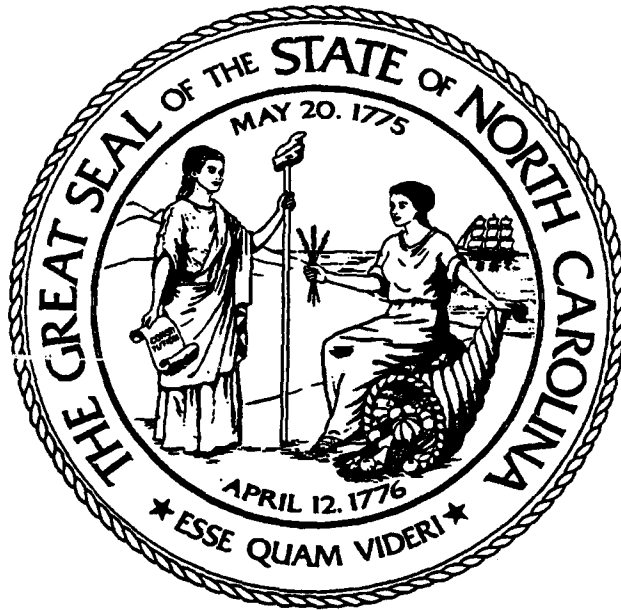


**JOINT LEGISLATIVE COMMISSION
ON MUNICIPAL INCORPORATIONS**



**REPORT TO THE
GENERAL ASSEMBLY
OF NORTH CAROLINA**

Town of West Norman

May 24, 2000

REPORT TO THE GENERAL ASSEMBLY
PROPOSED INCORPORATION OF THE
TOWN OF WEST NORMAN
MAY 24, 2000

The Joint Legislative Commission on Municipal Incorporations was created in 1986 by the General Assembly to conduct an independent review and evaluation of proposed municipal incorporations. This evaluation, to be conducted in accordance with a statutory set of objective criteria, is designed to allow the General Assembly to determine the feasibility of the proposed new municipality. The Commission consists of four members of the General Assembly, one city official, and one county official. A list of Commission members appears as Appendix A.

The statutory criteria includes a review of community support (a petition is required), population, land development, nearness to other urban areas, and ability to provide municipal services at a reasonable tax rate. A copy of the statutes authorizing the Commission and establishing the incorporation criteria is attached as Appendix B.

The Commission on November 30, 1998 received a petition proposing the incorporation of the Town of West Norman in Lincoln County. A copy of the petition is attached as Appendix C.

The Commission, pursuant to G.S. 120-161, asked the Division of Community Assistance of the Department of Commerce to evaluate the petition. The Division conducted the evaluation and, based upon its report, the Commission on March 8, 2000 found that the requirements of G.S. 120-163 and G.S. 120-164 had been met (a copy of the report is attached as Appendix D).

The Commission further asked the Division of Community Assistance to evaluate the proposed Town's petition for incorporation under G.S. 120-166 (a copy of the report is attached as Appendix E) and G.S. 120-167 through G.S. 120-170 (a copy of the report is attached as Appendix F). The Division conducted the evaluations and determined that all statutory requirements had been met.

On May 18, 2000, the Commission held a public hearing on the incorporation of the Town of West Norman in Denver, North Carolina. Fifteen persons spoke in favor of incorporation of the Town and twelve spoke in opposition.

The Commission finds that the proposed Town of West Norman meets the standards required by Article 20 of Chapter 160A of the General Statutes and recommends incorporation of the area as the Town of West Norman.

APPENDIX A

JOINT LEGISLATIVE COMMISSION ON
MUNICIPAL INCORPORATIONS
1999-2001
Membership

President Pro Tem's Appointments

Senator Fletcher Hartsell
P. O. Box 368
Concord, NC 28026-0368

Senator Kay R. Hagan
305 Meadowbrook Terrace
Greensboro, NC 27408

Mr. Ronald R. Kimble, Manager
City of Greenville
P. O. Box 7207
Greenville, NC 27835

Staff

Gerry Cohen, Director
Bill Drafting Division

Gayle L. Moses, Staff Attorney
Bill Drafting Division

Speaker's Appointments

Representative Mary L. Jarrell
Legislature Building, Room 2219
Raleigh, NC 27603

Representative John W. Hurley
P. O. Box 714
Fayetteville, NC 28303

Mr. Jerry Ayscue
Vance County Manager
Vance County Courthouse
Young Street
Henderson, NC 27536

Legislative Assistant

Chris Minard
624 Legislative Office Building

APPENDIX B

ARTICLE 20.

Joint Legislative Commission on Municipal Incorporations. Part 1. Organization.

§ 120-158. Creation of Commission.

(a) There is created the Joint Legislative Commission on Municipal Incorporations, referred to in this Article as "Commission".

(b) The Commission shall consist of six members, appointed as follows:

- (1) Two Senators appointed by the President Pro Tempore of the Senate;
- (2) Two House members appointed by the Speaker;
- (3) One city manager or elected city official, appointed by the President Pro Tempore of the Senate from a list of three eligible persons nominated by the North Carolina League of Municipalities; and
- (4) One county commissioner or county manager, appointed by the Speaker from a list of three eligible persons nominated by the North Carolina Association of County Commissioners.

§120-159. Terms.

Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member's continued eligibility for the category. The Commission shall elect a chairman from its membership for a one-year term.

§120-160. Compensation.

Members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members who are State officers or employees shall receive subsistence and travel allowances as provided by G.S. 138-6. All other members shall receive per diem, subsistence, and travel allowances as provided by G.S. 138-5.

§ 120-161. Facilities and staff.

The Commission may meet in the Legislative Building or the Legislative Office Building. Staff for the Commission shall be

provided by the Legislative Services Commission. The Commission may contract with the Institute of Government, the Local Government Commission, the Department of Environment and Natural Resources, or other agencies as may be necessary in completing any required studies, within the funds appropriated to the Commission.

§120-162. Reserved for future codification purposes.

PART 2. Procedure for Incorporation Review.

§120-163. Petition.

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session.

§120-164. Notification.

(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission.

§120-165. Initial inquiry.

(a) The Commission shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Commission shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part.

***** § 120-166. Additional criteria; nearness to another municipality.**

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by

the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;

- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation; or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved.

*** The 1998 amendment, effective November 1, 1998, rewrote subdivision (b)(3), which formerly read "The nearby municipality by resolution expresses its approval of the incorporation; or". The amendment is applicable to annexations for which the resolution of intent is adopted on or after November 1, 1998, and shall not apply to any incorporation proposal originally presented to the Joint Legislative Commission on Municipal Incorporations prior to that effective date.

§120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100.

§120-168. Additional criteria; development.

Except when the entire proposed municipality is within two miles of the Atlantic Ocean, Albemarle Sound, or Pamlico Sound, the Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants.

§120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1).

*** § 120-169.1. Additional criteria; level of development, services.

(a) Level of Development. -- The Commission may not make a positive recommendation unless the entire area proposed for incorporation meets the applicable criteria for development under G.S. 160A-36(c) or G.S. 160A-48(c).

(b) Services. -- The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. To meet the requirements of this subsection, the persons submitting the plan for incorporation must propose to provide at least two of the following services:

- (1) Police protection.
- (2) Fire protection.
- (3) Garbage and refuse collection or disposal.
- (4) Water distribution.
- (5) Sewer collection or disposal.
- (6) Street maintenance, construction, or right-of-way acquisition.
- (7) Street lighting.
- (8) Adoption of citywide planning and zoning.

*** This section becomes effective November 1, 1998, is applicable to annexations for which the resolution of intent is adopted on or after that date, and shall not apply to any incorporation proposal originally presented to the Joint Legislative Commission on Municipal Incorporations prior to that date.

§120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided.

§120-171. Procedures if findings made.

(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along

with specific findings. If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly.

§120-172. Referendum.

Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of fifty percent (50%) of registered voters the Commission shall not recommend a referendum.

§120-173. Modification of petition.

With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas.

§120-174. Deadline for recommendations.

If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition.

§120-175 through 120-179: Reserved for future codification purposes.

APPENDIX C

**Petition to Incorporate
the Town of
West Norman,
North Carolina**

INTRODUCTION

When the early American colonial settlers crossed the Catawba River into present day Lincoln County, they had to contest with the Catawba Indians along with the rigors of agrarian colonial life for their survival. The fertile lowlands along the western bank of the Catawba River provided the opportunity for the development of a prosperous farming community. These early settlers were hard working, industrious, God-fearing people. Many of their descendants still populate the eastern section of modern-day Lincoln County.

The community suffered a painful blow when in 1862 a group of 86 men and boys left the area to fight in the Civil War with the Beatties Ford Rifle Company. In the battle of Seven Pines, just south of Richmond, 83 members of the company were either killed or seriously injured. The community experienced another emotional disruption when the Duke Power Company flooded a large portion of their land in the early 1960s to form what is today Lake Norman, the largest lake in North Carolina.

While farming continued, the area became an inviting location for vacation and full-time lake residents. Many cabins and small homes were built on and around Lake Norman. The Phillips Company subsequently began construction on the Westport development, a combination golf course and residential waterfront community. During the past 35 years the area population has grown exponentially. In recent years, the county constructed a large water treatment facility on Lake Norman. In 1997, a large capacity sewer system was placed into operation in East Lincoln County. A new four-lane north-south highway paralleling Highway 16 is due to be completed in 2004. These changes have recently motivated developers to announce plans for the construction of 2500 additional homes and two 18-hole golf courses in the immediate area.

Such construction will create many problems, but it can be a very positive development for all our citizens. Historical precedent indicates that only local citizens, responding to local problems in a fair and responsible manner, can adequately address the problems of land use, traffic congestion, school overcrowding, increased crime, environmental pollution, and many other difficulties that accompany such explosive growth. County governments have frequently shown an inability or an unwillingness to manifest the attention, concern, and dedication that solutions to such problems require. Many feel that only a local municipal government can address these concerns.

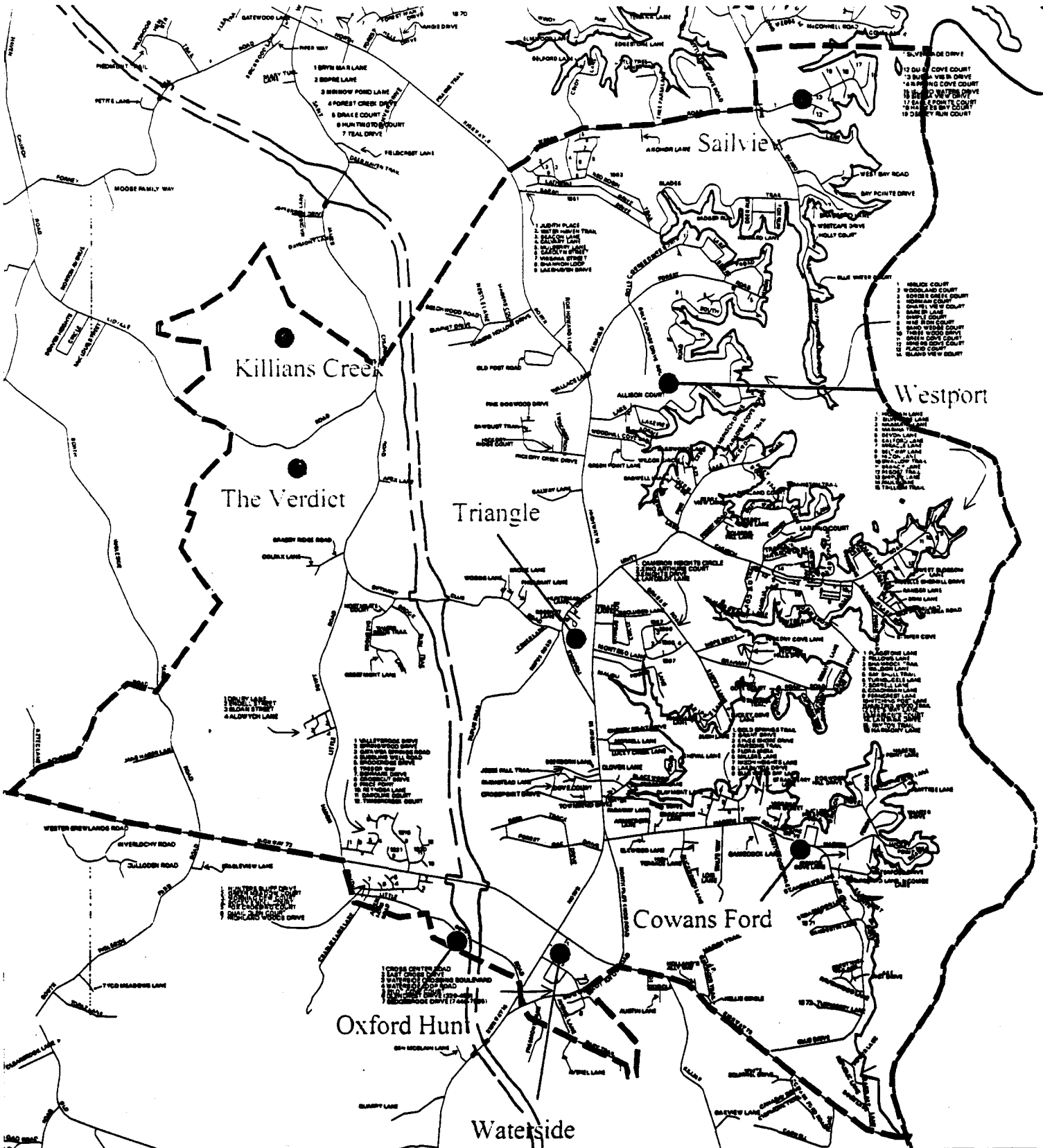
While the subject of this report is "Incorporation", the more fundamental question is whether or not the citizens of the proposed municipality of West Norman will be permitted to express, in a democratic vote, their desire to live in an incorporated community. We maintain that they will reaffirm the basic American principle that the government that is best is the government that is closest to the people.

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 - B. Copy of notification letter to the Lincoln County Board of Commissioners
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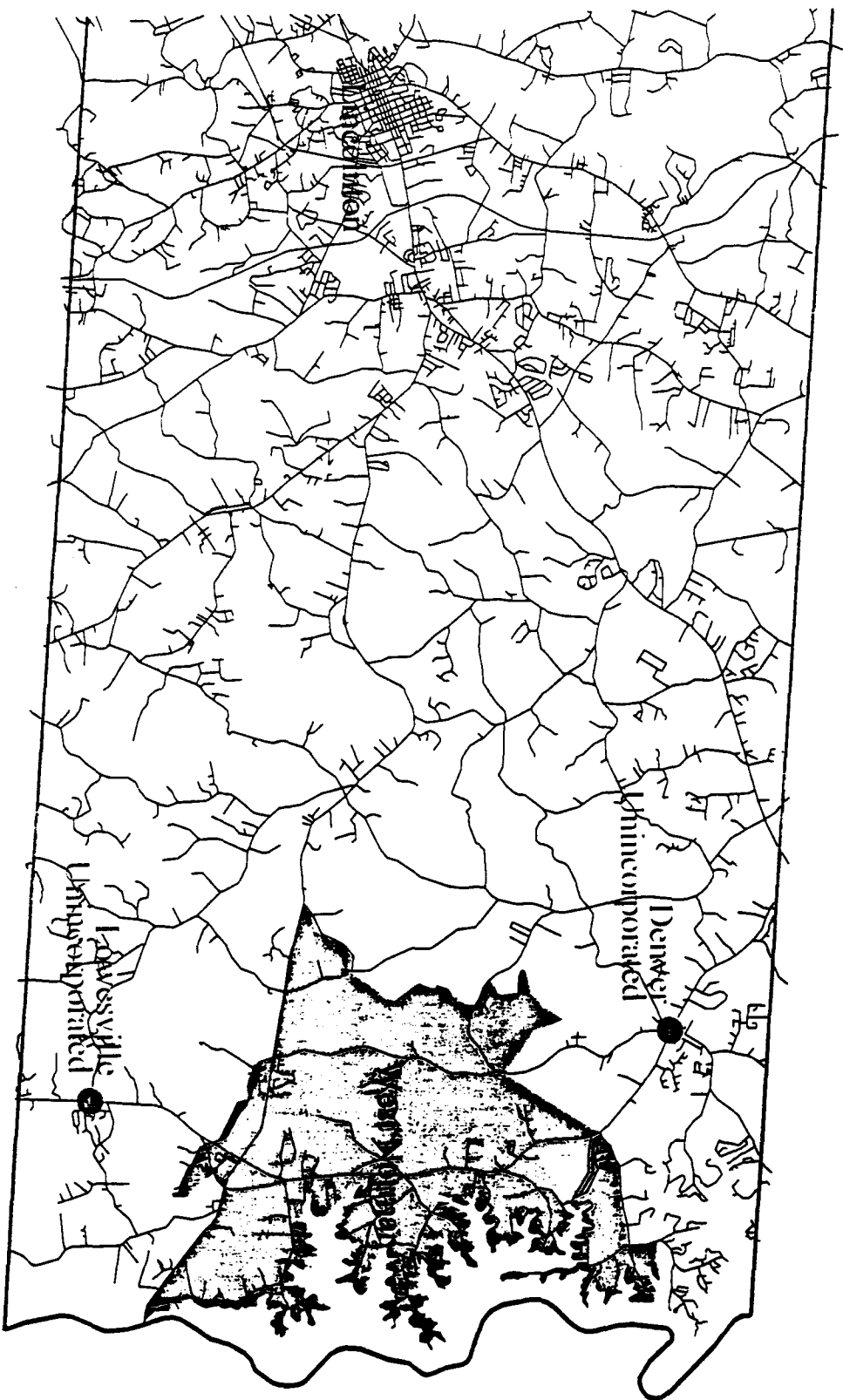
**Boundary Map
of
West Norman**

West Norman



**Location Map of
West Norman
within Lincoln County**

Corporate Boundaries of Proposed West Norman



Rationale and Objectives

RATIONALE AND OBJECTIVES

This proposal for incorporation is presented to the distinguished members of our North Carolina Legislature in a spirit of cooperation with that body as well as with many members of this community who have enthusiastically embraced this endeavor and eagerly await a hoped for, positive response to a truly cooperative community effort. Some factors entering into the decision to seek the legislature's approval for incorporation of the town of West Norman include the following:

- Because of extremely rapid growth of this proposed incorporated area, the two basic justifications for incorporation are self-evident. We need to control land use (present and long range), and we must have input as to how our tax money is spent.
- This rapid growth dictates a means of assuring the orderliness of, and control over, this growth in order to maintain the area's high livability and property value status.
- East Lincoln County is a massive revenue producer for Lincoln County. Over 40% of the county tax revenues come from the eastern one fifth (1/5) of Lincoln County. A close examination of the county budget reveals that only a small portion of these funds find their way back to the West Norman area.
- The dynamic needs of this locale require a means of planning for and dealing with these needs as they arise.
- The proposed incorporation area's population includes many experienced business people with significant leadership talents. A number of these individuals have reviewed this area, its needs in depth and agree that incorporation of this community as an independent municipality is not only appropriate, but essential.

**Charter
of the Town of
West Norman**

Section 1. The Charter of the Town of ~~West Norman~~, North Carolina

ARTICLE I.

INCORPORATION AND CORPORATE POWERS

§ 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of West Norman are a body corporate and politic under the name "Town of West Norman." Under that name they have all the powers, duties, rights and privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

ARTICLE II.

CORPORATE BOUNDARIES

§ 2.1. **Corporate Boundaries.** The corporate boundaries of the Town of West Norman shall be as follows until changed in accordance with law:

Starting at the center of the Catawba River Bridge and the north right of way of Highway 73 and the east corner of Lincoln County, west along the north right of way of Highway 73 to the intersection of South Pilot Knob Road; southwest along the northwest right of way of south Pilot Knob Road to the intersection of the boundary of Waterside Crossing property; south along the boundary line of Waterside Crossing Property south of South Pilot Knob Road to the southwest corner of Waterside Crossing property and the northwest right of way of South Pilot Knob Road; southwest along the northwest right of way of South Pilot Knob Road to the intersection of South Little Egypt Road; thence northwest along the northeast right of way of South Little Egypt Road crossing Highway 16 to the southeast intersection of Oxford Hunt property and South Little Egypt Road; southwest along the boundary of Oxford Hunt Property to include all Oxford Hunt property southwest of South Little Egypt Road and back to the intersection of the west side of Oxford Hunt property and the northeast right of way of South Little Egypt Road, thence northwest along the northeast right of way of South Little Egypt to the intersection of the north right of way of Highway 73 thence west along the north right of way of Highway 73 to the intersection of Schronce Road and Highway 73; thence northeast along the southeast right of way of Schronce Road; next northeast along the present Lincoln County Triangle precinct line to the intersection of the Verdict Ridge property line and the west boundary of the present Lincoln County Triangle precinct line; thence northwest along the Verdict Ridge development property line crossing Kidville Road to the Denver Associates Partner property; thence northwest and northeast along the Denver Associates Partner property line; thence to the southeast intersection of the boundary line of the Denver Associates Partner property and the junction of the present Lincoln County Triangle precinct line at St. James Church Road; then northeast along the present Lincoln County Triangle precinct line to the intersection of the present Lincoln County Westport precinct line; thence northeast along the present Lincoln County Westport precinct line to the intersection of Highway 16 and Webbs Road; thence along the south right of way of Webbs Road to the intersection of Burton Lane and Webbs Road; then north along the east right of way of Burton Lane to the intersection of Burton Lane and the northwest corner of Crescent Resources property; thence east along the north boundary of Crescent Resources property to the east boundary of Lincoln County in Lake Norman; thence south along the east boundary of Lincoln County in Lake Norman to include the Cowans Ford Hydroelectric Plant and south to the starting point at the east boundary of Lincoln County and the north right of way of Highway 73 on the Catawba River Bridge.