the 20 foot buffer are to be preserved.
- (17) Existing trees on the site are to be preserved to the extent feasible.
- (18) Twenty foot building setback required along side yards abutting residential zoning and 30 foot building setback required along rear yard abutting residential zoning.
- (19) Any outdoor lighting on the site should be directed downward and not cast glare onto neighboring properties.
- (20) An erosion control plan is required if land disturbance is 20,000 square feet or greater. A single lot disturbance permit is required if all land disturbance is less than 20,000 square feet. Approval will be needed prior to any disturbance taking place including cutting tree canopy.
- (21) Total amount of impervious cover needs to be provided per water supply watershed standards. Any applicable watershed requirements must be met per the ordinance.
- (22) Five foot sidewalk and six foot planting strip required along the site's frontage on South Aspen Street.
- (23) Street landscaping is required along the site's frontage on South Aspen Street.
- (24) A detailed site plan is required to be submitted to and approved by the City prior to issuance of a zoning permit or building permit.
- (25) A driveway permit is required from NCDOT. The driveway is required to be paved 25 feet back from the street.

(26) A building permit is required from Lincoln County.

FINDINGS OF FACT

Section 153.237 of the UDO requires that four findings be determined by City Council as follows:

- (1) The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- (2) The use meets all required conditions and specifications, and
- (3) The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
- (4) The location and character of the 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH FINDINGS OF FACT

- (1) The applicant will need to provide evidence that the use will not endanger the public health or safety.
- (2) The proposed use meets required conditions and specifications with the exception of the items noted above.
- (3) The applicant will need to provide evidence that the use will not negatively impact the value of adjoining or abutting properties.
- (4) The request is not consistent with the Land Use Plan. The applicant will need to provide sufficient evidence that the use, if approved, will be in harmony with the area.

STAFF RECOMMENDATION

Staff cannot make a positive recommendation unless the applicant can provide evidence showing how the findings of fact will be met.

If the applicant can show that all findings are satisfactorily met and if the request is recommended for approval, the following actions would need to be taken:

- (1) Recommend approval of rezoning of the property from R-8 to CU-GB.
- (2) Recommend approval of the conditional use permit provided all requirements for conditional uses are met and all Staff Review Committee comments are addressed, and
- (3) Recommend amendment of the Land Use Plan to designate the property in the General Business Planning Area.

Allison Gahrman spoke against approval stating that the noise of the created would affect her business, White Rose Manor. Tom Howard spoke against approval stating that he was concerned with the precedent the approval would set with allowing businesses in accessory structures.

After some discussion, Vice-Chair Worth Roberts asked if there was a motion. The motion is as follows:

Motion: Gene Poinsette made a motion to table this case until the next meeting. Jamel Farley seconded. Motion carried unanimously.

CU-ZMA-2-2020 – Application from Ronald Barger requesting the rezoning of 1.9 acres of land from Neighborhood Business (NB) to Conditional Use General Business (CU-GB) to construct and operate an Automobile Repair Shop. The subject property is located at 1169 W. NC Highway 150 (Parcel ID 15675).

Mark Carpenter addressed the board noting the following:

The subject property is a 1.95 acre site located at 1169 West Highway 150 (Parcel ID 15675). The property is currently developed with a 808 square foot office which will remain on site. Land uses in the area are mostly single family residential. The subject property is zoned NB.

PROPOSED USE AND SITE PLAN

The applicant requests conditional use rezoning in order to allow use of the site for an automobile repair shop. The current 808 square foot office would remain and the applicant would construct a new 1,380 square foot garage building with two bays on the north side of the property. Access would be provided by one driveway to West Highway 150. Fourteen parking spaces would be provided as required by the UDO. Gravel parking is permitted provided the required use does not require more than 15 parking spaces.

DESCRIPTION OF CONDITIONAL USE DISTRICT REZONING PROCESS

Conditional use rezoning is a process whereby a conditional use permit and a rezoning are acted upon simultaneously. The use that is proposed in the conditional use permit portion of the process must be the use constructed on the property after it is rezoned. Unlike a standard zoning in which all the uses permitted in the district are potentially allowed on the rezoned site, a conditional use rezoning limits the potential use of the property. In this case, the applicant wishes to limit the use of the property to an automobile repair shop.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

The UDO requires that a conditional use permit application contain specific terms and meet specific requirements. The site plan meets the requirements of this section with the following exception:

- Street and Parking Lot Landscaping required along Highway 150
- Screening required adjoining residential zoning (Current trees on property can count toward this requirement.)

- Plan needs to show amount of impervious surface on the site per the Water Supply watershed standards. Any applicable watershed requirements must be met per the ordinance.

LAND USE PLAN

The Lincoln Land Use Plan shows this property in the Residential High Density Planning area. The current zoning nor the proposed zoning is consistent with the Land Use Plan.

STAFF REVIEW COMMITTEE

The Staff Review Committee had the following comments:

- (1) No outdoor storage of junked vehicles shall be permitted.
- (2) Existing tree cover on the site should be preserved to the extent possible.
- (3) Screening required adjoining residential zoning.
- (4) Hours of operation to be limited to Monday through Friday from 8 am to 5:30 pm.
- (5) Garage doors shall face to the rear with no garage doors to face Highway 150.
- (6) No vehicles shall be stored in front of the building between Highway 150 and the building.
- (7) No grading or any activity shall be done in the flood area. A 30 foot buffer should be maintained between the development and the creek.
- (8) Lincoln County Soil Erosion and Sedimentation will need a single lot disturbance permit if all land disturbance is less than 20k square feet. Will need an approved erosion control plan if land disturbance is 20k or greater. Either or will be needed PRIOR to any disturbance taking place including cutting tree canopy.
- (9) NCDOT driveway permit will be required. The first 25 feet of the driveway connecting to Highway 150 shall be paved leading into the property.
- (10) Building plans must be approved by Lincoln County prior to issuance of building permits.

FINDINGS OF FACT

Section 153.237 of the UDO requires that four findings be determined by City Council as follows:

- (1) The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- (2) The use meets all required conditions and specifications, and

- (3) The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
- (4) The location and character of the 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

COMPLIANCE WITH FINDINGS OF FACT

- (1) It does not appear that the use will endanger the public health or safety.
- (2) The proposed use meets all required conditions and specifications with the exception of the items noted above.
- (3) The applicant will need to provide evidence that the use will not have any negative impacts on the value of adjoining or abutting properties.

The use is not technically in compliance with the Lincolnton Land Use Plan. However, staff considers it to be consistent with the spirit and intent of the Plan in that the proposed use is relatively small in scale and should have a relatively small impact on the surrounding residential area (subject to the Staff Review Committee comments).

STAFF RECOMMENDATION

Staff recommends the following two actions:

- (1) If the applicant satisfactorily proves the findings of fact, recommend approval of rezoning of the property from NB to CU-GB
- (2) If the applicant satisfactorily proves the findings of fact, recommend approval of the Conditional Use Permit for an automobile repair shop subject to Ordinance requirements and the Staff Review Committee conditions.

After some discussion, Vice-Chair Worth Roberts asked if there was a motion. The motion is as follows:

Motion: Gene Poinsette made a motion to approve. Greg McBryde seconded. Motion carried unanimously.

Vice-Chair Worth Roberts asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

*Motion: Gene Poinsette made a motion to adjourn. Jamel Farley seconded.
Motion carried unanimously.*

Jean Derby

PB012020 minutes