

**REGULAR MEETING - JANUARY 3, 2008**

The Mayor and City Council met in regular session on Thursday, January 3, 2008 at 7:00 p.m. in the Council Chambers of City Hall, 114 West Sycamore Street. Mayor David Black called the meeting to order and noted that a quorum was present, recognizing the following:

**HOUSER CLONINGER HEAVNER HOVIS**

Mayor Black led the Pledge of Allegiance.

The Mayor noted that he added a new item to the agenda, the approval of the regular agenda. He added this in the event any Councilmember would like to add or delete any items from the agenda. With no additions or deletions, Councilman Cloninger made the motion unanimously approved the regular agenda.

Councilman Houser made the motion unanimously approved the **CONSENT AGENDA** as follows:

- Approved Minutes of meetings held in December 2007.
- Approved the following Call to Public Hearing for the February 7<sup>th</sup> City Council Meeting:  
ZMA-01-08 - Application from Brian McMurray requesting the rezoning of 0.475 acres of land from Residential Multi-Family (RMF) District to General Manufacturing and Commercial (GMC) District. The subject property is located at the end of Neighborhood Street approximately 275 east of the intersection of Neighborhood Street and North Flint Street.

**REGULAR AGENDA:**

**APPLICATION FROM JOYCE ATWELL REQUESTING A CONDITIONAL USE PERMIT TO OPERATE A GARDEN CENTER IN THE PLANNED BUSINESS (PB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHWEST**

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**CORNER OF THE INTERSECTION OF NORTH ASPEN STREET  
AND COCHRANE ROAD. THE ADDRESS OF THE PROPERTY IS  
1495 NORTH ASPEN STREET.**

**(CUP-5-2007)**

Councilman Houser made the motion unanimously approved to open the Public Hearing.

Mayor Black called on anyone wishing to speak for or against the Public Hearing. The City Clerk administered the oath to all those wishing to speak to the issue.

Steve Gurley, Planning Director reviewed the request from the applicant for a conditional use permit to operate a Garden Center business in the Planned Business District. He said the applicant will be using the existing building and parking on the property, which is located on the southwest corner of the intersection of North Aspen Street and Cochrane Road, at 1495 North Aspen Street.

He reviewed the compliance with the CUP application requirements, as stated in Section 13.4 and 13.4.2 of the Lincolnton Unified Development Ordinance. Upon review of the request, Steve concluded recommending on behalf of the Planning Board and staff that the request be approved as requested by the applicant.

Councilman Heavner made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to consider the application.

**Findings of Fact – Section 13.4.2:**

- (1) Councilman Heavner made the motion unanimously approved that the use will not materially endanger the public health or safety if located where proposed and developed according to plan.
- (2) Councilman Hovis made the motion unanimously approved that the use meets all required conditions and specifications.

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- (3) Councilman Cloninger made the motion unanimously approved that the use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
- (4) Councilman Houser made the motion unanimously approved that the location and character of the use, if developed according to plan as submitted and approved will be in harmony with the area in which it is located and will be in general conformity with the Lincoln Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

Councilman Cloninger made the motion unanimously approved the conditional use permit be approved as recommended by the Planning Board and Staff.

**APPLICATION FROM COMMAND MEDICAL PROPERTIES REQUESTING A CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A MEDICAL OFFICE BUILDING IN THE PLANNED BUSINESS (PB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF NORTH ASPEN STREET APPROXIMATELY 500 FEET NORTH OF THE INTERSECTION OF NORTH ASPEN STREET AND SIGMON ROAD:**

**(CUP-6-2007)**

Councilman Heavner made the motion unanimously approved to open the Public Hearing.

The City Clerk administered the oath to all those wishing to speak for or against the Public Hearing.

Steve reviewed the request from Command Medical Properties for a conditional use permit to develop the property with a medical office facility. The proposed facility will be a one-story 9,325 square foot structure. The property is located on the west side of North Aspen Street approximately 500 feet north of the intersection of North Aspen Street and Sigmon Road. The property is 1.4 acres in size with one single family dwelling. The applicant would construct a 49 space parking lot on the site with one driveway onto North Aspen Street.

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Steve said the property adjacent to the north, east, and south are zoned Planned Business, while property to the west is Office-Institutional (O-I). He said land uses in the area are a combination of residential, commercial, and vacant parcels. Steve said all of the lots surrounding the site with single family dwellings are zoned Planned Business and several are up for sale as business property.

In reviewing the applicant's compliance with conditional use permit requirements, Steve noted that the applicant met all requirements with the exception of utility plans (water, sewer, etc.) that are on site or proposed for the development. He noted the staff review committee comments as follows: (1) All construction plans must be submitted and approved by the Lincoln County Building and Land Development Department. (2) Driveway permits must be obtained from NCDOT. (3) All utility drawings must be reviewed and approved by Superintendent of Utilities prior to development. (4) A sidewalk, meeting the City of Lincolnton requirements, must be installed along the entire frontage of North Aspen Street. An easement must be given to the City of Lincolnton, if the City is to maintain the sidewalk. All requirements must be coordinated with the City's Director of Public Works and Utilities.

Steve in conclusion said all zoning ordinance requirements can be met and the proposed facility should be compatible with the area. The area has water and sewer available to it, making the area more conducive for these types of developments.

He recommended on behalf of the Planning Board and staff that Council approve the conditional use permit provided that the applicant addresses and corrects all missing and deficient information listed in this report and abides by all comments of the staff review committee.

Councilman Houser made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to consider the CUP application as submitted.

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### Findings of Fact – Section 13.4.2:

- (1) Councilman Hovis made the motion unanimously approved that the use will not materially endanger the public health or safety if located where proposed and developed according to plan.
- (2) Councilman Heavner made the motion unanimously approved that the use meets all required conditions and specifications.
- (3) Councilman Cloninger made the motion unanimously approved that the use will not substantially injure the value of adjoining or abutting property or the use is a public necessity.
- (4) Councilman Houser made the motion unanimously approved that the location and character of the use, if developed according to plan as submitted and approved, will be in harmony with the area in which it is to be locate and will be in general conformity with the Lincoln Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

Councilman Houser made the motion to approve the conditional use permit as submitted and as recommended by the Planning Board and staff with the above stated comments and directions by the Staff Review Committee and the Planning Board.

**APPLICATION FROM GENE POINSETTE REQUESTING REVISIONS TO A CONDITIONAL USE PERMIT TO START AN INDOOR/OUTDOOR FLEA MARKET IN THE GENERAL MANUFACTURING AND COMMERCIAL (GMC) DISTRICT. THE SUBJECT PROPERTIES ARE LOCATED AT THE SOUTHEAST CORNER OF WILMA SIGMON ROAD AND JOHN HOWELL MEMORIAL DRIVE. THE ADDRESS OF THE PROPERTY IS 610 WILMA SIGMON ROAD.**

**(CUP-2-2007R)**

Councilman Heavner made the motion to open the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the issue.

Steve Gurley, Planning Director reviewed the request from Gene Poinsette for approval of revisions to a conditional use permit to open an indoor/outdoor flea market in the General Manufacturing and Commercial (GMC) District for property located at the southeast corner of Wilma Sigmon Road and John Howell Memorial Drive.

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Steve noted that several changes to the site plan have been made since the permits original issuance, warranting reconsideration by the Planning Board and City Council. He reviewed the site description in detail and noted the applicants compliance with the Water Supply Watershed Standards, as well as it's compliance with Section 13.3 and 13.4.2 of the Lincolnton Unified Development Ordinance.

Steve noted the following staff review committee comments:

- (1) The site plan must be amended to show the amount (square footage and proportion) of impervious surface on the eight acre development area. Impervious surface area cannot exceed 70%.
- (2) All plans for ingress and egress, including a driveway permit for access to Wilma Sigmon Road must be coordinated with Jackie McSwain, NCDOT District Engineer.
- (3) All utilities must be coordinated with the City's Utilities Supervisor
- (4) All stormwater on the site must be diverted so as not to create problems for adjacent properties.
- (5) Trees and shrubs shall be planted adjacent to the Wilma Sigmon Road right-of-way in accordance with Section 5.3.1 of the Zoning Ordinance to provide screening of the use from Wilma Sigmon Road.
- (6) Building plans, including plans sales stalls, must be submitted to Lincoln County Inspections and approved prior to development of the site.
- (7) Restroom facilities in compliance with State Building Code requirements shall be installed on the property.
- (8) If any food vendors operate on site a permit must be obtained from Lincoln County Environmental Health and compliance with the City Grease Trap Policy must occur.
- (9) Hours of operation shall be 7:00 a.m. to 7:00 p.m. on Fridays and Saturdays and 10:00 a.m. to 7:00 p.m. on Sundays. The use shall not be operated on any other days other than Fridays, Saturdays, and Sundays.

Steve concluded recommending on behalf of Planning Board and staff that the revised conditional use permit be approved provided all requirements of Section 13.3 and Staff Review Committee conditions are satisfactorily addressed and met before issuance of a zoning certificate of compliance.

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Mr. Gene Poinsette spoke in favor of the request. He told Council that he has had an overwhelming response for this specific use, and feels it will be beneficial to our community.

With no one else wishing to speak to this issue, Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to consider the conditional use permit.

### Findings of Fact – Section 13.4.2:

- (1) Councilman Hovis made the motion unanimously approved that the use will not materially endanger the public health or safety if located where proposed and developed according to plan.
- (2) Councilman Heavner made the motion unanimously approved that the use meets all required conditions and specifications.
- (3) Councilman Cloninger made the motion unanimously approved that the use will not substantially injure the value of adjoining or abutting property or the use is a public necessity.
- (4) Councilman Houser made the motion unanimously approved that the location and character of the use, if developed according to 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.

Councilman Houser made the motion unanimously approved that the revised conditional use permit be as recommended by the Planning Board and staff.

### **APPLICATION SUBMITTED BY THE PLANNING STAFF TO AMEND SECTIONS 5.30 G AND 7.9 A.3 CONCERNING FRONT YARD SETBACK MEASUREMENTS FOR STRUCTURES IN THE CENTRAL BUSINESS TRANSITIONAL (CBT) DISTRICT:**

**(ZTA-5-2007)**

Councilman Cloninger made the motion to open the Public Hearing.

Steve Gurley, Planning Director told Council that the Planning Board did not make a recommendation at their December 18<sup>th</sup> meeting. Planning Board does plan to place this item on the agenda for their January 15<sup>th</sup> meeting. He

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recommended that City Council continue this Public Hearing to their February 7<sup>th</sup> meeting at which time the Planning Board could provide a recommendation.

Councilman Heavner made the motion unanimously approved to continue the Public Hearing to the February 7<sup>th</sup> City Council meeting.

### **LINCOLNTON TOURISM DEVELOPMENT AUTHORITY:**

**(APPT-01-08)**

Jeff Emory, City Manager explained the board make up of the Lincolnton Tourism Development Authority. He said this board is charged with making decisions regarding the expenditure of the occupancy tax funds. He said there have no expenditure of funds since inception of the tax in 2002.

In review of the board terms, Ms. Tatiana Gonzalez' term expired in June 2007 at which time she was not eligible for re-appointment. Jeff recommended that Ms. Paula MacZak, also of the Comfort Inn, be appointed to fill this vacancy. He said he has spoken with Ms. MacZak and she has agreed to serve if appointed.

Councilman Houser made the motion unanimously approved to appoint Ms. Paula MacZak, Comfort Inn, to the Lincolnton Tourism Development Authority. Her term will be noted as of June 2007, expiring in June 2009.

Councilman Cloninger requested that the occupancy tax amount be revisited. He suggested that this item be considered and discussed at the City's upcoming Planning Retreat in March 2008.

### **AGREEMENT FOR CONSIDERATION OF MATCH FOR NORTH CAROLINA RECREATIONAL TRAIL PROGRAM GRANT – PHASE III OF RAIL TRAIL:**

**(C-02-08)**

Steve Gurley, Planning Director told Council of a grant in which the City could be eligible to receive from the National Recreation Trails Program to assist with the purchase of right-of-way for Phase III of the Marcia H. Cloninger Rail Trail. He said if approved he plans to apply for \$ 75,000 of funding. One of the requirements of the grant application is that the City match twenty-five percent of the total funds received, or \$ 18,750.

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Steve concluded recommending that the City authorize earmarking \$ 18,750 for this purpose to comply with grant requirements so that he and staff can proceed with submitting the application.

Councilman Houser made the motion unanimously approved making application for the grant and to earmark \$ 18,750 as matching funds for the above said grant as recommended.

### **UPDATE ON THE REQUEST FROM THE LINCOLN COUNTY CHAPTER OF THE NC SYMPHONY:**

Ms. Christine Poinsette, Lincoln County Chapter of NC Symphony, told Council that at the meeting of the Lincoln County Chapter of the NC Symphony last week board member voted not to bring the symphony to Lincolnton for a summer concert. She said this vote was made based on an email she received from the NC Symphony that the cost to bring the summer concert would be \$ 29,500 rather than the original cost of \$ 18,000. She said the local chapter did not feel they could undertake raising such a large amount of funds for a summer concert.

Ms. Poinsette thanked the Mayor and City Council for their commitment to fund \$ 9,000, which was made at their December 2007 meeting. She said her board felt she should personally come before Council to thank, especially Dr. Cloninger and each Council member, for their support.

### **CONSIDERATION OF MATCHING FUNDS FOR UNITED WAY CAMPAIGN :**

Brad Guth, B&CD Director requested that Council consider, as in the past, matching funds collected by City employees to United Way of Lincoln. The amount contributed by City employees was \$ 2,940.74, if the match is approved, the City's total contribution to United Way \$ 5,881.48. Brad provided a memo to Council reflecting departmental participation throughout the City.

Councilman Heavner made the motion unanimously approved to expend \$ 2,940.74 as a match to United Way as recommended.

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**STATUS REPORT ON RAIL TRAIL EXPANSION TO MOTZ AVENUE:**

Steve Gurley, Planning Director updated Council on the status of the rail-trail expansion. He said the City is in receipt of the deeds and maps that the City purchased from Norfolk Southern Railroad for property the City purchased for the right-of-way. He said the Planning Department is in the process of sending letters to three of the property owners on the south side of the corridor. He said the purchase amount of the three properties add up to \$ 18,000. Fourteen property owners would be remaining once these three are purchased.

**PUBLIC COMMENT:**

No one spoke during the public comment portion of the agenda.

**NEWS MEDIA:**

The City Clerk introduced Allison Levine of the Lincoln Times News as the representative to report on City news and events. She replaces Olin Erickson who previously covered City events.

**ADJOURNMENT:**

Councilman Cloninger made the motion unanimously approved to adjourn the meeting at 7:50 p.m.

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**DONNA C. FLOWERS, CMC  
CITY CLERK**

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**DAVID M. BLACK  
MAYOR**