MEMO TO: Planning Board

FROM: Planning Staff

SUBJECT: ZTA-2-2025 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

DATE: April 15, 2025

Background

Occasionally, minor errors in the text or changes in circumstances necessitate amendments to the Unified Development Ordinance (UDO). To enhance the UDO's enforceability and effectiveness, it is essential to modify, update, or add specific sections of the ordinance. Proposed changes are highlighted in yellow, while language intended for removal is indicated with a strikethrough. Below are the sections that require modification.

Proposed Amendment Sections: (see attached redlined/highlighted sheet for all changes)

§ 153.031 Definitions

Staff Comment: Adding title for subdivision exceptions. Made minor changes to definitions for major and minor subdivisions.

Proposed Amendment Section:

§ 153.382 Procedure for Review of Minor Subdivisions

Staff Comment: Reorganized the section to follow processes and simplified the wording.

Proposed Amendment Sections:

§ 153.384 Preliminary Major Subdivision Plat Submission and Review

Staff Comment: Reorganized the section to follow processes and simplified the wording.

Proposed Amendment Section:

§ 153.385 Final Subdivision Plat Submission and Review

Staff Comment: Reorganized the section to follow processes and simplified the wording.

Proposed Amendment Section:

§ 153.386 Planning Unit Developments (PUDs) and Planned Residential Developments (PRDs).

Staff Comment: Removed. These are now Conditional Districts.

Proposed Amendment Section:

§ 153.378 Waivers and Modifications.

Staff Comment: Removing (D) since the link will be invalid.

§ 153.031 DEFINITIONS OF SPECIFIC TERMS AND WORDS.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets~~,~~. ~~but the following shall not be included within this definition and is not subject to any regulations enacted pursuant to this chapter:~~

SUBDIVISION, EXCEPTION is not subject to subdivision regulations but is subject to plat review, zoning, and other regulations.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as shown in its subdivision regulations;

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the city as shown in this chapter; and

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with interstate succession under G.S. Ch. 29.

SUBDIVISION, MAJOR. A subdivision where:

(1) New roads are proposed or rights-of-way are dedicated;

~~(2) The entire tract to be subdivided is greater than ten acres;~~ or

(3) More than ten lots are created after the subdivision is completed.

SUBDIVISION, MINOR. A subdivision where:

(1) No new roads are proposed or road rights-of-way dedicated; and

~~(2) The entire tract to be subdivided is ten acres or less in size;~~

(3) Where ten or fewer lots will result after the subdivision is completed; ~~and~~ or

~~(4) Subdivision of a tract or parcel of land in single ownership meeting the following criteria:~~

~~1. The tract or parcel to be divided is not exempted under division (2) of the term ***SUBDIVISION*** above;~~

~~2. No part of the tract or parcel to be divided has been divided under this division in the ten years prior to division;~~

~~3. The entire area of the tract or parcel to be divided is greater than five acres;~~

~~4. After division, no more than three lots result from the division; and~~

~~5. After division, all resultant lots comply with all of the following:~~

~~A. Any lot dimension size requirements of the applicable land use regulations, if any;~~

~~B. The use of the lots is in conformity with the applicable zoning requirements, if any; and~~

~~C. A permanent means of ingress and egress is recorded for each lot.~~

§ 153.382 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.

(A) *Sketch plan for minor subdivisions.*

(1) This section shall apply to minor subdivisions only. For all minor subdivisions, a preliminary plat shall not be required. All subdivisions, however, shall require the submittal, approval and recordation in the Deeds Office of a final plat. Prior to submission of a final plat, the subdivider may submit to the Administrator two paper copies and a digital copy of a sketch plan of the proposed subdivision. The purpose of the sketch plan is to familiarize the Administrator with the proposed development and to ensure that it is in compliance with all applicable regulations. While the submittal of a sketch plan is optional, it is suggested that the subdivider submit a plan in order to familiarize the Administrator of the proposed development and, upon review, notify the subdivider of any likely problems with the proposed development.

(2) The sketch plan should contain the following information:

(a) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;

(b) The boundaries of the lot(s) to be subdivided;

(c) The tax map number(s) of the lots(s) to be subdivided;

(d) The total acreage to be subdivided;

(e) The existing street layout and right-of-way width;

(f) The name of the proposed subdivision; and

(g) The zoning classification of the property to be subdivided and of adjacent properties, if applicable.

(3) The Administrator shall review the sketch plan for general compliance with the requirements of these regulations and any applicable zoning regulations. The Administrator shall advise the subdivider of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat.

(B) *Final plat for minor subdivisions.*

(1) A registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors shall prepare the final plat. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the *Standards of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the County Register of Deeds.

(2) At least eight complete copies and a digital copy of the final plat shall be submitted to the Administrator with one of these copies being on reproducible material. The remaining copies shall be black or blue line paper prints. The copies shall be

considered complete if they contain all of the information as required by § 153.387 of these regulations. Material and drawing medium for the original shall be in accordance with the *Standards of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the County Register of Deeds.

(3) The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than one inch equals 100 feet, unless each lot in the proposed subdivision is more than three acres. In that case, the scale shall not be less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(4) Submission of the final plat shall be accompanied by a nonrefundable filing fee in accordance with a fee schedule most recently adopted by the City Council. The fee and the required number of final plats must be submitted to the Administrator.

(5) The following signed certificates shall appear on all copies of the final plat submitted to the Administrator.

(a) *Certificate of Ownership and Dedication.*

Certificate of Ownership And Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the planning jurisdiction of the City of Lincolnton and that I hereby adopt this plan of subdivision with my free consent and establish minimum lot size and building setback lines as noted.

_____ _____

Owner Date

(b) *Certificate of Survey and Accuracy.*

Certificate of Survey and Accuracy

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded date shown thereon. The certificate shall include a statement or error of closure calculated by latitudes and departures. Any lines on the map that were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

(c) *Certificate.* The certificate shall take the following general form:

STATE OF NORTH CAROLINA LINCOLN COUNTY

I,_____certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) an actual survey made under my supervision (deed description recorded in Book_____, Page_____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1:_____, (that the boundaries not surveyed are shown as broken lines plotted from information found in

Book_____, Page_____); that this map was prepared in accordance with G.S. § 47-30, as amended.

Witness my hand and seal this_____day of_____, A.D. 20_____.

_____

_____

Registered Land Surveyor

OFFICIAL SEAL

_____

_____

Registration Number

I (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the_____day of_____, 20_____.

OFFICIAL SEAL

_____

_____

Signature of Officer

(C) *Approval of final plat.*

(1) (a) Once the Administrator has received the required number of copies of the final plat, he or she shall either:

1. Review the plat; or

2. At his or her discretion, submit the plat to the Planning Board for its review and decision.

(b) The Administrator shall have 21 days from the date of submittal to act upon a plat. Otherwise, the plat shall automatically be forwarded to the Planning Board.

(c) The Planning Board shall have 31 days from the meeting date at which it reviewed the plat to:

1. Approve the plat;

2. Approve the plat with conditions;

3. Approve the plat with modifications per § 153.378; or

4. Disapprove the plat.

(d) If the Planning Board does not take action within the 31-day period, the plat shall then automatically be transferred to the City Council for its review and decision.

(2) If the final plat is not approved, the Administrator shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make changes as will bring the plat into compliance with the provision of these regulations and resubmit the

~~same for reconsideration. The subdivider shall have 21 days to resubmit the final plat to the Administrator without having to pay an additional filing fee. If a revised plat is not submitted within the period, any future submittal will require the payment of an additional filing fee.~~

~~(3) If the final plat is approved, the approval shall be shown on each copy of the plat by the following signed certificate.~~

~~Certificate of Approval For Recording~~

~~I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City of Lincolnton, North Carolina and that this plat has been approved by_____on_____for recordation in the Lincoln County Deeds Office.~~

~~_____ _____~~

~~Administrator Date~~

~~City of Lincolnton, North Carolina~~

~~(4) If the final plat is disapproved, the reasons for the disapproval shall be stated in writing, specifying the provisions of these regulations with which the final plat does not comply. One copy of the reasons and one print of the plat shall be retained by the Administrator as part of the city's official records; a copy of the reasons and the remaining copies of the plat shall be transmitted to the subdivider.~~

~~(5) If the final plat is approved, the subdivider shall be responsible for filing the approved final plat with the Deeds Office within 21 days of approval; otherwise, the approval shall be null and void.~~

This section shall apply to minor subdivisions only. For all minor subdivisions, a preliminary plat shall not be required. All subdivisions, however, shall require the submittal, approval, and recordation in the Deeds Office of a final plat.

A) *Sketch Plan*

1) Prior to submission of a final plat, the subdivider may submit to the Administrator two paper copies and a digital copy of a sketch plan of the proposed subdivision. The purpose of the sketch plan is to familiarize the Administrator with the proposed development and to ensure that it is in compliance with all applicable regulations. While the submittal of a sketch plan is optional, it is suggested that the subdivider submit a plan in order to familiarize the Administrator of the proposed development and, upon review, notify the subdivider of any likely problems with the proposed development.

2) The sketch plan should contain the following information:

a) A sketch vicinity map including north arrow showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;

b) The boundaries of the lot(s) to be subdivided;

c) The tax map number(s) of the lots(s) to be subdivided;

d) The total acreage to be subdivided;

e) The existing street layout and right-of-way width;

f) The name of the proposed subdivision; and

g) The zoning classification of the property to be subdivided and of adjacent properties, if applicable.

3) The Administrator shall review the sketch plan for general compliance with the requirements of the subdivision regulations and any applicable zoning regulations. The Administrator shall advise the subdivider of the regulations pertaining to the proposed subdivision and the procedures to be followed in preparing and submitting the final plat.

B) *Application*

1) To be considered a valid submission, all the following are required to be submitted to the Administrator for review:

a) Completed application;

b) Nonrefundable submittal fee in accordance with the City Council's most recently adopted fee schedule;

c) Three paper copies, a digital copy, and one mylar of the final plat, which contains all the information required by § 153.387 and meet the following requirements:

1. Prepared by a registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. § 47-30 and the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

2. Material and drawing medium for the reproducible copy shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

3. The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than one inch equals 100 feet, unless each lot in the proposed subdivision is more than three acres. In that case, the scale shall not be less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

C) *Review.*

1) Once the Administrator has received a valid submission, he or she shall either:

    a) Review the plat; or

    b) At his or her discretion, submit the plat to the Planning Board for its review and decision.

2) The Administrator shall have 21 days from the date of the submittal to act upon a plat. Otherwise, the plat shall automatically be forwarded to the Planning Board.

3) The Planning Board shall have 31 days from the meeting date at which it reviewed the plat to either:

    a) Approve the plat;

    b) Approve the plat with conditions;

    c) Approve the plat with modifications per § 153.378; or

    d) Disapprove the plat.

4) If the Planning Board does not take action within the 31-day period, the plat shall then automatically be transferred to the City Council for its review and decision.

5) If the final plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least one copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.

    a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.

    b) If a revised plat is not submitted within the period, any future resubmittal of the plat will require the payment of an additional non-refundable fee.

    c) After the third review, each additional submittal will require an additional non-refundable fee, in accordance with a fee schedule most recently adopted by the City Council.

6) If the final plat is approved, the Administrator shall send a notice of approval to the subdivider. The approval shall be shown on the reproducible copy of the plat and include all required certificates. The subdivider shall have 21 days from the date of final approval to have the plat recorded in the Deeds Office. Otherwise, the approved final plat shall be null and void.

(Prior UDO, § 17.12) (Ord. O-5-23, passed 4-6-2023; Ord. O-1-2024, passed 1-4-2024) Penalty, see § 153.999

§ 153.384 PRELIMINARY MAJOR SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) Preliminary and final plat approval shall be required for all major subdivisions. Preliminary plat approval of all major subdivisions containing 250 lots or less may be made by the Planning Board. Final approval of all preliminary plats containing over 250 lots or subdivisions that require the placement of oversized utility lines may only be made by the City Council.

(B) Regardless of the number of proposed lots, all preliminary plats shall first be reviewed by the Subdivision Technical Review Committee (TRC) prior to submittal to the Planning Board, and, where necessary, to the City Council.

(C) All preliminary plats submitted for review shall be accompanied by a nonrefundable submittal fee in accordance with the most City Council's most recently adopted fee schedule.

(D) Preliminary plats shall meet the specifications of § 153.387 of these regulations.

(E) At least eight complete paper copies and one digital copy of the preliminary plat shall be submitted to the Administrator with one of these copies being on reproducible material. The remaining copies shall be considered complete if they contain all of the information required by § 153.387 of these regulations and if the required submittal fee has been paid.

(F) Twenty-one days prior to the TRC meeting at which the plat is to be discussed and reviewed, the TRC shall use this 21-day period to review the plat and submit its recommendations to the Planning Board. If this period elapses with no comments from the TRC, the plat shall then be automatically transferred to the Planning Board for their review.

(G) (1) The Planning Board shall have 31 days from the meeting date at which the plat was reviewed to:

(a) Approve the plat;

(b) Approve the plat with conditions;

(c) Approve the plat with modifications per § 153.378;

(d) Disapprove the plat; and/or

(e) Make a recommendation to the City Council on a plat containing over 250 lots.

(2) If no recommendation or decision is made during the 31-day period, the plat shall automatically be submitted to the City Council for their final decision.

(H) If the preliminary plat is disapproved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat and the subdivider may make the changes as will bring the plat into compliance with these regulations. The subdivider shall have 60 days from the date of the denial to resubmit the plat for approval. If a

~~revised plat is not submitted within the period, any future resubmittal will require the payment of an additional filing fee. If the revised plat is resubmitted within the 60-day period, a submission fee shall not again have to be repaid. The resubmitted revised plat shall be reviewed by the TRC, Planning Board and, if necessary, City Council, in the same manner as any other preliminary plat. The Administrator shall retain at least one copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons and any remaining copies of the plat shall also be transmitted to the subdivider.~~

~~(I) If the preliminary plat is approved, it shall be indicated on the reproducible copy of the plat and the copy shall be retained by the Administrator as part of the city's official records. Any remaining copies of the approved plat shall be transmitted to the subdivider. If the preliminary plat is approved with conditions, the conditions shall be noted on or attached to the reproducible copy of the plat and shall be retained by the Administrator as part of the city's official records. A copy of the conditions shall also be transmitted to the subdivider. Once these conditions are met, the plat shall be noted as approved on the reproducible copy. A copy of the approved plat shall then be transmitted to the subdivider. Unless otherwise specified in the terms of approval, the conditions shall have been complied with by the subdivider within 12 months of the date of the conditional approval; otherwise, approval of the preliminary plat shall be null and void.~~

(A) *Application.*

1) All preliminary plats shall first submit a sketch plan for review by the Subdivision Technical Review Committee (TRC) prior to submission to the Planning Board and, where necessary, to the City Council. For requirements, see § 153.383.

2) To be considered a valid submission for review, all of the following are required to be submitted to the Administrator by the posted application deadline:

    a) Four paper copies and one digital copy of the preliminary plat meeting the specifications of § 153.387 of these regulations;

    b) Completed application;

    c) Nonrefundable fee in accordance with the City Council's most recently adopted fee schedule.

(B) *Process.*

1) Preliminary and final plat approval are required for all major subdivisions.

    a) The Planning Board may approve preliminary plats containing 250 lots or less.

    b) Only the City Council has the authority to grant final approval in any of the following situations:

1. Subdivisions containing over 250 lots;
2. Subdivisions that require the placement of oversized utility lines;
3. Subdivisions that require a dedication of land or fee in lieu of per 153.398 *Other Requirements.*

2) The Planning Board shall have 31 days from the meeting date at which the plat was reviewed to either:
   a) Approve the plat;
   b) Approve the plat with conditions;
   c) Approve the plat with modifications per § 153.378;
   d) Disapprove the plat; and/or
   e) Make a recommendation to the City Council on a plat containing over 250 lots.

3) If no recommendation or decision is made during the 31-day period, the plat shall automatically be submitted to the City Council for their final decision.

4) If the preliminary plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least one copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.
   a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.
   b) If a revised plat is not submitted within the period, any future resubmittal will require the payment of an additional non-refundable fee. The resubmitted revised plat shall be reviewed in the same manner as any other preliminary plat.
   c) After the third review, each additional submittal will require an additional non-refundable filing fee, in accordance with a fee schedule most recently adopted by the City Council.

5) If the preliminary plat is approved, it shall be indicated on the reproducible copy of the plat, and the copy shall be retained by the Administrator as part of the

city's official records. A copy of the approved plat shall be transmitted to the subdivider.

6) If the preliminary plat is approved with conditions, the conditions shall be noted on or attached to the copy of the plat and shall be retained by the Administrator as part of the city's official records. A copy of the conditions shall also be transmitted to the subdivider. Once these conditions are met, the plat shall be noted as approved. A copy of the approved plat shall then be transmitted to the subdivider.

    a) Unless otherwise specified in the terms of approval, the conditions shall have been complied with by the subdivider within 12 months of the date of the conditional approval; otherwise, approval of the preliminary plat shall be null and void.

7) Once the preliminary plat is approved, the subdivider may proceed with preparing the final plat and begin grading and installing the required improvements in accordance with the approved preliminary plat and the requirements of these regulations.

(C) *Expiration.*

a) The subdivider may request a time extension for up to 12 months for the preliminary plat from the administrator. The request must be submitted before the original plat expiration date. The administrator may grant no more than one extension.

b) The subdivider shall submit the final plat to the Administrator no later than 24 months after the preliminary plat's approval, unless a greater expiration date was granted originally in the preliminary plat approval. Otherwise, the preliminary plat's approval shall expire and become null and void.

Prior UDO, § 17.14) (Ord. O-04-21, passed - - ; Ord. O-5-23, passed 4-6-2023) Penalty, see § 153.999

§ 153.385 FINAL SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) Application. This section shall apply to both major and minor subdivisions.

(B) Preparation of final plat and installation of improvements.

(1) Upon approval of the preliminary plat, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of these regulations. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in these regulations or guaranteed their installation as provided herein. The final plat shall constitute only that portion of the preliminary plat that the subdivider proposes to record and develop at that time. The portion shall conform to all requirements of these regulations and shall depict the subdivision, or portion thereof, in substantially the same form and layout as that approved in the preliminary plat. Otherwise, the final plat may not be approved. Only that portion of the subdivision proposed for final plat approval and recordation in the Deeds Office shall be shown on the final plat.

(2) The subdivider shall submit the final plat to the Administrator no later than 24 months after the approval of the preliminary plat, unless a greater time period was stipulated originally in the preliminary plat approval. Otherwise, approval of the preliminary plat shall expire and become null and void. A nonrefundable fee, in accordance with a fee schedule most recently adopted by the City Council, shall accompany each final plat submitted.

(3) Notwithstanding, the subdivider may submit a request to the Administrator for a time extension for up to 12 months for the preliminary plat. The request must be submitted to the Administrator prior to the original plat expiration date. No more than one extension may be granted by the Administrator. The subdivider may submit a final plat for only a portion of the subdivision given preliminary plat approval. Any submission shall be accompanied by the applicable final plat submittal fee. The submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional 24 months past the date of the final plat approval.

(C) Improvements guarantees.

(1) Agreement and security required. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the city may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the City Council, if all other requirements of these regulations are met. To secure this agreement, the subdivider shall provide to the City Council either one, or a combination of the following guarantees. The amount of the guarantee shall be equal to one and twenty-five one-hundredths times the cost of installing all required improvements. All guarantees shall be subject to the approval of the City Council (based on recommendations from the city's Director of Public Works and Utilities) and shall be made payable to the city.

(a) Surety performance bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The duration of the bond(s) shall be until a time as the improvements are accepted by the City Council.

(b) Cash or equivalent security.

1. The subdivider shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the city or in escrow with a financial institution designated as an official depository of the city.

2. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the subdivider shall then file with the City Council an agreement between the financial institution and himself or herself guaranteeing the following:

a. The escrow account shall be held in trust until released by the City Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

b. In case of a failure on the part of the subdivider to complete the improvements, the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the city the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the city any other instruments fully endorsed or otherwise made payable in full to the city.

(2) Default. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the City Council, pay all or any portion of the bond or escrow fund to the city up to the amount needed to complete the improvements based on the estimate by the Director of Public Works and Utilities. Upon payment, the City Council, in its discretion, may expend a portion of the funds, as it deems necessary to complete all or any portion of the required improvements. The city shall return to the bonding firm any finds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the subdivider shall nonetheless be responsible for providing the funds to cover the costs. The subdivider shall at all times bear the financial burden for the installation of all required improvements.

(3) Release of guarantee security. The City Council may authorize the City Manager to release a portion of any security posted as the improvements are completed and approved by the city. The funds shall then be released within ten days after the corresponding improvements have been so approved.

(D) Submission procedure.

(1) At least eight complete copies and a digital copy of the final plat shall be submitted to the Administrator.

(2) One of these copies shall be on reproducible material; the remaining copies shall be black or blue line paper prints. The copies shall only be considered complete if they contain all of the information required by § 153.387 of these regulations.

(3) The Administrator shall have the authority to review and approve any final plat except one that involves improvement guarantees as outlined in division (C) above of these regulations. The Administrator, at his or her discretion, may receive comment from the TRC and/or transmit a final plat to the Planning Board for their review and approval. The Planning Board shall have the authority to approve any final plat except one that involves improvement guarantees as outlined in division (C) above of these regulations. The Planning Board and City Council shall have the authority to approve a plat with modifications per § 153.378.

(4) Material and drawing medium for the reproducible copy shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

(5) The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than one inch equals 100 feet, unless each lot in the proposed subdivision is more than three acres. In that case, the scale shall not be less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(6) (a) The Administrator shall have 21 days from the date at which the plat was submitted to:

1. Approve the plat;

2. Disapprove the plat; or

3. Submit the final plat to the Planning Board for their review and decision.

(b) If the Administrator takes none of these actions during the 21-day period, the plat shall automatically be submitted to the Planning Board for its review and decision.

(7) If the final plat is disapproved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat and the subdivider may make changes as will bring the plat into compliance with these regulations. The subdivider shall have 21 days from the date of denial to resubmit his or her plat for approval.

(8) If a revised plat is not submitted within the period, any future resubmittal of the plat will require the payment of an additional filing fee. The resubmitted revised plat shall be reviewed in the same manner as any other final major subdivision plat. The Administrator shall retain at least one copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons and any remaining copies of the plat shall also be transmitted to the subdivider.

(9) If the final plat is approved, the Administrator shall send a certified notice of the approval to the subdivider. The subdivider shall have 21 days from the date of final approval to have the plat recorded in the Deeds Office. Otherwise, the approved final plat shall be null and void.

(10) If the final plat is approved, the approval shall be shown on the reproducible copy of the plat by the following signed certificate:

(a) Certificate of Approval for Recording.

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City of Lincolnton, North Carolina and that this plat has been approved by _____ on_____for recording in the Lincoln County Deeds Office.

_____ _____

Administrator Date

City of Lincolnton, North Carolina

(b) Certificate of Ownership and Dedication.

Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the planning jurisdiction of the City of Lincolnton and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewers to_____, all storm sewer systems to_____and all water lines to_____.

_____ _____

Date Owner

(c) Certificate of Survey and Accuracy.

1. In accordance with the Standards of Practice for Land Surveying in North Carolina.

2. On the face of each map prepared for recordation for there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map that were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.

3. The certificate shall take the following general form.

Certificate of Survey and Accuracy

~~I,_____certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book_____, Page_____, etc.) (Other); that the ratio of precision as calculated by latitudes and departure is 1:_____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book_____, Page_____; that this accordance with G.S. § 47-30, as amended. Witness my hand and seal this_____day of_____A.D. 20____.~~

~~_____ _____~~

~~Registered Land Surveyor~~

~~OFFICIAL SEAL _____~~

~~Registration Number~~

~~I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the_____day of_____, 20_____.~~

~~_____ _____~~

~~Signature of Officer OFFICIAL SEAL~~

~~(d) Certificate of Approval of the Design and Installation of Streets, Utilities and Other Required Improvements.~~

~~Certificate of Approval of the Design and Installation of Streets, Utilities and Other Required Improvements~~

~~I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to North Carolina Department of Transportation specifications and standards in the_____Subdivision or as otherwise provided for in these regulations, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the City of Lincolnton has been received, and that the filing fee for this plat, in the amount of $_____has been paid.~~

~~_____ _____~~

~~Administrator Date~~

A) *Preparation of Final Plat.*

1) The subdivider shall submit the final plat to the Administrator no later than 24 months after the preliminary plat's approval, unless a greater expiration date was granted originally in the preliminary plat approval. Otherwise, the preliminary plat's approval shall expire and become null and void.

2) Prior to approval of a final plat, the subdivider shall have installed the improvements specified in these regulations or guaranteed their installation as provided herein.

3) If applicable, recorded maintenance agreements as determined by the TRC.

4) The final plat shall represent only the phase(s) of the approved preliminary plat that the subdivider proposes to record at that time. The phase shall conform to all requirements of these regulations, and must depict the subdivision, or portion thereof, in substantially the same form and layout as the approved preliminary plat. Otherwise, the final plat may not be approved.

a) For subsequent phases, the submission expiration date shall be extended for the subdivision's remaining phase(s) for an additional 24 months past the date of the final plat approval.

B) *Application.*

1) To be considered a valid submission for review, all the following are required to be submitted to the Administrator for review:

a) Completed application;

b) Nonrefundable submittal fee in accordance with the City Council’s most recently adopted fee schedule;

c) Three paper copies, a digital copy, and one mylar of the final plat, which contains all the information required by § 153.387 and the following requirements:

1. Material and drawing medium for the reproducible copy shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the County Register of Deeds requirements.

2. The final plat shall be 18 inches by 24 inches in size and shall be at a scale of not less than one inch equals 100 feet, unless each lot in the proposed subdivision is more than three acres. In that case, the scale shall not be less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

d) If applicable:

1. Improvement Guarantee Agreement

2. Where a dedication of land is required, the dedication shall be shown on the final plat when submitted, and the submission shall include an executed general warranty deed conveying the dedicated land to the City.

3. Where the City Council approves a payment in lieu of dedication, the payment must be made before the final plat is signed and recorded.

C) *Improvement Guarantees*

1) In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the City may enter into an agreement with the subdivider in which the subdivider agrees to complete all required improvements.

2) Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the City Council if all other requirements of these regulations are met. The amount of the guarantee shall be equal to one and twenty-five one-hundredths times the cost of installing all the required improvements.

3) All guarantees shall be subject to the approval of the City Council (based on recommendations from the City's Director of Public Works and Utilities) and shall be made payable to the City.

4) To secure this agreement, the subdivider shall provide the City Council with either one or a combination of the following guarantees.

a) *Surety performance bond(s).* The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in the state. The duration of the bond(s) shall be until a time when the improvements are accepted by the City Council (See section (F) below).

b) Cash or equivalent security.

1. The subdivider shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the City or in escrow with a financial institution designated as the City's official depository.

2. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the subdivider shall then file with the City Council an agreement

between the financial institution and himself or herself guaranteeing the following:

a. The escrow account shall be held in trust until released by the City Council and may not be used or pledged by the subdivider in any other matter during the term of the escrow; and

b. In case of a failure on the part of the subdivider to complete the improvements, the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the City the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

5) *Default.* Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the City Council, pay all or any portion of the bond or escrow fund to the City up to the amount needed to complete the improvements based on the estimate by the Director of Public Works and Utilities. Upon payment, the City Council, in its discretion, may expend a portion of the funds, as it deems necessary to complete all or any portion of the required improvements. The City shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the subdivider shall nonetheless be responsible for providing the funds to cover the costs. The subdivider shall at all times bear the financial burden for the installation of all required improvements.

6) *Release of guaranteed security.* The City Council may authorize the City Manager to release a portion of any security posted as the improvements are completed and approved by the City, and once the required infrastructure as-builts have been provided to the City. The funds shall then be released within ten days after the corresponding improvements have been so approved.

E) *Review*

1) Only the City Council is authorized to approve plats that involve any of the following:

a) Improvement guarantees as outlined in section (C) above of these regulations.

b) Oversized Improvements as outlined in § 153.398 (C) *Other Requirements.*

c) Dedication of land for and/or fees in lieu of as outlined in § 153.398 (D) *Other Requirements.*

2) The Administrator shall have the authority to review and approve any final plat other than those listed above. At his or her discretion, the Administrator may receive comment from the TRC and/or transmit a final plat to the Planning Board for their review and approval.

3) The Planning Board shall have the authority to approve any final plat other than those listed above.

4) The Planning Board and City Council have the authority to approve a plat with modifications per § 153.378.

5) The Administrator shall have 21 days from the date on which the plat was submitted to:

a) Approve the plat;

b) Disapprove the plat; or

c) Submit the final plat to the Planning Board for their review and decision.

6) If the Administrator takes none of these actions during the 21-day period, the plat shall automatically be submitted to the Planning Board for its review and decision.

7) If the final plat is not approved, the Administrator shall instruct the subdivider concerning the resubmission of a revised plat, and the subdivider may make the changes that will bring the plat into compliance with these regulations. The Administrator shall retain at least one copy of any disapproved plat along with the reasons for disapproval as part of the city's official records. A copy of the reasons shall also be transmitted to the subdivider.

a) The subdivider has 21 days from the date of the denial to resubmit the plat for approval.

b) If a revised plat is not submitted within the period, any future resubmittal of the plat will require the payment of an additional non-refundable fee. The resubmitted revised plat shall be reviewed in the same manner as any other final major subdivision plat.

c) After the third review, each additional submittal will require an additional non-refundable fee, in accordance with a fee schedule most recently adopted by the City Council.

8) If the final plat is approved, the Administrator shall send a notice of approval to the subdivider. The approval shall be shown on the reproducible copy of the plat and include all required certificates. The subdivider shall have 21 days from the date of final approval to have the plat recorded in the Deeds Office. Otherwise, the approved final plat shall be null and void.

F) Effect of plat approval on dedications. Per G.S. 160D-806

1) The approval of a plat shall not be deemed to constitute the acceptance by the local government or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, any governing board may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its planning and development regulation jurisdiction. Acceptance of dedication of lands or facilities located within the planning and development regulation jurisdiction but outside the corporate limits of a city shall not place on the city any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a city shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits. Unless a city, county, or other public entity operating a water system shall have agreed to begin operation and maintenance of the water system or water system facilities within one year of the time of issuance of a certificate of occupancy for the first unit of housing in the subdivision, a city or county shall not, as part of its subdivision regulation applied to facilities or land outside the corporate limits of a city, require dedication of water systems or facilities as a condition for subdivision approval.

(Prior UDO, § 17.15) (Ord. O-1-2024, passed 1-4-2024) Penalty, see § 153.999

§ 153.386 PLANNING UNIT DEVELOPMENTS (PUDs) AND PLANNED RESIDENTIAL DEVELOPMENTS (PRDs).

(A) To accommodate the difference between traditional lot-by-lot subdivisions and PUDs/PRDs, the city may waive or modify the design standards of these regulations and incorporate design standards applicable only to planned developments as set forth in §§ 153.123 through 153.127 of this chapter. The waivers or modifications shall not be subject to the approval procedures outlined in § 153.378 of these regulations. To be reviewed under the PRD/PUD procedures a development must meet the criteria set forth in §§ 153.123 or 153.124 of this chapter.

(B) The subdivision design standards may be waived or modified for PRDs provided that the intent of these regulations is not mollified or lessened and provided that sufficient proof is given substantiating the adequacy of the attentive design. Planned unit developments and planned residential development shall follow the review procedures and development standards as set forth in §§ 153.123 through 153.127 of this chapter.

(C) All PRDs/PUDs shall be considered major subdivisions and shall follow all applicable procedures set forth for the approval of the subdivisions. The subdivision approval process may occur at the same time with the PRD/PUD approval process.

(D) The Planning Board, Committee and Administrator shall coordinate their review and advisory efforts wherever feasible in order to limit any unnecessary delays.

(Prior UDO, § 17.16) (Ord. O-04-21, passed - -) Penalty, see § 153.999

§ 153.378 WAIVERS AND MODIFICATIONS.

(A) The Planning Board or City Council shall have the authority to waive or modify the terms of this chapter as the terms apply to the plat approval process on a case-by-case basis after having first held a public hearing and having found in the affirmative each of the following findings:

(1) There are special circumstances or conditions affecting the property so that the strict application of the provisions of this chapter would deprive the subdivider of the reasonable use of his or her land;

(2) The modification is necessary for the preservation of a substantial property right of the petitioner;

(3) The circumstances giving rise to the need for the modification are peculiar to the subdivision and are not generally characteristic of other subdivisions; and

(4) The granting of the modification will not be detrimental to the public's health, safety and welfare or injurious to other properties in close proximity to the subdivision site.

(B) Notice of the public hearing shall be provided in the following manner:

(1) The city shall send notice by first class mail to the applicant and to owners of all contiguous pieces of property at least ten working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur;

(2) Notice shall also be posted by the city in a conspicuous location in the City Hall at least ten working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur; and

(3) A conspicuous sign shall also be posted by the city in a conspicuous location on the subject property at least ten working days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place where it is to occur.

(C) The public hearings can be held at the same time as the meeting at which the Planning Board or City Council holds to consider plat approval. The decision to issue a waiver or modification on a plat may only be made by that body given the authority to approve the plat. If the Planning Board makes the decision, the City Council shall have no authority to override or modify the Planning Board's decision.

~~(D) Waivers and modifications, as called for in § 153.386, shall not be subject the requirements of this section.~~

Zoning Amendment
Staff's Proposed Statement of Consistency for
APPROVAL of Application

Case No. ZTA-2-2025

Applicant: City of Lincolnton Planning Department

Request: ZTA-2-2025 - Zoning Text Amendments to Chapter 153 Unified Development Ordinance

Proposed Consistency and Reasonableness Statement:

> The proposed amendment is **consistent** with the adopted Lincolnton Land Use Plan in that it is not contrary to the goals and objectives outlined by the Plan, and **approval of the amendment is reasonable and in the public interest**.

CONSISTENT: Because it updates text language to match current procedures and best practices, and it provides additional direction to assist citizens in understanding the regulations.

Staff Recommendation:

Approve ZTA-2-2025 as written.

Motions:

Motion to approve with Staff recommendations