



**CITY OF LINCOLNTON  
PLANNING BOARD  
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**BOARD MEMBERS:** Änd Lynn, Chair, [andmlynn@gmail.com](mailto:andmlynn@gmail.com); Worth Roberts, Vice-Chair, [worth.roberts@charter.net](mailto:worth.roberts@charter.net); Gene Poinsette, [poinsetteg@charter.net](mailto:poinsetteg@charter.net); Jamel Farley, [afarley2351@gmail.com](mailto:afarley2351@gmail.com); Becky Burke, [beckyburke940@gmail.com](mailto:beckyburke940@gmail.com); Jerry Hoffman, [jlskhoffman@charter.net](mailto:jlskhoffman@charter.net); Rebecca Abernethy, [rabernethy21@bellsouth.net](mailto:rabernethy21@bellsouth.net);

**Tuesday, March 20, 2018 Meeting**

**PRESENT:** Änd Lynn, Gene Poinsette, Becky Burke, Worth Roberts, Rebecca Abernethy, Tommy Huskey

**ABSENT:** Jerry Hoffman, Jamel Farley

**Call to Order**

Chairman Änd Lynn called the meeting to order and recognized that all members were present.

**Approval of Minutes**

Chairman Änd Lynn asked the Board if there were any additions or corrections to the minutes of the February 20, 2018 meeting.

*Motion:* Gene Poinsette made a motion to approve. Becky Burke seconded. Motion carried unanimously.

**ZTA-2-2018** – Application from Lincolnton Planning Department requesting amendment to Section 153.053, Temporary Structures and Uses, of the Unified Development Ordinance to modify the approval process.

Laura Elam addressed the Board and presented the following:

**Background**

The UDO permits temporary uses such as carnivals, circuses and tent assemblies subject to approval by the Board of Adjustment and subsequent issuance of a permit by the Zoning Administrator. The ordinance notes that the Board may attach conditions regarding duration of

the use, hours of operation, signage, lighting, etc and these conditions are to be made a part of the permit issued by the Zoning Administrator.

### **Carnivals**

Typically, the City receives an application every year or so for a carnival. The carnival has operated in the parking lot at the Lincolnton Plaza Shopping Center or the old Staples several times and typically runs about a week or two in April, May or June. The Board of Adjustment has typically attached conditions to the permit dealing with matters such as:

- the period of activity,
- the hours of operation,
- liability insurance with the City as an additional insured party,
- availability of porta-johns and dumpsters,
- removal of trash immediately after the event,
- issuance of a fire permit from the Fire Marshal,
- use of security officers during operation and
- no provision of water, sewer, electrical or garbage services from the City.

### **Fireworks Sales From Tents**

The City also typically receives an application every year for sales of fireworks out of a tent. The fireworks sale has operated in the parking lot of the WalMart or the Worldwide Imports typically for about 2 weeks prior to and immediately after July 4<sup>th</sup>. The Board of Adjustment has typically attached conditions to the permit dealing with matters such as:

- the period of activity,
- the hours of operation,
- liability insurance with the City as an additional insured party,
- issuance of a fire permit from the Fire Marshal, and
- no provision of water, sewer, electrical or garbage services from the City.

### **Proposed Amendment**

Planning staff is proposing an amendment to the approval process for this type of use so that review and approval is handled at the Staff level rather than by the Board of Adjustment if the proposed site is located at least 200 feet from residential land uses located in residential zoning districts.

For sites located within 200 feet of residential land uses located in residential zoning districts, the process would be unchanged and continue to be subject to review and approval by the Board of Adjustment.

In both instances, the permits would continue to have potential attached conditions outlining the period of activity, hours of operation, etc.

### **Staff Recommendation**

Staff recommends approval of the amendment.

*Motion:* Worth Roberts made a motion to approve. Rebecca Abernethy seconded. Motion carried unanimously.

**ZTA-3-2018** - Application from Lincolnton Planning Department requesting amendment to Section 153.121, WSW Water Supply Watershed Overlay District, to change the review and approval process for the 10/70 development option and to make technical corrections

Laura Elam addressed the Board and presented the following:

## **Background**

### **North Carolina Water Supply Watershed Rules**

The State established water supply watershed protection rules in the 1990's requiring all local governments having land use jurisdiction within surface water supply watersheds to adopt and implement water supply watershed protection ordinances, maps and a management plan.

In creating the program, the State legislature mandated that the Environmental Management Commission classify each surface water supply in the state and create minimum standards which local governments are required to enforce using their police power, zoning authority, subdivision regulation authority or a combination of these. The watershed regulations impose a series of development restrictions including density caps, maximum built upon areas and perennial stream buffers.

### **Lincolnton's Watershed Regulations**

Most of the City and the ETJ are designated as a watershed protected area (WS-IV –P).

The State rules limit the watershed protected area to 24% built upon area for projects with a curb and gutter street and 36% built upon area for projects without a curb and gutter street.

### **10/70 Option**

The state regulations also allow for an alternate development provision called the "10/70 option" in which a local government can use 10% of the non-critical area of each watershed within its jurisdiction for new development and expansions to existing development with up to 70% built-upon area without stormwater control if using the low-density option throughout the remainder of the watershed.

When the City's watershed regulations were established years ago, the City chose to make use of the 10/70 option subject to the approval of a conditional use permit. This means that the requirement for a conditional use permit for use of the 10/70 option is routinely being imposed on uses and development that otherwise would be allowed as a use by right.

## **Proposed Amendment**

Planning staff is proposing an amendment to the approval process for use of the 10/70 option to eliminate the conditional use permit requirement. The review and approval process would rest with staff and be similar to the standard site plan review process for commercial development. Staff would ensure consistency with watershed protection standards prior to issuance of any permits for development. This revised process would consume less time and resources for City Council, Planning Board, the developer and the staff while still ensuring a comprehensive watershed protection review.

There are also several technical and typographical corrections included in the proposed amendment, which do not change any of the standards.

### **Staff Recommendation**

Staff recommends approval of the amendment.

*Motion:* Worth Roberts made a motion to approve. Becky Burke seconded. Motion carried unanimously.

Chairman And Lynn asked the Board if there was any other business to be addressed, to which there was none.

### **Adjournment**

*Motion:* Worth Roberts made a motion to adjourn. Gene Poinsette seconded. Motion carried unanimously.

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Jean Derby