MEMO TO: Planning Board

FROM: Planning Staff

SUBJECT: ZTA-3-2025 - Zoning Text Amendments to Chapter 152 Flood Damage Prevention Ordinance and Chapter 153 Unified Development Ordinance

DATE: May 20, 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:

§ 152.41 SPECIFIC STANDARDS.

Staff Comment: We do not permit recreational vehicles for residential use. This is the model ordinance provided by the state. This correction will align the Flood Damage Prevention Ordinance with our Unified Development Ordinance.

Proposed New Section:

§ 153.386

Staff Comment: Added this section to clarify which certificates are required for different types of plats, aiming to eliminate confusion and save time during the review process.

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

Case No. ZTA-3-2025

Applicant: City of Lincolnton Planning Department

Request: ZTA-3-2025 - Zoning Text Amendments to Chapter 152 Flood Damage Prevention Ordinance and 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-3-2025 as written.

Motions:

Motion to approve

Or

Motion to deny

§ 152.41 SPECIFIC STANDARDS.

In all special flood hazard areas where BFE data has been provided, as set forth in § 152.07 or § 152.42, the following provisions, in addition to the provisions of § 152.40, are required:

(A) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation (RFPE), as defined in § 152.05.

(B) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05. Structures located in Zones A, AE, AH, and AO may be floodproofed to the regulatory flood protection elevation (RFPE) in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with § 152.45(B). A registered professional engineer or architect shall certify that the floodproofing standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 152.26(C), along with the operational plan and the inspection and maintenance plan.

(C) Manufactured homes.

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation (RFPE), as defined in § 152.05.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) below.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or

subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) Elevated buildings. Fully enclosed areas, of new construction and substantially improved structures, which are below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood-resistant materials at least to the regulatory flood protection elevation; and

(4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

(E) Additions/improvements.

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure;

(b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure, or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure;

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this chapter. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the Building Official and that are the minimum necessary to assume safe living conditions; or

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) Recreational vehicles. ~~Recreational vehicles shall either:~~

1. Not allowed for residential purposes.

~~(1) Temporary placement.~~

~~(a) Be on site for fewer than 180 consecutive days; or~~

~~(b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.~~

~~(2) Permanent placement. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.~~

(G) Temporary non-residential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) Accessory structures. When accessory structures (sheds, detached garages, and the like) are to be placed within a special flood hazard area, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory structures shall be firmly anchored in accordance with the provisions of § 152.40(A);

(6) All service facilities such as electrical shall be installed in accordance with the provisions of § 152.40(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of division (D)(4) above. An accessory structure with a footprint less than 150 square feet or that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of division (B) above. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 152.26(C).

(I) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

(1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(2) Above-ground tanks elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of division (B) above shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(a) At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) Other development.

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 152.44.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 152.44.

(3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 152.44.

(4) Commercial storage facilities are not considered "limited storage" as noted in this chapter, and shall be protected to the regulatory flood protection elevation as required for commercial structures.

(Prior Code, § 4-112) (Ord. passed 3-5-1991; Ord. O-02-07, passed 7-12-2007; Ord. passed 11-2-2023)

153.386 Plat Types and Approved Certificates

Certificates are provided by the planning department.

A. Exempt Plats
    1) The following are not subject to subdivision regulations or certified by a Review Officer:
        a) That the survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purposes of this subsection, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
        b) That the survey is of an existing feature, such as a building or other structure, or natural feature, such as a watercourse.
        c) The survey is a control survey. For the purposes of this subsection, a "control survey" is a survey that provides horizontal or vertical position data for support or control of other surveys or for mapping. A control survey, by itself, cannot be used to define or convey rights or ownership.
        d) That the survey is of a proposed easement for a public utility as defined in G.S. 62-3.

    2) Required Certificates:
        a) Certificate of Survey and Accuracy - Surveyor's Certificate
        b) Requires a statement from the surveyor certifying one of the exemptions above.

B. Exception Plat
    1) The following are not subject to subdivision regulations, but is subject to plat review, zoning, and other regulations:
        a) 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 local government as shown in its subdivision regulations.
        b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
        c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
        d) The division of a tract in single ownership whose entire area is no greater than 2 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 local government, as shown in its subdivision regulations.

e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

2) Required Certificates:
    a) Certificate of Survey and Accuracy - Surveyor's Certificate
        i. Statement notating that the survey is of another category, such as the recombination of existing parcels or other exception to the definition of subdivision. *(signature required if it is a standalone certification)*
    b) Review Officer Certificate
    c) Certificate of Approval for Recording – Exception Plats
    d) Certificate of Ownership and Dedication
    e) Watershed Certificate (if applicable)
    f) Septic Tank Disclosure Statement (if applicable)

C. Minor Subdivision
1) A subdivision where:
    a) No new roads are proposed or road rights-of-way dedicated; and
    b) Where ten or fewer lots will result after the subdivision is completed.
2) Required Certificates:
    a) Certificate of Survey and Accuracy - Surveyor's Certificate
    b) Review Officer Certificate
    c) Certificate of Approval for Recording
    d) Certificate of Ownership and Dedication
    e) Watershed Certificate (if applicable)
    f) Septic Tank Disclaimer Statement (if applicable)

D. Major Subdivision
1) A subdivision where:
    a) New roads are proposed, or rights-of-way are dedicated; or
    b) More than ten lots are created after the subdivision is completed.
2) Requires a Preliminary Plat before the Final Plat Approval
3) Required Certificates:
    a) Certificate of Survey and Accuracy - Surveyor's Certificate
    b) Review Officer Certificate
    c) Certificate of Approval for Recording
    d) Certificate of Ownership and Dedication
    e) Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements (if applicable)
    f) Subdivision Street Disclosure (if applicable)
    g) Common Open Space Disclosure (if applicable)

h) Watershed Certificate (if applicable)
i) Septic Tank Disclaimer Statement (if applicable)