

**MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 6, 2023**

The Lincoln County Board of County Commissioners met on March 6, 2023, at the Commissioners Room, Administration Building, 353 N. Generals Blvd, Lincolnton, the regular place of meeting at 6:30 PM.

Commissioners Present:

Carrol Mitchem, Chairman
Bud Cesena, Vice-Chairman
Anita McCall
Cathy Davis
Jamie Lineberger

Others Present:

Davin Madden, County Manager
Megan Gilbert, County Attorney
Deanna Rios, Finance Director
Amy S. Atkins, Clerk to the Board

Chairman Mitchem called for a Moment of Silence and 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 6, 2023
6:30 PM**

**Lincoln County Admin Building
353 N. Generals Blvd.
Lincolnton, NC 28092**

Call to Order – Chairman Mitchem

Moment of Silence

Pledge of Allegiance

1. Adoption of the Agenda
2. Consent Agenda
 - a. Approval of Minutes - February 20, 2023
 - b. VTS Refunds
 - c. CPO #1
 - d. GPO #12
 - e. GPOA #3
 - f. BOA #8

3. Public Hearing – Proposed Industrial Incentive Grant for Existing Industry – John Dancoff
4. Public Hearing – Proposed Industrial Incentive Grant for Existing Industry – John Dancoff
5. Zoning Public Hearings – Jeremiah Combs/Andrew Bryant

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, February 6, 2023, at 6:30 p.m. to consider the following matters:

- a) CZ #2022-10 Jamie and Sadie Bridges, applicant (Parcel ID# 58854) A request to rezone a 1.18-acre portion of a 13.9-acre parcel from R-T (Transitional Residential) to CZ I-G (Conditional Zoning General Industrial) to permit the use of that portion of the property as a parking area for up to 4 trucks and trailers for a general freight trucking operation. The property is located on the west side of Alf Hoover Road approximately 1 mile south of the intersection with Reepsville Road in Howards Creek Township.
- b) ZMA #710 Damon Lusk, applicant (Parcel ID# 101007 and 33829) A request to rezone 1.8 acres from B-N (Neighborhood Business) to I-G (Industrial General). The property is located at 4168 N. N.C. 16 Business Hwy. in Catawba Springs Township.

Following the joint meeting, the Lincoln County Board of Commissioners will hold public hearings to consider the following QUASI-JUDICIAL matters:

- c) SR #84 Villages of Denver, LLC, applicant (Parcel ID# 91568, 30147, 52404 and 100646) A request for a waiver from Section 5.4.4.C of the Unified Development Ordinance to allow a connectivity ratio less than 1.40 for the new subdivision roads. The request involves a 126-acre tract located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township.
- d) SR #87 Villages of Denver, LLC, applicant (Parcel ID# 91568, 30147, 52404 and 100646) A request for a waiver from Section 5.6.2.A.2 of the Unified Development Ordinance to allow a block length in excess of 1,500 feet. The request involves a 126-acre tract located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township.
- e) SR #88 Villages of Denver, LLC, applicant (Parcel ID# 91568, 30147, 52404 and 100646) A request for a waiver from Section 5.4.4.D.2 of the Unified Development Ordinance to allow greater than 50 lots with one access point. The request involves a 126-acre tract located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township.
- f) SUP #307A Richard Todd Black, applicant (Parcel ID# 10948) A request to amend a special use permit for a campground in the R-R (Rural Residential) district to remove a condition that the operation of the campground shall be limited to the period from April 1 through November 15. The property is located at 3458 Zion Hill Rd. in North Brook Township.

- g) SUP #477 Brad and Marie Hurd, applicants (Parcel ID# 29580) A request for a special use permit to allow an existing residential accessory structure to be used as a guest house in the R-T (Transitional Residential) district. The property is located at 5603 King Wilkinson Rd in Ironton Township.
- h) ~~SUP #478 Leann Samarco, applicant~~ (Parcel ID# 56815) ~~A request for a special use permit to allow a dog training facility in the B-N (Neighborhood Business) district and the Eastern Lincoln Development District (ELDD) overlay. The property is located at 1432 N. N.C. 16 Business Hwy. in Catawba Springs Township.~~
- i) SUP #479 Damon Lusk, applicant (Parcel ID# 101007) A request for a special use permit to allow contractor's offices in the Eastern Lincoln Development District (ELDD) overlay. The property is located at 4168 N. N.C. 16 Business Hwy. in Catawba Springs Township.
- j) SUP #480 Tekayla Poole, applicant (Parcel ID# 51462) A request for a special use permit to operate a child care facility in the Eastern Lincoln Development District (ELDD). The property is located at 4732 N. N.C. 16 Business Hwy. in Catawba Springs Township.

- 6. Contract award to HNA Contracting, LLC. in the amount of \$60,859.00 for RFP 2023-0207 Watershed Cleanup – John Henry
- 7. Approval of ADA Policy and Related Documents – Megan Gilbert
- 8. Public Comments
- 9. Finance Officer's Report - Deanna Rios
- 10. Other Business

Adjourn

UPON MOTION by Commissioner Davis, the Board voted unanimously to adopt the agenda adding as presented.

Consent Agenda: **UPON MOTION** by Commissioner McCall, the Board voted unanimously to approve the consent agenda as presented.

- a. Approval of Minutes - February 20, 2023
- b. VTS Refunds
- c. CPO #1
- d. GPO #12
- e. GPOA #3
- f. BOA #8

Incentive Grant KACO: John Dancoff presented the following Industrial Incentive Grant:

**RESOLUTION TO ADOPT ECONOMIC
INCENTIVE GRANT AGREEMENT WITH
KACO.**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, (KACO), have developed plans for expansion of their manufacturing equipment in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, (KACO North Carolina).
2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.
3. This resolution shall become effective upon adoption. This 6th day of March 2023.

Carrol Mitchem, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH
CAROLINA
LINCOLN
COUNTY

THIS AGREEMENT is made and entered into as of the 6th day of March, 2023 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and KACO, a Delaware corporation (hereinafter referred to as “KACO”).

WITNESSETH
:

WHEREAS, KACO has developed plans for the installation of manufacturing equipment in Lincoln County, North Carolina;

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County’s tax base and providing additional jobs for Lincoln County’s citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect KACO to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before March 6th, 2023, KACO shall begin the installation of an equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), KACO shall make an investment upon such site in building/land and/or machinery and equipment of \$1,500,000 (the expected capital investment) of which

\$1,050,000 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.

3. Within two years of the effective date of this agreement, KACO shall provide at such site at least 5 new jobs paying average weekly wages of \$840

4. In consideration of the performance of the aforesaid obligations by KACO, the County will provide cash grants to KACO of \$4,874.63 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to KACO within 30 days after AAAAAA has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.

5. KACO shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.

6. a. In the event that the value of the investment actually made by KACO pursuant to this agreement is greater or less than the Expected Capital Investment then the grant will be equitably adjusted upward or downward on a pro-rata basis.

b. In the event that the number of people in qualifying jobs actually employed by KACO pursuant to this Agreement in any year during the term of the Agreement is fewer than the Expected Number of Jobs, then the County may, in its discretion, reduce the amount of the Grant to be paid for the year (or seek reimbursement for the Grant already paid for said year) in the amount of \$1,000.00 per job shortfall.

7. KACO specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, AAAAAA shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

KACO

By: _____
Operations Manager

LINCOLN COUNTY

By: _____
Carrol Mitchem, Chairman
Board of Commissioners

Chairman Mitchem opened the public hearing concerning a proposed industrial incentive grant for KACO. Being no speakers, Chairman Mitchem declared the public hearing closed.

UPON MOTION by Commissioner Davis, the Board voted unanimously to approve the Resolution to Adopt Economic Incentive Grant Agreement with KACO.

Incentive Grant for United Plate Glass: John Dancoff presented the following Industrial Incentive Grant:

**RESOLUTION TO ADOPT ECONOMIC
INCENTIVE GRANT AGREEMENT WITH
UNITED PLATE GLASS.**

WHEREAS, the Lincoln County Board of Commissioners verily believes that it is in the best interests of the citizens of Lincoln County to encourage and support economic development within Lincoln County through the recruitment of new industries to the County and the expansion of existing industries in the County; and

WHEREAS, United Plate Glass, have developed plans for expansion of their manufacturing equipment in Lincoln County; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to aid in such efforts;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Lincoln County Board of Commissioners hereby approves the Lincoln County Incentive Grant Agreement (attached hereto as Exhibit A and incorporated herein by reference) among Lincoln County, (United Plate Glass).
2. The Chairman of the Board of Commissioners and the Clerk to the Board are hereby authorized to sign all necessary documents on behalf of Lincoln County in order to effectuate this transaction.
3. This resolution shall become effective upon adoption. This 6th day of March 2023.

Carrol Mitchem, Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy Atkins, Clerk to the Board

LINCOLN COUNTY INCENTIVE GRANT AGREEMENT

NORTH

CAROLINA

LINCOLN

COUNTY

THIS AGREEMENT is made and entered into as of the 6th day of March 2023 by and between LINCOLN COUNTY, a body corporate and politic (hereinafter referred to as “the County”), and United Plate Glass LLC, a Pennsylvania corporation (hereinafter referred to as “United Plate Glass”).

WITNESSETH

WHEREAS, United Plate Glass has developed plans for the installation of manufacturing equipment in Lincoln County, North Carolina;

WHEREAS, the Board of Commissioners of Lincoln County verily believes that the location of new industries and the expansion of existing industries is vital to the economic health of Lincoln County and to the welfare of its citizens; and

WHEREAS, the Board of Commissioners wishes to encourage such development by means of offering incentives to recruit new industries and to aid in expansion of existing industries; and

WHEREAS, such incentives are predicated on the notion of expanding Lincoln County’s tax base and providing additional jobs for Lincoln County’s citizens that pay wages higher than the current prevailing average hourly wage in the particular industry; and

WHEREAS, the Board of Commissioners has determined that it is appropriate and in the best interests of Lincoln County and its citizens to offer incentives in the form of both cash grants and assistance with making public services available; and

WHEREAS, the Board of Commissioners believes that it is appropriate and reasonable to expect United Plate Glass to bind itself to the County to produce certain results in conjunction with the project described herein as conditions of the incentives being offered by the County;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the parties hereby agree as follows:

1. On or before March 6, 2023, United Plate Glass shall begin installation of a building and equipment and machinery expansion in Lincoln County, North Carolina.
2. Within two years of the effective date of this agreement (said effective date being referred in item 1.), United Plate Glass shall make an investment upon such site in building/land and/or machinery and equipment of \$5,035,000 (the expected capital investment) of which \$4,559,500 will qualify for incentives under the Lincoln County Industrial Incentive Grant Policy.
3. Within two years of the effective date of this agreement, United Plate Glass shall provide at such site at least 5 new jobs paying average weekly wages of \$600 including benefits.
4. In consideration of the performance of the aforesaid obligations by United Plate Glass, the County will provide cash grants to United Plate Glass of \$21,167.48 per year for a five-year period. Lincoln County will pay such grants beginning in the tax year after the project's completion. Grants will be paid to United Plate Glass within 30 days after United Plate Glass has made its tax payment for the then-current year and has notified Lincoln Economic Development Association of the payment. This amount represents a Level II grant under the Lincoln County Industrial Development Incentive Grant Policy for New and Existing Industries.
5. United Plate Glass shall on a no less than annual basis provide evidence satisfactory to the County of how many jobs (as provided in Paragraph 3 herein) it has maintained.
6.
 - a. In the event that the value of the investment actually made by United Plate Glass pursuant to this agreement is greater or less than the Expected Capital Investment then the grant will be equitably adjusted upward or downward on a pro-rata basis.
 - b. In the event that the number of people in qualifying jobs actually employed by United Plate Glass pursuant to this Agreement in any year during the term of the Agreement is fewer than the Expected Number of Jobs, then the County may, in its discretion, reduce the amount of the Grant to be paid for the year (or seek reimbursement for the Grant already paid for said year) in the amount of \$1,000.00 per job shortfall.
7. United Plate Glass specifically agrees that in the event that all or any portion of this agreement or any incentive grant or payment to be made hereunder is declared to be unconstitutional, illegal, or otherwise enjoined by a court of competent jurisdiction, United Plate Glass shall indemnify and hold harmless Lincoln County and its Board of Commissioners, individually and collectively, from any loss or liability and shall reimburse Lincoln County by the amount of any such grant or payment.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

United Plate Glass

By: _____

Matt Anderson
Operations Manager

LINCOLN COUNTY

By: _____
Carrol Mitchem, Chairman
Board of Commissioners

Chairman Mitchem opened the public hearing concerning a proposed industrial incentive grant for United Plate Glass. Being no speakers, Chairman Mitchem declared the public hearing closed.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve a Resolution to Adopt Economic Incentive Grant Agreement with United Plate Glass.

Zoning Public Hearings: Megan Gilbert, County Attorney, presented information concerning the legislative and quasi-judicial hearings and asked if any Commissioners or Planning Board members had a conflict. No conflicts were disclosed.

Jeremiah Combs presented the following cases:

CZ #2022-10 – Jamie and Sadie Bridges, applicant:

The applicant is requesting the rezoning of a 1.18-acre portion of a 13.9-acre parcel from R-T (Transitional Residential) to CZ I-G (Conditional Zoning - General Industrial) to permit the use of that portion of the property as a parking area for a general freight trucking operation. Property located within an approved conditional zoning district, such as the one proposed on this property, may only be used for the specified use in accordance with the approved site plan. The proposed site plan includes a gravel storage area for up to three proposed spaces for tractor-trailer parking. Also included in this packet is a summary of the community involvement meeting that was held on November 1, 2022.

Site Area and Description

The subject property is located on the west side of Alf Hoover Road approximately onemile south of the intersection with Reepsville Road in Howard’s Creek Township. The property is adjoined by property zoned R-T (Transitional Residential). Land uses in this area include residential and agricultural uses. This property is designated by the Lincoln County Land Use Plan as Large Lot Residential, suitable for residential use.

Additional Information

Permitted uses under current zoning: Residential Single Family, Modular, Manufactured, Duplex
Permitted use under proposed CZ I-G zoning: Freight Trucking Operation

Staff’s Recommendation Staff recommends disapproval of the request.

Chairman Mitchem opened the public hearing concerning CZ #2022-10 – Jamie and Sadie Bridges, applicant.

David Ledford, speaking on behalf of the applicant, said the truck can currently be parked on the site, but not the trailer. They are proposing a 6 foot black vinyl chain link fence with privacy slats. The request is for 2 trucks with trailers and the possibility of one more. Although there have been concerns expressed about the road not being wide enough, all roads and bridges are within DOT specs.

Jamie Bridges, 1005 Alf Hoover Road, applicant, said the trucks are 2022 and 2023 trucks and they haul for the foodbank ministries. They are a small operation and do it safely and respectfully. If the request is approved, they will not be backing the trucks in, they will circle around on the property. The property has cameras. He asked the Board to help a small business owner out with this request. He said the maintenance is done off site and his truck is washed at his house. There will be no parking on the road front.

Sadie Bridges, 1005 Alf Hoover Rd, small operation, said the noise the trucks give off is not like some going down the highways, they are quiet trucks. They are newer trucks and they are just trying to make a living. They are not trying to grow, just trying to be a small family owned business. Initially the trailers were parked onsite, but once they realized they were not allowed to do so, they were moved off site.

Commissioner Davis asked if a school bus and tractor trailer could meet on the bridge on the road. David Ledford said it would need to be measured, but most roads are 20 feet in width. If you are over 10 feet, you need a wide rating sign on the truck. He said it could be tight, but should be able to pass if it is the standard width.

Megan Gilbert said this started out as a code violation, they were unaware the trailers could not be parked there and moved them.

Karen Plunkett, 909 Alf Hoover Rd, said she has been at this address for almost 29 years. She said in her deed is a warranty deed on her property that says no business, no swine, no junk cars, etc.

Megan Gilbert said typically a warranty deed is a private matter that the Board cannot take into consideration.

Ms. Plunkett asked about the smaller bridge up the road. She said a car and school bus cannot pass on that bridge. She said she is against the request.

Eric Halsten, 1041 Alf Hoover Rd., said he lives alongside the Bridges and has no objection to what they are proposing. He said tractor trailers go up and down Alf Hoover Road all day long. He said their home business has not affected him at all.

Marty Eaker, 1193 Alf Hoover Rd., said he has been there 28 years and is against this trucking company. He said this is a secondary road and is a narrow road with 2 bridges, one very narrow. He said he is against the request.

Dana Stacy, 977 Alf Hoover Rd., said her land joins where the trucks will be parked. She said she has not been bothered by the trucks, she cannot even hear them. She said his trucks are beautiful and there is no sound violation. She feels more secure with all the cameras around his property. She said she has stopped to let school buses pass. She said she has had no issues whatsoever.

Elizabeth Hoover Baxter, 766 Alf Hoover Rd., said she has lived there pretty much her whole life and has a farm there. She said it is a narrow road with a sharp curve. Mrs. Baxter said she, her husband and son are opposed to the request.

Donald Jones, 511 College Ave., Shelby, said he is speaking for his stepson who is a professional driver. He said roads are built to handle a tractor trailer unless signs say otherwise. He said Lincoln County is not getting the taxes off the trailers since they are parked in Hickory.

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

ZMA #710 – Damon Lusk, applicant:

The applicant is requesting the rezoning of 1.8 acres from B-N (Neighborhood Business) to I-G (Industrial General).

Site Area and Description

The subject property is located at 4168 N. N.C. 16 Business Hwy. in Catawba Springs Township. The property is adjoined by property zoned B-N (Neighborhood Business) and I-G (Industrial General). Land uses in this area include industrial, business, and residential uses.

Plan Conformance

This property is designated by the Lincoln County Land Use Plan as Industrial Center, suitable for manufacturing, production, and warehousing uses.

Additional Information

Permitted uses under current zoning: office, retail, restaurant (special use in ELDD), vehicle service (special use in ELDD) Permitted uses under proposed zoning: office, contractor's office (special use in ELDD), vehicle service (special use in ELDD), vehicle repair (special use in ELDD), self-storage facility (special use in ELDD), manufacturing (many classifications are special use in ELDD), warehousing (many classifications are special use in ELDD)

Staff's Recommendation Staff recommends approval of the request.

Chairman Mitchem opened the public hearing concerning ZMA #710 – Damon Lusk, applicant.

Doug Lusk, applicant, 6656 King Wilkinson Road, said they understand what they are up against with the property and try to make everything nice.

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

The Planning Board recessed their meeting to room 310.

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

Jeremiah Combs presented the following:

SR #84 – Villages of Denver, applicant:

The applicant is requesting waivers from the subdivision standards of Section 5.4.4.C of the Lincoln County Unified Development Ordinance to allow for a connectivity ratio less than 1.4. Under Section 9.6.9 of the UDO, the Board of Commissioners are authorized to grant waivers from the subdivision standards if it makes certain findings based upon the evidence presented. Section 5.4.4.C of the Lincoln County Unified Development Ordinance requires a minimum connectivity ratio of 1.4; the applicant's site plan results in a proposed ratio of 1.33.

Site Area and Description

The subject property is located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township. The property is adjoined by the previous phases of the Villages of Denver subdivision to the south and the Hagers Hollow and Deertrack subdivisions to the North and East respectively. The property is also adjoined by parcels zoned B-N (Neighborhood Business) and I-G (General Industrial). Land uses in this area primarily include residential and industrial.

Chairman Mitchem opened the public hearing concerning SR #84- Villages of Denver, applicant.

Rob Brown, Attorney, said his client prepared the findings of fact and he would like to incorporate into testimony for SR 84, 87 and 88.

Kenny Draffen, 3321 Winter Heath Way, Mint Hill, said he is a Civil Engineer. He presented information concerning the length to node ratio, the main characteristic is the external points of connection. On the west side is a railroad track, on the north side is a development, on the east is a Duke easement, and on the south they are connecting to the existing Villages of Denver. On the north end to connect to Hagers Hollow, there is a very narrow piece of land they can barely get a road through, which is in summary the reason for the inability to reach the 1.4 ratio. He read the findings of fact.

Rob Brown said he had a joint meeting with DOT, Fire Marshal, Planning, Environmental Health and his clients concerning this plan and agreed this was the best way to get this resolved.

Glen Fiscus, 3857 Fox Run, said it a slippery slope with this property and asked why they don't use Old Post Road. He asked if the applicant owns all the parcels involved. Jeremiah Combs said the applicants have closed on all parcels.

David Hunsucker, 7348 Hagers Hollow, said he was never given a written offer on the property near the stream. He presented evidence, emails between him and Rice Development.

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

UPON MOTION by Commissioner Davis, the Board voted 4 – 1 (Cesena against) to approve the Findings of Fact as submitted by the applicant.

UPON MOTION by Commissioner Davis, the Board voted 4 – 1 (Cesena against) to approve SR #84 – Villages of Denver, applicant, based on the Findings of Fact.

SR #87 – Villages of Denver, applicant:

The applicant is requesting waivers from the subdivision standards of Section 5.6.2.A.2 of the Lincoln County Unified Development Ordinance to exceed the maximum block length of 1,500 feet. Under Section 9.6.9 of the UDO, the Board of Commissioners are authorized to grant waivers from the subdivision standards if it makes certain findings based upon the evidence presented. Section 5.6.2.A.2 of the Lincoln County Unified Development Ordinance sets a maximum block length of 1,500 feet. The block length on one section of the new road providing access to Hagers Hollow Drive is in excess of 2,500 feet.

Site Area and Description

The subject property is located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township. The property is adjoined by the previous phases of the Villages of Denver subdivision to the south and the Hagers Hollow and Deertrack subdivisions to the North and East respectively. The property is also adjoined by parcels zoned B-N (Neighborhood Business) and I-G (General Industrial). Land uses in this area primarily include residential and industrial

Chairman Mitchem opened the public hearing concerning SR #87- Villages of Denver, applicant.

Kenny Draffen, 3321 Winter Heath Way, Mint Hill, said this waiver is being requested based on the minimum block length in the ordinances. The minimum block length is 1500 feet and the strip of land that was acquired to make the connection to Hager's Hollow was not wide enough

to have any stub streets or a cul de sac. The roadway from Hager's Hollow into the site exceeds 1500 feet.

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

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve SR #87 – Villages of Denver, applicant, based on the Findings of Fact.

SR #88 – Villages of Denver, applicant:

The applicant is requesting waivers from the subdivision standards of Section 5.4.4.D.2 of the Lincoln County Unified Development to allow more than 50 lots with one access point. Under Section 9.6.9 of the UDO, the Board of Commissioners are authorized to grant waivers from the subdivision standards if it makes certain findings based upon the evidence presented. Section 5.4.4.D.2 of the Lincoln County Unified Development Ordinance requires any subdivision with greater than 50 lots to have a minimum of 2 access points.

Site Area and Description

The subject property is located immediately north of the end of Kenyon Drive and south of Hagers Hollow Drive in Catawba Springs Township. The property is adjoined by the previous phases of the Villages of Denver subdivision to the south and the Hagers Hollow and Deertrack subdivisions to the North and East respectively. The property is also adjoined by parcels zoned B-N (Neighborhood Business) and I-G (General Industrial). Land uses in this area primarily include residential and industrial

Chairman Mitchem opened the public hearing concerning SR #88- Villages of Denver, applicant.

Kenny Draffen, 3321 Winter Heath Way, Mint Hill, said in order to meet the requirement, the road will be paved with a knockbox on it for emergencies, but other than that it will not be used.

Glen Fiscus, 3857 Fox Run, said they do not need 5 years of construction equipment coming out Hager's Hollow.

David Hunsucker, 7348 Hagers Hollow, asked why this is going through their neighborhood instead of Villages of Denver. He asked why restrictions are put in place if all these waivers are given.

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

UPON MOTION by Commissioner Lineberger, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

UPON MOTION by Commissioner Lineberger, the Board voted unanimously to approve SR #88 – Villages of Denver, applicant, based on the Findings of Fact.

Andrew Bryant presented the following:

SUP #307A – Richard Todd Black, applicant:

The applicant is requesting to revise a special use permit to remove a condition limiting dates of operation for a campground in the R-R district. Currently the condition states operation is limited to a period from April 1 through November 15. The original approval was granted on August 20, 2012.

Site Area and Description

The request involves a 17.042 acre parcel located at 3458 Zion Hill Road in North Brook Township. The subject property is located in the R-R (Rural Residential) zoning district. The subject property is adjoined by property zoned R-R (Rural Residential). Land uses in this area include residential and agricultural uses. This property is located in an area designated by the Lincoln County Land Use Plan as Rural Living.

Chairman Mitchem opened the public hearing concerning SUP #307A – Richard Todd Black, applicant.

Todd Black, owner, said he wants to remove the limitations on operating hours since people want to camp year round. He said he prepared the findings of fact and wishes to incorporate them into his testimony.

Commissioner Davis asked if this is for residents who wish to stay year round or if he just wants to be able to operate year round.

Mr. Black said he just wants to be able to operate year round, but he does have construction workers that bring their RV and stay there and had healthcare workers during Covid.

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

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve SUP #307A – Richard Todd Black, applicant, based on the Findings of Fact.

SUP #477 – Brad and Marie Hurd, applicant:

The applicant is requesting a special use permit to allow an existing residential accessory structure to be used as a guest house in the R-T district. Under the Unified Development Ordinance 4.6.5, this is considered a private residential quarters and is a special use in residential districts.

Site Area and Description

The request involves a 2.508-acre parcel located at 5603 King Wilkinson Rd in Ironton Township. The subject property is located in the R-T (Transitional Residential) zoning district. The subject property is adjoined by property zoned R-T (Transitional Residential). Land uses in this area include residential and agricultural uses. This property is located in an area designated by the Lincoln County Land Use Plan as Large Lot Residential.

Chairman Mitchem opened the public hearing concerning SUP #477 – Brad and Marie Hurd, applicant.

Brad Hurd, applicant, said when he bought the property, it was already being used as a residential quarters. His son's friend currently lives in this and he was turned in to Code Enforcement. He would like this approved so he can continue to live there. Mr. Hurd said he prepared and would like to incorporate the findings of fact into testimony.

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

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve SUP #477 – Brad and Marie Hurd, applicant, based on the Findings of Fact.

SUP #479 – Damon Lusk, applicant:

The applicant is requesting a special use permit to allow contractor's offices in the Eastern Lincoln Development District (ELDD) overlay. Under the Unified Development Ordinance contractor's office is a special use in the ELDD. In a separate public hearing, the applicant is proposing to rezone the entirety of this parcel to I-G (Industrial General); contractor's office is a permitted use in the I-G district.

Site Area and Description

The request involves a 2.29-acre parcel located at 4168 N. N.C. 16 Business Hwy. in Catawba Springs Township. The subject property is partially located in the B-N (Neighborhood Business) zoning district and partially located in the I-G (Industrial General) zoning district. The subject property is adjoined by property zoned B-N and I-G. Land uses in this area include industrial, business, and residential uses. This property is

located in an area designated by the Lincoln County Land Use Plan as Industrial Center, suitable for manufacturing, production, and warehousing uses.

Chairman Mitchem opened the public hearing concerning SUP #479 – Damon Lusk, applicant.

Doug Lusk, applicant, said he prepared the findings of fact and would like to incorporate them into his testimony.

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

UPON MOTION by Commissioner Cesena, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

Andrew Bryant asked the Board to not approve the SUP until the rezoning is approved at the next meeting.

UPON MOTION by commissioner Cesena, the Board voted unanimously to table SUP #479 until March 20, 2023.

SUP #480 – Tekayla Poole, applicant:

The applicant is requesting a special use permit to operate a child care facility in the Eastern Lincoln Development District (ELDD) overlay. Under the Unified Development Ordinance child care facility is a special use in the ELDD.

Site Area and Description

The request involves a 0.95-acre parcel located at 4732 N. N.C. 16 Business Hwy. in Catawba Springs Township. The subject property is located in the B-G (General Business) zoning district and the ELDD overlay. The subject property is adjoined by property zoned B-G (General Business) and R-S (Residential Suburban). Land uses in this area include commercial, residential, and civic uses. This property is located in an area designated by the Lincoln County Land Use Plan as Single Family Neighborhood, suitable for single-family homes.

Chairman Mitchem opened the public hearing concerning SUP #480 – Tekayla Poole, applicant.

Tekayla Poole, applicant, said there is a shortage of childcare centers in the area and she would like to open one. She said she prepared and would like to incorporate the Findings of Fact into her testimony.

Douglas Parizek said his only objection is there is no turning lane and a lot of traffic in the morning and afternoon.

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

UPON MOTION by Commissioner Davis, the Board voted unanimously to approve the Findings of Fact submitted by the applicant.

UPON MOTION by Commissioner Davis, the Board voted unanimously to approve SUP #480 – Tekayla Poole, applicant, based on the Findings of Fact.

Contract Award for RFP 2023-0207 Watershed Cleanup: John Henry presented the following:

Soil and Water was awarded a StRAP grant for watershed cleanup. Purchasing issued this RFP twice; we did not receive enough interest from the first posting. The County received 6 bids from the second posting of which 4 were rejected and not opened due to the companies not being licensed contractors. Of the two bids opened one was rejected due to altering the bid documents.

He requested the Board to award the contract to HNA Contracting, LLC. in the amount of \$60,859.00.

UPON MOTION by Commissioner Cesena, the Board voted unanimously to Award contract to HNA Contracting, LLC. in the amount of \$60,859.00 as presented.

Approval of ADA Policy and related documents: Megan Gilbert presented the following:

In accordance with the requirements of Title II of the American with Disabilities Act of 1990 (the "ADA") and the applicable implementing regulations (collectively the "Regulations"), Lincoln County shall not discriminate against qualified individuals with disabilities in its facilities, services, programs or activities. Lincoln County is required to have an adopted policy, as well as adopted procedures for handling any complaints made.

She asked the Board to approve the ADA Accommodations Policy, ADA Grievance Form, ADA Grievance Procedure and ADA Statement of Compliance (for website).

UPON MOTION by Commissioner McCall, the Board voted unanimously to approve the ADA Accommodations Policy, ADA Grievance Form, ADA Grievance Procedure and ADA Statement of Compliance (for website) as presented.



**LINCOLN COUNTY
AMERICANS WITH DISABILITIES ACT
ACCOMODATIONS POLICY**

In accordance with the requirements of Title II of the American with Disabilities Act of 1990 (the "ADA") and the applicable implementing regulations (collectively the "Regulations"),

Lincoln County shall not discriminate against qualified individuals with disabilities in its facilities, services, programs or activities.

Lincoln County shall make reasonable accommodations, upon request, to provide auxiliary aids to ensure communication to all individuals with hearing, vision, or speech impairments which are as effective as communications with others, unless an undue financial or administrative burden or fundamental alteration of the program, service or activity would result.

Lincoln County shall make reasonable accommodations upon request to ensure that all programs, services, and activities are available to any otherwise qualified individual who is unable to access an existing County facilities due to a physical barrier, as a result of any disability, unless an undue financial or administrative burden or fundamental alteration of the program, service or activity would result.

Lincoln County reserves the right to impose safety requirements that the ADA Coordinator determines are necessary for the safe operation of any programs, services or activities based on any actual risk associated with the program, service or activity.

Upon receipt of a request for accommodation from an individual related to any County programs, services or activities, the ADA Coordinator must consider whether the proposed action would:

1. Fundamentally alter the service, program, or activity being provided;
2. Result in an undue financial or administrative burden.

In determining whether or not such accommodation would result in such an alteration or burden, the ADA Coordinator must consider:

1. All resources available for use in the funding and operation of the service, program or activity;
2. The overall size of the service, program or activity with respect to the number of employees, number and types of facilities impacted, and the size of the budget for the service, program or activity;
3. The type of service, program or activity including the composition and structure of the workforce involved; and
4. The nature and cost of the proposed action or accommodation requested.

Upon the ADA Coordinator's determination, the ADA Coordinator must provide a written statement of the reasons for reaching that conclusion to the individual or his/ her representative requesting such accommodation within three (3) working days.

In the event that the ADA Coordinator determines that a proposed action or requested accommodation would result in such an alteration or burden, the County must take any other action that would not result in such an alteration or burden but would nevertheless ensure that, to the maximum extent possible, the individual with disabilities receives the benefits or services provided by the County.

Adopted by Lincoln County Board of Commissioners on the ___ day of March, 2023.



**LINCOLN COUNTY
AMERICANS WITH DISABILITIES ACT
GRIEVANCE PROCEDURE**

Lincoln County has adopted a grievance procedure (the "Procedure") for the prompt and equitable resolution of complaints by members of the public alleging any action prohibited by the United States Department of Justice regulations for the implementation of Title II of the Americans with Disabilities Act (the "ADA"). Title II of the ADA states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, denied the benefits of, or be subject to discrimination... " in programs or activities sponsored by a public entity.

The Procedure for filing and review of a grievance complaint (hereafter "Complaint") is as follows:

1. Complaints must be filed as provided for in the Grievance Complaint Form, as follows:

Mail this completed form to:

Megan H. Gilbert
Lincoln County ADA Coordinator
P.O. Box 738
Lincolnton, NC 28093

Email a completed form to:

adacoordinator@lincolncounty.org

Deliver in person this completed form to:

Lincoln County Administration Building
353 N. Generals Blvd.
Lincolnton, NC 28092

2. A Complaint must be filed in writing, contain the name and address of the person filing the Complaint, the name and address of the person alleged to have been discriminated against if different from the Complainant, and briefly describe the alleged violation of the regulations complained of. *See the Lincoln County Americans with Disabilities Act Grievance Complaint Form.*

3. A Complaint must be filed within sixty (60) calendar days after the alleged violation.

4. For purposes of this Procedure a document is "filed" when it is placed in an envelope, postage pre-paid, and mailed by first-class mail, or other class of mail that is at least as

expeditious; or is dispatched to a third-party commercial carrier for delivery to the address designated by this Procedure for service within three (3) days.

5. An investigation, the appropriate scope of which is to be determined by the discretion of the ADA Coordinator, must follow the filing of a Complaint. The investigation must be conducted by the ADA Coordinator or his/her designee. This Procedure contemplates informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the Complaint, for consideration by the ADA Coordinator.

6. As a part of the ADA Coordinator's investigation, a conference shall be scheduled within ten (10) working days, to be held within twenty (20) working days from the date of the filing of the Complaint. The purpose of this conference is to provide the Complainant, or his/her representative, an opportunity to provide supporting evidence. The ADA Coordinator must investigate the substance of the Complaint and give a written resolution ("Resolution") to the Complainant within ten (10) working days of the date of the conference.

7. The Complainant may request a reconsideration of the Resolution of the ADA Coordinator in instances where he/she is dissatisfied with the Resolution ("Request for Reconsideration"). The Request for Reconsideration must be made within ten (10) working days of receipt of the Resolution, and must be filed with the County Manager, Lincoln County Administration, P.O. Box 789, 353 N. Generals Blvd., Lincolnton, NC 28092.

8. Upon receipt of a Request for Reconsideration, the County Manager must render a decision in response to the Complaint within ten (10) working days. The decision of the County Manager ("Final Determination") is final.

9. The ADA Coordinator must maintain the files and records of Lincoln County relating to any Complaints filed, the Resolution offered, any Requests for Reconsideration and any Final Determinations rendered.

10. The right of any person to a prompt and equitable resolution of the Complaint filed hereunder must not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this Procedure is not a prerequisite to the pursuit of other remedies.

11. This Procedure must be construed to protect the substantive rights of interested persons to meet appropriate due process standards, and to assure that Lincoln County complies with the ADA and all applicable implementing regulations.

Approved by:

Date:

Davin W. Madden, County Manager

Adopted by Lincoln County Board of Commissioners on the ____ day of March, 2023.



**LINCOLN COUNTY
AMERICANS WITH DISABILITIES ACT
GRIEVANCE COMPLAINT FORM**

In accordance with the requirements Section 504 of the Rehabilitation Act of 1973 (the "Act"), Title II of the American with Disabilities act of 1990 (the "ADA") and the applicable implementing regulations (collectively the "Regulations"), Lincoln County (the "County") will not discriminate against qualified individuals with disabilities in its facilities, services, programs or activities.

NOTE: the following information is necessary to assist the County in processing any alleged violation of the Regulations. If any person interested in filing a grievance complaint (the "Grievance") needs assistance (including sign language assistance, documents in Braille or other ways of making information and communications accessible) please contact the Lincoln County's ADA Coordinator:

MEGAN H. GILBERT
County Attorney and ADA Coordinator
 Lincoln County Administration Building
 353 N. Generals Blvd.
 Lincolnton, NC 28092
adacoordinator@lincolncounty.org
 704-736-8471

Office Hours: Monday thru Friday, 8:00 a.m. to 5:00 p.m.

To file a Grievance, you may do one of the following:

Mail this completed form to:
 Lincoln County ADA Coordinator
 P.O. Box 738
 Lincolnton, NC 28093

Email a completed form to:
adacoordinator@lincolncounty.org

Deliver in person this completed form to:
 Lincoln County Administration Building

353 N. Generals Blvd.
Lincolnton, NC 28092

Any grievance must be filed within 60 calendar days of the alleged violation.

GRIEVANCE COMPLAINT FORM

I. IDENTIFYING INFORMATION.

A. Date of incident resulting in Grievance:

B. Complainant's Contact Information:

FIRST NAME	MIDDLE INITIAL	LAST NAME

STREET ADDRESS	CITY	ZIP CODE

PHONE NUMBER (DAYTIME)	E-MAIL ADDRESS	

C. Person discriminated against (if someone other than Complainant).

FIRST NAME	MIDDLE INITIAL	LAST NAME

STREET ADDRESS	CITY	ZIP CODE

PHONE NUMBER (DAYTIME)	E-MAIL ADDRESS	

II. INFORMATION ABOUT THE LINCOLN COUNTY SERVICE, PROGRAM OR ACTIVITY IN VIOLATION OF AMERICANS WITH DISABILITIES ACT OR SECTION 504 OF THE REHABILITATION ACT OF 1973.

A. Please provide the following information about the Lincoln County agency, facility, department, or program that this Grievance is pertaining to. Please only fill out the sections relevant to this Grievance.

LINCOLN COUNTY AGENCY:

LINCOLN

COUNTY

DEPARTMENT:

C. If not already stated above, where did the incident take place? Please provide as much information about the facility/ location of this incident as possible.

D. Were there any witnesses to the incident? YES NO
If yes, please provide as much information as possible about any witness(es), attach additional sheets of paper as necessary.

E. Have you filed or intend to file a grievance or complaint about this same incident with any other federal, state or local governmental agency or with a federal or state court?
 YES NO UN-DECIDED

F. If you answered "Yes" to the last question, please provide the following information:

AGENCY _____ NAME: _____

H. Briefly explain what remedy, or action, you are seeking for the alleged discrimination.

The Complainant must sign the grievance in the space provided below and date. Please attach any documents you believe may support or be relevant to your Grievance.

Complainant Signature

Date **Signed:**

The Americans with Disability Act (the “ADA”) is a federal law enacted in 1990 that prohibits discrimination against individuals with disabilities in employment, public accommodations, state and local government operations, transportation, and telecommunications.

Under the ADA, it is unlawful to discriminate in employment against individuals with disabilities, or to refuse to accommodate the known disability of an otherwise qualified individual, unless to do so causes undue hardship. The ADA Coordinator should be contacted with any issues related to ADA by calling 704-736-8471 or emailing adacoordinator@lincolncounty.org.

Lincoln County will ensure that there is no discrimination against a qualified individual with a disability in services, or activities provided. Furthermore, Lincoln County is committed to accommodate the known disabilities of its employees and citizens and is working to make Lincoln County a place where all can live and work.

The ADA requires that all Lincoln County services, and activities be accessible to persons with disabilities. The County's employees and citizens with ADA-related questions, concerns, and grievances should contact the ADA Coordinator at 704-736-8471 or emailing adacoordinator@lincolncounty.org. Lincoln County will work to resolve all grievances for employees and citizens as expeditiously as possible.

Public Comments: Chairman Mitchem declared Public Comments open.

Being no speakers, Chairman Mitchem closed Public Comments.

Finance Officer’s Report: Deanna Rios presented the Finance Officer’s Report.

Chairman Mitchem said tax revaluation has come out and citizens have the right to appeal once they receive the notice. He said the Commissioners did not order this, it is done every 4 years. He said it is not a tax increase because the tax rate has not been set yet. He encouraged citizens to appeal if they do not feel their value is correct.

Davin Madden reminded the Board of their meeting with the Board of Education at their building on March 16th at 6:00 PM

Adjourn: UPON MOTION by Commissioner Lineberger, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Carrol Mitchem, Chairman
Board of Commissioners