

Town Board of Commissioners Meeting

Town Hall - 8590 Park Drive Mount Pleasant, NC

Monday, July 12, 2021

6:00 PM

To: Planning & Zoning Board

From: Erin S. Burris, AICP, Planning & Economic Development Director

Date: July 12, 2021

Subject: TA 2021-01 160D Amendments

A. BACKGROUND

Applicant: Town of Mount Pleasant

Affected Sections of UDO: All Articles of the Mount Pleasant Development Ordinance to the extent necessary to comply with new NCGS Chapter 160D and to ensure consistency among regulations

The proposed text amendments are proposed to bring the Development Ordinance into compliance with the new North Carolina General Statutes 160D. See attached checklist.

Additionally, it is proposed that the ordinance be renamed the Mount Pleasant Development Ordinance (MPDO) instead of the Unified Development Ordinance, similar to other Cabarrus jurisdictions, as the ordinance has been amended over time to be different for each municipality.

A. RELATIONSHIP TO ADOPTED PLANS & POLICIES

There are no strategies in the adopted Comprehensive Plan related to this request.

B. STAFF RECOMMENDATION

Staff **recommends approval** of the proposed amendments.

C. Planning & Zoning Board Recommendation

The Planning & Zoning Board **recommends approval** and finds that proposed amendments are not addressed by the Comprehensive Plan, but are not inconsistent with it. These amendments are intended to bring the Development Ordinance into compliance with new NCGS Chapter 160D, as required by state law, to rename the Unified Development Ordinance (UDO) to the Mount Pleasant Development Ordinance (MPDO), and to reorganize and codify the Ordinance accordingly.

D. ACTION REQUESTED

The Town Board is requested to take action on one of the following items:

- **Approve and consistent:** The Town Board finds that proposed amendments are not addressed by the Comprehensive Plan, but are not inconsistent with it. These amendments are intended to bring the Development Ordinance into compliance with new NCGS Chapter 160D, as required by state law, to rename the Unified Development Ordinance (UDO) to the Mount Pleasant Development Ordinance (MPDO), and to reorganize and codify the Ordinance accordingly.
- **Approve and not consistent:** The Town Board finds that the proposed amendments are not consistent with the Comprehensive Plan as adopted, but finds the proposed amendments to be reasonable and in the public interest and amends the Comprehensive Plan with this action to establish consistency.
- **Deny and not consistent:** The Town Board finds that the proposed amendments are not consistent with the Comprehensive Plan and does not consider the action to reasonable and in the public interest.
- **Defer:** The amendment needs additional consideration.

E. ATTACHMENTS

- Portions of Articles 1, 2, 3, 4, 5, 6, 12, 13, and Appendix A.
- All other amendments are reflective of changes in the Sections provided for the purposes of consistency and codification.

ARTICLE 1 GENERAL PROVISIONS

~~Summary: This Article provides an introduction to the structure and the legal framework of the Unified Development Ordinance (the “UDO”). The UDO combines the zoning and subdivision authority of the Town into one document. This Section recites applicable statutory authority, the applicability of the UDO to various uses and geographic areas of the Town and its incorporated areas, consistency with the Area Plans (the Comprehensive Plan), coordination with other regulations, the effective date, violations, and related matters.~~

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1.1. GENERAL PROVISIONS

1.1.1. TITLE

This Ordinance shall be known and may be cited as the Unified Mount Pleasant Development Ordinance (hereinafter "the Ordinance"). This Ordinance may also be known and may be referred to as the "UMPDO."

1.1.2. PURPOSE

The Ordinance enables the Town to respond uniformly and consistently to development proposals and to promote the health, safety, and general welfare of residents. The Town is also working towards unified development goals that promote the welfare of the entire region, while providing uniformity, certainty, and predictability for persons subject to this Ordinance. This Ordinance also attempts to provide flexibility in dealing with situations that may fall outside typical processes and requirements. The elements that make up the Ordinance are interrelated and cannot be taken in isolation; they must be taken within the context and intent of the entire Ordinance. Specifically, the purposes of this Ordinance are to implement and maintain consistency with the Town's Comprehensive Plan, in accordance with NCGS 160D-501, as described below: in subsections 1.3 through 1.4 of this Section.

ZONING REGULATIONS

~~Zoning regulations are included in Articles 4-5 and 7-13. Pursuant to NCGS § 160A-381 et seq., the power of zoning is exercised in order to implement the *Comprehensive Plan*, and to:~~

- to promote health, safety, and the general welfare;
- to protect and maintain community character;
- to preserve a high quality of life for residents;
- to promote economic development and sustainability;
- to establish a sustainable land development pattern that complements the character of the Town while promoting economic development and controlled growth where adequate infrastructure exists;
- provide for the orderly growth and development of the Town and for the efficient use of our resources (land, water, roads, etc.);
- to ensure the preservation of environmentally sensitive areas and provision of open space and recreational opportunities
- to provide adequate public infrastructure;
- to provide for the dedication or reservation of and rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS 136-66.10 or 136-66.11;
- provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding;
- ~~to lessen congestion in the streets;~~
- ~~to secure safety from fire, panic, and other dangers;~~
- ~~to prevent the overcrowding of land;~~
- ~~to avoid undue concentration of population;~~
- ~~to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;~~

- ~~to protect and/or to enhance the character of each zoning district and its peculiar suitability for particular uses;~~
- ~~to conserve the value of buildings; and~~
- ~~to encourage the most appropriate use of land throughout the planning areas.~~

SUBDIVISION REGULATIONS

~~Subdivision regulations are included in Article 6. Pursuant to NCGS § 160A-372, the power of subdivision control is exercised in order to:~~

- ~~implement the *Comprehensive Plan* for the Town;~~
- ~~provide for the coordination of streets and highways within proposed developments with existing or planned streets and highways and with other public facilities;~~
- ~~provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision development or, alternatively, for provision of funds to be used to acquire recreation areas serving residents of the neighborhood and/or for residents within the immediate area;~~
- ~~provide for the distribution of population and traffic that will enhance public health, safety, and the general welfare;~~
- ~~provide that sufficient data is presented accurately by subdividers to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines;~~
- ~~provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal or county policies and standards and, to assure compliance with these requirements, by requiring the posting of bonds or any other method that will offer guarantee of compliance;~~
- ~~provide for the reservation of school sites in accordance with comprehensive land use plans approved by the Town and/or Cabarrus County School Board.~~
- ~~require the preparation and recording of a plat whenever any subdivision of land takes place;~~
- ~~provide that a developer may offer funds for the Town to acquire recreational land to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area; and~~
- ~~to provide that, in lieu of required street construction, a developer may be required to provide funds for the Town to construct roads that serve the neighborhood and these funds may be used for roads which serve more than neighborhood within the area.~~

1.1.3. AUTHORITY

The Town is authorized by the North Carolina General Statutes (“NCGS”) to exercise broad powers in the regulation of zoning, planning, subdivision of land, and building. The Town through the MPDO intends to use all powers provided by virtue of ~~Article 19 of Chapter 160A (§§ 160A-360 to 160A-459)~~ Chapter 160D of the NCGS. The MPDO also uses specific powers granted in other Sections of the NCGS relating to particular types of development or particular development issues, including but not limited to right-of-way preservation, sedimentation control, watershed protection, historic preservation, and beautification and urban design.

1.1.4. JURISDICTION & APPLICABILITY

1.1.4.1. Jurisdiction

The Ordinance shall apply to all public buildings and private land(s), and use(s) thereon over which the Town has jurisdiction under the constitution(s) and law(s) of the State of North Carolina and of the United States, including any areas within ~~the jurisdiction of the Town~~ municipal limits and extraterritorial jurisdiction (ETJ) pursuant to NCGS ~~160A-360 160D-202~~. The Planning Department Ordinance Administrator (hereinafter known as the "~~Department~~" "Administrator") of the Town can be contacted for further information about the use of this Ordinance.

1.1.4.2. Zoning Map Incorporated

The Official Zoning Map of the Town of Mount Pleasant, North Carolina and all notations, references, and other information shown on the map are hereby incorporated and made a part of this Ordinance.

1.1.4.3. Building and Land Use

The use of buildings and land within the Town shall be subject to all other regulations as well as this Ordinance, whether or not such other provisions are specifically referenced in this Ordinance. References to other regulations or provisions of the Ordinance are for the convenience of the reader; lack of a cross reference should not be construed as an indication that other regulations do not apply.

1.1.4.4. Permits and Certificates

No development activity shall occur on any property within the jurisdiction of this Ordinance until all applicable permits, approvals and certificates have been issued and approved by the appropriate officials.

1.1.4.5. State-Owned Land and Buildings

Pursuant to NCGS ~~160A-392~~ [160D-912](#), no land owned by the State of North Carolina may be included within an overlay district or conditional zoning district without approval of the Council of State. Also pursuant to NCGS ~~160A-392~~ [160D-912](#), ~~each provision of this UDO is~~ [all local government zoning regulations are](#) applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions.

1.1.5. FEES

The Town Board may establish any administrative fees necessary to enforce of the zoning ordinance. Such fees shall be limited to the reasonable costs of administering and processing applications for development approval. No permit shall be processed, and no permit shall be considered to be submitted, until all applicable administrative fees have been paid.

1.1.6. SEVERABILITY

It is hereby declared to be the intent of the Town Board that the provisions of this Ordinance shall be severable. If any provision is declared invalid by a court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and such decision shall not affect, impair or nullify this Ordinance as a whole or any other part thereof, but the rest of the Ordinance shall continue in full force and effect.

1.2. VESTED RIGHTS

~~EXEMPTIONS AND SPECIAL CONSIDERATIONS~~

1.2.1. EFFECT ON VALID BUILDING PERMITS AND VESTED RIGHTS

Unless the property owner consents, this Ordinance does not apply to the completion of the development of buildings or uses for which either:

- A. Building permits have been issued pursuant to NCGS 160D-1110 prior to July 1, 2013 so long as the permits remain valid and unexpired pursuant to NCGS 160D-1111 and unrevoked pursuant to NCGS 160D-1115; or
- B. Unless otherwise specified in this Ordinance, a vested right has been established and such right remains valid and unexpired pursuant to NCGS 160D-108.
- C. A judicial established common law vested right where (1) the owner has made substantial expenditures; (2) the expenditures were made in good faith; (3) the expenditures were made in reliance on valid government approval, if such was required; and (4) the owner would be harmed with a vested right. [ref. Browning-Ferris Indus. of S. Atl., Inc. v. Guilford County Bd. of Adjustment, 126 N.C. App. 168, 171-72, 484 S.E. 2d 411, 414 (1997)]

1.2.2. OTHER APPROVALS GRANTED PRIOR TO THE EFFECTIVE DATE

Variances, special use permits, subdivision plats, site plans and other similar development approvals that are valid on the Ordinance Effective Date will remain valid until their expiration date if applicable. Development may be completed in accordance with such approvals even if such building, development or structure does not fully comply with the provisions of this Ordinance. If development is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development or structure must meet the standards of this Ordinance in effect at the time of any re-application.

1.2.3. EFFECT OF DEVELOPMENT APPROVAL

In accordance with NCGS 160D-104, unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to NCGS Chapter 160D attach to and run with the land.

The provisions of this UDO shall not apply to:

a validly approved statutory vested right (including currently effective site specific development plan or preliminary plat approved pursuant to NCGS § 160A-385.1 prior to the effective date of this Ordinance provided); or

1.3. CONSISTENCY WITH COMPREHENSIVE PLAN

1.3.1. GENERALLY

Pursuant to NCGS ~~160A-383~~ 160D-501, the Town shall adopt and reasonably maintain a Comprehensive Plan and may adopt other relevant plans as necessary. This Ordinance is intended to implement the goals, objectives, and policies of the *Comprehensive Plan*. Any amendments to, or actions pursuant to the Ordinance shall be consistent with the applicable *Comprehensive Plan*. The *Comprehensive Plan* may be amended, and the UDO will reflect those amendments.

~~COMPREHENSIVE PLAN DEFINED:~~

~~The Comprehensive Plan shall be that as defined in Appendix A of this Ordinance.~~

1.3.2. ~~AMENDMENTS TO TEXT~~ CONSISTENCY

Pursuant to NCGS 160D-604 and 160D-605, the Planning & Zoning Board and Town Board of Commissioners shall review all amendments to the text of this Ordinance and the Zoning Map with consideration to the amendment's consistency with the adopted Comprehensive Plan.

~~Any amendment to the UDO must conform to the goals of the Comprehensive Plan. Any amendment to the zoning map must be consistent with the future land use map contained in the applicable Comprehensive Plan and/or the purpose statement for the zoning district found in section 4.3.~~

1.4. INTERPRETATION

1.4.1. INTERPRETATION AND APPLICATION OF PROVISIONS

The provisions of this Ordinance are the basic and minimum requirements for the protection of public health, safety, and welfare. As provided by NCGS 160A-4, this Ordinance shall be liberally interpreted in order to further its underlying purposes. In all cases, the highest standards will be applied. The meaning of any and all words, terms or phrases in this Ordinance may be found in Appendix A.

1.4.1.1. Rules of Language and Construction

For the purposes of interpreting the general language and sentence construction of this Ordinance, the following rules of construction apply unless the context clearly indicates otherwise:

1.4.1.2. Meaning of Words

Words listed in Appendix A, Definitions, have the specific meaning assigned, unless the context expressly indicates another meaning. Words that are not defined are given their common meaning.

1.4.1.3. Tense

Words used in the present tense include the future tense. The reverse shall also apply.

1.4.1.4. Singular and Plural

Words used in the singular include the plural. The reverse shall also apply.

1.4.1.5. Mandatory Terms

The words “shall”, “will”, “must” and “may not” are mandatory or compulsory in nature, implying an obligation or duty to comply with the particular provision.

1.4.1.6. Gender

Words used in the male gender include the female gender. The reverse shall also apply.

1.4.1.7. Time

- Any reference to “days” means calendar days unless otherwise specified.
- Any reference to “months” means calendar months unless otherwise specified.
- Any reference to “years” means calendar years unless otherwise specified.

1.4.1.8. Reference

Any reference to an Article, Section or Paragraph means an Article, Section or Paragraph of this Ordinance, unless otherwise specified.

1.4.1.9. Tables, Figures and Illustrations

Tables, figures and illustrations are provided for reference only and do not define or limit the scope of any provision of this Ordinance. In case of any difference of meaning or implication between the text of this Ordinance and any table, figure or illustration, the text shall govern.

1.4.1.10. Current Versions and Citations

All references to other Village, County, State or Federal regulations in this Ordinance are intended to be references to the most current versions and citations of those regulations, unless otherwise expressly indicated. When referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.

1.4.1.11. Lists and Examples

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as” or similar terms are

intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

1.4.1.12. Delegation of Authority

Whenever a provision appears requiring a specific officer or employee of the Town to perform an act or duty, that provision will be construed as authorizing the officer or employee to delegate that responsibility to others over whom he has authority. Delegation of authority is not allowed when the provisions of this Ordinance or other laws or regulations expressly prohibit such delegation.

1.4.1.13. Calculations and Rounding

Unless otherwise specified within this Ordinance, all calculations that result in a part or fraction of a whole number must be rounded up to the next highest whole number.

1.4.1.14. Text Controls Over Graphics

This Ordinance contains numerous graphics, pictures, illustrations, and drawings. However, text of this Ordinance shall control unless otherwise provided in the specific section.

1.4.2. CONFLICT WITH STATE OR FEDERAL REGULATIONS

If any provisions of this Ordinance are inconsistent with those of the State or Federal government, the more restrictive provisions shall govern unless the State or Federal regulation is intended to preempt the local regulation. The more restrictive provision is the one that imposes greater restrictions or more stringent controls. Regardless of any other provision of this Ordinance, no land may be developed or used, and no structure may be erected or maintained in violation of any State or Federal regulation.

1.4.2.1. Conflict with Local Regulations

If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Town, the more restrictive provision governs. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

1.4.2.2. Conflict with Private Agreements and Contracts

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law. The Town has no responsibility for monitoring or enforcing private agreements or contracts.

1.5. EFFECTIVE DATE

1.5.1. SCOPE

This Ordinance shall become enforceable and shall take effect when it is codified, filed and indexed in accordance with NCGS §§ 160A-77 or 160A-78. (~~Source: NCGS § 160 A 79(d).~~ Unless clearly subordinated to another ordinance, regulation, resolution, or express policy, this ~~Zoning~~ Ordinance, as amended, shall, on the effective date, prevail over any such conflicting or inconsistent ordinance, regulation, resolution, or express policy to the extent necessary to give this ~~Zoning~~ Ordinance full force and effect.

1.5.2. REPEAL OF PREVIOUS ORDINANCES

The prior Town of Mount Pleasant Zoning Ordinance and Subdivision Regulations are hereby repealed except to the extent whereby continuing activities or violations regulated by previous ordinances are being administered. As set forth in Section 1.2, the provisions of this Ordinance shall not apply to a validly approved and currently effective site-specific ~~development~~ plan.

1.6. ENFORCEMENT VIOLATIONS

1.6.1. APPLICABILITY

Unless otherwise specified in other sections of this Ordinance, this Section shall set forth penalties and remedies for violations of this Ordinance.

1.6.2. APPEAL OF DETERMINATION

An appeal of a violation or decision of the Administrator, shall be to the Board of Adjustments in accordance with Sections 2.2 and 3.7 of this Ordinance.

1.6.3. VIOLATIONS GENERALLY

1.6.3.1. Failure to Comply with Ordinance Provisions or Terms or Conditions of Approval Constitutes Ordinance Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance.

1.6.3.2. Permits or Development Approvals only Authorize Specific Development

Permits or development approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development activity set forth in such permits or development approvals.

1.6.4. SPECIFIC VIOLATIONS

It shall be a violation of this Ordinance to undertake any land development activity contrary to the provisions of this Ordinance, including but not limited to any of the following:

- A. Developing land or a structure without first obtaining the appropriate permit or permit approval.
- B. Occupying or using land or a structure without first obtaining the appropriate permit or permit approval.
- C. Subdividing land without first obtaining the appropriate permit or permit approval required to engage in the subdivision.
- D. Excavate, cut, clear or undertake any land disturbing activity without first obtaining all appropriate permits and permit approvals, and complying with their terms and conditions.
- E. Alter any architectural characteristic of a structure that is regulated by this Ordinance.
- F. Install, create, erect, alter or maintain any sign without first obtaining the appropriate permit or permit approval.
- G. Fail to remove any sign installed, created, erected, altered or maintained in violation of this Ordinance, or for which the permit has expired.
- H. Create, expand, replace or modify any nonconformity except in compliance with this Ordinance.
- I. Reduce or diminish the requirements for development, design or dimensional standards below the minimum requirements of this Ordinance.
- J. Increase the intensity or density of development, except in accordance with the standards of this Ordinance.

K. Through any act or omission, fail to comply with any other provisions, procedures or standards required by this Ordinance.

~~Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance:~~

~~To place any use, structure, or sign upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.~~

~~It is a Class I misdemeanor to subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town may bring an action for injunction of:~~

~~Any illegal subdivision
Transfer of land
Conveyance of land
Sale of land~~

~~To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign or other regulation of this Ordinance. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.~~

~~To engage in any subdividing, development, construction, remodeling or other activity of any nature upon land that is subject to this Ordinance without all of the approvals required by this Ordinance.~~

~~To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity.~~

~~To violate, by act or omission, any term, condition, or qualification placed by a decision making body upon any permit or other form of authorization.~~

~~To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance.~~

~~To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Ordinance.~~

~~To remove, deface, obscure or otherwise interfere with any notice required by this Ordinance.——~~

~~To fail to remove any sign or other improvement installed, created, erected, or maintained in violation of this Ordinance, or for which the permit, approval, permission, or other authorization has lapsed. This section is not intended to address legal nonconforming uses or structures. Article 13 of this Ordinance shall regulate expansions or other alterations to legal nonconforming uses or structures.~~

~~To otherwise undertake any development or to establish any use in a manner which does not comply with this Ordinance.~~

1.6.5. CONTINUING VIOLATIONS

- A. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance.
- B. Any violation of the zoning, subdivision, flood prevention, sedimentation, and erosion control ordinances in effect prior to the adoption of this Ordinance shall continue to be a violation under this Ordinance, and is subject to penalties and enforcement under this Ordinance, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.
- C. Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the Town pursuant to previous and valid ordinances and laws.

1.6.6. ENFORCEMENT GENERALLY

1.6.6.1. Responsibility for Enforcement

The Ordinance Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with NCGS 160D-404.

1.6.6.2. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint either verbally or in writing. The complaint, stating fully the cause and basis therefore, shall be made to the Ordinance Administrator, who shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.

1.6.6.3. Responsible Persons

Any person, firm, corporation or other legal entity that violates the provisions of this Ordinance shall be subject to the remedies and penalties set forth in this Section.

1.6.7. Enforcement Procedures

1.6.7.1. Inspection

Where work is being completed that is subject to a development approval, inspections of suspected violations shall be conducted in accordance with NCGS 160D-404(c) and 160D-1113.

1.6.7.2. Notice of Violation

Subject to NCGS 160D-404(a), when the Ordinance Administrator finds that a violation of this Ordinance has occurred, appropriate action shall be taken to remedy the violation consistent with Section 1.6.8, Remedies and Penalties. The Ordinance Administrator shall notify, in writing, the person violating this Ordinance. Such notice shall be sent by first class mail, certified mail, delivered in person, or posted on the property. Such notification shall indicate:

- The nature of the violation(s);
- The necessary action to correct or abate the violation; and
- The deadline for correcting the violation

1.6.7.3. Application of Remedies and Penalties

Subject to NCGS 160D-404(c), if the owner, occupant, or person responsible for the violation fails to comply with the Notice of Violation, from which no appeal has been taken within 30 days, as provided in the notification, the

Ordinance Administrator shall take appropriate action, as provided in Section 1.6.8, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

1.6.7.4. Emergency Matters

In the case of violations of this Ordinance that constitute an emergency situation resulting in an immediate threat to the health, or safety of the public, or violations that will create increased problems or costs to the public for the provision of Town services if not remedied immediately, the Administrator may use the enforcement powers available under this Article without prior notice, but the Administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.

1.6.8. ~~CIVIL REMEDIES AND ENFORCEMENT POWERS~~ PENALTIES

Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used to administer and enforce this Ordinance:

1.6.8.1. Revocation of Development Approvals

Subject to NCGS 160D-403(f), the Ordinance Administrator may revoke any Zoning Permit by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance or a permit has been mistakenly issued in violation of this Ordinance.

1.6.8.2. Denial or Withholding of Permits

The Ordinance Administrator may deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation and associated civil penalty related to such land, use, or development is corrected.

1.6.8.3. Stop Work Order

Subject to NCGS 160D-404 (b), whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Ordinance, the Ordinance Administrator may order the revocation of the Zoning Permit for such work (if one was issued) and request a Stop Work Order be issued by the Cabarrus County Building Inspections Department. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

1.6.8.4. Injunction

When a violation occurs, the Ordinance Administrator may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.

1.6.8.5. Order of Abatement

In addition to an injunction, the Town may apply for, and the court may enter into, an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- A. Buildings or other structures on the property be closed, demolished or removed;
- B. Fixtures, furniture or other movable property be moved or removed entirely;
- C. Improvements, alterations or repairs be made; or
- D. Any other action be taken that is necessary to bring the property into compliance with this Ordinance.

1.6.8.6. Equitable Remedy

The Town may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the Town’s application for equitable relief.

1.6.8.7. Cumulative Penalties

The remedies provided for violations of this Ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

1.6.8.8. Civil Penalties For Violation

- A. Any violation occurring once within a 36-month period shall be considered a first offense. A notice of violation shall be issued by the Administrator or his/her designee and shall provide for a seven (7) day warning period. ~~An appeal of the Administrator’s decision shall be allowed as prescribed under § 1.6.1.2.~~ Upon the expiration of the seven (7) day warning period, the violator shall be subject to a civil penalty of \$100.00 for each day that the violation remains on the property. Should a violation continue to exist by the twenty-first (21st) day of the original notification, the Town shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in § 1.6.4.

- B. Any violation of reoccurring on the same property by the same violator more than once within a 36-month period shall be considered a repeat offense provided the reoccurrence is a violation of the same Article of this Ordinance. A notice of violation shall be issued by the Administrator or his/her designee and shall have an immediate civil penalty of \$300.00. No warning period shall be granted since this provision applies only to violations that occur more than once in a 36-month period and proper notice was given for the initial violation as prescribed under § 1.6.5.1. For each day the repeat violation remains, the violator shall be subject to a civil penalty of \$300.00. Should a violation continue to exist by the seventh (7th) day of the original notification, the Town shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in § 1.6.4.

1.6.8.9. Criminal Penalties

Pursuant to NCGS 14-4, any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500).

~~With or without revoking permits, the Administrator may stop work on any land or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS § 160A 421. The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed.~~

~~Withhold Permit. The administrator may withhold all permits or approvals if there is:~~

~~a repeat violation of this Ordinance as set forth in § 1.6.5.2; or~~

~~there is a condition or qualification of approval granted by the Planning and Zoning Board or the Town Board that has not been met.~~

~~The Administrator may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected repeat violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.~~

~~Revoke Plan or Other Approval. Where a violation of this Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Administrator may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan approval pursuant to G.S. 160A-422. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.~~

~~Revoke Permits. Any Development Permit or other form of authorization required under this Ordinance may be revoked for any reason set forth in § 1.6.1 and in NCGS § 160A-422. The revocation hearing shall be conducted in accordance with § 3.1.10 of this Ordinance.~~

~~Injunction and Abatement. This UDO may be enforced by any means or any remedy provided for in NCGS § 160A-175 and 160A-389. An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Administrator or his designee pursuant to NCGS § 160A-375.~~

~~Other Remedies. The Administrator, Town Board, Planning and Zoning Board and the Board of Adjustment shall have such other remedies as are, and as may be from time to time, provided by North Carolina law for the violation of zoning, subdivision, sign or related Ordinance provisions.~~

~~OTHER POWERS.~~

~~In addition to the enforcement powers specified in this Section, the Town Board may exercise any and all enforcement powers granted by North Carolina law.~~

~~REMEDIES CUMULATIVE.~~

~~The remedies and enforcement powers established in this Article shall be cumulative, and the Town may exercise them in any order.~~

~~ENFORCEMENT PROCEDURES.~~

~~**Non-Emergency Matters.** In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the Administrator shall give notice of the nature of the violation to the property owner or any applicant for any relevant permit in the manner hereafter stated as prescribed in § 1.6.5.1 and 1.6.5.2. Notice shall be given in person, by Certified Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.~~

ARTICLE 2

ADMINISTRATION IVE AGENCIES

Summary— *This Article describes the various agencies involved in administration of the UDO. The jurisdiction, powers, and duties of each agency are described. These agencies include: the Planning Department, the Board of Adjustment, the Town Board, the Planning and Zoning Board, and the Historic Preservation Commission.*

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2.1. ~~PLANNING SERVICES AND DEVELOPMENT SERVICES DEPARTMENTS AND THEIR ADMINISTRATORS~~

~~ESTABLISHMENT OF PLANNING DEPARTMENT~~

~~Pursuant to NCGS § 160A-361, the Town hereby establishes the Planning Services and Development Services departments of the Town. These departments shall perform the planning, zoning, and development functions for the Town and shall provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. These departments shall perform other functions as may be requested by the Town Board or authorized by this Ordinance.~~

2.1.1. ~~ESTABLISHMENT OF OFFICE OF PLANNING ADMINISTRATOR~~

The Town hereby establishes the ~~Office of the Planning Ordinance~~ Administrator (the “Administrator”), ~~as a function of the Planning Services Director and the Office of the Zoning Administrator (the “Administrator”) as a function of the Development Services Director. The Administrators are~~ charged with the authority and the duty to enforce this Ordinance. The Administrators ~~are~~ is authorized to establish and delegate when appropriate Department standards of operation and procedures consistent with the intent of this Ordinance. The Administrators ~~or their~~ and any delegates may also consult with other officials, boards or agencies with needed technical expertise. "Administrator" shall include staff authorized by the Planning ~~Administrator and/or the Zoning Administrator~~ Director.

2.1.2. ~~APPEALS FROM THE DECISION OF THE ADMINISTRATOR~~

Appeals from the decisions of the ~~Zoning~~ Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the ~~Zoning~~ Administrator in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with Section 3.7. ~~Appeal from the decisions of the Planning Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Planning Administrator in the enforcement of the Ordinance shall be made to the Planning and Zoning Board.~~

2.1.3. ~~INSPECTION AND ENFORCEMENT~~

The Administrator may hereby commence an action to enforce the provisions of this Ordinance pursuant to NCGS ~~160A-389~~ 160D-404, and Section 1.6 of this Ordinance. Pursuant to ~~§ 160A-411~~ NCGS 160D-1102, the ~~Zoning~~ Administrator is hereby designated the ~~Zoning Inspector and the Planning Administrator is hereby designated as the Subdivision Inspector~~ Ordinance Enforcement Officer (the “Enforcement Officer” for the Town. The ~~Inspectors are~~ Enforcement Officer is empowered to enter or inspect any building, structure, premises, or real property in the Town upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance. Such inspections shall be carried out during business hours unless the Administrator determines that an emergency exists. Entry onto private property for the purpose of inspection shall be made only after securing permission from the owner or legal tenant of the property. Application for any development approval shall constitute permission to inspect a property. Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

2.1.4. Conflict of Interest

In accordance with NCGS 160D-109(c), no staff member shall make a final decision on an administrative decision if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with who the staff member has a close familial, business, or other associational relationship.

2.2. BOARD OF ADJUSTMENT

2.2.1. ESTABLISHMENT

Pursuant to NCGS ~~160A-388~~ 160D-302, there is hereby established the Board of Adjustment of the Town of Mount Pleasant, ~~and at its discretion, the Town Board of Commissioners may appoint the same members of the Planning & Zoning Board to serve as the Board of Adjustment. In accordance with Section 2.3 of this Ordinance, the Planning & Zoning Board shall act in the capacity of the Board of Adjustment, in addition to its capacity as planning agency.~~

2.2.2. POWERS AND DUTIES

Pursuant to NCGS ~~160A-388~~ 160D-302, the Board of Adjustment shall have the following powers, duties and authority:

- A. To hear and decide Appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance ~~(NCGS § 160A-388(b)).~~
- B. To hear and decide on applications for variances from the terms of the zoning ordinance pursuant to Section 3.7 of this Ordinance ~~and NCGS § 160A-388(d).~~ The Board shall have the authority to place conditions, including time limits, on Variances.
- C. To approve, approve with conditions, or deny applications for ~~conditional~~ Special Use Permits.
- D. To interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance ~~(NCGS § 160A-388(e)).~~
- E. The Board of Adjustment shall exercise such other powers as may be granted by this Ordinance ~~and NCGS 160D-302.~~

2.2.3. QUASI-JUDICIAL PROCEDURES

The consideration of any Appeal, Variance, ~~conditional~~ Special Use Permit or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in Section 3.1.7 and Section 3.7 of this Ordinance.

- A. Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the Town shall only be considered by the Board with the extra-territorial jurisdiction member present.
- B. The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes.

LIMITATIONS OF BOARD

~~The Board of Adjustment shall not have power, jurisdiction, or authority to consider any of the following:~~

- ~~• Make any changes in permitted uses on any zoning classification or zoning district.~~
- ~~• Grant a variance if the special circumstances applicable to the property are self imposed by the property owner.~~

2.2.4. MEMBERSHIP

- A. The Town Board shall appoint five (5) persons to the Board of Adjustment ~~Planning and Zoning Board~~ as provided in NCGS ~~§ 160A-388~~ 160D-302 and Section 2.3 of this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS ~~§ 160A-362~~ 160D-307. The Town

Board shall appoint and provide compensation for one (1) alternate member to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

- B. Members may be compensated ~~per diem, based upon meetings actually attended and reasonable and necessary expenses,~~ as determined by the appointing Board ~~or by intergovernmental agreement.~~
- C. All members shall serve a term of three (3) years. Members may be reappointed as necessary by the Town Board.
- D. The Town Board may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The Town Board shall provide the member with a public hearing, if requested.
- E. If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the Board of Adjustment within any three-month period, it will be sufficient grounds for termination of the member's appointment. The chair or the vice-chair, as the case may be, shall immediately file a notification of such nonattendance with the Town Board for placement on the Board of Adjustment agenda. The Town Board may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.

2.2.5. MEETINGS

The Board of Adjustment shall meet on an as-needed basis when an application is received for an item as identified in Section 2.2.2. The Board of Adjustment shall also convene on an annual basis for election of officers and training.

2.2.6. RULES OF PROCEDURE

In accordance with NCGS 160D-308, the Board of Adjustment shall adopt rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the Town website. The Board shall keep minutes of its proceedings.

2.2.7. OATH OF OFFICE

In accordance with NCGS 160D-309, all members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

2.2.8. CONFLICT OF INTEREST

In accordance with NCGS 160D-109(d), a member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

2.2.9. STAFF

The Administrator or designee shall be the professional staff of the Board of Adjustment. The Administrator shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other

official actions shall be filed in the office of the Board as a public record. The Planning Department is hereby designated as the office of the Board for purposes of this subsection. In addition, the secretary shall maintain all records of Board of Adjustment meetings, hearings and proceedings, as well as the correspondence of the Board of Adjustment.

2.3. PLANNING AND ZONING BOARD

2.3.1. ESTABLISHMENT

Pursuant to NCGS ~~§ 160A-361~~ 160D-301, there is hereby established a planning agency known as the Planning and Zoning Board of the Town of Mount Pleasant.

2.3.2. POWERS AND DUTIES

~~The Planning Board shall provide an advisory function to assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval.~~ The Planning Board shall have the following powers and duties in accordance with NCGS 160D-301 and Special Legislation Chapter 247, House Bill 575 of the 1993 Session of the NC General Assembly:

- A. To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- B. To facilitate and coordinate citizen engagement and participation in the planning process.
- C. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- D. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all ordinance amendments as required by NCGS 160D-604.
- A. To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct; including the review and approval and or disapproval of all applications for Major Subdivision ~~approval~~ Preliminary Plats in accordance with the ~~rules and~~ regulations established in Article 6; and
- E. To hear, review, and make a final decision (by a vote of at least three-fourths of the Planning & Zoning Board) on applications for amendments to the Official Zoning Map, as prescribed in Section 3.3.
- F. To perform any other related duties that the governing board may direct.

~~To exercise any of the powers and/or duties assigned pursuant to NCGS § 160A-361 including, but not limited to, the preparation of a comprehensive plan;~~

~~To prepare amendments to the plan and its elements and to submit the amendments to the Town Board;~~

~~To initiate, hear, review, make decisions or recommendations to the Town Board on applications for amendments to the text of this Ordinance.~~

~~To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Planning Board. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the Town Board before taking effect.~~

2.3.3. MEMBERSHIP

- A. The Town Board shall appoint and provide compensation for five (5) persons to the Planning & Zoning Board as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS ~~160A-362~~ 160D-307. The Town Board shall appoint and provide compensation for one (1) alternate member to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate

member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

- B. The Town Board may remove any member of the Planning & Zoning Board for just cause, as may be permitted by law. The Town Board shall provide the member with a public hearing if requested.
- C. Members shall be compensated ~~per diem, based upon meetings actually attended and reasonable and necessary expenses,~~ as determined by the Town Board.
- D. All members shall serve a term of three (3) years. Members may be reappointed as necessary by the Town Board.
- E. At an annual organizational meeting, the members of the Planning & Zoning Board shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Planning & Zoning Board shall elect a temporary chair to conduct the meeting.
- F. The chair, or in the chair's absence the vice-chair, shall ~~administer oaths,~~ be in charge of all proceedings before the Planning & Zoning Board, and take such action necessary to preserve the order and integrity of all proceedings before the Planning & Zoning Board.
- G. If any member of the Planning & Zoning Board shall fail to attend three (3) regular meetings of the Planning & Zoning Board within any consecutive three-month period, the chair or the vice-chair shall immediately file a notification of such nonattendance with the Town Board for placement on the Planning Board agenda. The Town Board may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible.
- H. The Administrator shall appoint a recording secretary to serve the Planning & Zoning Board. The secretary shall keep minutes to summarize all proceedings, attested to by a majority of the members of the Planning & Zoning Board voting. In addition, the secretary shall maintain all records of Planning & Zoning Board meetings, hearings and proceedings, as well as the correspondence of the Planning & Zoning Board.

~~The Administrator shall serve as the professional staff of the Planning Board.~~

- I. No meeting of the Planning & Zoning Board may be called to order, nor may any business be transacted by the Planning Board, without a quorum consisting of a majority of the appointed membership of the Planning & Zoning Board. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All planning agency actions shall require the concurring vote of a majority of the members of the Planning & Zoning Board.

2.3.4. MEETINGS, HEARINGS AND PROCEDURES

The Planning & Zoning Board shall establish a regular meeting schedule by rule. Special meetings may be requested by the Town Board, the chair of the Planning & Zoning Board, a majority of the members of the Planning & Zoning Board, or the Administrator.

~~If a matter is postponed due to lack of a quorum, the chair of the Planning Board shall continue the meeting to the next Board meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.~~

2.3.5. RULES OF PROCEDURE

In accordance with NCGS 160D-308, the Planning & Zoning Board shall adopt rules of procedure that are consistent with the provisions of this Chapter. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the Town website. The Board shall keep minutes of its proceedings.

2.3.6. OATH OF OFFICE

In accordance with NCGS 160D-309, all members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

2.3.7. CONFLICT OF INTEREST

In accordance with NCGS 160D-109(b), members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.3.8. STAFF

The Administrator or designee shall be the professional staff of the Planning & Zoning Board. The Administrator shall appoint a recording secretary to serve the Planning & Zoning Board. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Planning & Zoning Board showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Board as a public record. The Planning Department is hereby designated as the office of the Board for purposes of this subsection. In addition, the secretary shall maintain all records of Planning & Zoning Board meetings, hearings and proceedings, as well as the correspondence of the Planning & Zoning Board.

2.4. TOWN BOARD

2.4.1. POWERS AND DUTIES

The Town Board shall render final decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, except where authority for a final decision is delegated to another agency by this Ordinance, as authorized by Special Legislation Chapter 247, House Bill 575 of the 1993 Session of the NC General Assembly. The Town Board shall render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance. The Town Board shall have the following powers and duties:

A. To initiate, adopt, and amend a Comprehensive Plan.

~~To initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;~~

B. To review recommendations of the Planning & Zoning Board, and make final decisions on applications for amendments to the text of this Ordinance.

C. To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning & Zoning Board ~~has been submitted pursuant to NCGS § 160A-387~~. In accordance with Section 3.3 of this Ordinance, such amendments shall only be heard by Town Board if:

- the amendment was denied by Planning & Zoning Board;
- the amendment was approved, but the affirmative votes represented less than three-fourths of the Board; or
- a decision of the Planning & Zoning Board has been made pursuant to Section 3.3 of this Ordinance and an appeal has been filed.

D. To take such other action not otherwise delegated, as the Town Board may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

2.4.2. CONFLICT OF INTEREST

In accordance with NCGS 160D-109(a), a governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.5. HISTORIC PRESERVATION COMMISSION

2.5.1. ESTABLISHMENT

Pursuant to NCGS ~~§ 160A-400.7~~ 160D-303, there is hereby established the Mount Pleasant Historic Preservation Commission, hereafter referred to as the Historic Preservation Commission or Commission, to consist of five (5) regular members and one alternate member appointed by the Town Board of the Town of Mount Pleasant. The Town Board shall establish the Commission's compensation.

2.5.2. POWERS AND DUTIES

The Commission shall seek to promote, enhance and preserve the character of the districts. The Historic Preservation Commission is authorized and empowered to undertake reasonable actions to discharge and conduct its duties and responsibilities as outlined in this Ordinance and ~~Part 3C, Article 19 of Chapter 160A of the General Statutes of the State of North Carolina~~ NCGS 160D-942 including, but not limited to, the following:

- A. Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.
- B. Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."
- C. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.
- D. Restore, preserve, and operate historic properties.
- E. Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
- F. Conduct an educational program regarding historic properties and districts within its jurisdiction.
- G. Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.
- H. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- I. Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.
- J. Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.
- K. Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

~~To recommend to the Planning and Zoning Board areas to be designated by ordinance as “historic districts” and individual structures, buildings, sites, areas, or objects to be designated by ordinance as “landmarks”;~~

~~To recommend to the Town Board that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;~~

~~To review and act upon (grant or deny) applications for Certificate of Appropriateness requests for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks in accordance with Section 4.12.10 of this Ordinance;~~

~~To give advice to property owners concerning the treatment of the historical and visual characteristics of properties located within the districts, such as color schemes, gardens and landscaping features, and minor decorative elements;~~

~~To propose to the Town Board changes to this or any related ordinance; propose new ordinances or laws relating to the historic districts, historic landmarks, or the development of the historical resources of the Town of Mount Pleasant and its environs;~~

~~To cooperate with other Town of Mount Pleasant boards or commissions or with agencies of the Town or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview;~~

~~To publish information about, or otherwise inform, the owners of property within the districts of any pertinent matters. Such information may be in the form of guidelines, handbooks, pamphlets, brochures, etc;~~

~~To conduct an educational program with respect to historic districts and landmarks within its jurisdiction;~~

~~To undertake programs of information, research, or analysis relating to any matters under its purview;~~

~~report violations of this ordinance or related ordinances to the Planning Director responsible for enforcement;~~

~~assist Town of Mount Pleasant staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis;~~

~~acquire by any lawful means, the fee or any lesser included interest, including options to purchase properties within established districts or any properties designated as landmarks:~~

~~to hold, manage, preserve, restore, and improve the same~~

~~to exchange or dispose of the property by public or private sale, lease, or otherwise, subject to covenants or other legally binding restrictions~~

~~to secure appropriate rights of public access and promote the preservation of the property;~~

~~accept funds granted to the Commission from private or nonprofit organizations;~~

~~contract, with the approval of the Town Board, for services or funds from the State of North Carolina and agencies or departments of the United States government;~~

~~recommend to the Town Board and the State of North Carolina structures, sites, objects, or districts worthy of national, state or local recognition;~~

~~negotiate at any appropriate time with the owner of a building, structure, site, area, or object for its acquisition or its preservation when such action is reasonable, necessary, or appropriate;~~

~~establish guidelines under which the Planning Director or his designee may approve minor modifications on behalf of~~

~~the Commission. No application shall be denied without first being considered by the Commission;~~

~~conduct public hearings on applications for Certificates of Appropriateness where the Commission deems that such a hearing is necessary;~~

~~organize itself and conduct its business by whatever legal means it deems proper; and~~

~~exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the Town Board.~~

2.5.3. MEMBERSHIP

- A. Members of the Historic Preservation Commission shall serve overlapping terms. Appointments shall be for a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- B. All members of the Historic Preservation Commission shall be residents of the territorial zoning jurisdiction of the Town of Mount Pleasant and a majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields.
- C. The Historic Preservation Commission shall establish a meeting time, and shall meet at least quarterly. All meetings of the Commission shall be open to the public and reasonable notice of the time and place thereof shall be given to the public. All meetings shall conform to the North Carolina Open Meetings Law NCGS 143-33B.
- D. Any member of the Historic Preservation Commission who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose status as a member of the Commission and shall be replaced or reappointed by the Town Board. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- E. The Historic Preservation Commission shall adopt and publish rules of procedure for the conduct of its business.
- ~~F. An annual report shall be prepared and submitted by June 30 of each year to the Town Board. Such report shall include a comprehensive and detailed review of the activities, problems, and actions of the Commission, as well as any budget requests and/or recommendations.~~
- G. The Commission shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and actions. The minutes of the Commission shall be public record.

2.5.4. CONFLICT OF INTEREST

In accordance with NCGS 160D-109(d), a member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

2.5.5. STAFF

The Administrator or designee shall be the professional staff of the Historic Preservation Commission. The Administrator shall appoint a recording secretary to serve the Historic Preservation Commission. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Historic Preservation Commission voting. Minutes of the proceedings of the Historic Preservation Commission showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Historic Preservation Commission as a public record. The Planning Department is hereby designated as the office of the Commission for purposes of this subsection. In addition, the secretary shall maintain all records of Historic Preservation Commission meetings, hearings and proceedings, as well as the correspondence of the Historic Preservation Commission.

ARTICLE 3
ZONING AND PERMITTING
REVIEW PROCEDURES

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3.1. PURPOSE, APPLICABILITY, & GENERAL PROCEDURES

3.1.1. PURPOSE

The purpose of this Article is to establish an orderly process to develop land within the Town of Mount Pleasant. It is also the intent of this Article to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning & Zoning Board, Board of Adjustment, and the Town Board of Commissioners.

3.1.2. APPLICABILITY

- A. The development review process applies to all new development and alterations of existing development within the Town’s jurisdiction.
- B. The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Section would serve no useful purpose.
- C. The following chart indicates the appropriate approval process for each development type:

<u>Development Type</u>	<u>Section Reference</u>	<u>Approval/Hearing Type</u>	<u>Administrator Approval</u>	<u>Planning & Zoning Board Approval</u>	<u>Board of Adjustment Approval</u>	<u>Town Board of Commissioners Approval</u>
<u>Zoning Permit with Plot Plan (single-family & two-family residential)</u>	<u>3.2</u>	<u>Administrative</u>	<u>✓</u>			
<u>Zoning Permit with Site Plan (multi-family residential & nonresidential)</u>	<u>3.2</u>	<u>Administrative</u>	<u>✓</u>			
<u>Zoning Permit for Sign</u>	<u>3.2</u>	<u>Administrative</u>	<u>✓</u>			
<u>Zoning Permit for Grading</u>	<u>3.2.6</u>		<u>✓</u>			
<u>Certificate of Compliance</u>	<u>3.2.4</u>	<u>Administrative</u>	<u>✓</u>			
<u>Floodplain Development Permit</u>	<u>9.3</u>		<u>✓</u>			
<u>Subdivision, Exempt</u>	<u>6.1.2</u>	<u>Administrative</u>	<u>✓</u>			
<u>Subdivision, Minor</u>	<u>6.3</u>	<u>Administrative</u>	<u>✓</u>			
<u>Subdivision, Major (preliminary plat)</u>	<u>6.4</u>	<u>Administrative</u>		<u>✓</u>		
<u>Subdivision, Major (construction drawings)</u>	<u>6.4</u>	<u>Administrative</u>	<u>✓</u>			
<u>Subdivision, Major (final plat)</u>	<u>6.4</u>	<u>Administrative</u>	<u>✓</u>			
<u>Special Use Permit</u>	<u>3.3</u>	<u>Quasi-judicial</u>			<u>✓</u>	
<u>Variance</u>	<u>3.3</u>	<u>Quasi-judicial</u>			<u>✓</u>	
<u>Appeal</u>	<u>3.3</u>	<u>Quasi-judicial</u>			<u>✓</u>	
<u>Certificate of Nonconformity Adjustment</u>	<u>3.3</u>	<u>Quasi-judicial</u>			<u>✓</u>	
<u>Alternative Design Proposal</u>	<u>11.1.3.3</u>	<u>Quasi-judicial</u>			<u>✓</u>	
<u>Map Amendment</u>	<u>3.4.5</u>	<u>Legislative</u>		<u>✓*</u>		<u>*</u>
<u>Text Amendment</u>	<u>3.4.7</u>	<u>Legislative</u>		<u>Recommendation</u>		<u>✓</u>

*Subject to ¾ supermajority provisions in Section 3.4

3.1.3. APPLICATION PROCESS ~~AND OFFICIAL FILING DATE~~

The specific procedures followed in reviewing various Applications for Development Approval may vary. Generally, the procedures for all applications have four common elements: (1) submittal of a complete application, including required fee payment and appropriate information; (2) review of the submittal by appropriate staff and boards; (3) action to approve, approve with conditions, or deny the application; and (4) issuance of a permit, based on complete and approved plans.

3.1.3.1. Pre-Application Conference

The applicant shall meet with the Administrator to discuss the nature of the proposed application, application submittal requirements, the procedure for action, and the standards for evaluation of the application.

3.1.3.2. Application Materials

Current application materials shall be made available ~~in the Planning Department offices at the Town Hall~~. Such applications shall be filed in advance of any public hearing or public meeting required pursuant to this Ordinance or the NCGS. The Administrator may establish a schedule to file any application ~~for development approval that requires action by the Planning & Zoning Board or the Town Board~~. The schedule shall provide adequate time for notice and/or publication consistent with ~~Section 3.1.5 of this Ordinance~~. ~~Completed applications shall be filed according to any published schedule of the Planning Department.~~

~~PLANNING & ZONING BOARD~~

~~The Planning & Zoning Board shall hold regularly scheduled public hearings to receive and review public input on those items required by this Ordinance and the NCGS. On those items where it has review authority, the Board shall recommend that the Town Board approve, approve with conditions (if applicable), or deny applications. On items it has final decision authority, the Board shall approve, approve with conditions (if applicable), or deny applications. The Administrator will submit the proposed item to the Town Board for its consideration.~~

3.1.4. RECORDS

The Administrator shall provide for minutes to be written and retained, shall record the evidence submitted within the allotted hearing time, and shall include a summary of the considerations and the action of the Board.

~~TOWN BOARD~~

~~The Town Board shall hold regularly scheduled public hearings to act upon all items required by this Ordinance and the NCGS to be considered by the Town Board. The Town Board shall decide whether or not to approve, approve with conditions (if applicable), or deny such applications.~~

3.1.5. NOTICE PROVISIONS

The notice requirements for each type of application for development approval are prescribed in the individual subsections of this Article and/or the NCGS.

- A. Unless provided for otherwise, the notice given for legislative ~~and advisory~~ proceedings, including amendments to this Ordinance, or the Official Zoning Map, shall be provided as set forth in NCGS 160D-602-~~Section 160A-364, and 160A-384~~.
- B. ~~Unless provided for otherwise, the notice given for quasi-judicial proceedings shall be provided as set forth in NCGS 160D-406. The adjacent property owners to a quasi-judicial hearing will be given a notice of hearing (by the Administrator) not less than 15 days before the hearing. The notice shall state the date, hour, place, and nature of the hearing, shall list the particular sections of this Ordinance involved, and shall give a short and plain statement of the application. Notice shall be given by first class mail.~~

~~No notice shall be required for an administrative permit issued pursuant to Section 3.2 of this Ordinance unless otherwise provided by this Ordinance or by law.~~

3.1.6. SCOPE OF ACTION

The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable), or denial. The reviewing body may allow minor amendments to the application which: (1) proposes fewer dwelling units, floor area or impervious surface than that requested on the original application; (2) reduces the impact of the development; or (3) reduces the amount of land involved from that indicated in the notices of the hearing. The reviewing body shall not, in any case, permit: a greater amount of development, a use falling in a different general use category, a larger land area than indicated in the original application, or a greater variance than was indicated in the notice. In addition, the reviewing body shall not reduce or eliminate conditions for a conditional special use or Conditional Zoning district unless a new notice is provided prior to the meeting at which a final decision is to be made.

3.1.7. TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) is intended to assist the Administrator in ensuring that adequate public facilities are available and that proposed development is in compliance with applicable federal, state, and local requirements. It shall be the responsibility of the Administrator to provide TRC comments to the applicant to be addressed prior the approval of a development or issuance of a permit. The reviewing government agencies and officials that make up the TRC may include, but need not be limited to the following (as applicable): Public Works Department, Fire Department, Fire Marshal, Sheriff’s Department, Building Inspector, Town Engineer, Town Attorney, North Carolina Department of Transportation (NCDOT), North Carolina Department of Environmental Quality (NCDEQ), Utilities Providers, Cabarrus Health Alliance, Board of Education, Metropolitan Planning Organization (MPO), US Army Corps of Engineers, contracted expertise, and other agencies as needed.

3.1.8. ADMINISTRATIVE DECISIONS

Applicability

Administrative decisions are routine, non-discretionary zoning ordinance implementation matters carried out by the staff, including issuance of permits for permitted uses. In general, the Administrator is a purely administrative agent following the literal provisions of this ordinance. The Administrator may engage in some fact finding, (for example, as in making an initial determination as to whether a nonconforming use was in existence at the time a zoning provision was adopted). This involves determining objective facts that do not involve an element of discretion. In contrast to quasi-judicial hearings, administrative decisions are made without a hearing at all, with the staff member reviewing an application to determine if it is complete and compliant with objective standards set forth in this Ordinance. In the case of Major Subdivision Preliminary Plats, the Planning & Zoning Board is acting as an extension of the Administrator and reviewing the plat for compliance with the Ordinance. *Lancaster County v. Mecklenburg County*, 334 N.C. 496, 434 S.E.2d 604 (1993).

~~**Processing Procedures.** The procedures for processing administrative permits, such as zoning clearance permit and certificates of compliance, conveyance plats, and final plats are set forth in the sections of this Ordinance pertaining to such permits.~~

3.1.9. QUASI-JUDICIAL ~~PUBLIC~~ HEARING PROCEDURES

Applicability

Subject to NCGS 160D-406, the provisions of this subsection apply to any application for a conditional special use permit, variance, appeal, or any other quasi-judicial action. In making quasi-judicial decisions, the decision-makers must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use policies to individual situations, such as variances, conditional special use permits, and appeals of administrative determinations. These decisions involve two key elements: 1.) the finding of facts regarding the specific proposal and 2.) the exercise of some discretion in applying the standards of the ordinance. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes a hearing with the right of the parties to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial, and material evidence. *See*

~~Lancaster County v. Mecklenburg County, 334 N.C. 496, 434 S.E.2d 604 (1993).~~

~~**Rulemaking Authority.** The Planning & Zoning Board and the Town Board may adopt general rules which apply to quasi-judicial public hearings. These public hearings may relate to a conditional use permit or to a proceeding before the Board of Adjustment.~~

~~**Conduct of Hearing.** Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing shall state, for the record, his or her name, address, and if appearing on behalf of an organization or group, its name and mailing address. The hearing shall be conducted in accordance with the procedures set forth in NCGS Section 160A-388.~~

3.1.10. LEGISLATIVE AND ADVISORY HEARINGS

Purpose

The purpose of a legislative or advisory review public hearing is to provide the public an opportunity to be heard. Unlike quasi-judicial hearings, a legislative proceeding does not require due process protections, such as right of the parties to offer evidence, sworn testimony, or findings of fact. Like quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings, such as amendments to the Comprehensive Plan, and amendments to this Ordinance (including Zoning provisions of this Ordinance and the Zoning Map), ~~and applications for a Planned Unit Development.~~

~~**Notice.** Notice of hearing shall be provided in accordance with NCGS Chapter 160A-384.~~

~~**Conduct of Hearing.** Testimony may be presented by any member of the public, but need not be submitted under oath or affirmation. The decision making body may establish a time limit for testimony.~~

~~**Record of Proceedings.** The body conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with NCGS Chapter 132. The Administrator will provide the record upon request by application and payment of a fee set by the Town Board (to cover duplication costs.)~~

3.1.11. NEIGHBORHOOD MEETING REQUIRED FOR CERTAIN MAP AMENDMENTS

The Town will not ~~accept~~ advance an application for ~~development approval~~ map amendment that increases density or intensity unless:

- all adjacent property owners have been contacted and given an opportunity to meet with the applicant at a meeting established at a reasonable time; and
- applicant submits a summary report indicating results of meeting.

The Administrator may act as a facilitator if requested by the Applicant ~~in order to avoid ex parte contacts.~~ No member of the decision-making entity may participate in a neighborhood meeting. The applicants may conduct additional neighborhood meetings prior to the hearing at ~~his~~ their discretion.

3.1.11 DEVELOPMENT APPROVAL DURATION

Subject to NCGS 160D-108, the following shall apply to approval validity:

- A. Pursuant to NCGS 160D-1109, building permits expire six (6) months after issuance unless work under the permit has commenced and work has not been discontinued for a period of more than 12 months after the work has commenced.
- B. Unless otherwise specified, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.
- C. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development.

3.1.12 REVOCATION OF PERMIT OR APPROVAL

3.1.12.1 Duties of Administrator

If the Administrator determines that there are reasonable grounds for revocation of a development permit or approval, the Administrator shall take appropriate action as set forth in Section 1.6. The decision of the Administrator to revoke the permit shall be based on Section 3.1.12.2, below.

3.1.12.2 Grounds for Revocation

The following shall be considered grounds for revocation of a permit:

- The applicant intentionally supplies misleading information. The provision of information is considered “intentional” when the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence.
- The failure to comply with any condition of a development order or development permit.

3.1.12.3 Decision and Notice

The Administrator shall render a decision to revoke the permit, to allow the applicant to retain the development permit, or to reconsider the permit. The Administrator shall notify the holder of the permit in the manner provided in [NCCGS Section 160A-422-Section 1.6](#).

3.1.12.4 Effect and Appeals

The decision of the Administrator may be appealed as set forth in Section 3.8 of this Ordinance. Unless appealed, a decision to revoke a development permit shall become final thirty (30) days after the date the decision is rendered. After that, any further activities based on the permit shall be deemed to be in violation of this Ordinance and shall be subject to the remedies as prescribed in Section 1.6 of this Ordinance.

3.1.12.5 Right Cumulative

The right to revoke a development permit, as provided in this Section, shall be cumulative to any other remedy allowed by law.

3.2 ADMINISTRATIVE APPROVALS PERMITS

3.2.1. PURPOSE

The purpose of this Section is to prescribe procedures for permits and approvals which do not require quasi-judicial or legislative notice or a public hearing. ~~A public hearing is not required for permits set forth in this Section for one or more of the following reasons:~~

- ~~• If required, public hearings have already been conducted relating to the permit application. The permit application procedure was designed to ensure that the proposed use complies with a previously approved subdivision plat, site plan, specific plan, comprehensive plan amendment, or conditional district rezoning (e.g., zoning clearing, certificate of occupancy).~~
- ~~• The proposed use is permitted by right in the applicable zoning district (e.g., zoning clearance, certificate of occupancy).~~

3.2.2. APPLICABILITY

The provisions of this Section shall apply to administrative permits, ~~the following any site plan or final site plan or required administrative permit as set forth in Section 3.6 of this Ordinance.~~

A. Administrative Permits include:

- Zoning ~~clearance~~ Permit for establishment of a use
- Zoning Permit with Plot Plan (see below)
- Zoning Permit with Site Plan
- Zoning Permit for Sign
- Zoning Permit for Grading ~~grading permit (see below)~~
- Certificate of Compliance ~~(see below)~~ and Temporary Certificate of Compliance ~~(see below)~~
- Floodplain Development Permits (see Section 9.3)
- ~~• Temporary Use Permit (see Art. 5)~~
- ~~• home occupation permit (see Art. 5)~~
- ~~• special flood hazard area development permit (see Art. 4)~~
- ~~• erosion and sedimentation control permits (see Art. 9)~~

B. Administrative Development Approvals include the following reviewed in accordance with Article 6 of this Ordinance:

- Zoning Compliance for Exemption Plats
- Minor Subdivisions
- Major Subdivision Preliminary Plats (approved by Planning Board)
- Major Subdivision Construction Drawings
- Major Subdivision Final Plats

C. Upon adoption of this Ordinance, buildings or structures shall be erected or constructed, and uses shall be established, only on parcels of land that have been created in conformance with this Ordinance. To construct any structure, use any land, or change the use of any structure, or land, a Zoning ~~clearance~~ Permit must be obtained from the Zoning Department Administrator and a Building Permit obtained from the Cabarrus County Building Inspections Department. ~~The following standards apply to new construction:~~

D. New construction of a freestanding principal structure(s) shall be subject to all applicable design standards as set forth in this Ordinance.

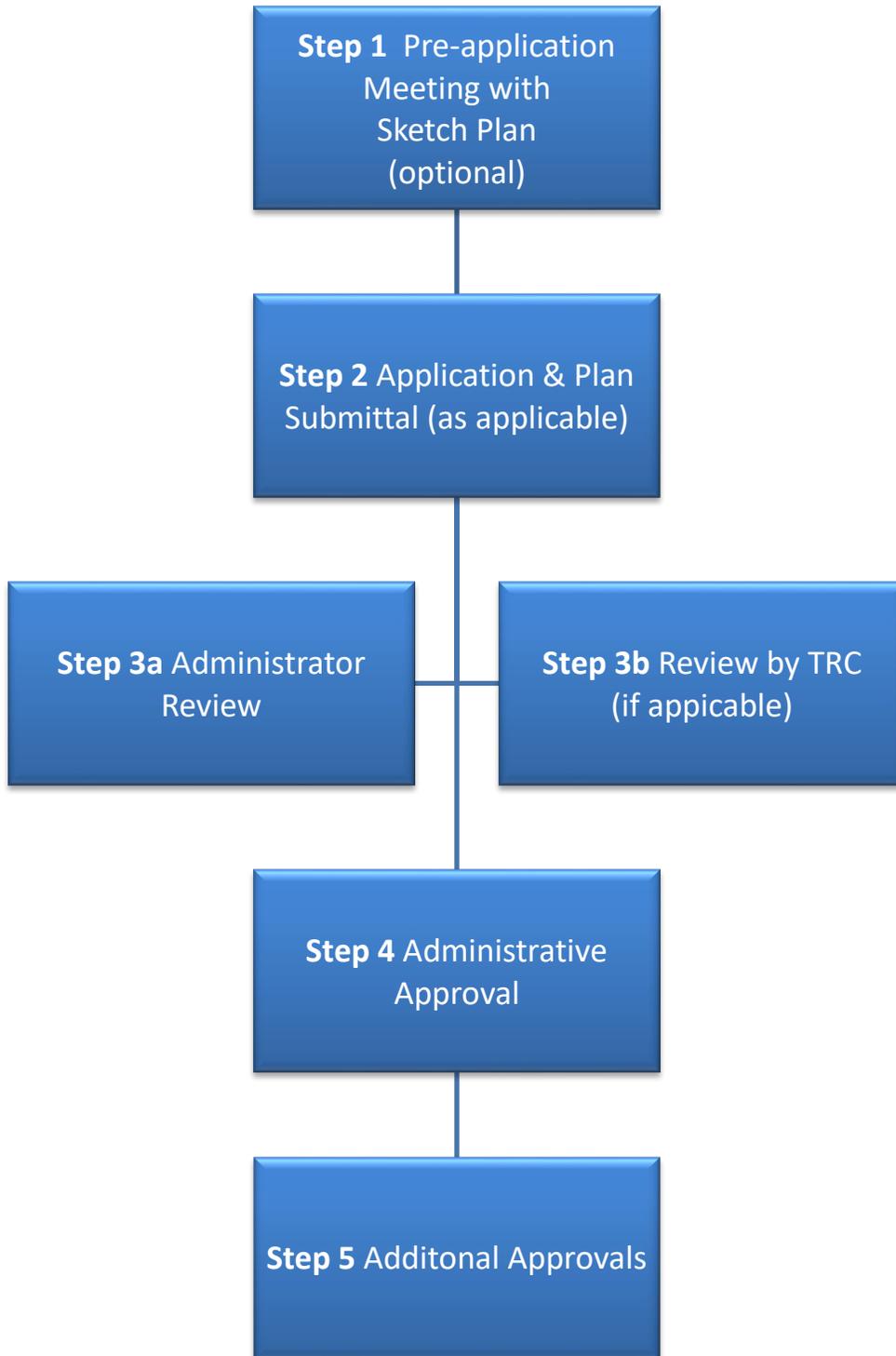
E. Expansions, or additions to an existing principal structure shall be subject to the following:

- An expansion or addition of 25% or less of the Gross Floor Area (GFA) shall be subject to the building setbacks and minimum parking standards of this Ordinance. If additional new parking is required, parking lot yard landscaping shall be required as set forth in Article 7.
- An expansion or addition of greater than 25% of the GFA shall be subject to all applicable design standards as set forth in this Ordinance.

~~All development permits applicable to a proposed development must be issued in accordance with the provisions of this Ordinance, prior to any development activity. Permits are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards, and laws and to ensure consistency with the Comprehensive Plan and policies of the Town.~~

3.2.3. ADMINISTRATIVE PERMIT PROCEDURES

FIGURE 3.2-1: ADMINISTRATIVE PERMIT APPROVAL PROCESS



STEP 1. Pre-application Meeting with Sketch Plan (optional)

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application of this Ordinance to the proposed development is recommended.
- B. Before submitting a Zoning Permit application and associated plan, the applicant may submit to the Administrator a Sketch Plan showing the proposed development. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

STEP 2. Application and Plan Submittal

- A. The Applicant shall file a complete application on a prescribed form for a Zoning ~~Clearance~~ Permit with the Administrator.
- B. No development plan is required for the following permit types:
 - Change of Use
 - Change of Occupancy

However, the Administrator shall ensure that the minimum number of parking spaces for the proposed use are in place and that solid waste receptacles are screened in accordance with Section 11.7.2.2.

- C. Plot Plans (in accordance with Section 3.5) shall be submitted with the application for the following permit types:
 - Single-family residential on individual lot
 - Two-family residential (duplex) on individual lot
 - Accessory structures
 - Non-residential expansions of less than 20% gross floor area, less than 20% impervious area expansion, less than 20,000 square feet of additional impervious area (cumulative), and less than one (1) acre of disturbed area
- D. Site Plans (in accordance with Section 3.5 & Appendix B) shall be submitted with the application for the following permit types:
 - New multi-family residential
 - New non-residential development
 - Non-residential expansions of 25% or greater gross floor area, 25% or greater impervious area expansion, 20,000 square feet or greater of additional impervious area (cumulative), and one (1) acre or greater of disturbed area

STEP 3a & b. Administrator and TRC Review

- A. The Administrator shall review the application in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee (TRC) shall provide comments to the Administrator regarding proposed multi-family residential and non-residential development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

STEP 4. Administrative Approval

- A. Following review, the Administrator shall approve, approve with conditions, or deny the application for a zoning clearance permit. Applications that are denied shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator is allowed as provided for in Section 3.7.
- B. The Zoning ~~clearance~~ Permit shall be issued by the Administrator only if the application complies with all pertinent provisions of this Ordinance, and any approved ~~conditional~~ Special Use Permit, Conditional District rezoning, or site plan.
- C. If the Zoning Permit is denied, the Administrator shall provide the reasons in writing. The applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for in Section 3.X. Such appeal shall be made within 30 days of such permit denial.

STEP 5. Additional Approvals

- A. Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Cabarrus County Building Inspections, if applicable.
- B. If the site does not have access to public water and sewer, it may also be subject to approval of well and septic suitability the Cabarrus Health Alliance.
- C. Following completion of construction and prior the issuance of a Certificate of Occupancy by the Cabarrus County Building Inspector, the applicant shall coordinate with the Administrator to conduct a final site development inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town development standards.
- D. Upon satisfactory completion of all required improvements a Certificate of Compliance shall be issued by the Administrator in accordance with Section 3.2.3, and the Certificate of Occupancy may be issued by the Cabarrus County Building Inspector.

Grading. A Grading Permit shall be required in accordance with Section 3.2.7.

Exceptions. ~~The provisions of this section shall not apply to any legal nonconforming use established in accordance with the provisions of Article 8 of this Ordinance.~~

Validity. ~~The zoning clearance permit shall be valid for its established use if:~~

~~The use is in compliance with applicable codes~~

~~A building permit has been obtained by the applicant within (6) months of issuance of the zoning clearance permit~~

~~If six (6) months elapse without the issuance of a building permit, the zoning clearance permit shall expire.~~

~~Resubmission of plans and materials and an application for a new zoning clearance permit, including applicable fee(s), shall be required for any approved project that did not commence construction within that six (6) month period.~~

3.2.4. CERTIFICATE OF COMPLIANCE

- A. Upon the effective date of this Ordinance, it shall be unlawful to use, occupy or permit the use or occupancy of, connect or provide utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Administrator.
[Procedures](#)
- B. The Applicant shall file a complete application for a certificate of compliance with the Administrator. For new construction projects, an approved site plan as submitted for application for a Zoning [Clearance](#) Permit shall be used. If the application for a certificate of compliance does not involve new exterior construction, a plot plan showing all exterior improvements, as required by this Ordinance, shall be filed for review. The Administrator shall assist the applicant in determining which materials are required for a submittal.
- C. Individual tenants desiring to occupy lease space within an existing commercial development with multiple tenants shall be required to obtain a certificate of compliance. However, individual tenants shall not be required to upgrade any existing nonconforming site improvements to conform to the standards of this Ordinance. New construction is not exempted from meeting the design standards of this Ordinance.
- D. Following review, the Administrator shall approve, approve with conditions, or deny the application for a certificate of compliance. Denied applications shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator is allowed as provided for in Section [3.7](#).
- E. The Administrator shall issue the Certificate of Compliance only if the application complies with all pertinent provisions of this Ordinance and any approved conditional use permit, conditional district rezoning or site plan.
- F. The Certificate of Compliance shall be valid for its granted use as long as the use is in compliance with applicable codes and the property or structure is used, erected, changed, converted, altered, or enlarged in the stated manner.

3.2.5. TEMPORARY CERTIFICATE OF COMPLIANCE

- A. A Temporary Certificate of Compliance may be issued by the Administrator for a period not to exceed six (6) months to allow for partial occupancy of a structure or land in order to complete construction or alteration as permitted. A Temporary Certificate of Compliance may also be issued for a period not to exceed six (6) months to allow for utilities to be connected to an unoccupied structure for rent and/or sale. It shall be unlawful to permanently occupy any portion of a newly constructed or altered building or structure, or to allow a change of use to occur unless a Certificate of Compliance has been granted as prescribed in Section [3.2.4](#). The procedures for issuance of a Temporary Certificate of Compliance shall be in the same manner as set forth for Certificates of Compliance.
- B. The applicant may submit a performance guarantee to the Administrator when an application for a Certificate of Compliance cannot be approved because certain improvements cannot be completed or installed due to adverse weather conditions or other reasonable factors. The applicant shall submit to the Administrator the following information: (1) a specific description of the factor(s) hindering completion or installation of the improvement(s); and (2) a written estimate from a licensed contractor of the cost of materials and labor for completing the work. The administrator shall then determine if the submission of a performance guarantee is appropriate and if the estimate is acceptable. The performance guarantee may be submitted in the form of a certified check, cashier's check, bond, or letter of credit on approved forms and shall be in the amount of ~~150~~ [125](#)% of the estimate. The performance guarantee shall be released after the improvements, as guaranteed, inspected by the Administrator and determined to be in full compliance with the approved plan.

3.2.6. ZONING PERMITS FOR GRADING

A. Upon the effective date of this Ordinance, it shall be unlawful for any person(s) to commit any land disturbing activity, including removal of vegetation, until a Zoning Permit for grading has been issued by the Administrator for all grading activity except the following:

~~A Zoning Grading Permit shall not be required for the following:~~

- agricultural uses, as defined in Appendix A in Table 4.6-1;
- single-family detached homes on individual lots; or
- land disturbing activities that do not disturb more than one (1) acre of land.

B. A Zoning Permit for grading shall not be issued until sedimentation and erosion control permit has been issued by the North Carolina Department of Environmental Quality as set forth in Section 9.1, if applicable.

C. The Zoning Permit for grading shall be issued by the Administrator only if the application complies with the standards of Article 9 and as referenced below:

- the provisions for floodplain protection as prescribed in Article 9 of this Ordinance;
- the provisions for vegetation protection and retention within a protected stream buffer as prescribed in Article 9; and
- as required by any approved conditional Special Use Permit, Conditional Zoning district rezoning, or site plan.

~~The zoning grading permit shall be valid for one year. Resubmission of plans and an application for a new zoning grading permit, including applicable fee(s), shall be required upon expiration of zoning grading permit.~~

~~**Vegetation Protection and Retention.** Zoning Grading plans shall be designed to preserve existing trees and vegetation to the greatest extent possible and shall seek to incorporate existing significant stands of trees as well as individual trees. Certain excavation techniques used by utility companies and others can cause removal of vital roots, change drainage patterns and create conditions that could kill trees and plant materials or make them more susceptible to disease and deterioration. The intent of these regulations is to recognize the need to alter the landscape during site development activities while setting out standards necessary to ensure tree preservation to the greatest extent possible.~~

~~Existing trees and vegetation that are to be preserved should be protected from all construction activities including installation and/or replacement of utilities, earthwork operations, movement and storage of equipment and materials and dumping of toxic materials. Tree and vegetation protection techniques shall be shown in the Zoning Grading Plans and shall be in conformance with standard practices set forth in Appendix B of this Ordinance.~~

~~The Administrator shall use the guidelines below to assist in determining the approval of a Zoning Grading Permit. Vegetation should be removed if:~~

- ~~the vegetation prevents the reasonable development of a property and without its removal, development of the land will be prevented;~~
- ~~the vegetation poses a safety hazard to pedestrians or vehicles, buildings or structure;~~
- ~~the vegetation imposes a disruption or potential disruption of utility services;~~
- ~~the vegetation prevents access to property; or~~
- ~~the vegetation is diseased or will become diseased due to infectious disease, insect infestation, wind or ice storm, or fire and poses a threat to the safety and welfare of the public, vehicles, structures or buildings.~~

3.3. QUASI-JUDICIAL HEARINGS

3.3.1. PURPOSE

The purpose of this Section is to prescribe procedures for quasi-judicial evidentiary hearings.

3.3.2. APPLICABILITY

A. This Section shall apply to all applications for Appeals, Variances, Special Use Permits, Certificates of Nonconformity Adjustment, and Alternative Design Proposals subject to NCGS 160D-405, 160D-406, and 160D-705.

B. Variance and Special Use Permit requests that involve new construction or expansions shall be accompanied by a Plot Plan or Site Plan, as applicable below:

A. No development plan is required for the following permit types:

- Change of Use

However, the minimum number of parking spaces for the proposed use shall be in place and that solid waste receptacles shall be screened in accordance with Section 11.7.2.2. Additionally, the Board of Adjustment may require additional landscaping and screening as needed to meet required findings.

B. Plot Plans (in accordance with Section 3.5) shall be submitted with the application for the following permit types:

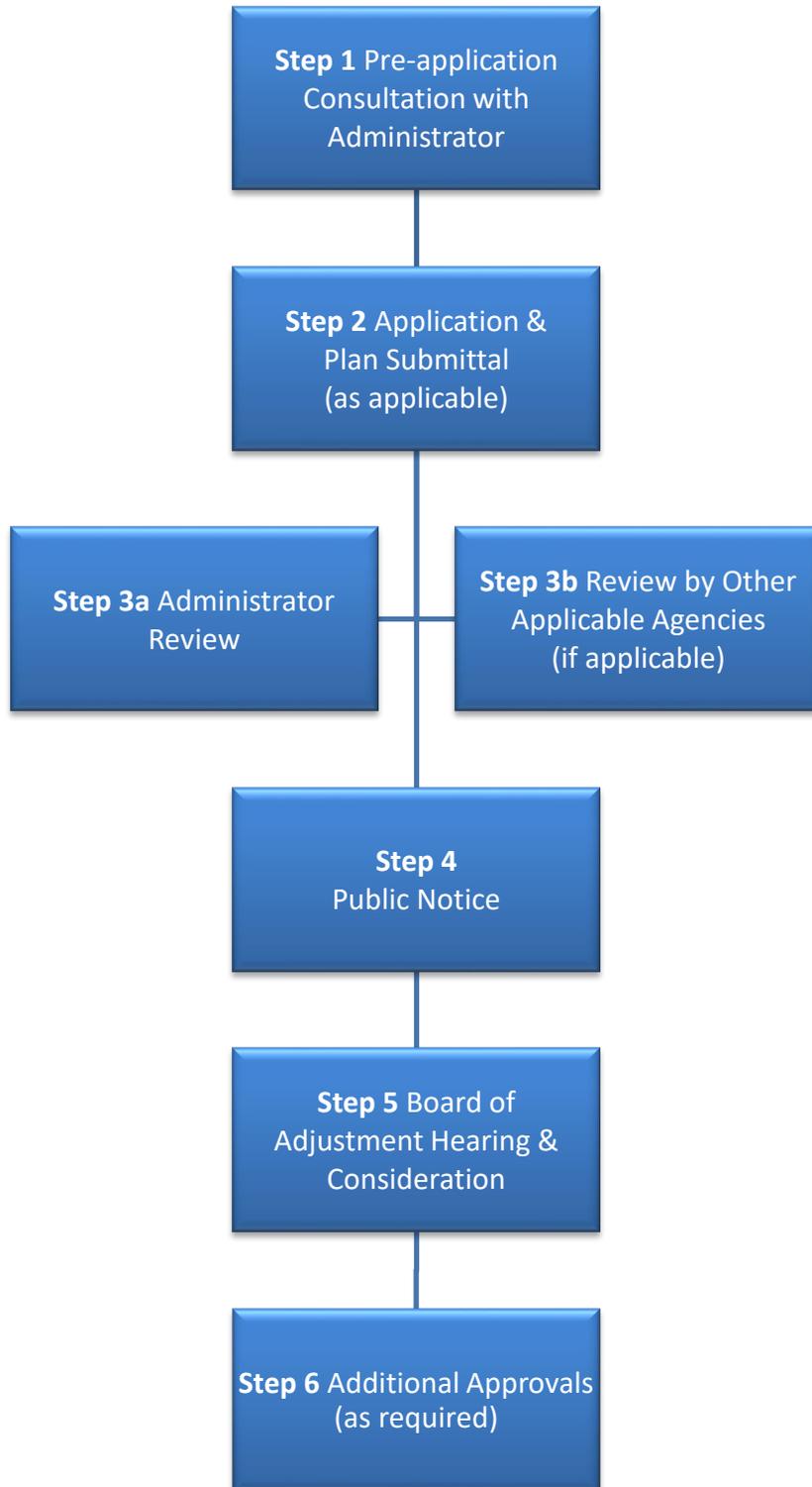
- Single-family residential on individual lot
- Two-family residential (duplex) on individual lot
- Accessory structures
- Non-residential expansions of less than 20% gross floor area, less than 20% impervious area expansion, less than 20,000 square feet of additional impervious area (cumulative), and less than one (1) acre of disturbed area

C. Site Plans (in accordance with Section 3.5) shall be submitted with the application for the following permit types:

- New multi-family residential
- New non-residential development
- Non-residential expansions of 25% or greater gross floor area, 25% or greater impervious area expansion, 20,000 square feet or greater of additional impervious area (cumulative), and one (1) acre or greater of disturbed area

3.3.3. QUASI-JUDICIAL HEARING PROCEDURES

FIGURE 3.2-2: QUASI-JUDICIAL HEARING PROCESS



STEP 1. Pre-application Consultation with Administrator

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application of this Ordinance is required.
- B. Before submitting an application for a Variance, Special Use Permit, Certificate of Nonconformity Adjustment, or Alternative Design Proposal, the applicant shall submit to the Administrator a Sketch Plan. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the applicant or their authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

STEP 2. Application and Plan Submittal

The Applicant shall file a complete application on a prescribed form with the Administrator with an applicable plan in accordance with Section 3.5.

STEP 3a & b. Administrator and TRC Review

- A. The Administrator shall review the application in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee (TRC) shall provide comments to the Administrator regarding the application. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. Public Notice

- A. Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.
- B. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement.
- C. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

STEP 5. Board of Adjustment Hearing and Consideration

A. Administrative Materials

The Administrator or staff to the Board shall transmit to the Board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the Board prior to the hearing if at the same time they are distributed to the Board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or

electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the Board at the hearing.

B. Presentation of Evidence

The applicant, the local government, and any person who would have standing to appeal the decision under NCGS 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

C. Oaths

The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

D. Subpoenas

The Board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under NCGS 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

E. Voting

The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

F. Decisions

The Board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the Board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the Board's determination of contested facts and their application to the applicable standards, and be approved by the Board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

G. Judicial Review

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

Step 6: Additional Approvals (as required)

Following a quasi-judicial approval by the Board of Adjustment, the applicant may need to obtain additional approvals which may include additional approvals, such as Zoning Permits or Building Permits, before work may begin.

3.3.4. APPEALS PROVISIONS

3.3.4.1. Appeals in Nature of Certiorari

- A. When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).
- B. Except as provided in NCGS 160D-1403.1, appeals of administrative decisions made by the staff under this Chapter shall be made to the Board of Adjustment.
- C. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

3.3.4.2. Standing

Any person who has standing under G.S. 160D-1402(c) or the local government may appeal an administrative decision to the board. An appeal is taken by filing a notice of appeal with the local government clerk or such other local government official as designated by ordinance. The notice of appeal shall state the grounds for the appeal.

3.3.4.3. Time to Appeal

The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to NCGS 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

3.3.4.4. Record of Decision

The official who made the decision shall transmit to the Board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

3.3.4.5. Stays of Enforcement Action

- A. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with NCGS 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development

regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after the request is filed.

- B. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

3.3.4.6. Alternative Dispute Resolution

The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution. The development regulation may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

3.3.4.7. No Estoppel

NCGS 160D-1403.2, limiting a local government's use of the defense of estoppel, applies to proceedings under this section.

3.3.5. VARIANCE PROVISIONS

3.3.5.1. Purpose and Findings-of-Fact

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of ALL of the following:

- A. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- D. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- E. The variance does not result in a change of permitted uses within a zoning district.

3.3.5.2. Conditions

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

3.3.6. SPECIAL USE PERMIT PROVISIONS

3.3.6.1 Purpose and Findings-of-Fact

- A. ~~Special-Conditional~~ uses are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration. ~~Special-Conditional~~ uses ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as ~~special conditional~~ uses in a zoning district, as set forth in **Section 4.6, Table 4.6-1** of this Ordinance, shall be authorized by the Board of Adjustment ~~Town Board~~.
- B. Uses permitted subject to ~~special conditional~~ use review criteria shall be permitted only after review and approval by the Board of Adjustment only if the applicant demonstrates that:
 - 1. The proposed ~~special conditional~~ use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.
 - 2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
 - 3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
 - 4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
 - 5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
 - 6. Compliance with any other applicable Sections of this Ordinance.

3.3.6.2 Conditions

Reasonable and appropriate conditions and safeguards may be imposed upon Special Use Permits by the Board of Adjustment. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government. All conditions shall be consented to in writing by the property owner.

3.3.6.3 Scope of Approval

The approval of a ~~special conditional~~ use permit shall authorize the applicant to apply for final site plan approval pursuant to Section 3.6 of this Ordinance. All approvals of conditional use permits require approval of the site plan. Any ~~special conditional~~ use permit approval shall become null and void if a required site plan is not approved within 12 months after the date of the approval. No zoning clearance permit may be issued until the final major site plan and conditional use permits are approved. Final major site plan approval may require approval of variances. Approval of a ~~special conditional~~ use permit does not authorize any development activity.

3.3.6.4 Subsequent Applications

Subsequent applications for a ~~special conditional~~ use permit shall be handled in the same manner as that for rezonings prescribed in Section 3.3.8.

3.3.6.5 Minor Modifications

The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a Special Use Permit. If multiple parcels of land are subject to a Special Use Permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.

3.3.7. CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROVISIONS

Certificates of Nonconformity Adjustment shall meet the criteria set forth in Section [13.1.6](#).

3.3.8. ALTERNATIVE DESIGN PROPOSAL PROVISIONS

Alternative Design Proposals shall meet the criteria set forth in Section [11.1.3](#).

APPROVAL PROCEDURE. (See Figure 3.5-1)

~~No conditional use permit shall be authorized, developed, or otherwise carried out until the applicant has secured approval of the conditional use by the Board of Adjustment and approval of a final site plan by the Administrator.~~

~~Applications for conditional use permit approvals shall be filed with the Administrator as illustrated in Figure 3.5-1. Pre-application meetings with the Administrator prior to filing are required.~~

~~Major site plan applications (see Appendix B) shall be filed concurrently with conditional use permit applications. The information shall be provided to the Board of Adjustment during their deliberations.~~

~~The Board of Adjustment shall conduct a quasi-judicial hearing in accordance with the requirements of Section 3.1.7 of this Ordinance. The Board of Adjustment shall conduct a quasi-judicial hearing and shall deny the request, approve the request; or approve the request with conditions.~~

~~The Board of Adjustment may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the conditional use permit approval and shall be included in the final site plan application.~~

~~Violations of any of the conditions shall be treated in the manner as set forth in Section 1.6 of this Ordinance.~~

~~An application for a conditional use permit that has been denied may be resubmitted only if there has been a substantial change in circumstances, as determined by the Administrator, or if substantial revisions have been made to the application for development approval.~~

~~Minor field alterations or minor revisions to approved conditional uses may be approved by the Administrator if the conditional use still meets the intent of the standards established with the original approval. Minor alteration/revisions shall be limited to changes that do not increase the intensity, density, or character of the use. If the Administrator determines that the change is not minor, the applicant shall be required to apply for a revised conditional use permit. The applicant may appeal the decision of the Administrator to the Board of Adjustment.~~

3.4 LEGISLATIVE HEARINGS

3.4.1 PURPOSE

~~The purpose of this Section is to prescribe procedures for legislative hearings to amend this Ordinance or its associated Zoning Map or to enter into development agreements pursuant to NCGS Chapter 160D, Article 10.~~

~~The purpose of this Section is to establish uniform procedures for processing changes to the Official Zoning Map ("rezonings").~~

3.4.2 APPLICABILITY

~~This Section shall apply to all applications for Text Amendments and Map Amendments subject to NCGS 160D-601, 160D-602, and Special Legislation Chapter 247, House Bill 575 of the 1993 Session of the North Carolina General Assembly.~~

3.4.3 INITIATION OF AN ZONING MAP AMENDMENT

Any person, board, department or commission may apply for a change in Ordinance text or zoning district boundaries (rezoning) with the following limitations:

- A. Applications for Conditional Zoning (CZ) district rezoning as set forth in Section 3.4.6 may be initiated only by petition of the property owners or their agents.
- B. No amendment to the Zoning Map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:
 - 1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.
 - 2. By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

3.4.4 DELEGATION OF LEGISLATIVE AUTHORITY

~~Pursuant to House Bill 575 of the 1993 Session of the North Carolina General Assembly, the Planning & Zoning Board is hereby delegated by the Town Board to have the authority to take final action on applications to rezone property as herein provided.~~

~~Applications for third party rezonings may not be permitted unless a petitioner obtains Planning & Zoning Board sponsorship.~~

~~An amendment to the Official Zoning Map (a "Rezoning") may be initiated by filing an application with the Administrator. Before any application is accepted by the Planning Department, the applicant must meet with the Administrator. The purpose of the pre application meeting is to discuss, in general, the procedures and requirements for a zoning amendment request. During the conference, the administrator will identify the submittal requirements. Neighborhood meetings are required pursuant to Section 3.1.9.5 of this Ordinance.~~

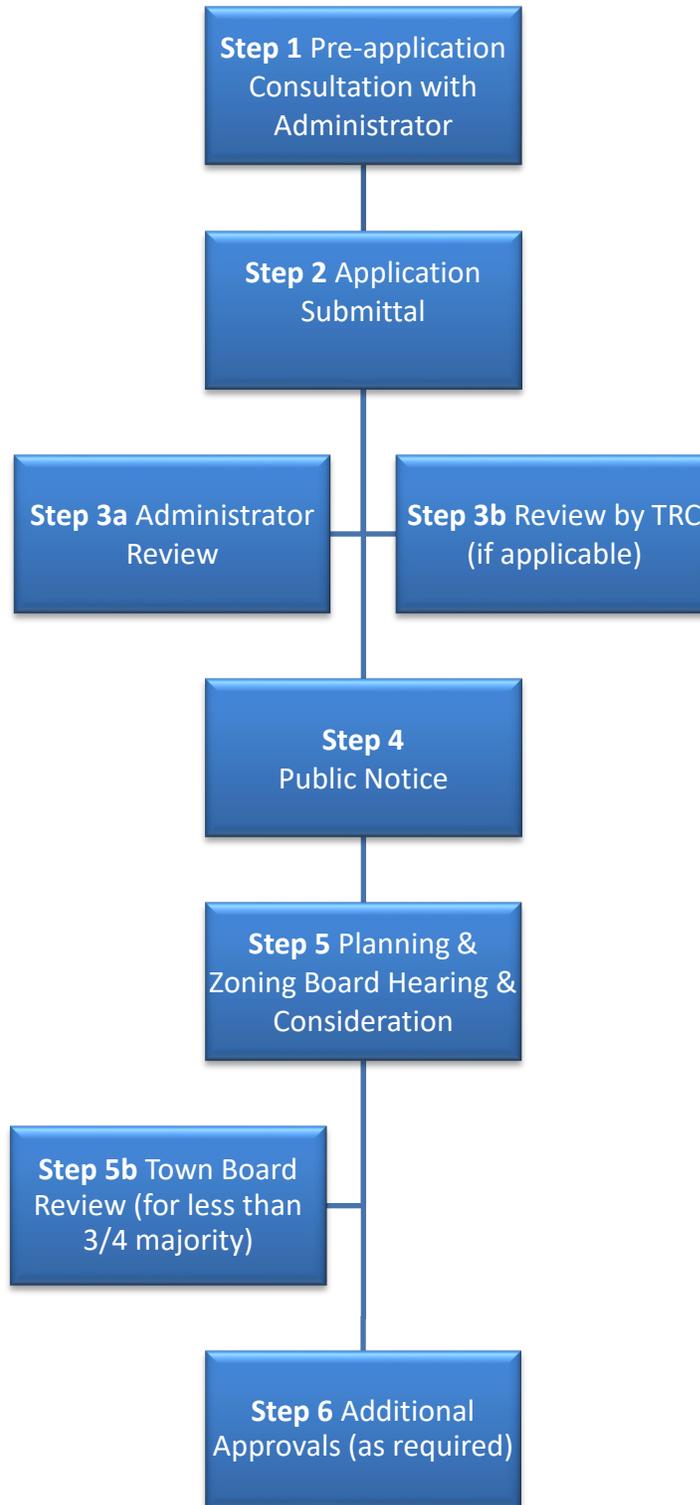
~~An amendment to the text of this Ordinance is regulated in accordance with Section 3.8 of this Ordinance.~~

ZONING MAP AMENDMENT PROCESS.

~~The purpose of this Section is to provide a procedure for streamlining the review of rezoning applications as permitted by special legislation.~~

3.4.5 ZONING MAP AMENDMENT PROCEDURES

FIGURE 3.2-3: ZONING MAP AMENDMENT PROCESS



STEP 1. Pre-application Consultation with Administrator

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application of this Ordinance is required.
- B. Before submitting an application for a Conditional Zoning District, the applicant shall submit to the Administrator a Sketch Plan. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the applicant or their authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

STEP 2. Application and Plan Submittal

The Applicant shall file a complete application on a prescribed form for a Map Amendment with the Administrator with an applicable plan in accordance with Section 3.5.

STEP 3a & b. Administrator and TRC Review

- A. The Administrator shall review the application in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee (TRC) shall provide comments to the Administrator regarding the application. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. Public Notice

- A. A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- B. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning Map Amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.
- C. The Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning Map Amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

STEP 5. Planning & Zoning Board Hearing and Consideration

- A. The Planning & Zoning Board shall take action on Map Amendments after a public hearing has been held. In accordance with NCGS 160D-604 and 160D-605, prior to adopting or rejecting any zoning Map Amendment, the Planning & Zoning Board shall approve a brief statement describing whether its action is consistent or inconsistent with the adopted Comprehensive Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted

Comprehensive Plan. If a zoning Map Amendment is adopted and the action was deemed inconsistent with the adopted plan, the amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning Map Amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning Map Amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the Board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- B. When adopting or rejecting any petition for a zoning Map Amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.
- C. This statement of reasonableness may consider, among other factors:
 - 1. the size, physical conditions, and other attributes of the area proposed to be rezoned
 - 2. the benefits and detriments to the landowners, the neighbors, and the surrounding community
 - 3. the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment
 - 4. why the action taken is in the public interest; and
 - 5. any changed conditions warranting the amendment.
- D. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.
- E. In accordance with House Bill 575 of the 1993 Session of the North Carolina General Assembly, the Planning & Zoning Board may render a final decision regarding a zoning Map Amendment by vote of at least three-fourths (3/4) of the members of the Board present and not excused from voting, and if there is no appeal of this decision. If a decision is by a vote of less than three-fourths (3/4) of the members of Board or if an appeal is taken, then only the Town Board shall have the authority to make a final decision on a rezoning application. Conditions may be imposed to an approved rezoning only if a rezoning to a conditional zoning district is approved pursuant to Section 3.4 of this Article.
- F. Any person aggrieved by the decision of the Planning & Zoning Board shall have the right to appeal the action to the Town Board. The appeal shall be filed by giving notice in writing to the Administrator within fifteen (15) days of the decision of the Planning & Zoning Board.
- G. In the event of an appeal, denial, or approval by less than a supermajority, the Board shall provide a written recommendation to the governing board that addresses consistency with the Comprehensive Plan(s) and any other matters deemed appropriate by the Planning & Zoning Board.

Statement of Consistency With Comprehensive Plan(s). Prior to adopting or rejecting any zoning map amendment the Planning & Zoning Board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board considers the action taken to be reasonable and in the public interest.

STEP 5B. TOWN BOARD REVIEW

- A. If an amendment is forwarded to the Town Board of Commissioners for review after an appeal, the Town Board of Commissioners shall hold a hearing in no more than 60 days from the date of appeal (if any) and decide to approve or deny the zoning amendment.
- B. If an amendment is forwarded to the Town Board of Commissioners for review for any reason other than appeal

(i.e. failure to obtain a $\frac{3}{4}$ supermajority of the Planning & Zoning Board approval), the Town Board of Commissioners shall hold a hearing in no more than 60 days from the date of the Planning & Zoning Board meeting and decide to approve or deny the zoning amendment.

- C. Comments by the Planning & Zoning Board that a proposed amendment is inconsistent with the comprehensive plan(s) shall not preclude the Town Board of Commissioners from considering or approving any proposed amendment. Approval of the amendment shall be by a majority vote.
- D. Conditions may be imposed to an approved rezoning only if a rezoning to a conditional zoning district is approved pursuant to Section 3.4 of this Article.

3.4.5.1 Map Amendment Approval Criteria

~~Whenever the public necessity, safety, or general welfare justifies such action, and after obtaining the recommendation by the Planning & Zoning Board, the Town Board may change zoning district boundaries.~~ The Planning & Zoning Board and Town Board may consider the following questions, at a minimum, in reviewing an application for a rezoning.

- A. The size of the tract in question.
- B. Whether the proposal conforms with and furthers the goals and policies of the Comprehensive Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance.
- C. The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts, as follows:
 - 1. Whether the proposed rezoning is compatible with the surrounding area
 - 2. Whether there will be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning
 - 3. ~~Whether parking problems, or~~ Whether the environmental impacts that the new use will generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances.
 - 4. Any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development.
 - 5. Compliance with the adequate public facilities criteria as set forth in this Ordinance.
 - 6. The zoning districts and existing land uses of the surrounding properties.
 - 7. Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification.
 - 8. Whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character.
 - 9. The length of time the subject property has remained vacant as zoned.
 - 10. Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs.
 - 11. Whether the existing zoning was in error at the time of adoption.

3.4.5.2 Scope of Approval

The approval of a zoning map or text amendment does not authorize any development activity. For proposed conditional uses, the approval of a rezoning authorizes the applicant to file a site plan for conditional use permit approval. If the desired use is permitted as of right, the applicant may file a site plan (if required by Section 3.6) and, if no site plan is required, an application for a zoning clearance permit and any other administrative permits required by Section 3.2 of this Ordinance.

3.4.5.3 Subsequent Applications

In the event that an application for a rezoning or text amendment is denied by the Town Board or Planning & Zoning Board (without an appeal) or that the application is withdrawn after the Board hearing, the Administrator shall refuse to accept another application for the same amendment on the same property or any portion of the same property within one year of the original hearing. However, the Planning & Zoning Board may consider such an application within that time period if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.

~~Zoning Amendment applications shall be submitted for review by the appropriate reviewing departments and a hearing scheduled for the next available meeting of the Planning & Zoning Board. Notice of the public hearing shall be provided as set forth in Section 3.1.5 of this Ordinance. The zoning amendment review process is illustrated in Figure 3.3-1.~~

3.4.6 CONDITIONAL ZONING PURPOSE

The purpose of the Conditional Zoning (CZ) district rezoning process is to provide a procedure for considering the rezoning of property based upon the recognition that certain types of zoning would be inappropriate at particular locations in the absence of special conditions. Because of the refinement of this option, the Town strongly encourages its use for such situations. Conditional zoning affords a degree of certainty when making land use decisions that is not possible when rezoning to a general zoning district, which allows the full range of uses permitted in the district and does not provide the flexibility to propose or require binding site specific conditions to address unique issues that affect the subject property or any potential adverse impacts on adjacent property.

3.4.6.1 Procedures (See Figure 3.4-1)

- A. Applications for Conditional Zoning district rezoning approval shall be filed with the Administrator in ~~the same a similar~~ manner as set forth in Section 3.3 and as illustrated in Figure 3.4-3. A “CZ” rezoning shall only be initiated at the request of the property owner or their authorized agent. A “CZ” rezoning shall not be initiated by the Town Board, Planning & Zoning Board, or administrative staff.
- B. The Applicant shall submit an application for a “CZ” rezoning and a preliminary major site plan as set forth in Section 3.6 and Appendix B of this Ordinance to the Administrator. Following approval of the rezoning, the applicant shall file an application for a final site plan with the Administrator that is consistent with the approved site-specific plan and any supplemental conditions set forth as part of the Conditional Zoning district approval.
- C. The applicant shall describe the exact land use(s) proposed for the "CZ" rezoning. Such use(s) may be selected from any of the uses, whether permitted by right or conditional, allowed in the general zoning district upon which the "CD" rezoning is based. The applicant may also submit any other conditions limiting the type, scope or intensity of development or use of the subject property for consideration by the decision-making body.
- D. The Planning & Zoning Board shall hear the Conditional Zoning district rezoning request and review the site-specific plan concurrently.

3.4.6.2 Permitted Uses and Conditions

- A. Within a “CZ” district, only those uses permitted by the zoning district with which the "CZ" rezoning corresponds

shall be permitted. Such action approving the preliminary major site plan may further specify:

- the location of units
- the location and extent of supporting facilities such as parking lots, driveways, and access streets
- the location and extent of rights-of-way, and other areas to be dedicated for public use, and
- other such matters as the applicant may propose as conditions upon request.

- B. The decision-making body may also impose additional reasonable and appropriate safeguards to serve the purpose and intent of this chapter, public welfare, and justice. In the event of a "CZ" rezoning, the final major site plan is itself a condition of the rezoning. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of NCGS 160D-702(b), driveway-related improvements in excess of those allowed in NCGS 136-18(29) and NCGS 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to NCGS160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

3.4.6.3 Violation or Invalidity of the Terms and Conditions of A "CZ" Rezoning.

- A. A violation of a condition of rezoning to a Conditional Zoning district as set forth in the final development plan and a violation of other related official documents associated with such rezoning are considered violations of this Ordinance subject to the same remedies and penalties. Upon determining that such a violation has occurred, the Administrator shall notify the property owner of his findings and set a reasonable time for the violation to be corrected or abated in accordance with Section 1.6. When a violation is not corrected or abated within the time period set by the Administrator, the Administrator or any person aggrieved may institute appropriate action proceedings to correct or abate the violation consistent with Section 1.6 of this Ordinance.
- B. If any condition imposed, or consideration made, is found to be illegal or invalid, or if an applicant should fail to accept a condition such "CZ" rezoning and preliminary major site plan shall be null and void. Proceedings will be instigated to rezone the property to its previous classification.

3.4.6.4 Scope of Approval

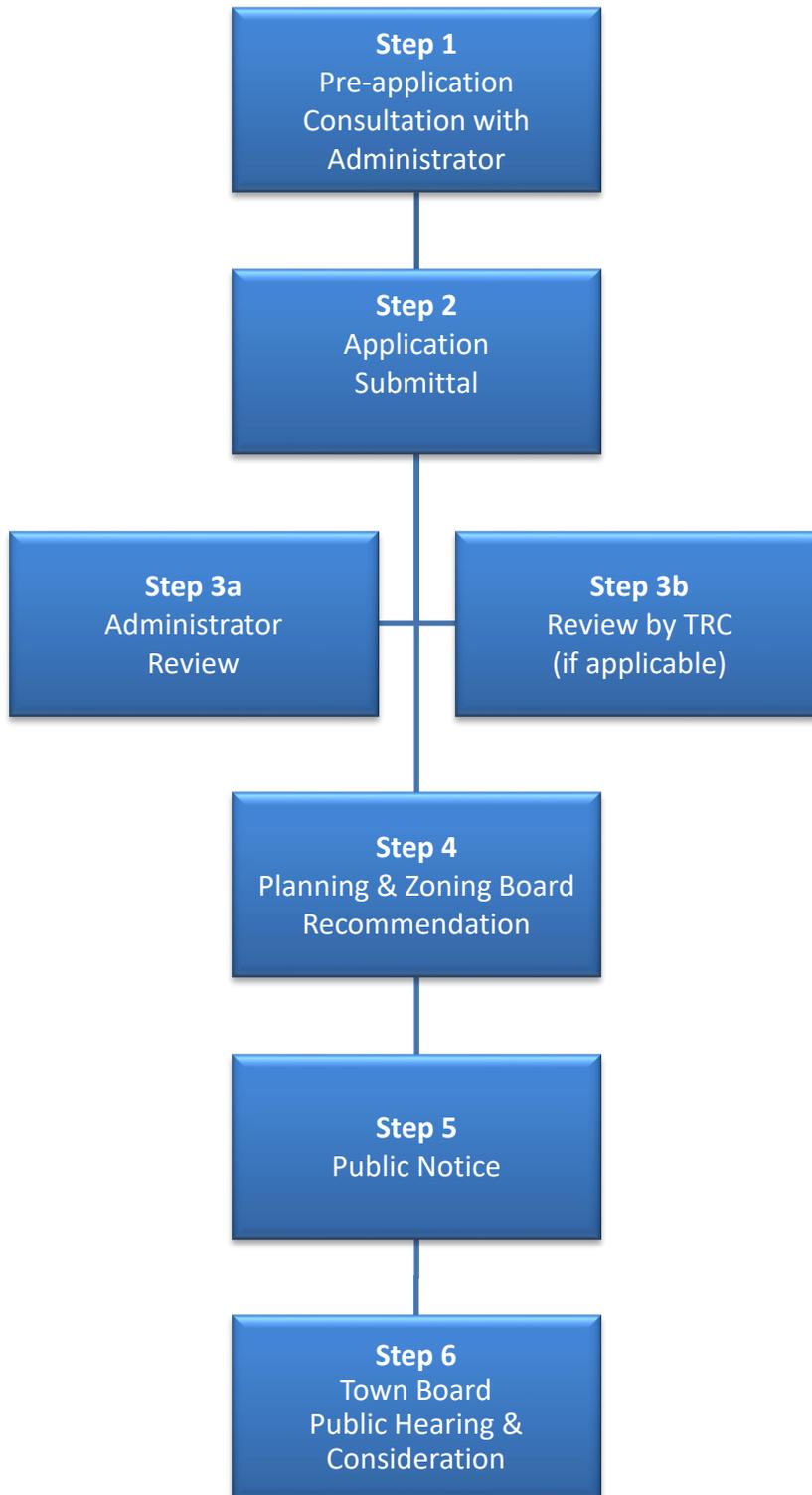
- A. The approval of a rezoning to a Conditional Zoning district does not authorize development activity. The rezoning to the Conditional Zoning district and approval of the preliminary major site plan shall authorize the applicant to apply for a final major site plan. Final major site plans shall be reviewed by the Administrator in accordance with Section 3.6.4 of this Ordinance.
- B. The approval of a final major site plan shall constitute approval of the use(s) requested in the application and approved by the Planning & Zoning Board. Approval of the final major site plan shall have the same effect as set forth in Section 3.6 of this Ordinance.
- C. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

SUBSEQUENT PETITIONS.

~~Subsequent applications for a Conditional Zoning district rezoning shall be handled in the same manner as that of rezonings prescribed in Section 3.3.~~

3.4.7 ZONING TEXT AMENDMENT PROCEDURES

FIGURE 3.2-3: ZONING TEXT AMENDMENT PROCESS



The purpose of this Section is to establish uniform procedures for processing amendments to the text of this Ordinance.

INITIATION OF A ZONING TEXT AMENDMENT.

~~Any person, board, department, or commission may apply for a change in zoning ordinance text.~~

~~An amendment to the text of this Ordinance may be initiated by filing an application with the Administrator. Before an application is accepted by the Planning Department, the applicant must meet with the Administrator. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for a zoning text request. During the conference, the administrator will identify the submittal requirements.~~

PROCEDURES. (See Figure 3.8-1)

~~Zoning Text Amendment applications shall be submitted for review by the appropriate reviewing departments and a scheduled for the next available meeting of the Planning & Zoning Board. The zoning amendment review process is illustrated in Figure 3.8-1.~~

~~A majority vote is required for the Planning & Zoning Board to recommend approval of a text amendment.~~

~~Upon a recommendation of a zoning text amendment, the Administrator shall schedule the application for hearing before the Town Board. The Town Board shall approve or deny the zoning text amendment by a majority vote.~~

STEP 1. PRE-APPLICATION CONSULTATION WITH ADMINISTRATOR

~~To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed text amendment is required. The Administrator shall review the request and discuss it with the applicant.~~

STEP 2. APPLICATION SUBMITTAL

- A. ~~The applicant shall submit the application, fee and any other information pertinent to the proposed text amendment. All applications for text amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's Comprehensive Plan and how it is reasonable and in the public interest.~~
- B. ~~Applications to amend the text of the Development Ordinance may be initiated by the Town Board of Commissioners, Planning & Zoning Board, Town Staff, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.~~
- C. ~~The Administrator shall ensure that the application contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.~~
- D. ~~Specific development proposals may not be considered by the Planning & Zoning Board or Town Board of Commissioners. These entities may only consider the impacts of the proposed text amendment on all affected zoning districts or potential development projects.~~

STEP 3A & B. ADMINISTRATOR AND TRC REVIEW

- A. ~~The Administrator shall review the application in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.~~
- B. ~~The Technical Review Committee (TRC) shall provide comments to the Administrator regarding the application. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.~~

STEP 4. PLANNING & ZONING BOARD RECOMMENDATION

- A. In accordance with NCGS 160D-604, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning & Zoning Board for review and comment. If no written report is received from the Planning & Zoning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning & Zoning Board report. The Town Board of Commissioners is not bound by the recommendations of the Planning & Zoning Board.

- B. When conducting a review of proposed Zoning Text Amendments pursuant to this section, the Planning & Zoning Board shall advise and comment on whether the proposed action is consistent with any Comprehensive Plan that has been adopted and any other officially adopted plan that is applicable. The Planning & Zoning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the Planning & Zoning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Town Board.

STEP 5. PUBLIC NOTICE

In accordance with NCGS 160D-601, before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the Town Board of Commissioners shall hold a legislative hearing. A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

STEP 6. TOWN BOARD PUBLIC HEARING & CONSIDERATION

- A. The Town Board of Commissioners shall hold a legislative public hearing. An amendment may be approved by a simple majority vote.

- B. In accordance with NCGS 160D-605, when adopting or rejecting any zoning text amendment, the Town Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted Comprehensive Plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Board that at the time of action on the amendment the Town Board was aware of and considered the Planning & Zoning Board's recommendations and any relevant portions of an adopted Comprehensive Plan.

3.4.7.1 Scope of Approval

The approval of a zoning text amendment does not authorize any development activity. Development plans shall be filed and reviewed by the appropriate authority as set forth in this Ordinance.

3.4.7.2 Subsequent Applications

In the event that an application for a text amendment is denied by the Town Board ~~or Planning & Zoning Board (without an appeal)~~ or that the application is withdrawn after the Board hearing, the Administrator shall refuse to accept another application for the same amendment within one (1) year of the original hearing. However, this section shall not limit the powers of the Town Board and/or Planning & Zoning Board to initiate a text amendment.

Figure 3.8-1 – ZONING TEXT AMENDMENT REVIEW PROCESS

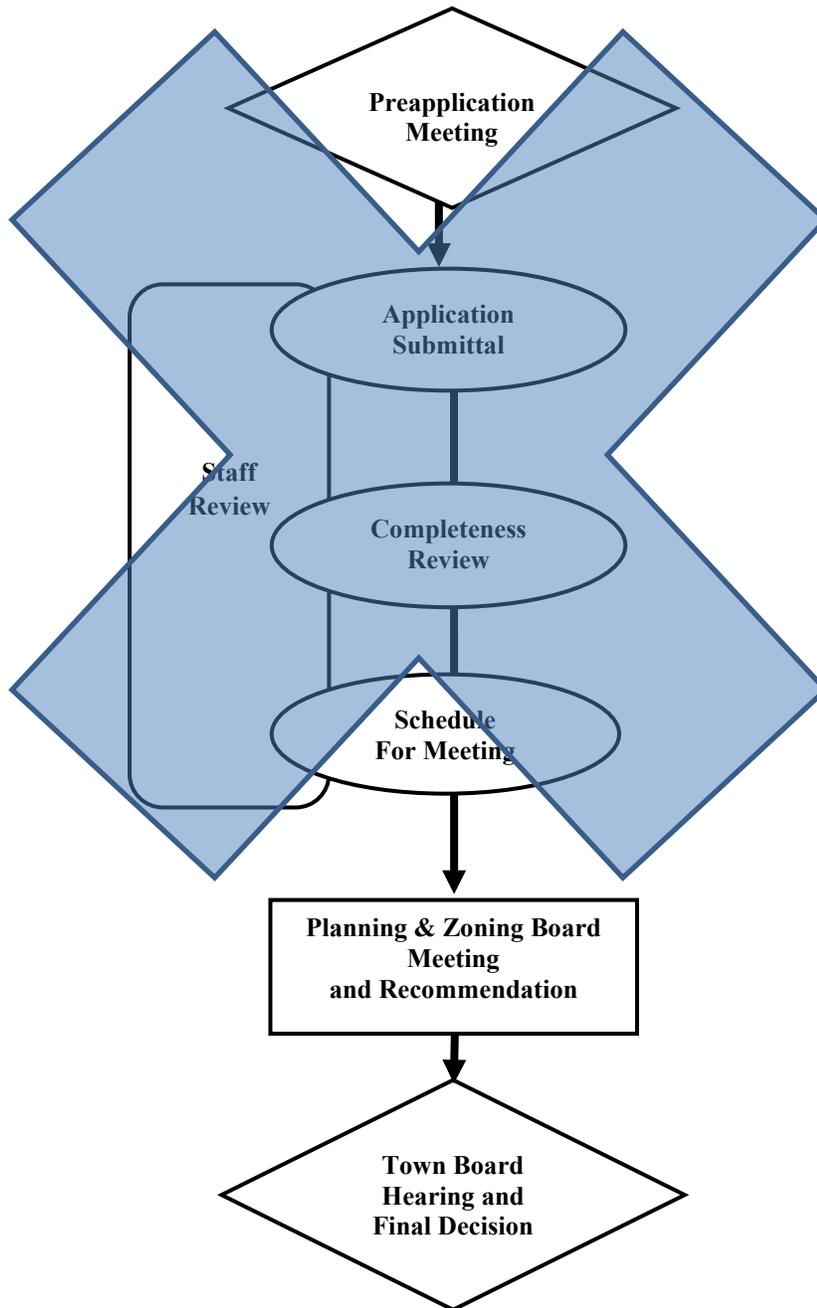
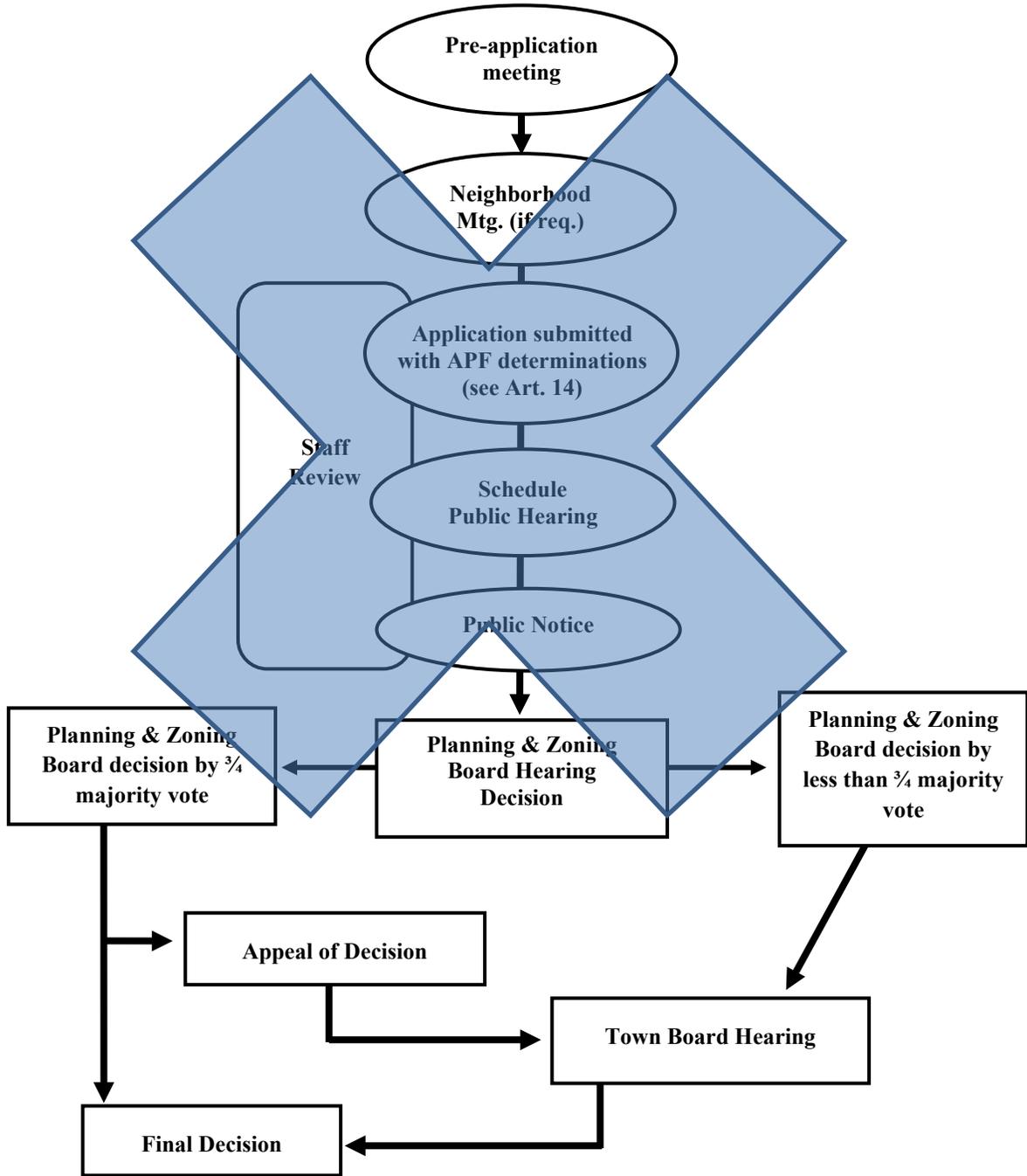


Figure 3.3-1 – ZONING MAP AMENDMENT REVIEW PROCESS



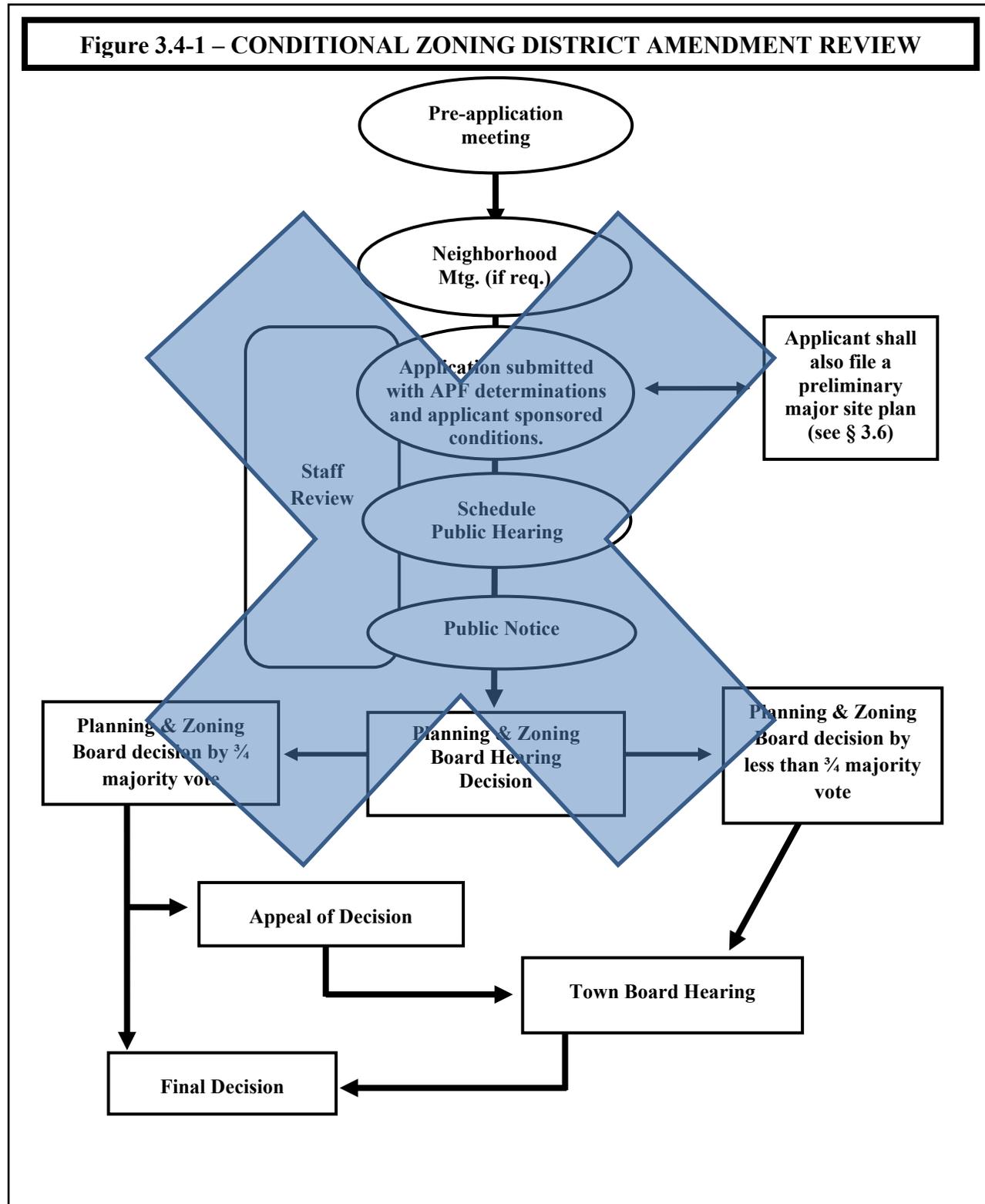
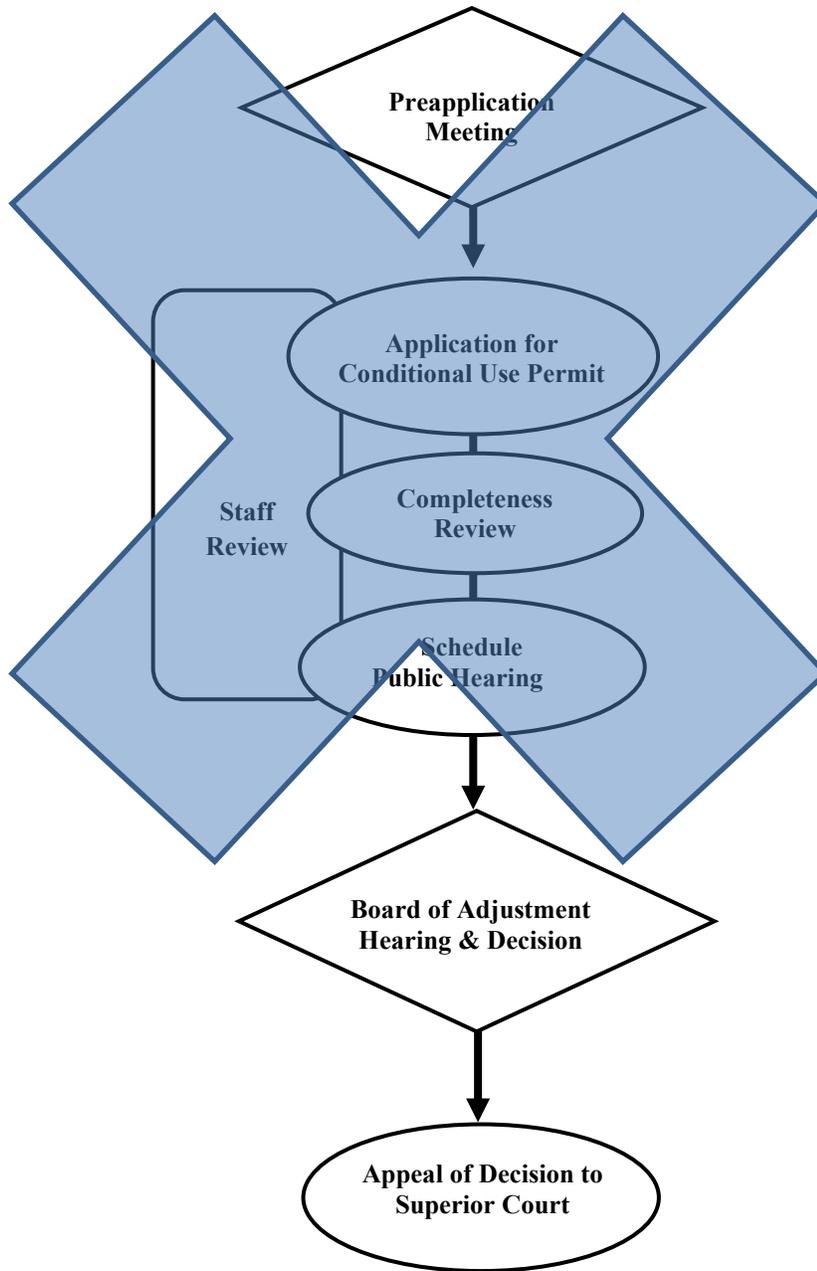


Figure 3.5-1 – CONDITIONAL USE PERMIT REVIEW PROCESS



3.5 DEVELOPMENT PLANS

3.5.1 DEVELOPMENT PLAN STANDARDS

~~All development plans for each review type shall at a minimum contain the information and format set for in Appendix B of this Ordinance.~~

PURPOSE

~~The site plan review provisions and regulations of this Section are intended to promote the safe, functional, and aesthetically pleasing development of property and to ensure that new structures, utilities, streets, parking, circulation systems, yards, and open spaces are developed in conformance with the standards of this Ordinance. The site plan review considers the siting of structures and related site improvements to promote harmonious relationships with adjacent development.~~

3.5.2 MAJOR/MINOR SITE PLAN DEFINED

No application for development approval in the following categories shall be approved unless a site plan has been approved in accordance with the procedures prescribed in this Section.

MINOR SITE PLAN

~~The following shall require MINOR SITE PLAN approval:~~

- A. ~~A Minor Site Plan shall be required for~~ an application for development approval requesting a non-residential use or any multi-family dwelling unit, which is permitted by right in the applicable zoning district.
- ~~Any application for development approval for which a site plan is required pursuant to Article Five of this Ordinance.~~

MAJOR SITE PLAN

B. The following applications shall require Major Site Plan approval:

- Any application for rezoning to a Conditional Zoning district
- An application for approval of a ~~conditional~~ Special Use Permit where new construction is taking place

~~Any application for approval of a Planned Unit Development (PUD).~~

~~The foregoing approvals shall be referred to in this Section as the "Underlying Zoning Application."~~

EXEMPTIONS

~~Detached single family dwelling units and duplex developments on individual lots of record shall be exempt from the provisions of this section. Detached single family dwelling units and duplex developments on individual lots of record shall be reviewed in accordance with Section 3.2.4.4.1.~~

3.5.3 CONFORMITY WITH APPROVED PLAN

Development activities subject to the requirements of this Section may be carried out only in substantial conformance with the approved site plan and attached any conditions or restrictions. Any substantial deviation from the approved site plan, unless approved in advance and in writing by the Administrator, shall be deemed a violation of this Ordinance. Further, no certificate of compliance shall be issued if the development activities do not conform to the approved site plan.

APPROVAL PROCEDURE (MINOR SITE PLANS). (See Figure 3.6-1)

~~Approval of a Minor Site Plan is a one step process. The Applicant submits a Minor Site Plan for approval by the Administrator and an application for a Zoning Clearance Permit as illustrated in Figure 3.6-1.~~

~~Completeness Review. An application for approval of a minor site plan shall be submitted to the Administrator. The Administrator shall determine whether the application for site plan approval is complete as provided for in Appendix B.~~

~~Plan Approval. When a complete minor site plan is filed, the Administrator shall render an administrative~~

determination as follows:

~~If the site plan conforms to the provisions of this Ordinance and all required conditions (if applicable), the Administrator shall approve the site plan.~~

~~If the site plan is complete, but does not conform to the provisions of this Ordinance and/or required conditions (if applicable), the Administrator shall deny the site plan and return to applicant for revision and resubmission. If the applicant disagrees with the decision of the Administrator, an appeal may be filed in accordance with the procedures set forth in Section 3.7.~~

~~If the site plan is determined to be incomplete, the administrator shall return to it to the applicant for revision and resubmission.~~

~~Time limit for final plan approval is regulated in accordance with Table 13.3-1 of this Ordinance.~~

~~APPROVAL PROCEDURE (MAJOR SITE PLANS). (See Figure 3.6-2)~~

~~Approval of a Major Site Plan is a two-step process. As the first step, the Applicant submits a Preliminary Site Plan for review by the Administrator, which is accompanied by an application for a conditional use permit, conditional district rezoning, or a rezoning to a zoning district for which a Major Site Plan is required. As the second step, after the decision-making agency renders its decision on the underlying zoning map amendment and/or conditional use permit application, the applicant files a final site plan for approval by the Administrator and an application for a Zoning Clearance Permit as illustrated by Figure 3.6-2.~~

~~Preliminary Major Site Plan.~~

~~An application for approval of a preliminary major site plan shall be submitted with an application for a conditional district zoning map amendment, conditional use permit, or an application for a Planned Unit Development, Traditional Neighborhood Development, or Transit-Oriented Development. The Administrator shall determine whether the application for a preliminary site plan is complete as prescribed in Appendix B.~~

~~If the preliminary major site plan is complete, the Administrator shall forward the application, along with the zoning amendment or conditional use permit application, to decision-making agency for recommendation as prescribed in Section 3.4 or 3.5, respectively.~~

~~If the preliminary major site plan is incomplete, the Administrator shall return it to the applicant with a statement of the reasons why the proposed preliminary site plan does not conform to the provisions of Appendix B.~~

~~Time limit for preliminary major plan approval is regulated in accordance with Table 13.3-1.~~

~~Final Site Plan.~~

~~The Planning & Zoning Board or Town Board, if appealed, shall render a final decision to approve, deny, or approve with conditions the zoning map amendment or conditional use permit application and preliminary site plan. If the zoning map amendment application or conditional use permit are approved (or approved with conditions), the applicant may file an application for Final Site Plan approval.~~

~~The final site plan shall be prepared and submitted to the Administrator in the same manner as set forth in Section 3.6.5 APPROVAL PROCEDURE (MINOR SITE PLANS). The final major site plan shall conform to the provisions of the approved Preliminary Site Plan and any conditions as imposed by the decision-making agency.~~

~~FINAL INSPECTION.~~

~~The Administrator shall inspect the site for compliance with the approved site plan before a certificate of zoning compliance is issued for the project. The Administrator will write a letter to the applicant stating any deficiencies.~~

~~VALIDITY.~~

~~The Administrator will sign and date the site plan to indicate approval. Approval shall become effective immediately.~~

~~The owner of a use or property subject to the site plan will be notified if site plan approval must be suspended. Suspension is caused by 1.) violation of any applicable provision of this section, or 2.) failure to comply with any applicable required conditions.~~

~~If ownership changes of the site plan or structure in question, the site plan approval remains valid.~~

Figure 3.2-1—ADMINISTRATIVE PERMIT REVIEW PROCESS*

***Includes only administrative permits applications that are not required to obtain site plan approval as set forth in § 3.7 of this Ordinance.**

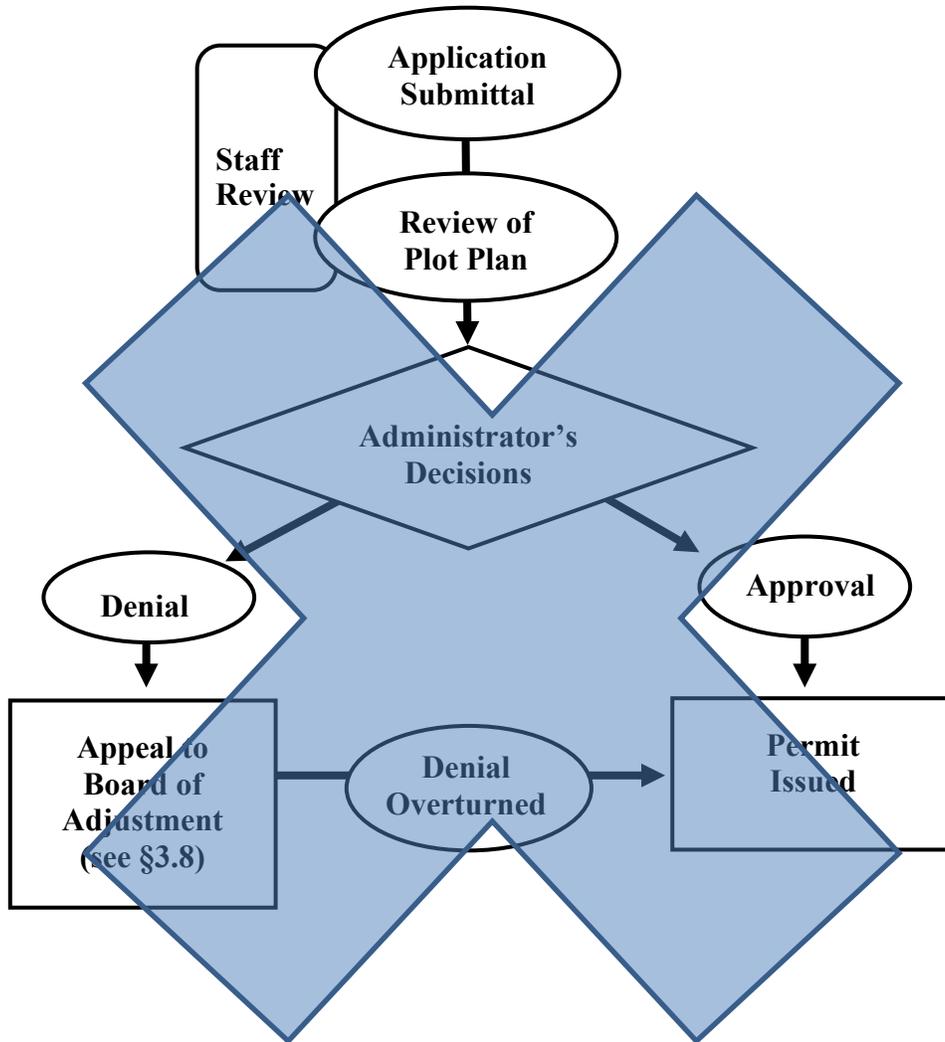


Figure 3.6-1 – MINOR SITE PLAN REVIEW PROCESS

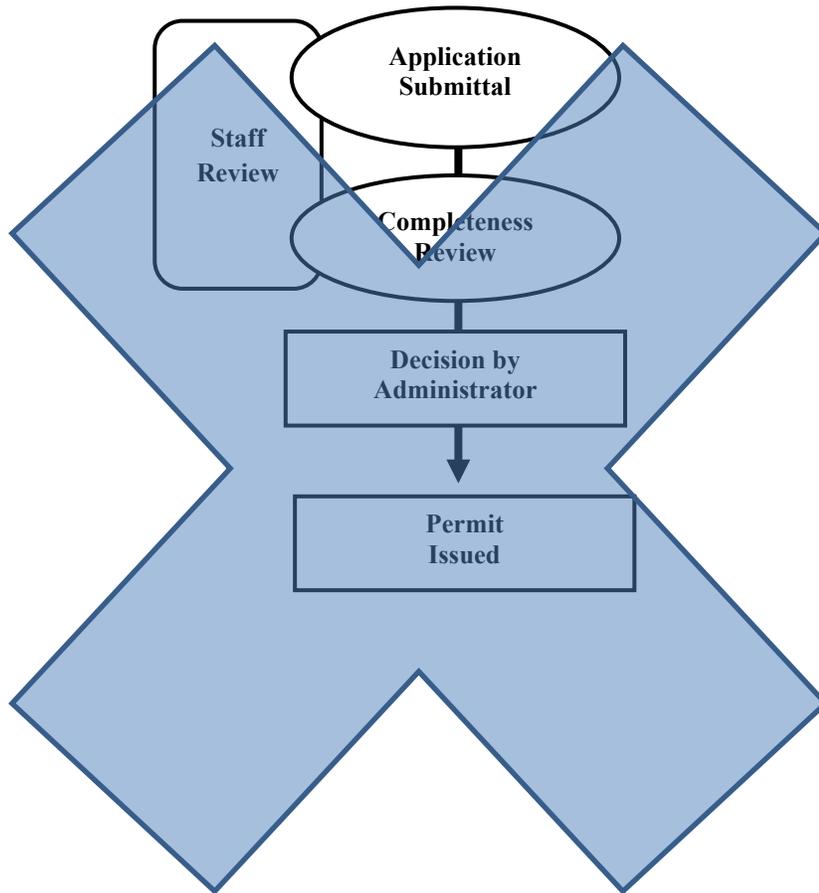


Figure 3.6-2 – MAJOR SITE PLAN REVIEW PROCESS
(Conditional Zoning Districts, Section 3.4)

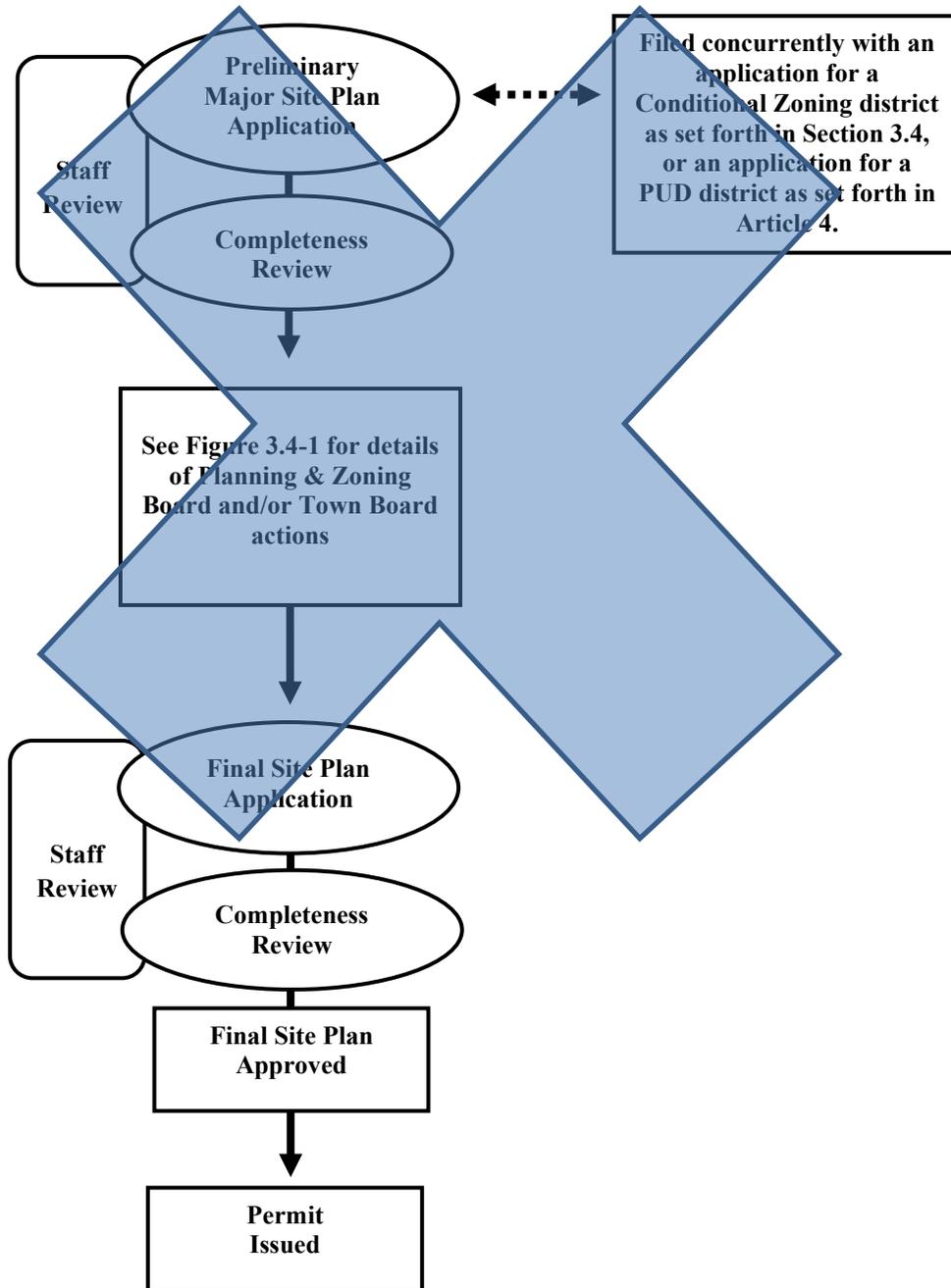
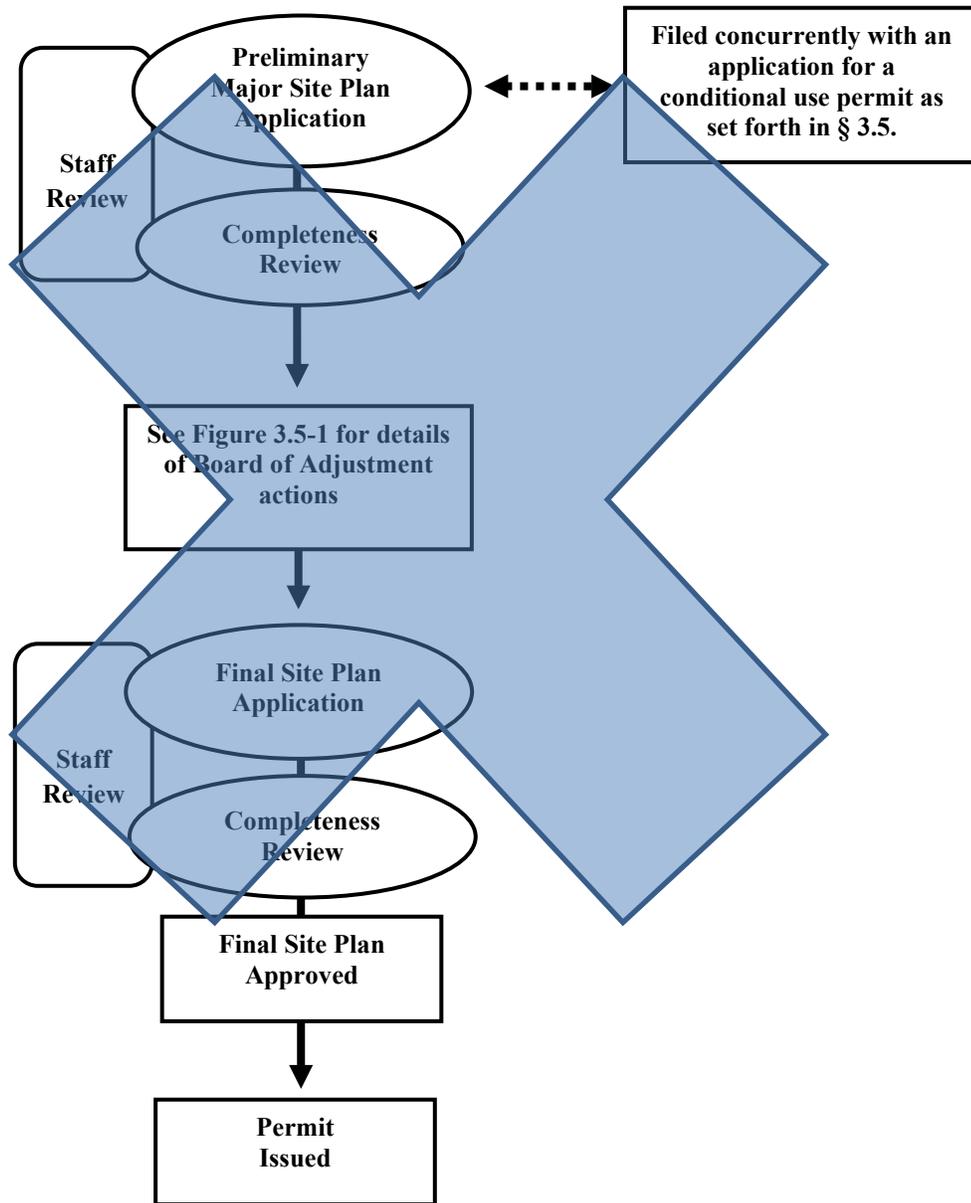


Figure 3.6-2 – MAJOR SITE PLAN REVIEW PROCESS (Conditional Use Permits, § 3.5)



~~APPEALS AND VARIANCES.~~

~~APPLICATION.~~

~~The Planning & Zoning Board, acting as Board of Adjustment (BOA), may decide appeals of administrative interpretations and decisions and may grant variances from the requirements of this Ordinance.~~

~~PROCEDURES. (See Figure 3.7-1)~~

~~The Board of Adjustment will review any appeal of a decision or interpretation of the Administrator and any application for a variance.~~

~~A notice of appeal of an administrative decision from a final decision relating to an application for development approval shall be submitted to the Administrator within thirty (30) days from receipt of the decision.~~

~~Any application request for a variance shall be filed with the Administrator for transmittal to the Board of Adjustment.~~

~~The Board of Adjustment shall conduct a hearing on the appeal pursuant to the procedures established in NCGS Section 160A-388 and Section 3.1.7 of this Ordinance.~~

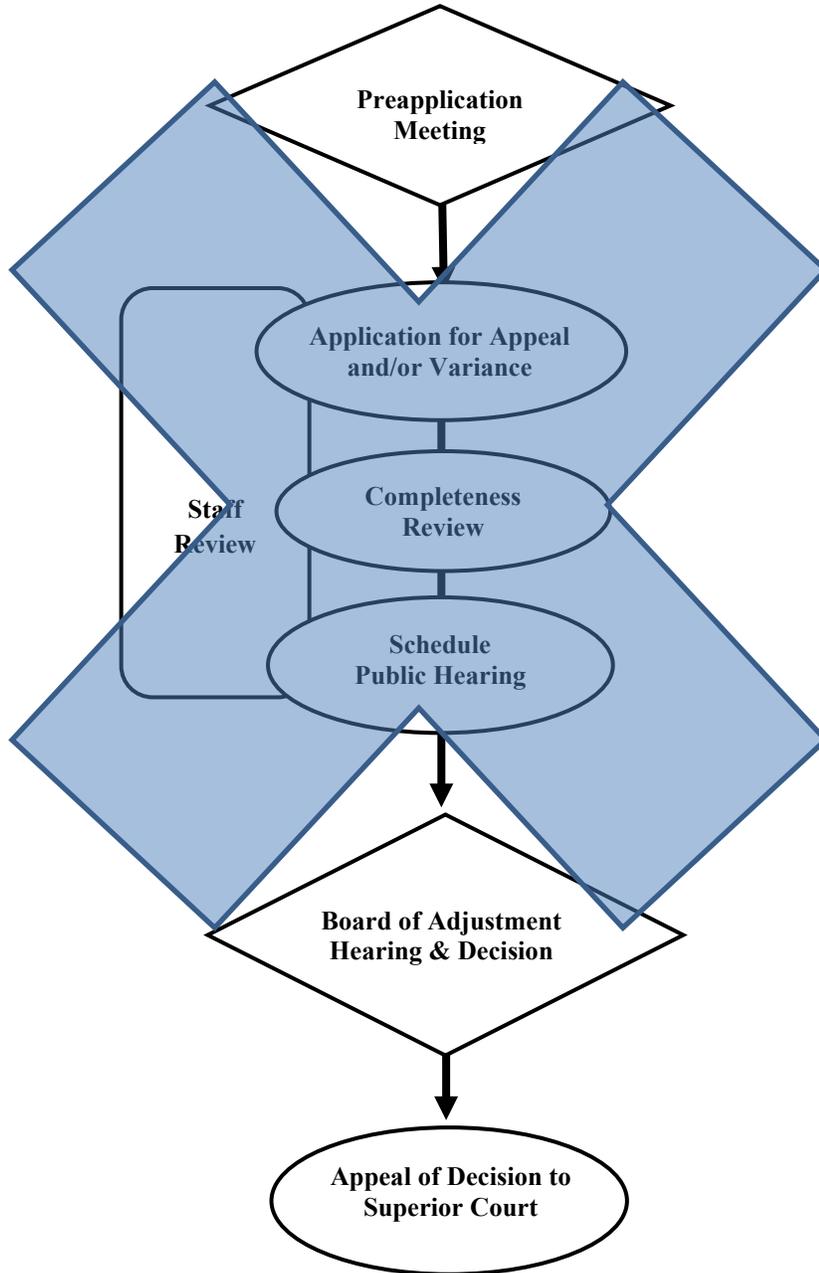
~~Appeals from the Board of Adjustment shall be filed with the Clerk of the Cabarrus County Superior Court within 30 days of the final decision of the Board. The Board of Adjustment's decision shall be considered a final decision after the Board approves the official minutes containing such during an official meeting.~~

~~APPROVAL CRITERIA.~~

~~APPEAL OF DECISION. In an appeal to the Board of Adjustment, regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determining whether the decision or interpretation by the Administrator was in accordance with the intent and requirements of this Ordinance, and accordingly, the Board will affirm or reverse the decision.~~

~~APPLICATION FOR VARIANCE. A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with the hardship criteria established in NCGS Section 160A-388(d).~~

Figure 3.7-1 – PROCESS FOR REVIEW OF APPEALS AND VARIANCES



**ARTICLE 4
ZONING DISTRICTS AND DIMENSIONAL REGULATIONS**

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4.1. PURPOSE STATEMENT FOR ZONING DISTRICTS

The Town is hereby zoned and divided into districts. In accordance with NCGS [160D-701 \(formerly 160A-383\)](#), the purpose of establishing these districts is:

- To implement the Comprehensive Plan;
- To promote the health, safety, morals, or the general welfare;
- To provide for the orderly growth and development of the Town and for the efficient use of our resources (land, water, roads, etc.);
- To lessen congestion in the streets;
- To secure safety from fire, panic, and other dangers.
- To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

4.2. ESTABLISHMENT OF ZONING DISTRICTS

4.2.1. PURPOSE AND INTENT

In accordance with the requirement of NCGS 160D-703 (~~formerly 160A-382~~) that zoning regulation be by districts, the Town Board, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

- AG Agricultural District
- RE Rural Estate District
- RL Residential Low Density
- RM Residential Medium Density
- RH Residential High Density
- O-I Office-Institutional District
- CC City Center District
- C-1 Light Commercial and Office District
- C-2 General Commercial District
- CD Campus Development District
- I-1 Light Industrial District

4.2.2. OVERLAY DISTRICTS

The Town hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts, additional requirements are imposed on certain properties within one (1) or more underlying general or conditional zoning districts. The symbol for each type of district is as follows:

- (HPO) Historic Preservation Overlay District
- (MHO) Manufactured Home Overlay Districts (MH-1 and MH-2)
- WP-O Watershed Protection Overlay (see Section 9.4)

4.2.3. CONDITIONAL ZONING DISTRICTS

In addition to the base zoning districts established in Section 4.2.1, above, the following Conditional Zoning districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that an approval of a site plan and development conditions are required as a prerequisite to any use or development therein, as provided for in this Article and in Section 3.4 of this Ordinance.

- AG-CZ Agricultural Conditional Zoning District
- RE-CZ Rural Estate Conditional Zoning District
- RL-CZ Residential Low Density Conditional Zoning District
- RM-CZ Residential Medium Density Conditional Zoning District
- RH-CZ Residential High Density Conditional Zoning District
- CC-CZ City Center Conditional Zoning District
- C-1-CZ Light Commercial and Office District Conditional Zoning District
- C-2- CZ General Commercial District Conditional Zoning District
- CD-CZ Campus Development Conditional Zoning District
- I-1-CZ Light Industrial District Conditional Zoning District
- I-2-CZ Heavy Industrial District Conditional Zoning District
- PUD-Planned Unit Development District

4.3. ZONING DISTRICT PURPOSE STATEMENTS

4.3.1. PURPOSE STATEMENT

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS 160D-701 (formerly 160A-383), all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the Town Board if any, as adopted under NCGS Chapter 160D (formerly Article 19 of Chapter 160A). This Section describes the relationship between the various zoning districts and the Comprehensive Plan and a summary of each development district in tabular form. However, to the extent that there is any inconsistency between the tabular summary and the specific provisions of Section 4.7 et seq. of this Ordinance, the provisions of Section 4.7 et seq. shall prevail. The table below indicates the relationship between each zoning district described in this section and each land use designation on the Future Land Use Map in the Town’s Comprehensive Plan.

Table 4.3-1: District Consistency with Future Land Use Map Designations

Future Land Use Map Designation	Consistent Zoning Districts	General Use Types	Maximum Residential Density (DUA)
Open Space/Recreation	All districts	<ul style="list-style-type: none"> • Parks & athletic facilities • Greenways • Agriculture & forestry • Floodplain 	n/a
Rural	AG, CZ-AG CZ-RE CZ-O-I	<ul style="list-style-type: none"> • Agriculture & forestry • Detached single-family residential • Limited civic & institutional 	0.5 DUA
Low Intensity	RL, CZ-RL CZ-RM CZ-OI	<ul style="list-style-type: none"> • Agriculture & forestry • Detached single-family residential • Limited civic & institutional 	2 DUA
Medium Intensity	RM, CZ-RM CZ-RH OI, CZ-OI C-1, CZ-C-1	<ul style="list-style-type: none"> • Detached single-family residential • Civic & institutional • Small office, services, & retail (on thoroughfares) 	4 DUA
High Intensity	RH, CZ-RH OI, CZ-OI C-1, CZ-C-1 C-2, CZ-C-2 CZ-CD CZ I-1	<ul style="list-style-type: none"> • Detached single-family residential • Attached single-family residential • Multi-family residential • Civic & institutional • Office, Services, Retail • Entertainment • Flex-space or campus business 	8 DUA
Employment Center	OI, CZ-OI C-2, CZ-C-2 CD, CZ-CD I-1, CZ-I-1 CZ-I-2	<ul style="list-style-type: none"> • Civic & institutional • Office, Services, Retail • Entertainment • Flex-space or campus business • Light industrial • Limited heavy industrial 	n/a
Downtown Core	CC, CZ-CC	<ul style="list-style-type: none"> • Attached single-family residential • Multi-family residential • Civic & institutional • Office, Services, Retail • Entertainment 	8 DUA

CZ=Conditional Zoning District

DUA=Dwelling Units per Acre

4.3.2. PURPOSE STATEMENTS FOR ZONING DISTRICTS

4.3.2.1. (AG) Agricultural District

The AG district is established to provide areas for low intensity agricultural operations as well as agribusiness and supportive commercial uses. AG zoning protects and preserves valuable agricultural areas, implements agricultural protection zoning, establishes performance standards for rural businesses, preserves rural areas, preserves pasture land and agriculture, sets maximum permissible densities or new zoning districts, defines specific areas for rural commercial uses, and identifies areas appropriate for agricultural preservation.

4.3.2.2. (RE) Rural Estate District

The RE district is established to provide areas for low density single family uses, with a maximum of one (1) dwelling unit per acre. Property zoned RE should include only those tracts which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

4.3.2.3. (RL) Residential Low Density District

The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the Town. It includes flexible density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.2.4. (RM) Residential Medium Density District

The RM district is established to provide areas for medium density, single-family residential uses, with a maximum of four (4) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.2.5. (RH) Residential High Density District

The RH district is established to provide areas for detached and attached single family homes, and, as a special use, multi-family residential. A maximum of eight (8) dwelling units per acre is permitted in areas where adequate public facilities and services exist with capacity to serve development. This designation is intended for limited use in areas close to the Town's core and at major nodes identified in the Comprehensive Plan for "High Intensity". Design controls are required for multi-family residential projects as set forth in Article 11.

4.3.2.6. (CC) City Center District

The CC district is established to provide concentrated downtown retail, service, office and mixed uses (including residential uses) in the existing central business district. Shopping centers are permitted, but urban design standards as set forth in Article 11 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC district promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CZ District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CZ zoning district.

4.3.2.7. (OI) Office and Institutional District

The OI district is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

4.3.2.8. (C-1) Light Commercial District

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares.

4.3.2.9. (C-2) General Commercial District

The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.2.10. (CD) Campus Development District

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the Town primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

4.3.2.11. (I-1) Light Industrial District

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park, institutional, and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.2.12. (I-2) General Industrial District (Conditional Zoning Only)

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. These districts shall only be considered as Conditional Zoning (CZ) districts.

4.3.2.13. (PUD) Planned Unit Development District (Conditional Zoning Only)

PUD zones are established in order to provide design flexibility and for special design regulations for mixed use development or large uses which provide special public benefits. These districts shall only be considered as Conditional Zoning (CZ) districts. The purpose statement for the PUD zoning district is set forth in Section 4.8.1. The PUD zoning district may be considered consistent with the Medium Intensity and High Intensity land use designations on the Future Land Use Map in the Town’s Comprehensive Plan, dependent upon the mixture of uses proposed on the site-specific plan as set forth in Section 4.8.

4.3.3. STANDARDS FOR BASE DISTRICTS

4.3.3.1. Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as ~~conditional special~~ uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with Section 5.2 of this Ordinance.

4.3.3.2. Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in Section 4.7.

4.3.3.3. Standards for landscaping, screening and buffering are described in detail in Article 7.

4.3.3.4. Standards for off-street parking and loading facilities, and vehicular access are described in detail in Article 8.

4.3.3.5. Environmental control regulations, including those for watershed protection, flood damage prevention, stormwater, and soil erosion and sedimentation control are described in detail in Article 9.

4.3.3.6. Design and improvement standards for some types of development are regulated in accordance with Article 11. In addition, Article 11 contains specific design standards for the CC Center City District, the CD Campus Development District, and the I-1 Light Industrial District that are unique to the respective districts.

4.3.3.7. Sign regulations are described in detail in Article 12.

4.3.3.8. Adequate public facilities standards are described in detail in Article 14.

4.4. ZONING MAP

4.4.1. BOUNDARIES OF ZONING DISTRICT

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the Town of Mount Pleasant. These maps and all references and dates shown thereon shall be certified by the Mayor.

4.4.2. OFFICIAL ZONING MAP

- A. Pursuant to NCGS 160D-105, the Official Zoning Map, in either digital or hard copy paper form, shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the Town Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map.
- B. The Official Zoning Map shall show the effective date, shall be maintained by the Administrator and bear the seal of the Town under the words: "Official Zoning Map, Town of Mount Pleasant, North Carolina". Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the Former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map which shall be located in the office of the Administrator shall be the final authority as to the current zoning status of land, wet areas, buildings, and other structures.
- C. If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the Former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.
- D. The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Article 4, Section 4.4 of the UDO.

4.5. DISTRICT BOUNDARIES

4.5.1. ZONING DISTRICT BOUNDARIES

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, section lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

4.5.2. BOUNDARY OR LOCATION DISPUTES

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

- A. When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.
- D. Boundaries indicated as separated from but approximately parallel to any of the features indicated in sections 4.5.2.1 through 4.5.2.3 above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.
- E. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical monument or marker located on the ground shall control.
- G. Where physical or cultural features, such as floodplains, vary from those shown on the Official Zoning Map, or in other circumstances not covered by subsections 4.5.2.1 through 4.5.2.6 above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to Section 3.7 of this Ordinance.

4.6. USE REGULATIONS

4.6.1. GENERALLY

- A. No use shall be permitted pursuant to this Ordinance, and no Zoning Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use is listed as a permitted or ~~conditional~~ special use in this Section 4.6 and all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Matrix (Table 4.6-1) and as forth in Section 4.6.2, below.
- B. Permitted Accessory Uses are set forth in Section 5.2 of this Ordinance, while permitted Temporary Uses are set forth in Section 5.22 of this Ordinance. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in Section 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

4.6.2. PRIMARY USES

4.6.2.1. Use Matrix

No Zoning Permit shall be issued for a Primary use not specifically mentioned or described by category in the Use Matrix (Table 4.6-1), Evaluation of these uses shall be as set forth in Section 4.6.2.2, below. Notwithstanding any provision of this Section to the contrary, uses which are preempted by state statute are not listed in the Use Matrix, and may be permitted in accordance with state law.

4.6.2.2. PUD Excluded

Uses in the PUD districts shall be governed by Section 4.8 in this Ordinance and not be included in Table 4.6-1.

4.6.2.3. Use Determinations

The Administrator shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. It is the intent of this Article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a ~~conditional~~ Special Use Permit. Uses not listed as a permitted or ~~conditional~~ special use shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Section. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the decision may be appealed to the Board of Adjustment. The Administrator may determine that a use is materially similar if it falls within the same industry classification of the latest edition of the *North American Industry Classification Manual* ("NAICS") (subject to Section 4.6.2.4, below), and if the proposed use does not generate trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the latest edition of Institute of Transportation Engineers, *Trip Generation*, which documents are hereby incorporated by this reference. The Administrator may also refer to similar studies relating to trip generation for the specific use prepared by a licensed professional engineer associated with a firm listed on the NCDOT "register of Firms" pursuant to 19A NCAC 2E.0702. In the event that the parties do not agree upon the Administrator's interpretation, the determination may be appealed to the Board of Adjustment.

4.6.2.4. Matrix Symbols

The use categories listed in the first column of Table 4.6-1 are defined in Appendix A of this Ordinance, the NAICS, or in other resources cross-referenced in this Ordinance.

- **Permitted Uses.** The letter “P” indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.
- **Special Uses.** The letter “S” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Special Use Permit, in accordance with the review procedures of Section 3.5 of this Ordinance. Special Uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Town consistent with the criteria set forth in Section 3.5 of this Ordinance and any Supplementary Use Regulations which apply to said use.
- **Prohibited Uses.** A dash (“-”) indicates that the listed use type is not allowed within the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Ordinance.
- **Supplemental Regulations.** A section number reference in the “SR” column indicates that the listed use is also subject to specific design regulations as prescribed in Article 5 and/or Article 11.

4.6.3. ACCESSORY USES, SIGNS, AND TEMPORARY USES

- A. Regulations pertaining to the permissible location of Accessory Uses, Signs, and Temporary Uses are set forth in the Accessory Use Regulations (Article 5, Section 5.2), the Sign Regulations (Article 12), and the Temporary Uses Regulations (Article 5, Section 5.10) of this Ordinance.
- B. If a use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in Section 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD	I-1	I-2	SR
<i>AGRICULTURAL USES</i>													
Agriculture, bona fide farm use (pursuant to NCGS 160D-903)	P	P	P	-	-	-	-	-	-	-	-	-	5.3.1
Equestrian uses, boarding, riding stable (commercial)	P	S	S	-	-	-	-	-	-	-	P	-	5.3.1
Farmer's market	P	-	-	-	-	P	P	P	P	P	P	-	
Farm support business	S	-	-	-	-	-	-	-	P	-	P	-	11.7
Garden supply	S	-	-	-	-	-	-	-	P	-	P	-	11.7
Greenhouses, horticultural nursery (commercial)	S	-	-	-	-	-	-	-	S	-	P	-	11.7
Produce stand	P	-	-	-	-	-	S	P	P	-	P	-	5.10.2.2.2
Swine farm	S	-	-	-	-	-	-	-	-	-	-	-	5.3.1
<i>RESIDENTIAL USES</i>													
Accessory structure	P	P	P	P	P	P	-						5.2
Boarding or rooming house	-	-	-	-	S	-	-	-	-	-	-	-	
Caretaker residence	P	P	P	P	P	P	P	P	P	P	P	P	
Dormitory (associated with school or university)	-	-	-	-	-	P	P	P	P	P	-	-	
Dwelling, accessory	P	P	P	P	P	P	-	-	-	-	-	-	5.4.1
Dwelling, duplex/two-family (2 dwelling units on same lot of record)	-	-	-	-	P	-	-	-	-	-	-	-	
Dwelling, single-family attached		-	-	-	P	S	S	-	-	-	-	-	11.2
Dwelling, single-family detached	P	P	P	P	P	S	S	-	-	-	-	-	
Dwelling, single-family manufactured home (pursuant to NCGS 160D-910)	(allowed in MH-1 and MH-2 Overlay Districts only)												
Dwelling, multi-family (3 or more dwelling units on same lot of record)	-	-	-	-	S	S	S	S	S	-	-	-	11.2
Dwelling, upper story	-	-	-	-	-	-	P	P	P	-	-	-	
Family care home (pursuant to NCGS 160D-907)	P	P	P	P	P	P	-	-	-	-	-	-	
Home occupation	P	P	P	P	P	P	P	P	P	-	-	-	5.4.2
Manufactured home park	-	-	-	-	-	-	-	-	-	-	-	-	
Temporary health care structure (pursuant to NCGS 160D-915)	P	P	P	P	P	P	-	-	-	-	-	-	
Vacation rental home (pursuant to NCGS Chapter 42A)	S	S	S	S	S	S	P	P	P	-	-	-	5.4.3

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD	I-1	I-2	SR
<i>CIVIC, GOVERNMENT, & INSTITUTIONAL USES</i>													
Animal shelter	S	S	S	-	-	-	-	<u>S</u>	S	<u>S</u>	S	P	
Cemetery, crematory, & mausoleum as principal use	S	S	S	S	S	S	S	S	P	P	P	P	5.5.1
Child care center	S	S	S	S	S	P	S	P	P	P	S	-	5.5.2
Civic, social, and fraternal organizations	S	S	S	S	S	P	P	P	P	P	P	-	
Community center	S	S	S	S	S	P	P	P	P	P	P	-	
Correctional institution	S	-	-	-	-	S	-	-	-	-	S	S	
Government building or facility (excluding animal shelters , correctional institutions)	S	S	S	S	S	P	P	P	P	P	P	P	
Hospital (includes accessory helipad)	-	-	-	-	-	-	-	-	P	P	-	-	
Post office	-	-	-	-	-	P	P	P	P	P	P	P	
Religious institution, up to 350 seats	S	S	S	S	S	P	P	P	P	-	-	-	
Religious institution, more than 350 seats	-	-	-	-	S	S	P	P	P	P	P	-	
Research facility	-	-	-	-	-	P	S	S	P	P	P	P	
Residential care facility	S	S	S	S	S	P	-	P	P	-	-	-	5.5.3
School, boarding	S	S	S	S	S	S	S	S	S	-	-	-	
School, elementary & secondary (public & private)	S	S	S	S	S	P	P	P	P	-	-	-	
School, university or college	-	-	-	-	-	P	P	P	P	P	-	-	
School, vocational, technical, and trade	-	-	-	-	-	P	P	P	P	P	P	P	
Social assistance (excluding child care center)	S	S	S	S	S	S	S	S	P	-	-	-	

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC*	C-1	C-2	CD*	I-1*	I-2	SR
<i>RECREATION & ENTERTAINMENT USES</i>													
Amusement arcade, electronic gaming	-	-	-	-	-	-	-	-	-	-	-	-	
Amusements, outdoor (water park, batting cages, miniature golf, and similar uses)	-	-	-	-	-	-	-	-	S	-	S	-	
Amusements, indoor (bowling, roller skating, trampoline park, and similar uses)	-	-	-	-	-	-	-	-	P	-	P	-	
Auditorium/indoor public assembly, up to 350 seats	S	S	S	S	S	P	P	P	P	P	P	-	
Auditorium/indoor public assembly, more than 350 seats	-	-	-	-	S	S	S	S	P	P	P	-	
Beach bingo	-	-	-	-	-	-	S	S	S	-	S	-	5.6.1
Campground, private	S	S	S	-	-	-	-	-	-	-	-	-	5.6.2
Country club	S	S	S	S	S	-	-	P	P	-	P	-	
Golf course, public or private	S	S	S	S	S	-	-	P	P	-	-	-	
Museum and art gallery	S	S	S	S	S	P	P	P	P	P	P	-	
Nightclub, bar, lounge	-	-	-	-	-	-	S	-	S	-	S		
Park, public (includes related accessory uses)	P	P	P	P	P	P	P	P	P	P	P	-	
Pool or billiard hall	-	-	-	-	-	-	S	S	S	-	-	-	
Racetrack, motorsports (includes racing test tracks)	-	-	-	-	-	-	-	-	-	-	S	S	
Reception, banquet, events facility	S	S	S	S	S	S	P	P	P	P	P	-	5.6.3
Recreational facility, accessory	P	P	P	P	P	P	P	P	P	P	P	P	
Recreational facility, indoor (excluding amusements)	-	-	-	-	-	P	P	P	P	P	P	-	
Recreational facility, outdoor (excluding public parks, amusements)	S	S	S	S	S	S	S	S	S	S	S	P	
Recreational instruction camp (sports, dance, etc.)	S	-	-	-	-	P	P	P	P	P	P	-	
Recreational outdoor sports club (hunting club, fishing club, etc.)	S	S	S	S	S	P	-	P	P	-	-	-	
Sexually-oriented business (pursuant to NCGS 160D-902)	-	-	-	-	-	-	-	-	S	-	-	-	5.6.4
Shooting/archery range, indoor (commercial or government)	-	-	-	-	-	S	-	-	S	-	P	P	
Shooting/archery ranges, outdoor (commercial or government)	S	-	-	-	-	-	-	-	-	-	S	S	
Theater, drive-in	-	-	-	-	-	-	-	-	S	-	S	-	
Theater, indoor	-	-	-	-	-	-	P	S	P	P	P	-	
Theater, outdoor (excluding drive-in)	-	-	-	-	-	P	P	S	P	P	P	-	
Zoo, public or private	S	-	-	-	-	S	-	-	S	S	S	-	

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD*	I-1*	I-2	SR
<i>OFFICE & SERVICE USES</i>													
Animal services (no outdoor kennels)	S	S	S	-	-	P	P	P	P	P	P	-	5.7.1
Animal services (with outdoor kennels)	S	S	S	-	-	-	-	-	S	S	S	-	5.7.1
Automobile/boat/vehicle repair & maintenance, major	S	-	-	-	-	-	-	-	S	-	P	P	11.7
Automobile/boat/vehicle repair & maintenance, minor	S	-	-	-	-	-	-	P	P	P	P	-	11.7
Bank and/or financial services	-	-	-	-	-	P	P	P	P	P	P	-	
Bed & breakfast home	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>-</u>	<u>-</u>	<u>-</u>	5.7.2
Bed & breakfast inn	S	S	S	S	S	S	<u>P S</u>	<u>P S</u>	P	-	-	-	5.7.2
Broadcasting, telecommunications office (excluding towers)	-	-	-	-	-	P	P	P	P	P	P	-	
Business and professional services (no outdoor storage)	-	-	-	-	-	P	P	P	P	P	P	-	
Business and professional services (with outdoor storage)	-	-	-	-	-	-	-	-	S	S	S	S	
Catering services	-	-	-	-	-	-	P	P	P	P	P	-	
Car wash (as a principal use)	-	-	-	-	-	-	-	P	P	-	-	-	
Contractor office (no outdoor storage)	-	-	-	-	-	P	P	P	P	P	P	P	
Contractor shop (with or without outdoor storage)	-	-	-	-	-	-	-	-	S	-	P	P	11.7
Data center/call center	-	-	-	-	-	S	S	S	P	P	P	P	
Dry cleaning	-	-	-	-	-	-	P	P	P	P	P	-	
Funeral home & services, including crematory as an accessory use	-	-	-	-	-	P	S	S	P	P	P	-	5.5.1
Gunsmith (including gun and ammunition sales)	S	S	S	-	-	-	-	P	P	P	P		
Hotel, motel, or extended stay lodging facility	-	-	-	-	-	-	P	P	P	P	S	-	
Household item repair services	-	-	-	-	-	S	S	P	P	P	P	-	11.7
Lawn and landscaping services (no outdoor storage)	S	-	-	-	-	-	-	P	P	-	P		
Lawn and landscaping services (with outdoor storage)	S	-	-	-	-	-	-	-	S	-	P		11.7
Medical, dental, chiropractic, optical, and health care offices (excluding hospitals)	-	-	-	-	-	P	P	P	P	P	P	-	
Motion picture & sound recording (excluding theaters)	-	-	-	-	-	P	P	P	P	P	P	-	
Personal care services-hair, nails, skin, tanning, massage therapy	-	-	-	-	-	P	P	P	P	P	-	-	
Pest control services	-	-	-	-	-	P	S	P	P	P	P	-	
Photography studio	-	-	-	-	-	P	P	P	P	P	P	-	
Publishing, printing services (including screen printing)	-	-	-	-	-	P	P	P	P	P	P	-	
Professional offices	-	-	-	-	-	P	P	P	P	P	P		
Services, other	-	-	-	-	-	S	S	S	S	S	P	-	11.7
Tailoring services	-	-	-	-	-	P	P	P	P	P	P	-	
Tattoo parlors, body piercing	-	-	-	-	-	-	-	-	S	-	-	-	
Taxidermy	S	S	S	-	-	-	-	-	-	-	P	-	

TABLE 4.6-1: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC*	C-1	C-2	CD*	I-1*	I-2	SR
<i>INDUSTRIAL, WHOLESALE, TRANSPORTATION, & UTILITY USES</i>													
Air transportation and support facilities (pursuant to NCGS 160D-904)	S	-	-	-	-	-	-	-	-	-	S	S	
Amateur radio antennas of 90 feet or less (pursuant to NCGS 160D-905)	<u>P</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>P</u>	<u>P</u>							
Bus, transit terminal or charter	-	-	-	-	-	-	-	-	S	-	P	P	
Flex office/warehouse unit	-	-	-	-	-	-	-	-	S	P	P	P	
Electric power generation (solar collectors pursuant to NCGS 160D-914)	S	-	-	-	-	-	-	-	-	-	S	S	5.9.1
Electric power generation (accessory to permitted use, not connected to grid) (solar collectors pursuant to NCGS 160D-914)	P	P	P	P	P	P	P	P	P	P	P	P	
Industrial laundry, dry cleaning plant	-	-	-	-	-	-	-	-	-	-	S	S	
Landfill - demolition & inert debris	P	P	P	P	P	P	P	P	P	P	P	P	5.9.2
Machine, welding shop	S	-	-	-	-	-	-	-	-	-	P	P	
Manufacturing, Type A	S	-	-	-	-	-	-	-	S	P	P	P	11.7
Manufacturing, Type B	-	-	-	-	-	-	-	-	-	S	P	P	11.7
Manufacturing, Type C (excluding sawmills)	-	-	-	-	-	-	-	-	-	-	S	P	11.7
Mini-warehousing/self-storage	-	-	-	-	-	-	-	-	S	S	P	P	5.9.3
Mining and extraction	S	-	-	-	-	-	-	-	-	-	-	S	5.9.4
Parking lots and structures (principal use)	-	-	-	-	S	P	P	P	P	P	P	P	
Public transit system stops	P	P	P	P	P	P	P	P	P	P	P	P	
Rail transportation and support facilities	-	-	-	-	-	-	-	-	-	-	-	S	
Retail outlet accessory to manufacturing use	-	-	-	-	-	-	-	-	P	P	P	P	
Sawmill	<u>S</u>	<u>=</u>	<u>P</u>	<u>P</u>	11.7								
Sewer/wastewater treatment plants	S	-	-	-	-	-	-	-	-	-	S	P	
Solid waste collection and/or disposal (non-hazardous)	-	-	-	-	-	-	-	-	-	-	S	S	
Solid waste collection and/or disposal (hazardous)	-	-	-	-	-	-	-	-	-	-	-	S	5.9.5
Stockyards, slaughterhouses, rendering plants	S	-	-	-	-	-	-	-	-	-	-	S	
Taxi, limousine, chauffeur services	-	-	-	-	-	-	-	S	P	P	P	-	
Truck transportation, terminal and support facilities	-	-	-	-	-	-	-	-	-	-	S	P	
Truck stop, travel plaza	-	-	-	-	-	-	-	-	S	-	S	-	
Utility distribution lines and appurtenances (water, sewer, natural gas, electric, communications)	P	P	P	P	P	P	P	P	P	P	P	P	
Warehousing and storage	S	-	-	-	-	S	S	S	S	P	P	P	11.7
Waste remediation/recovery services (including salvage/junk yard, recycling operations)	-	-	-	-	-	-	-	-	-	-	-	S	5.9.6, 11.7
Water treatment facility	S	S	S	S	S	S	S	S	S	S	P	P	
Wholesale trade, distribution facilities	S	-	-	-	-	-	-	-	S	P	P	P	
Wireless support structures-new or substantial modification**	S	S	S	S	S	S	S	S	S	S	S	S	5.9.7
Wireless support structures - collocation	P	P	P	P	P	P	P	P	P	P	P	P	5.9.7

** Wireless support structures using approved concealed (stealth) design and less than 60 feet in height are permitted by right in all districts.

ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

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5.4.2. HOME OCCUPATIONS

5.4.2.1. Purpose

A home occupation is permitted as an accessory use in the districts shown in Table 4.6-1 (see Article 4) and in the PUD Districts. The purpose of the home occupation regulations and performance standards are:

- to establish criteria for operation of home occupations in dwelling units within residential districts;
- to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;
- to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
- to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;
- to enable the fair and consistent enforcement of these home occupation regulations; and
- to promote and protect the public health, safety and general welfare.
- No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

5.4.2.2. List of Home Occupations

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

- Accounting, bookkeeping
- Appraisal
- Low-volume baking and canning
- Catering
- Lawn care services
- Legal services
- Real estate sales
- Insurance sales
- Childcare (see Section 5.5.2)
- Drafting services
- Tailoring (dressmaking, alterations, etc.) services
- Catering and baking (subject to health department and/or department of agriculture approval)
- Engineering, architecture and landscape architecture
- Financial planning & investment services
- Fine arts studio (creation of individual works only, no mass production)
- Interior decoration (no studio permitted)
- Low-volume mail order or internet-based business
- Musical instruction, voice or instrument
- Tutoring
- Office work
- Similar, low impact endeavor as determined by the Administrator

5.4.2.3. Home Occupations Not Permitted

The following Uses shall not be permitted as home occupations in Residential Zoning Districts:

- Medical/dental office
- Motor vehicle repair or similar uses

- Temporary or permanent motor vehicle display for purposes of sale or lease, restoration or conversion,
- Engine repair,
[Furniture refinishing](#),
- Gymnastic facilities or dance studios
- Outdoor recreation activities
- Medical/cosmetic facilities for animals including animal care or boarding facilities
- Machine shop/metal working
- Retail sales
- Contractor’s shops
- Mortuaries
- Medical procedures
- Body piercing and/or painting, tattoos
- Any type of physical or psycho-therapy, or
- Any other use not allowed in accordance with 5.4.2.2.

5.4.2.4. Rural Home Occupations

- A. The following home occupations shall be permitted in the AG (Agriculture) zoning district in addition to those specified in Section 5.4.2.2 herein:
 - 1. Auto repair work (storage of six (6) vehicles or less)
 - 2. Contractor’s and trade shops, indoor operations only, including electrical, plumbing, and mechanical
 - 3. Machine welding shops
 - 4. All home occupations permitted in the AG (Agriculture) District shall comply with the criteria of Table 5.4-1 not inconsistent with this section.
- B. Outdoor storage shall comply with the following standards:
 - 1. Storage shall be limited to materials related to the business and shall not involve any hazardous materials;
 - 2. Outdoor storage areas shall comply with Section 11.7 of this Ordinance and shall not occupy an area of land exceeding 80 square feet.
 - 3. Materials shall not be stacked to a height exceeding four (4) feet and shall not be visible from the public right-of-way or an adjacent lot or parcel zoned or occupied for residential use. Any screening required to comply with this subsection shall be accomplished by using wood or masonry fencing or a vegetative hedge.
- C. Where a home occupation is conducted in an accessory building, such accessory building shall not exceed the lesser of the following:
 - 1. The square footage of the footprint of the dwelling, or
 - 2. 2,000 square feet.
- D. Nonresident employees may work in the home occupation as follows:
 - 1. Up to 1,000 square feet of floor area - one nonresidential employee

2. 1,000 and over square feet of floor area - two nonresident employees

For the purpose of this subsection, “floor area” refers to the gross floor area of the entire Dwelling Unit, and not the floor area devoted to the Home Occupation.

- E. The rural home occupation shall not create any smoke, odors, dust, or noise at a level discernable at any of its lot lines.

5.4.2.5. Exempt Home Occupations

The following uses are exempt home occupations and do not require a Zoning Permit:

- Artists, sculptors, composers not selling their artistic product to the public on the premises;
- Craft work, such as jewelry-making and pottery with no sales permitted on the premises;
- Home offices with no client visits to the home permitted;
- Telephone answering and message services

5.4.2.6. Unsafe Home Occupations

If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to Section 1.6 of this Ordinance.

5.4.2.7. Expiration of Home Occupation Permit

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within 30 days after written notice from the Administrator.

5.4.2.8. Performance Standards

Home occupations are authorized if they comply with the performance standards set forth in Table 5.4-1. A check mark “✓” indicates that the performance standard applies in the applicable district.

Table 5.4-1: Home Occupation Performance Standards by Zoning District

PERFORMANCE STANDARDS	AG	All other districts
The use shall be clearly incidental and secondary to residential occupancy, shall not change the residential character of the dwelling, and shall conform with all applicable local, state, and federal regulations.	✓	✓
The use shall be conducted entirely within the interior of the residence and shall not be located in an accessory structure.		✓
A full-time resident operator shall be employed.	✓	✓
Obtain permits before operating home occupation, except those exempted under Section 5.4.2.5.	✓	✓
No more than one (1) non-resident employee shall be permitted.		✓
Not more than 6 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.	✓	✓
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.	✓	✓
Music, ¹ art, craft or similar lessons: (12 or fewer clients per day)	✓	✓
Childcare (maximum of 6 or fewer children); see Section 5.16	✓	✓
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation	✓	✓
Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials	✓	✓
Parking shall be provided only in driveway and shall not create hazards or street congestion	✓	✓
Outside storage of heavy equipment or material shall be prohibited.		✓
No more than three (3) commercial vehicles are to be stored on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned by persons residing on the premises.		✓
Mechanized equipment shall be used only in a completely enclosed building		✓
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.	✓	✓
Deliveries and pickups shall be those normally associated with residential services and shall not block traffic circulation and occur only between 8:00am and 8:00pm Monday-Saturday	✓	✓

¹ provided all electronically amplified sound is not audible from adjacent properties or public streets.

5.6.3. RECEPTION, BANQUET, & EVENTS FACILITIES

- A. The lot size for reception, banquet, and events facilities shall be a minimum size of four (4) ~~five (5)~~ acres.
- B. The parcel must have frontage on a major or minor thoroughfare.
- C. A residential structure that is used for a reception, banquet, or event facility shall not be altered in any way that changes its general residential appearance.
- D. Two (2) parking spaces for owner/operator, plus one for every four (4) persons of permitted occupancy. No on-street parking is permitted.
- E. All activities and event occurring on the property of the reception center shall meet the required noise control ordinance as stated in the Town of Mount Pleasant Code of Ordinances.

5.7. OFFICE & SERVICE USES

5.7.1. ANIMAL SERVICES

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels:

- A. Facilities for the boarding of all dogs and other household pets shall conform to the following:
- B. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.
- C. Animal wastes shall not be stored any closer than 50 feet from any property line or surface waters.
- D. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.
- E. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height and meet the screening

5.7.2. BED AND BREAKFAST HOMES & INNS

- A. Bed and breakfast homes and inns shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:
 - a Historic Preservation Overlay District; or
 - on a parcel with frontage on a major or minor thoroughfare; or
 - within a PUD Planned Unit Development.
- B. A structure which shall be used for a bed and breakfast home or inn shall not be altered in any way that changes its general residential appearance. All guest rooms shall be located within the principal structure.
- C. Accessory uses associated with a bed and breakfast home or inn include those as set forth in Section 5.2. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Special Use Permit or Site Plan application, subject to the requirements of Section 5.6.3. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.
- D. No long-term rental of rooms shall be permitted. The maximum length of stay shall be 30 days.
- E. In accordance with NCGS 130A-247, the maximum number of guest bedrooms for each proposed bed and breakfast ~~inn~~ home shall be ~~five (5)~~ eight (8), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging. The maximum number of guest bedrooms for a bed and breakfast inn shall be twelve (12).
- F. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.9.2. LANDFILLS – DEMOLITION & INERT DEBRIS

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294 [and North Carolina Administrative Code Title 15A, Chapter 13](#). ~~NCGS 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”~~

5.9.2.1. Criteria

- A. The disposal area of a demolition landfill shall not exceed one (1) acre.
- B. The disposal area shall not exceed five (5) feet above average grade in height.
- C. The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.
- D. The landfill shall be located at least one-quarter mile from any other landfill of any type.
- E. The perimeter of the landfill shall be at least 50 feet from the property boundary.
- F. The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.
- G. The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.
- H. The landfill shall comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.
- I. The applicant shall comply with the siting criteria set forth in [NC Administrative Code Title 15A, Chapter 13, 45A NCAC Section 13B.0564](#). ~~After the expiration of NCGS 130A-301.2, the requirements of 15A NCAC Section 13B.0564 shall supersede any standards in this Section to the extent permitted by state law.~~
- J. Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.
- K. The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.
- L. No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

5.9.2.2. Approval Process

- A. No demolition landfill shall be established until a Zoning Permit is obtained from the Administrator.
- B. ~~A Zoning Permit shall be effective for a 12-month period.~~ The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project.
- C. The Administrator shall renew the Zoning Permit if a written finding is made that the construction project is ongoing.

5.9.4. MINING AND EXTRACTION

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.9.4.1. Compliance with State Regulations

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

5.9.4.2. Review and Approval

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a Special Use Permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix B of this Ordinance.

5.9.4.3. Criteria

- A. Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.
- B. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features or any combination of the above. Existing vegetation may also be considered in accordance with Section 7.4.4.4 of this Ordinance. The barrier shall be constructed so as to block the view of the mining and quarrying operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Board of Adjustments, through the issuance of a Conditional Special Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 7.
- C. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

5.9.4.4. Exemptions

- A. Earth moving activity and borrow pits disturbing less than one (1) acre of land shall be exempt from the provisions of this Section.
- B. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed, subject to the approval of a Soil and Erosion Control permit by the North Carolina Department of Environmental Quality (NCDEQ).

5.9.5. SOLID WASTE COLLECTION AND/OR DISPOSAL - HAZARDOUS WASTE

- A. State law restricts the extent to which local zoning may regulate hazardous waste facilities, the General Assembly recognizes that the reasonable concerns of local governments may be considered. NCGS 130B-3, 130B-4.
- B. To the extent not preempted by NCGS 130A-293, hazardous waste facilities shall be permitted only in the zoning districts indicated in Table 4.6-1 (See Article 4).
- C. Consistent with NCGS 130B-20, no zoning compliance permit shall be approved until a Special Use Permit application has been filed. Prior to the filing of any application for a zoning compliance permit, the site designation review committee established pursuant to NCGS 130B-9 and 4 NCAC Section 18.0305 shall examine the criteria for issuance of a [Conditional Special](#) Use Permit and shall submit its recommendation to the North Carolina Hazardous Waste Management Commission. No Special Use Permit or Zoning Permit shall be issued unless the applicant complies in all respects to the above-referenced regulations.

5.9.6. WASTE REMEDIATION/RECOVERY SERVICES (Junkyards/Salvage Yards/Recycling Operations)

- A. This section shall apply to any junkyard, salvage yard, or recycling operation with outdoor storage, any industrial or extractive use involving outdoor storage of junk as a primary or an accessory use.
- B. No Special Use Permit or Zoning Permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS 136-144 (i) and:
 - 1. Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.
 - 2. No yard or storage lot shall be placed or maintained within a required yard setback.
 - 3. All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six (6) feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the state of North Carolina and the Town of Mount Pleasant such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

5.9.7. WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURES & COLLOCATION

5.9.7.1. Purpose and Applicability

- A. [Subject to NCGS Chapter 160D, Article 9, Part 3](#), the purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.
- B. The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina consistent with federal standards, which create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. Section 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. Section 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.
- C. It is also the intent of this Section to:
 - 1. Ensure that the Town of Mount Pleasant has sufficient wireless infrastructure to support its public safety communications;
 - 2. Ensure access to reliable wireless communications services throughout all areas of Mount Pleasant’s jurisdiction;
 - 3. Encourage the use of existing structures for the collocation of telecommunications facilities;
 - 4. Encourage the location of support structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;
 - 5. Facilitate the responsible deployment of Telecommunications Facilities in residential areas to ensure comprehensive wireless services across Mount Pleasant’s jurisdiction; and
 - 6. Minimize the potential adverse effects associated with the construction of wireless support structures through the implementation of reasonable design, landscaping, and construction practices; and
 - 7. Ensure public health, safety, welfare, and convenience.
- D. The provisions of this Section apply to any new wireless support structure. The use of land for wireless support structure shall be permitted as set forth in Table 4.6-1 (see Article 4), subject to the criteria of this Section. Wireless support structures shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities. No permit shall be required for routine maintenance as defined in this Section.

5.9.7.2. Definitions

ABANDON. Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

ACCESSORY EQUIPMENT. Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies,

WIRELESS INFRASTRUCTURE PROVIDER. Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES. Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER. A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities, including water towers and high-tension electric towers. A utility pole or a Town utility pole is not a wireless support structure.

5.9.7.3. New Wireless Support Structures & Substantial Modifications

5.9.7.3.1. Location and Permitted Uses

- A. New wireless support structures shall be permitted as set forth in Table 4.6-1 of this Ordinance, which states that new structures are permitted in every zoning district subject to the issuance of a Conditional Special Use Permit by the Board of Adjustment, except that concealed (stealth) structures of less than 60 feet tall shall be permitted administratively without the issuance of a Conditional Special Use Permit.
- B. Wireless support structures may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

5.9.7.3.2. Necessity of Structure

- A. Subject to NCGS 160D-933, prior to approval of a new wireless support structure or substantial modification, the applicant shall provide evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new structure, that residential, historic and designated scenic areas cannot be served from outside the area, and that the proposed height of the structure or replacement structure is necessary to provide the applicant's desired service. The application shall also provide evidence that collocation on an existing wireless support structure is not feasible.
- B. No new wireless support structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if Conditional Special Use Permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:
 - 1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

5.9.7.3.3. Height, Setbacks, and Fall Zone

- A. All new wireless support structures shall be a monopole or concealed (stealth) design. Maximum height is 200 feet in all districts except I-1 and I-2. Maximum height in the I-1 and I-2 districts is 250 feet. The Board of Adjustment shall also give consideration to compatibility with viewsheds and topography when approving the height of the structure.
- B. Minimum setbacks for all monopole structures from shall be a minimum of the height of the tower from all property lines
- C. Minimum setbacks for concealed (stealth) design structures shall be a minimum of the engineered fall zone (as certified by a professional engineer), except that from any residential structure, the setback shall be the height of the tower.
- D. No wireless support structure shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any wireless support structure not located a distance equal to the height of the structure plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the structure is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

5.9.7.3.4. Aesthetics

- A. Wireless support structures shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.
- B. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the wireless support structure site.
- C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

5.9.7.3.5. Security Fencing

Wireless support structures shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, and shall be equipped in such a manner as to deter climbing. Fencing shall be wood, wood composite, masonry, or coated chain link.

5.9.7.3.6. Landscaping

Wireless communications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the structure compound from adjacent property. The standard buffer shall consist of a landscaped strip at least eight (8) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Board of Adjustment or Administrator (as applicable) may waive these requirements in locations where the view of the structure base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

5.9.7.3.7. Lights

No wireless support structure shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or the Town. This restriction against lights shall not apply to structures which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

5.9.7.3.8. State or Federal Requirements

All wireless support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate wireless support structures. If such standards and regulations are changed, then the owners of the wireless support structures governed by this chapter shall bring such wireless support structures into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring wireless support structures into compliance with such revised standards and regulations shall constitute grounds for the removal of the wireless support structures at the owner's expense.

5.9.7.3.9. Building Codes; Safety Standards

To ensure the structural integrity of wireless support structures, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

5.9.7.3.10. Signs

Signs on a wireless support structure, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

5.9.7.3.11. Permit Requirements

- A. No wireless support structures, shall be erected, established, or substantially modified unless and until a Zoning Permit has been issued pursuant to Section 3.2.6 of this Ordinance, following the issuance of a Special Use Permit by the Board of Adjustment pursuant to Section 3.5 of this Ordinance.
- B. A concealed (stealth) telecommunications facility which does not exceed 60 feet in height is permitted by right, notwithstanding any provisions of the Use Matrix which requires a ~~Conditional~~ Special Use Permit. This

provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.

- C. In addition to the procedures, standards and criteria set forth in Section 3.5 of this Ordinance, [Conditional Special](#) Use Permits for wireless support structures shall be issued in accordance with the following provisions:
1. Wireless support structures 60 feet or more from the average ground level shall require a [Conditional Special](#) Use Permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.
 2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.
 3. In addition to any other information required pursuant to Section 3.5 of this Ordinance, applications for Special Use Permits for wireless support structures shall include the following information:
 4. A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed wireless support structure; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed wireless support structure and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.
 5. The setback distance between the proposed wireless support structure and the adjacent property line.
 6. The availability of suitable existing wireless support structures, other structures, or alternative technology.
 7. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 8. A statement by the applicant as to whether construction of the structure will accommodate co-location of additional antennas for future users.
 9. A description of the suitability of the use of existing structures, other structures or alternative technology not requiring the use of structures to provide the services to be provided through the use of the proposed new structure.
 10. A description of the feasible alternative location(s) of future wireless support structures within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed structure is erected.
 11. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

5.9.7.3.12. Approval Criteria

In determining whether to issue a [Conditional Special](#) Use permit, the Board of Adjustments shall consider, in addition to any other standards in this Ordinance governing [Conditional Special](#) Use Permits, the following factors:

- Height of the proposed wireless support structure;
- Proximity of the wireless support structure to residential structures and residentially zoned district boundaries;
- Nature of uses on adjacent and nearby properties;
- Surrounding topography;
- Surrounding tree coverage and vegetation;
- Design of the wireless support structure, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;
- Proposed ingress and egress; and
- Availability of suitable existing wireless support structures, other structures, or alternative technologies not requiring the construction of new structures.

5.9.7.4. Buildings or Other Equipment Storage

5.9.7.4.1. Accessory Equipment Structures

The equipment cabinets and other support structures used in association with wireless support structures shall comply with the following provisions:

- Equipment cabinets and/or other structures shall comply with all applicable building codes.

2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.
 3. In no instance in a residential zoning district, where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed 40 feet above ground level, unless the Board of Adjustment grants a variance approving a taller utility pole, Town utility pole, or wireless support structure.
- B. Except as provided in this part, the Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under NCGS 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:
1. The right-of-way charge shall not exceed the direct and actual cost of managing the Town rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
 2. The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.
 3. The right-of-way charge shall be reasonable and nondiscriminatory.
- C. Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately-owned utility pole, a privately-owned wireless support structure, or other private property without the consent of the property owner.
- D. Wireless providers shall repair all damage within a right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town may maintain an action to recover the costs of the repairs.
- E. This section shall not be construed to limit enforcement of historic preservation zoning regulations consistent with [NCGS Chapter 160D, Article 9, Part 3](#) ~~Part 3C of Article 19 of this Chapter 160A~~, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and Town charter provisions adopted to implement those laws.
- F. A wireless provider may apply to a Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of way, to support the collocation of small wireless facilities. A Town shall accept and process the application in accordance with the provisions of NCGS 160D-935 (d), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

5.9.7.9.4. Access to Town Utility Poles

- A. Pursuant to NCGS 160D-937, the Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per Town utility pole per

ARTICLE 6 SUBDIVISION REGULATIONS

Summary: This article establishes procedures for the subdivision of land. Included are requirements for the division of land into a subdivision, as defined in Appendix A of this Ordinance, as authorized by NCGS § 160A-371 to 160A-376.

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6.1. GENERAL PROVISIONS STANDARDS

6.1.1. PURPOSE

- A. This Article of the Development Ordinance UDO shall officially be known, cited and referred to as the Subdivision Regulations of the Town of Mount Pleasant, North Carolina.
- B. As required by NCGS Chapter 160D, Article 8 160A-371 to 160A-376, the purpose of establishing this Article is to provide for the orderly growth and development of the local government; for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

~~To ensure the orderly growth and development of the Town, including the requirement that adequate public facilities are available to serve new subdivisions of land, and the use of techniques such as the timing and sequencing of development, promotion of infill development in existing neighborhoods and non residential areas with adequate public facilities, the assurance of urban form and open space separation of urban areas, the protection of environmentally critical areas and areas premature for urban development.~~

~~To provide for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities.~~

~~To provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area.~~

~~To provide rights of way or easements for street and utility purposes including the dedication of rights of way pursuant to NCGS §§136-66.10 or 136-66.11.~~

~~To provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare.~~

~~To provide that the final plat show sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.~~

6.1.2. SUBDIVISION DEFINED AND APPLICABILITY

- A. This Article shall apply to any subdivision, as defined herein in Appendix A of this Ordinance, within the corporate limits of the Town or any extraterritorial jurisdiction established pursuant to NCGS 160D-202 160A-360.
- B. Subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions when any one or more of those divisions is created 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 nor be subject to the regulations authorized by this Article:

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 local government as shown in its subdivision regulations.
 2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
 3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 4. 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.
 5. 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.
 6. A local government may provide for expedited review of specified classes of subdivisions.
- C. The Town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
1. The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
 2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
 3. The entire area of the tract or parcel to be divided is greater than five (5) acres.
 4. After division, no more than three (3) lots result from the division.
 5. After division, all resultant lots comply with all of the following:
 - All lot dimension size requirements of the applicable land-use regulations, if any.
 - The use of the lots is in conformity with the applicable zoning requirements, if any.
 - A permanent means of ingress and egress is recorded for each lot.
- ~~Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of this Ordinance. However, all existing preliminary plats that were approved under the prior Ordinance shall remain valid unless or until the approval expires.~~
- D. The Administrator shall review any plat that does not qualify as a subdivision for compliance with zoning regulations. The following

6.1.3. MINOR SUBDIVISION DEFINED

A minor subdivision is defined as a subdivision involving no new public street right-of-way dedications (except widening of existing, platted street rights-of-way). The minor subdivision process shall be limited to the creation of no more than five (5) new lots from the original parent tract per use. The use of this process is limited to one (1) minor subdivision, or the creation of five (5) new lots, from the parent parcel per five (5) year period.

6.1.4. MAJOR SUBDIVISIONS DEFINED

All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

6.1.5. AUTHORITY AND JURISDICTION

- A. The Planning & Zoning Board is vested with the authority to review, approve, conditionally approve and disapprove applications for Preliminary Plats.
- B. The Administrator is vested with the authority to review ~~and approve~~ sketch ~~plans~~ plats and to approve, conditionally approve and disapprove applications for conveyance plats, minor subdivisions, and/or final plats for major subdivisions.
- C. The Director of Public Works, Town Engineer, and other applicable members of the Technical Review Committee (TRC), or their designees ~~is are~~ is are vested with the authority to review and approve Construction Plans, Subdivision Improvement Agreements, and Performance Guarantees ~~Maintenance Bonds~~. The Director of Public Works, Town Engineer, and other applicable members of the Technical Review Committee (TRC), or their designees ~~is are~~ is are also granted the authority to inspect and accept or deny all improvements ~~as required by this Article 6~~.
- D. The Town Board is vested with the authority to accept all public dedications including, but not limited to right-of-way, easements, park facilities, and open space.

6.1.6. ~~WHEN A SUBDIVISION PLAT IS REQUIRED~~

- A. From and after the effective date of this Article, the owner or proprietor of any tract of land who desires to subdivide land (to create a “Subdivision”) shall be required to submit a plat of such Subdivision to the Administrator, whom is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the Administrator must be made in accordance with the regulations set forth in this Article.
- B. No person shall subdivide and without making and recording a plat and complying fully with the provisions of this Article and all other state and local laws and regulations applying to Subdivisions.
- C. No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the Register of Deeds, unless such subdivision was created prior to the adoption of this Ordinance and any other subdivision ordinance applicable thereto.
- D. No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this Ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this Ordinance.
- E. In any matter in which a court orders the partition of land by dividing the same among the owners, such action shall be exempt from the provisions of this Article, provided that the Town is made a party defendant to said action and gives its consent or fails to file responsive pleadings to said division of the property
- F. A final subdivision plat shall be approved by the Administrator before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Administrator in accordance with these regulations.

~~WHEN A SUBDIVISION PLAT IS NOT REQUIRED~~

~~Pursuant to NCGS § 160A-376, a subdivision plat shall not be required for any of the following: (see definition of “Subdivision” in Appendix 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 Town as shown in this~~

~~Ordinance;~~

~~The division of land into parcels greater than 10 acres where no street right of way dedication is involved.~~

~~The public acquisition by purchase of strips of land for the widening or opening of streets.~~

~~The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right of way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this Ordinance.~~

6.1.7. RECORDATION OF UNAPPROVED PLAT PROHIBITED

The Register of Deeds shall not file or record any subdivision plat required by this Ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this Article.

6.1.8. SALE OF PROPERTY IN VIOLATION OF THIS ORDINANCE PROHIBITED

No land described in this Section shall be subdivided or sold, or transferred until each of the following conditions has occurred in accordance with these regulations:

- A. ~~The subdivider or his agent has submitted a conforming sketch plan of the subdivision to the Administrator;~~ and The subdivider or his agent has obtained approval of the Sketch Plan, a Preliminary Plat (when required), and a Final Plat as provided in this Article; and
- B. The subdivider or his agent files the final or conveyance plat with the Register of Deeds.

~~CLASSIFICATION OF APPLICATIONS~~

~~Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, which include two (2) principal steps for an expedited or minor subdivision and three (3) principal steps for a major subdivision:~~

~~Minor Subdivision (Section 6.3)~~

~~Sketch Plat~~

~~Conveyance or Final Plat~~

~~Major Subdivision (Section 6.4).~~

~~Sketch Plat~~

~~Preliminary Plat~~

~~Final Subdivision Plat~~

Table 6-1.1 Classification of Subdivision Review Periods

(A)		(B) DESIGNATED AGENCY (DECISION- MAKER)	(C) TIME LIMIT FOR PROCESSING
CLASSIFICATION	STAGE		
Minor Subdivision	Sketch Plan	Administrator	15 working days
Minor Subdivision	Conveyance Plat or Final Plat	Administrator	15 working days
Major Subdivision	Sketch Plat	Administrator	15 working days
Major Subdivision	Preliminary Plat	Planning & Zoning Board	60-100 days
Major Subdivision	Final Plat	Administrator	15 working days
Construction Plans	–	Administrator, <u>TRC Town Engineer, and Director of Public Works or their designee, as delegated by this Ordinance</u>	30 days
<u>Exception from Subdivision Ordinance (see § 6.4.16)</u>	–	<u>Planning & Zoning Board</u>	<u>Reasonable period of time, depending on circumstances and scope of application</u>

6.2. CRITERIA FOR SUBDIVISION APPROVAL

6.2.1. CRITERIA FOR APPROVAL

It is the intent of this Ordinance that land to be subdivided shall be of a character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements are existing or proposed, and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreational facilities, transportation facilities and improvements. Accordingly, the Administrator or Planning & Zoning Board [shall consider the following criteria: not approve a subdivision plat unless all of the following findings with respect to the proposed development are made:](#)

- A. The proposed land uses are in accord with the adopted *Comprehensive Plan* and the Official Zoning Map, or that the means for reconciling any differences have been addressed. A Preliminary Plat may be processed concurrently with a rezoning request.
- B. The proposed subdivision conforms to all relevant requirements of this Ordinance and to any variances that have been granted to permit any nonconformance. The plat shall meet all requirements of this Ordinance with respect to lot size and area, and in no way create a violation of any applicable current ordinances, statutes or regulations.
- C. The proposed development, including its lot sizes, density, access and circulation, are compatible with the existing and/or permissible future use of adjacent property.
- D. That the proposed subdivision will not have detrimental impacts on the safety or viability of permitted uses on adjacent properties.
- E. That the soils and topography have been adequately studied [during Construction Drawing review](#) to ensure that all lots are developable for their designated purposes.
- F. That any land located within Zone A as shown on the currently adopted Flood Boundary and Floodway Maps of the Flood Insurance Study, is determined to be suitable for its intended use and that the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, or any other floodplain-related risks to the health, safety or welfare of the future residents of the proposed subdivision in a manner consistent with this ordinance, as described in Section 4.14 of this Ordinance.
- G. The proposed name of a subdivision shall be approved by the Cabarrus County E-911 Coordinator(s) and shall not use a word, or phrase, which is the same as, similar to, or pronounced the same as a word in the title of any other subdivision in Cabarrus County or other municipality in the County. Proposed subdivisions may only use a duplicate subdivision name in the event that the Administrator requires the use of the same name for purposes of clear identification.
- H. In considering an application for a subdivision plat, the decision-making agency shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to ensure compliance with the criteria of this [Ordinance or other local, state, or federal regulations. Section 6.2.](#)

6.3. MINOR SUBDIVISIONS

6.3.1. MINOR SUBDIVISION REVIEW PROCEDURES ~~GENERAL SUBMISSION REQUIREMENTS~~

- A. Minor subdivisions shall be reviewed in accordance with the administrative review procedures set forth in Section 3.2.3.
- B. Applications ~~for sketch plan and final plat approval~~ shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

SKETCH PLAN SUBMISSION REQUIREMENTS

~~The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.~~

~~The Administrator, upon consultation with the Director of Public Works or their designee, shall provide comments regarding the plan's compliance with this Ordinance and issue either the Notice to Proceed or a Notice of Noncompliance not later than fifteen (15) days after the date on which the sketch plat was submitted to the Administrator. The Administrator shall issue a Notice to Proceed only if the sketch plan complies with all applicable laws governing the subdivision of land. The approval shall include, as appropriate, recommended changes in the sketch plan to be incorporated into the final (conveyance) plat. Subsequent to an approval, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat (conveyance plat) as provided in these regulations. If the sketch plan of a minor subdivision is denied by the Administrator, the applicant may appeal to Planning and Zoning Board. The Planning and Zoning Board shall review the application, and shall affirm or reverse the decision of the Administrator. The applicant shall have one (1) year from the date that the sketch plat is approved to submit a conveyance plat, after which time a new sketch plat must be submitted for approval.~~

6.3.2. FINAL PLAT SUBMISSION REQUIREMENTS

6.3.2.1. Standard Final Plat

A Final Plat may be in the form of a standard plat in accordance with the provisions of Appendix B for Minor Subdivision Plats.

6.3.2.2. Conveyance Plat

If the Administrator finds that the sketch plat meets the requirements of a minor subdivision and that there are no adverse effects on the remainder of the parcel or on adjoining property, then the subdivider may proceed with the preparation of a conveyance plat. A subdivision shall be deemed to have no adverse effects on the remainder of the parcel or on adjoining property if:

- A. The subdivision meets the definition of Minor Subdivision as set forth in Section 6.3.1 of this Ordinance); and
- B. The subdivision contains no watershed Critical Areas (see definitions) on any portion of the property to be subdivided or developed; and
- C. The conveyance plat shall be recorded in the same manner, and shall be subject to the same restrictions, as a standard Final Plat (see Section 6.3.6).

~~The conveyance plat shall comply in all respects with the sketch plan.~~

6.3.3. FINAL PLAT APPROVAL

The Administrator, upon consultation with ~~applicable members of the Technical Review Committee (TRC)~~ ~~the Director of Public Works or their designee~~ shall render a determination as to whether the plat is approved, approved with conditions or denied pursuant to Section 6.2 of this Ordinance and NCGS ~~Chapter 160D, Article 8 § 160A-372~~. The application shall be processed within the time period specified in Column (C) of Table 6.1-1. If a plat is approved, the Administrator (~~Planning Director~~) ~~and the Director of Public Works or their designee~~ shall certify such approval by signing the plat. If disapproved, the Administrator shall advise the subdivider of such action and shall indicate the reasons for denial.

6.3.4. RECORDING A FINAL PLAT

- A. Within 30 days of final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an extension. The Administrator may grant up to two extensions of final plat approval, each of up to six (6) months. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void.
- B. The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.
- C. No Zoning ~~clearance~~ Permit or Building Permit shall be issued or approved until the expiration of ten (10) business days after a Final Plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus County.

6.3.5. UTILITY EXTENSIONS PERMITTED UNDER A MINOR PLAT

A utility extension shall be defined as the extension of a water or sewer line that falls under the ownership and maintenance of the Town of Mount Pleasant and shall require permitting by the State of North Carolina (or the Town if approved by the State for “Self-permitting”). Such extension shall require a right-of-way or easement. If applicable, utility extensions shall be allowed under a minor plat review provided that:

- all Construction Plans for utility extensions are submitted and approved in accordance with Section 6.4.11 of this Ordinance;
- all lines/improvements are constructed in accordance Section 6.4.11 of this Ordinance; and
- a final plat shall not be approved until all utility extension improvements have been inspected and accepted in accordance with Sections 6.4.12-6.4.16 of this Ordinance.

Figure 6.3-1. Minor Subdivision Plat review process. (Subdivision does not include Water and/or Sewer Utility Extensions).

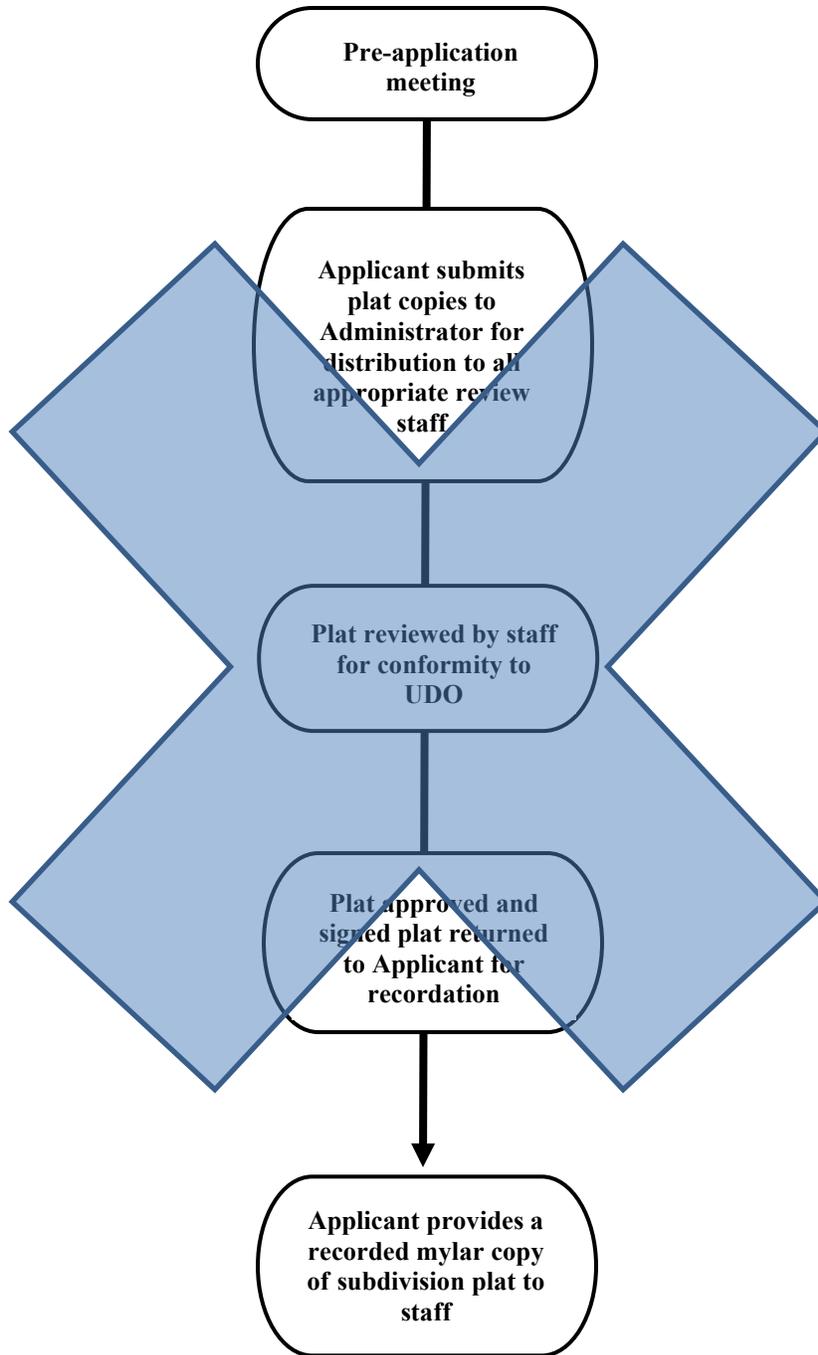
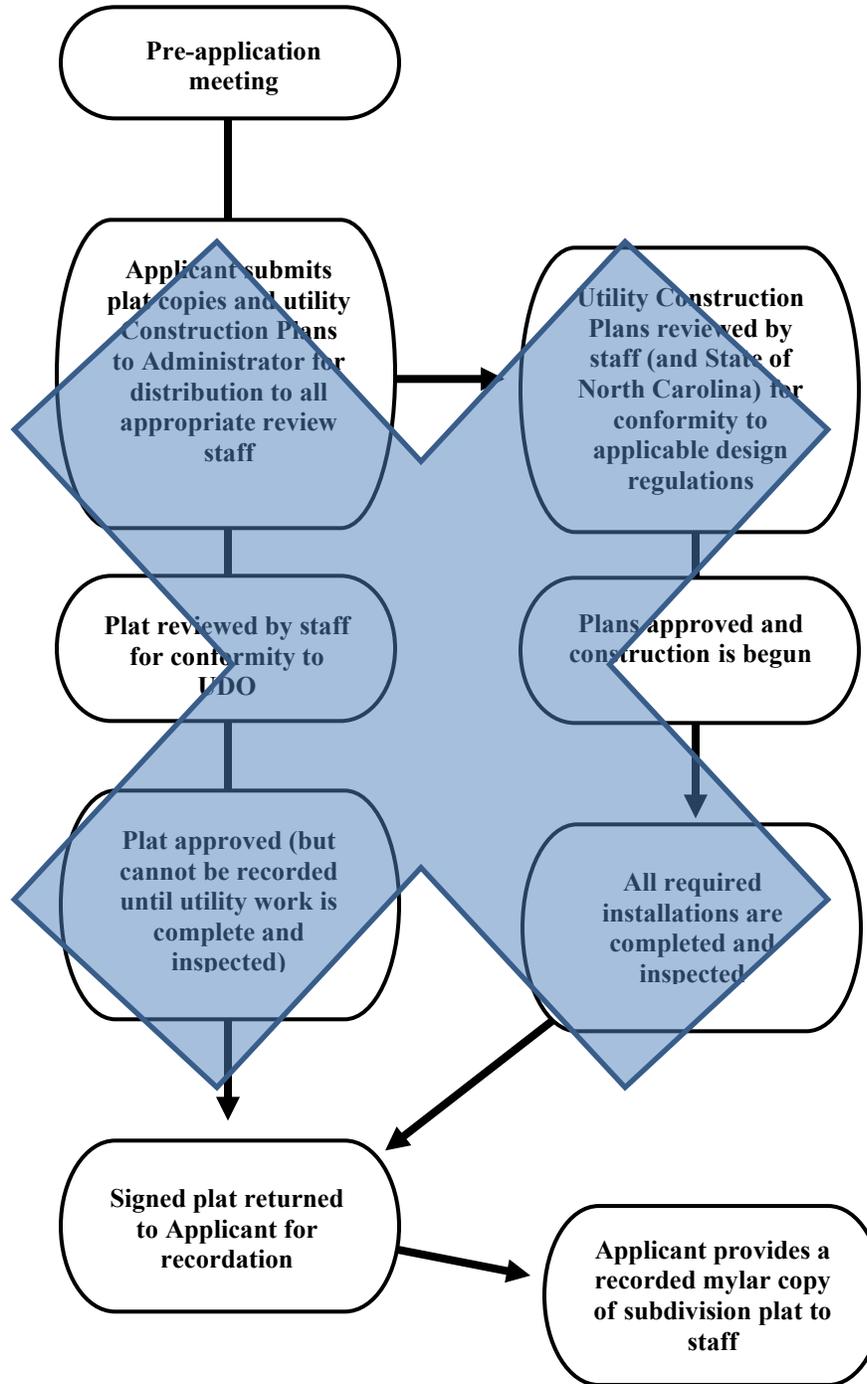


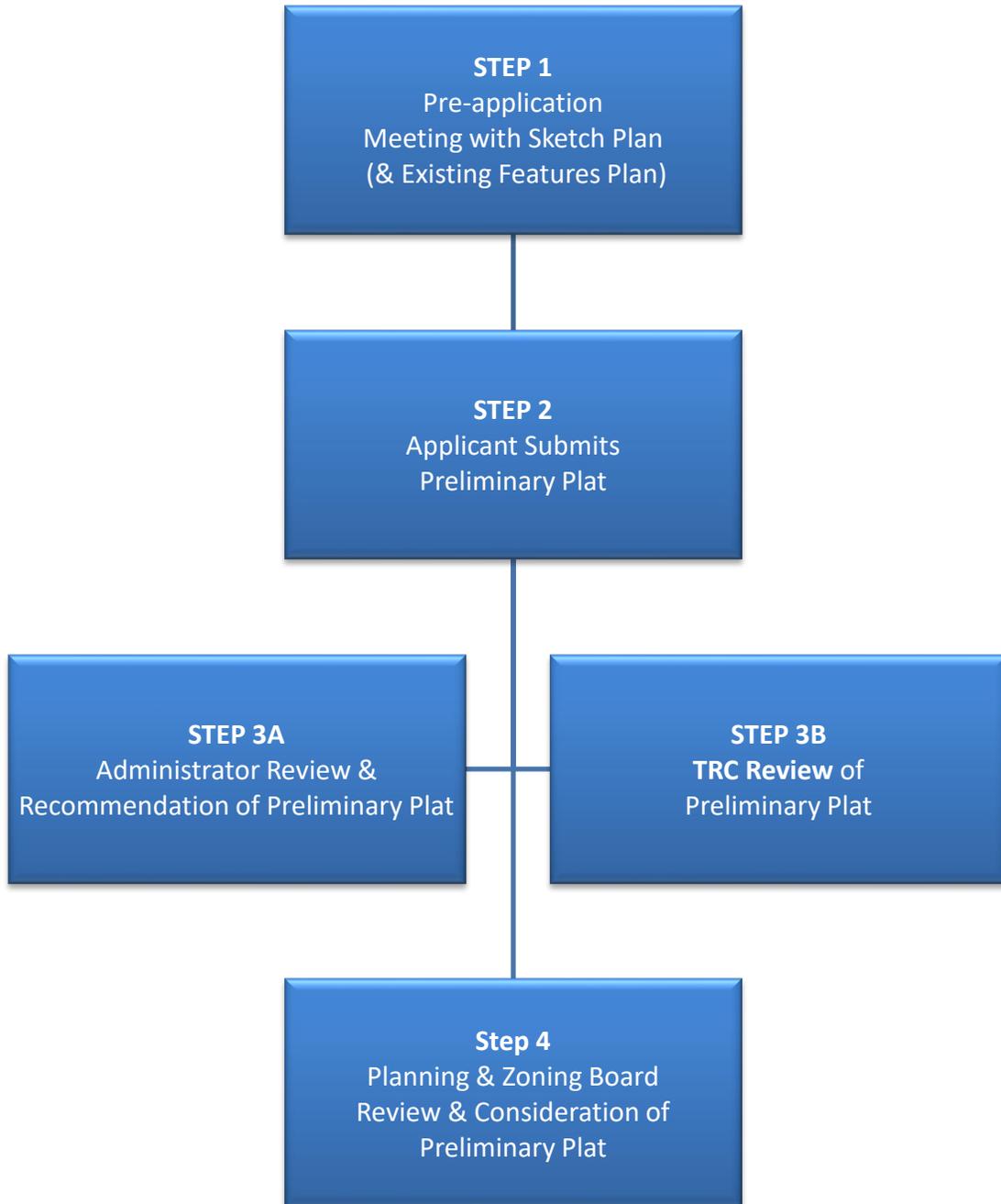
Figure 6.3-2. Minor Subdivision Plat review process. (Subdivision does include Water and/or Sewer Utility Extensions).



6.4. MAJOR SUBDIVISIONS

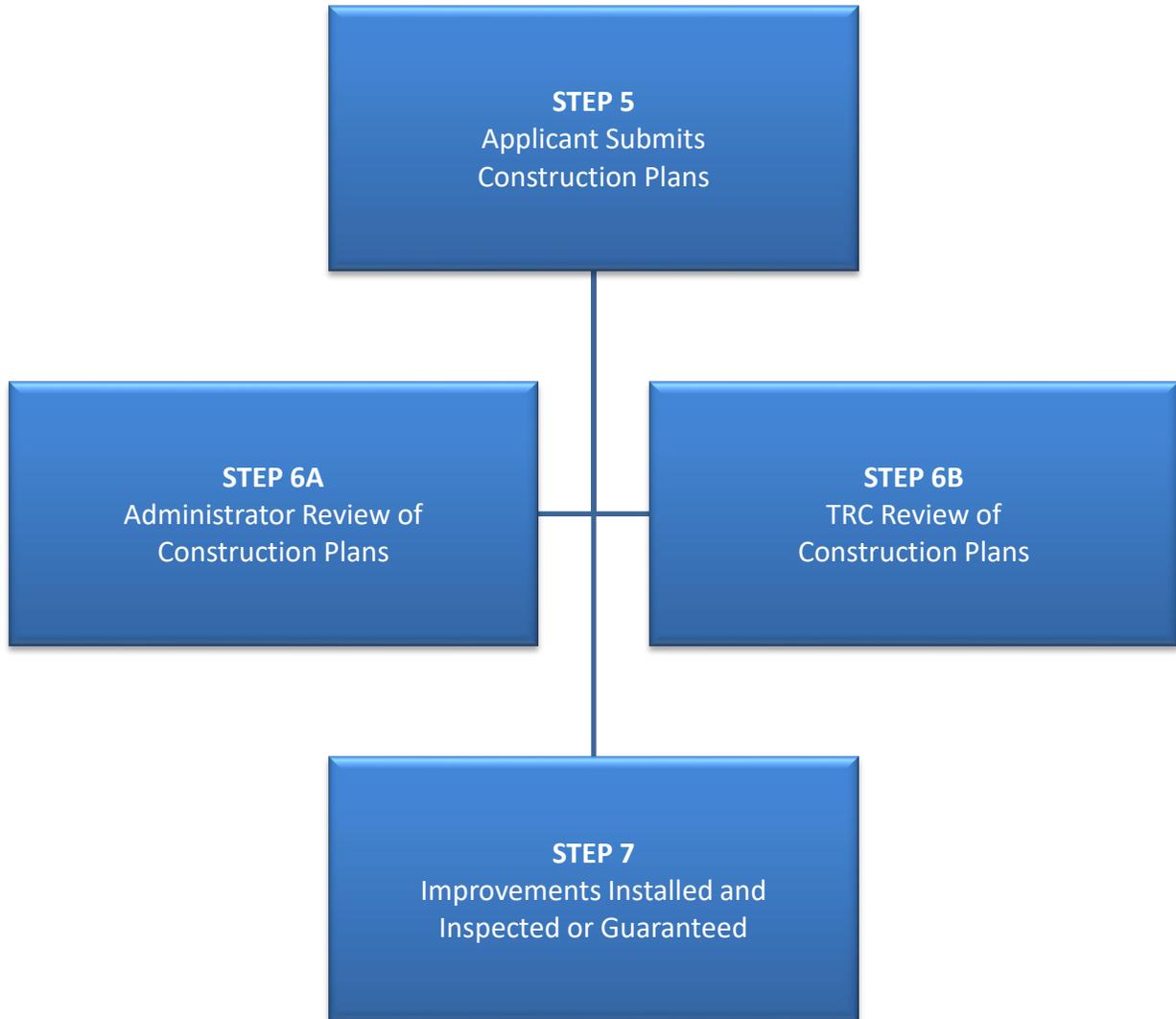
6.4.1. MAJOR SUBDIVISION REVIEW PROCEDURES

FIGURE 6.4-1: MAJOR SUBDIVISION REVIEW PROCESS



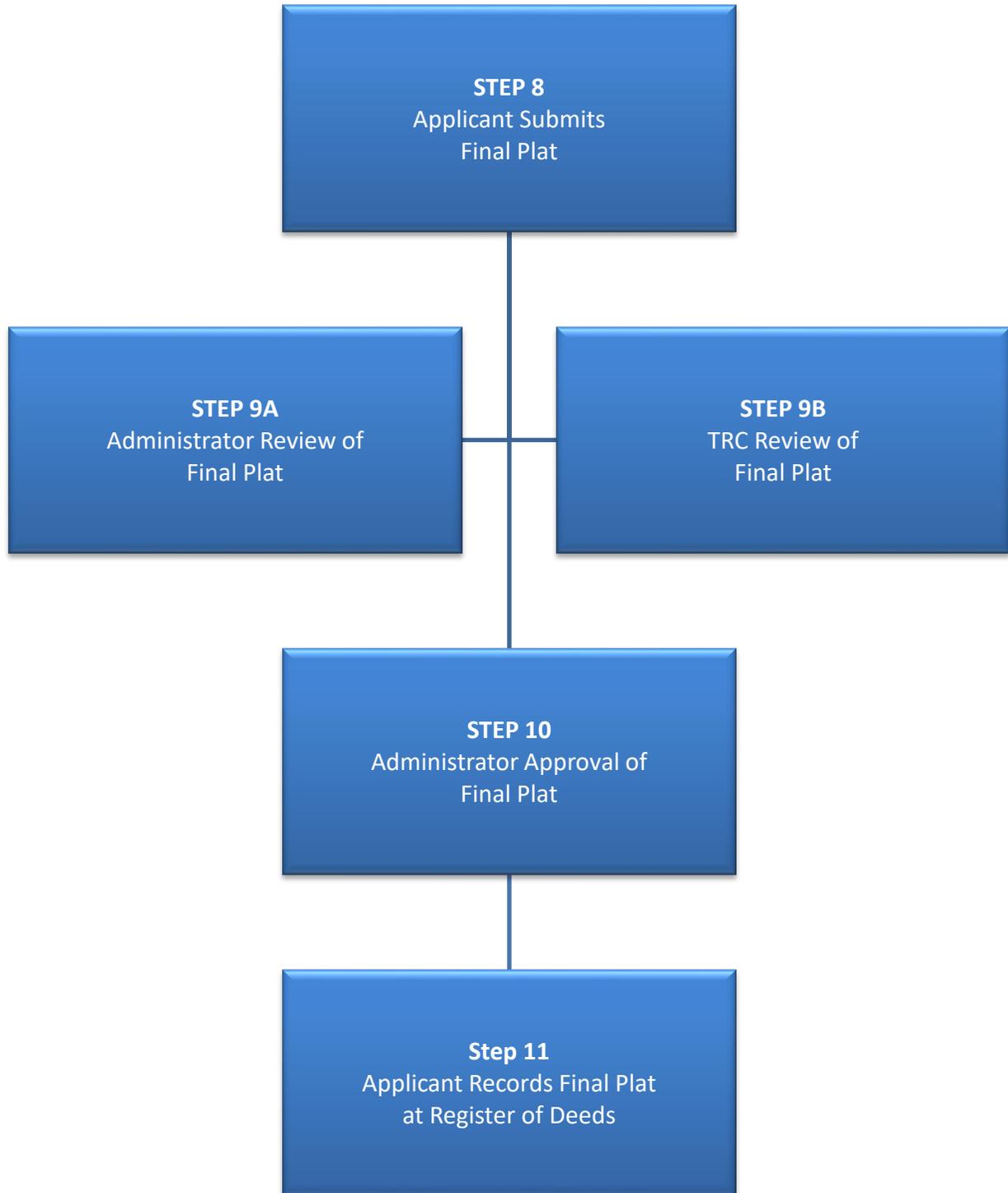
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STEP 1. PRE-APPLICATION MEETING WITH SKETCH PLAN AND EXISTING FEATURES PLAN

- A. To minimize subdivision planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed subdivision is required.
- B. Before submitting an application authorizing a subdivision that consists of or contains a Subdivision, the developer shall submit to the Administrator an Existing Features Plan and a Sketch Plan in accordance with requirements of Sections 6.X, 6.X, and Appendix B.
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed.

STEP 2. APPLICANT SUBMITS PRELIMINARY PLAT

The applicant shall submit to the Administrator a completed application form, a complete Preliminary Plat (see Appendix B) and a filing fee as established by the Town Board of Commissioners.

STEP 3A AND B. ADMINISTRATOR AND TRC REVIEW OF PRELIMINARY PLAT

- A. The Administrator shall review the Preliminary Plat to ensure compliance with the requirements of this Ordinance.
- B. The Technical Review Committee (TRC), as established in Section 3.1.7, shall provide comments to the Administrator regarding the design of the subdivision. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.
- C. Upon satisfactory compliance with the Ordinance and other applicable local, state, and federal regulations, the Administrator shall present the Preliminary Plat to the Planning & Zoning Board with a report regarding whether or not the Plat is compliant with all applicable regulations.

STEP 4. PLANNING & ZONING BOARD REVIEW AND CONSIDERATION

- A. The Planning & Zoning Board shall recommend approve, approve with conditions, or disapprove the Preliminary Plat. If the Plat is approved with conditions or disapproved, the reasons for such action shall be stated in writing and reference shall be made to the specific section or sections of this Ordinance with which the Preliminary Plat does not comply.
- B. Subject to NCGS 160D-108, approval of the Preliminary Plat shall be effective for a period not to exceed two (2) years, and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board.

STEP 5. APPLICANT SUBMITS CONSTRUCTION PLANS

- A. Following approval of the Preliminary Plat, the applicant shall submit to the Administrator a completed application form, a complete set of Construction Plans (see Appendix B) and a filing fee as established by the Town Board of Commissioners.
- B. As an option, Construction Plans may be reviewed concurrently with the Preliminary Plat in Steps 1-3.

STEP 6A AND B. ADMINISTRATOR AND TRC REVIEW OF PRELIMINARY PLAT

- A. The Administrator shall review the Construction Plans to ensure compliance with the requirements of this Ordinance.
- B. The Technical Review Committee (TRC), as established in Section 3.1.7, shall review the Construction Plans and provide comments to the Administrator. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.
- C. Upon satisfactory compliance with the Ordinance and other applicable local, state, and federal regulations, the Administrator shall approve the Construction Plans.

STEP 7. IMPROVEMENTS INSTALLED AND INSPECTED OR GUARANTEED

- A. Following approval of the Construction Plans, the applicant shall proceed with the installation of improvements as shown on the Preliminary Plat and Construction Plans and in accordance with Chapter 10 infrastructure requirements.
- B. Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, the installation of said improvements. The Town Engineer or contract engineer shall inspect the improvements to ensure compliance with Town standards prior to approval of the Final Plat. Underground utilities shall be inspected before they are covered.
- C. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plat for that portion of the subdivision to be shown on the Final Plat within a mutually agreed upon specified time period subject to the provisions of NCGS 160D-804.1 Section ~~6.X.X~~.

STEP 8. APPLICANT SUBMITS FINAL PLAT

- A. The applicant shall submit the applicable application, fee and the Final Plat that meets the requirements of Appendix B.
- B. For phased developments, the Final Plat shall constitute only that portion of the approved Preliminary Plat which the developer proposed to develop and record at the time of submission.

STEP 9A AND B. ADMINISTRATOR AND TRC REVIEW OF PRELIMINARY PLAT

- A. The Administrator shall review the Final Plat to ensure compliance with the requirements of this Ordinance. The Administrator shall check the Final Plat for conformance with the approved Preliminary Plat and with the requirements of these regulations. The Administrator shall notify the developer in writing of any non-compliance with these regulations or any deviation from the approved Preliminary Plat.
- B. The Technical Review Committee (TRC), as established in Section 3.1.7, shall review the Final Plat and provide comments to the Administrator. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

STEP 10. ADMINISTRATOR APPROVAL OF FINAL PLAT

- A. The Administrator shall approve or disapprove the Final Plat within the period of 30 calendar days of the final plat submittal. If the Administrator disapproves the Final Plat, the reasons for such action shall be transmitted by letter to the developer or his agent, and reference shall be made to the specific section or sections of this Ordinance with which the Final Plat does not comply.
- B. The Final Plat shall be properly signed and executed as required for recording by the Register of Deeds of Rutherford County. The approved final plat must be recorded with the Register of Deeds of Rutherford County within 30 days after approval by the Administrator.

STEP 11. APPLICANT RECORDS FINAL PLAT AT REGISTER OF DEEDS

Within 30 days after the Final Plat has been approved by the Planning Board, it shall have been recorded with the Register of Deeds of Rutherford County. Should this time limit expire before the plat is recorded, it must be re-submitted to the Administrator for reprocessing.

GENERAL SUBMISSION REQUIREMENTS

Applications for sketch plat and final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

SKETCH PLAN SUBMISSION PROCEDURES FOR MAJOR PLATS

The applicant shall schedule an appointment and meet with the Administrator to discuss a sketch plan. The Administrator shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The Administrator shall issue a Notice to Proceed only if the sketch plan complies with all applicable laws governing the subdivision of land and upon recommendation from the Director of Public Works or their designee. The approval shall include, as appropriate, recommended changes in the sketch plan to be incorporated into the preliminary plat to assist the applicant in obtaining preliminary plat approval from the Planning and Zoning Board. If the Administrator determines that the sketch plan does not comply with all applicable laws governing the subdivision of land and the applicant refuses to modify the sketch plat, the Administrator shall issue a Notice of Noncompliance. The Administrator shall issue either the Notice to Proceed or a Notice of Noncompliance not later than 20 days after the date on which the sketch plat was submitted to the Administrator. After receipt of a notice of approval, the applicant shall be eligible to file an application for approval of a preliminary plat, as provided in these regulations, before filing for final subdivision plat approval.

PRELIMINARY PLAT SUBMISSION PROCEDURES FOR MAJOR PLATS

If the Administrator has issued a Notice to Proceed for a sketch plat for a major subdivision, then the subdivider may proceed with the preparation of a Preliminary Plat.

Approval of a Preliminary Plat shall be required for any tract where the eventual platting of the property involves a major subdivision. No Final Plat shall be approved until a Preliminary Plat for the property has been approved. Appendix B establishes the information that is to be submitted with an application for approval of a Preliminary Plat.

Upon final approval, a Preliminary Plat shall be made a matter of record as follows:

The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Administrator.

The approved plat shall be indexed and filed by the Administrator.

6.4.2. SCOPE OF PRELIMINARY PLAT APPROVAL

- A. Should the Preliminary Plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the Administrator with all corrections upon submittal of Construction Plans, within 60 days of the Board’s approval. Failure to return a corrected plat within this time period shall constitute a violation and shall be remedied in accordance with Section 1.6 of this Ordinance. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the Administrator.
- B. The Planning & Zoning Board may approve a staging phasing plan extending the effective period of the Preliminary Plat approval up to two (2) years where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time. Beyond two (2) years, the applicant shall resubmit the Preliminary Plat to the Administrator for review by the Planning & Zoning Board. The Planning & Zoning Board may grant a one-year extension. After expiration of a one-year extension, a previously approved Preliminary Plat shall become void.

~~Approval of the Preliminary Plat by the Planning and Zoning Board shall allow a subdivider to proceed with: the preparation of the final plat; site preparation/grading (subject to obtaining Grading Permit and/or Erosion Control Permit as required in Art. 3 and Art. 9, respectively); and the installation of required improvements (subject to approval of Construction Plans as described in Section 6.4.4.7). Approval of the Preliminary Plat by the Planning & Zoning Board without approved construction plans as set forth in Section 6.4.11 shall not constitute the necessary approval for submittal of the final plat. The Preliminary Plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this chapter. The preliminary plat shall be valid for the period prescribed by Table 6.4-1 herein. A preliminary plat shall become void if a final plat is not approved within the specified time period. Final Approval of a phase or portion of a preliminary plat shall re-establish the date for measuring the time period of a preliminary plat approval.~~

Table 6.4-1 Time Limits for Major Subdivision Plat Approvals

Type of Approval	Time Limit of Approval
Preliminary Plat	2 years to get Final Plat approved
Final Plat	30 days to record

6.4.3. REVISING APPROVED PRELIMINARY PLATS

- A. The Administrator shall have the authority to approve the following minor modifications deviations from an approved Preliminary Plat and subject to the conditions below:
 1. No increase in the number of lots or dwelling units;
 2. A change in the location of not more than ten percent (10%) of the number of lots;
 3. A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage;
 4. A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Article 10 is maintained; and
 5. Changes are restricted to within internal parcel boundaries and shall not affect external property lines.
- B. All other changes to an approved Preliminary Plat that do not meet the standards of this Section shall require the filing and approval of a new Preliminary Plat.

6.4.4. MAJOR SUBDIVISION FINAL PLAT PROVISIONS SUBMISSION PROCEDURES FOR MAJOR PLATS

- A. Upon submittal of the copies of the Final Plat and other required materials, the Administrator shall review the application for completeness ~~and shall initiate and coordinate review by affected Town and state agencies in order to determine substantial compliance with the approved preliminary plat and general compliance with the provisions of this ordinance and other applicable laws and regulations.~~ The Administrator may find the application for a Final Plat incomplete if 1) any of the information required for Final Plats in Appendix B is not provided; 2) the final plat does not conform to the conditions attached to approval of the Preliminary Plat; or 3) the Plat is in conflict with the provisions of this Ordinance and no variance or exception been approved.
- B. Except as provided in Section ~~6.X.X~~ Subdivision Improvement Agreements, all applicants shall be required to complete, to the satisfaction of Ordinance requirements, ~~the Administrator and Director of Public Works or their designee,~~ all street, sanitary, and other public improvements of the subdivision as required by this Ordinance before the Final Plat is recorded.
- C. In the event that the applicant is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the Town shall compel the delivery of the deed and guarantees in order to complete the improvements as required.
- D. In addition to the criteria as set forth in Section 6.2 of this Ordinance, the Administrator shall not approve a final plat unless and until satisfactory evidence is filed that the Final Plat is in a form acceptable for recording with the Register of Deeds, and that all improvements have been satisfactorily installed or Subdivision Improvement Agreements have been signed by the applicant. The subdivider will also be required to submit a final subdivision plat fee, payment of all design costs for improvements, and appropriate performance surety.
- E. The final plat shall comply with any staging or sequence phasing plan set forth in the Preliminary Plat.
- F. The applicant shall place reference monuments in the subdivision as required by NCGS 47-30.
- G. The applicant shall return a reproducible (mylar) copy of the recorded plat to the office of the Administrator.
- H. Final Plats for major subdivisions shall be reviewed and signed by a Review Officer prior to recordation at the Register of Deeds. ~~in the same manner as set forth in Section 6.3.6.3 of this Ordinance.~~
- I. Approval of the final plat for a subdivision or section thereof shall not be deemed to be acceptance by the Town or state of any street, alley, public space, utility or other physical improvements shown on the final plat and engineering plans for the maintenance, repair or operation thereof. (See § 6.4.13 for acceptance).
- J. No Zoning ~~clearance~~ Permit or Building Permit shall be issued or approved until the expiration of ten (10) business days after a final plat has been recorded. The purpose of this time period is to permit the assignment of addresses and P.I.N.s (Parcel Identification Numbers) in the Land Records office of Cabarrus County.

~~There shall be a Final Plat for each subdivision which receives Preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this Section. The materials required by Appendix B shall be submitted to the Administrator for a determination as to whether it complies with the approved preliminary plat. The subdivider may submit final plat copies for only that portion of the approved Preliminary Plat which is proposed for recordation and development at that time, if such portion conforms to all requirements of this Article. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat which does not constitute a Minor Amendment as set forth in § 6.4.6.1, shall require additional review and approval by the Planning and Zoning Board. The Final Plat and related materials shall be approved or disapproved by the Administrator within the time period set forth in Table 6.1-1 of this Article. Approval shall be in the form of a written letter to the subdivider (or contact person~~

~~as listed on application) advising that the final plat meets all Town and state requirements and that the original of the final plat may be submitted to the Administrator.
The Administrator shall sign the plat. The action of the Administrator shall be noted on all copies of the final plat to be retained as required for records or further action of the department or other affected agencies of the Town or state. Following execution of the final plat, the applicant shall record it with the Register of Deeds.~~

RECORDING A FINAL PLAT

~~Within the time period prescribed by Table 6.4.1 of this Ordinance, after final plat approval, The applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time period, unless the Administrator has granted an extension. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void, and shall require a new application.~~

6.4.5. PHASING OF A PRELIMINARY PLAT

Whenever a subdivider applies for approval of a Final Plat which contains only a portion of the land encompassed in the approved preliminary plat, the Final Plat shall coincide with phase lines as established on the Preliminary Plat ~~or Construction Plans. Phasing of a Preliminary Plat shall not be permitted unless the phase lines are established and approved under the action of the Planning and Zoning Board.~~

6.4.6. MAJOR SUBDIVISION CONSTRUCTION PLANS PROVISIONS

- A. Following approval of the Preliminary Plat, the applicant shall have prepared, by a professional engineer, registered in the State of North Carolina, Construction Plans, consisting of complete ~~Construction Plans and~~ specifications of all easements, streets, traffic control devices, street lights, sanitary sewers, storm water facilities, water system facilities, sidewalks and other improvements required by Appendix B of this Ordinance and any additional technical manuals as adopted by the Town. Construction Plans shall be submitted to the Administrator for distribution to ~~applicable Technical Review Committee (TRC) members, Director of Public Works, Town's consulting engineer, and any other applicable agencies~~ for review and approval as an administrative permit. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements of this Ordinance, and, where applicable, the requirements and authorization of the appropriate state agency, utility company or local franchisee.

- B. All installations of improvements shall conform to the approved Construction Plans. If the applicant chooses to make modifications in design and/or specifications prior to construction, such changes shall be subject to review and approval by the ~~Administrator, Director of Public Works, Town Engineer,~~ or their designee. It shall be the responsibility of the applicant to notify the Administrator in advance of any changes to be made from the approved drawings. In the event that actual construction work deviates from that shown on the approved Construction Plans, such unapproved work shall constitute a violation of this Ordinance and shall be remedied in accordance with Section 1.6. The applicant shall be required to correct the installed improvements to conform to the approved Construction Plans. In addition, the Administrator may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

6.4.7. AS-BUILT DRAWINGS

- A. Prior to final inspection of the required improvements, the applicant shall submit to the Administrator one (1) digital and one (1) full-size print of as-built engineering drawings for each of the required improvements that have been completed, certified by the applicant's engineer indicating the date when the as-built survey was made.

- B. As-built drawings shall show the constructed vertical elevation, horizontal location and size of all sanitary and storm sewers, manholes, inlets, junction boxes, detention basins and other appurtenances or elements of the sewerage and storm drainage systems constructed to serve the subdivision. In conjunction with the submittal of engineering plans and specifications, the subdivider shall be required to demonstrate compliance with the Erosion

& Sedimentation Control Standards of the overall area proposed to be developed. The subdivider shall cause all grading, excavations, open cutting and similar land surface disturbances to be mulched, seeded, sodded or otherwise protected to ensure compliance with ~~the County's~~ [the North Carolina Department of Environmental Quality's \(NCDEQ\)](#) Sedimentation Control Standards. No work shall be initiated relative to the preparation of land or the installation of general improvements until such time as all aspects of the subdivider's engineering plans and sedimentation control proposals have received approval.

- C. As-built drawings shall depict water lines, valves, fire hydrants and other appurtenances or elements of the water distribution system constructed to serve the project. Such information shall include the horizontal location and size of water lines and location and description of valves with dimensional ties.
- A. As-built drawings shall depict the location of all street rights-of-way, alignments, widths and vertical elevations.
- B. As-built drawings shall show all control points and monumentation.

6.4.8. INSPECTION OF IMPROVEMENTS

- A. During the preparation of land and the installation of general improvements, periodic inspections shall be made to ensure conformity with the approved plans, specifications and standards. Appropriate agencies of the Town and state may make inspections at any time during the progress of work.
- B. All improvements required by these regulations shall be inspected prior to acceptance by the Town. Where inspections are made by individuals or agencies, other than the Director of Public Works, [Town Engineer](#), or their designee, the applicant shall provide the Director of Public Works, [Town Engineer](#), or their designee with written reports of each final inspection.
- C. Prior to beginning construction, the applicant shall arrange with the Director of Public Works, [Town Engineer](#), or their designee a pre-construction meeting for the purpose of coordinating construction activities.
- D. It shall be the responsibility of the applicant to notify the Director of Public Works, [Town Engineer](#), or their designee of the commencement of construction of improvements one (1) full working day prior thereto. Inspections shall be required at each of the following stages of construction or as otherwise determined through and owner contract or development improvement agreement:
 - 1. Site grading/erosion control completion
 - 2. Underground utility installation
 - 3. Subgrade preparation prior to aggregate base installation
 - 4. Aggregate base compaction
 - 5. Concrete curb and gutter installation
 - 6. Bituminous binder placing
 - 7. Final surfacing prior to seal coat
- E. The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

6.4.9. ACCEPTANCE OF IMPROVEMENTS

- A. Approval of the installation of improvements by the Director of Public Works, [Town Engineer](#), or their designee shall not constitute acceptance by the Town of the improvement for dedication purposes. ~~The installation of improvements in any subdivision shall, in no case, serve to bind the Town to accept such improvements for maintenance, repair or operation thereof. Such acceptance shall be subject to [approval by the Town Board of Commissioners upon recommendation by the Director of Public Works, Town Engineer, or their designee.](#) ~~the existing regulations concerning the acceptance of each type of improvement.~~~~
- B. The specific standards for acceptance of easements shall be subject to the technical design standards of this Ordinance and any other adopted policy or manual of the Town. All easements shall be in full compliance with this Ordinance prior to acceptance.
- C. The Town shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the street or other improvements have been accepted.
- D. When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Director of Public Works, [Town Engineer](#), or their designee, the Town Board shall accept the improvements for maintenance by the Town, except that this shall not apply to improvements maintained by another entity.
- E. These provisions shall not be construed to relieve the subdivider or the subdivider's agent or contractor of any responsibility in notifying any agency for the Town of completed work and formal request for inspection of same. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.

6.4.10. SITE CLEANUP

The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public way or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the Town is prohibited.

6.4.11. ~~SUBDIVISION IMPROVEMENT AGREEMENTS~~ PERFORMANCE GUARANTEES

Pursuant to NCGS 160D-804.1, a developer may provide a performance guarantee to assure successful completion of required improvements:

6.4.11.1. Performance Guarantee Type

The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:

- A. Surety bond issued by any company authorized to do business in this State;
- B. Letter of credit issued by any financial institution licensed to do business in this State; or
- C. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

6.4.11.2. Duration

The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the

completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

6.4.11.3. Extension

A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

6.4.11.4. Release

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.

6.4.11.5. Amount

The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The local government may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

6.4.11.6. Timing

The Town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

6.4.11.7. Coverage

The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

6.4.11.8. Legal Responsibilities

No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

- A. The local government to whom the performance guarantee is provided;
- B. The developer at whose request or for whose benefit the performance guarantee is given; or

- C. The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

6.4.11.9. Multiple Guarantees

The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

6.4.11.10. Exclusions

- A. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section
- B. In order to provide for emergency access, no performance guarantee shall be approved accepted, until the Base Course for the streets within the applicable phase for which a final plat is proposed has been installed.

~~At the discretion of the Director of Public Works or their designee, the Director of Public Works or their designee may enter into a subdivision improvement agreement with the applicant for a development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, public school, and park or open space dedication and improvements. Notwithstanding any provision in this Ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.~~

~~The Administrator shall delegate the authority to review and approve all subdivision improvement agreements to the Director of Public Works or their designee.~~

~~The Director of Public Works, Town Engineer, or their designee may delay the requirement for the completion of required improvements prior to recordation of the Final Plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant covenants and agrees to complete all required on site and off site public improvements no later than one (1) year following the date upon which the final plat is recorded. Such period may be extended for up to an additional six (6) months upon its expiration at the discretion of the Director of Public Works or their designee. The Applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The Town Attorney shall approve any Subdivision Improvement Agreement as to form.~~

~~Whenever the Director of Public Works or their designee permits an applicant to enter into a Subdivision Improvement Agreement, the applicant shall be required to provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of one of the following methods:~~

- ~~Surety bond issued by any company authorized to business in the State of North Carolina; or~~
- ~~Letter of credit issued by any financial institution authorized to do business in the State of North Carolina; or~~
- ~~Other form of guarantee that provides equivalent security to a surety bond or letter of credit (i.e. cash in escrow or trust agreement)~~

~~The performance guarantee shall be in an amount approved by the Director of Public Works or their designee as reflecting 125 percent of the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement.~~

~~In addition to all other security, when the Town participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the Town as a co-obligee.~~

~~If security is provided in the form of a cash escrow, the applicant shall deposit with the Town Finance Director a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified~~

~~by the Director of Public Works or their designee.~~

~~The surety bond or cash escrow account shall accrue to the Town for administering the construction, operation and maintenance of the improvements.~~

~~Where oversized facilities are required, the Director of Public Works or their designee and applicant shall specify a reimbursement procedure in the Subdivision Improvement Agreement.~~

~~Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Director of Public Works or their designee (or his/her designee) shall inspect the work. If the Director determines that the work is satisfactory and complete, the letter of credit, cash escrow, or surety bond shall be released. The Director shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance security.~~

~~Upon application, the developer may apply for an extension a minimum of 60 days prior to the expiration of the guarantee. The guarantee shall be extended or a new guarantee issued for an additional agreed upon period until such time that the improvements are complete, if the developer is acting in good faith to complete the improvements and has met agreed upon milestones.~~

~~If a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Director of Public Works or their designee may:~~

~~Declare the Agreement to be in default thirty days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;~~

~~Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;~~

~~Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or~~

~~Exercise any other rights available under the law.~~

**6.4.12. SUBDIVISION EXCEPTIONS
(Applies Only to Preliminary Plats for Major Subdivisions)**

6.4.12.1. Where the Planning and Zoning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided that the Planning and Zoning Board shall not approve exceptions unless it shall make findings based upon the evidence presented to it in each specific case that:

6.4.12.1.1. The granting of the subdivision exception will not be detrimental to the public safety, health, or welfare or injurious to other property;

6.4.12.1.2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

6.4.12.1.3. Because of the particular physical surroundings, shape or topographical conditions of the specific

property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

6.4.12.1.4. The relief sought will not in any manner vary the provisions of the Comprehensive Plan, or Official Map, except that those documents may be amended in the manner prescribed by law.

6.4.12.2. In approving a subdivision exception, the Planning and Zoning Board may require such conditions as will, in its judgment, secure substantially the purposes described in § 6.2 of this Ordinance.

6.4.12.3. Application Procedure for Subdivision Exception. A petition for a subdivision exception shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

6.4.12.4. The Planning and Zoning Board shall consider the application at a public hearing and shall approve, approve with conditions, or deny the Subdivision Exception. Said hearings before the Planning and Zoning Board shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

6.4.12.5. The applicant may appeal the decision of the Planning and Zoning Board to the Town Board by filing a Notice of Appeal with the Administrator. If the applicant submits a Notice of Appeal, the Administrator shall schedule the application for a hearing before the Town Board. The Town Board shall consider the appeal of the decision of the Planning and Zoning Board at a public hearing and shall approve, approve with conditions or deny the application for a variance. Said hearings before the Town Board shall be considered a quasi-judicial proceeding and shall be subject to § 3.1.7 of this Ordinance.

Figure 6.4-1. Major Plat review process – Includes Step (1) Preliminary Plat and Step (2) Construction Plans. Figure 6.4-2 includes process for Step (3) Final Plat.

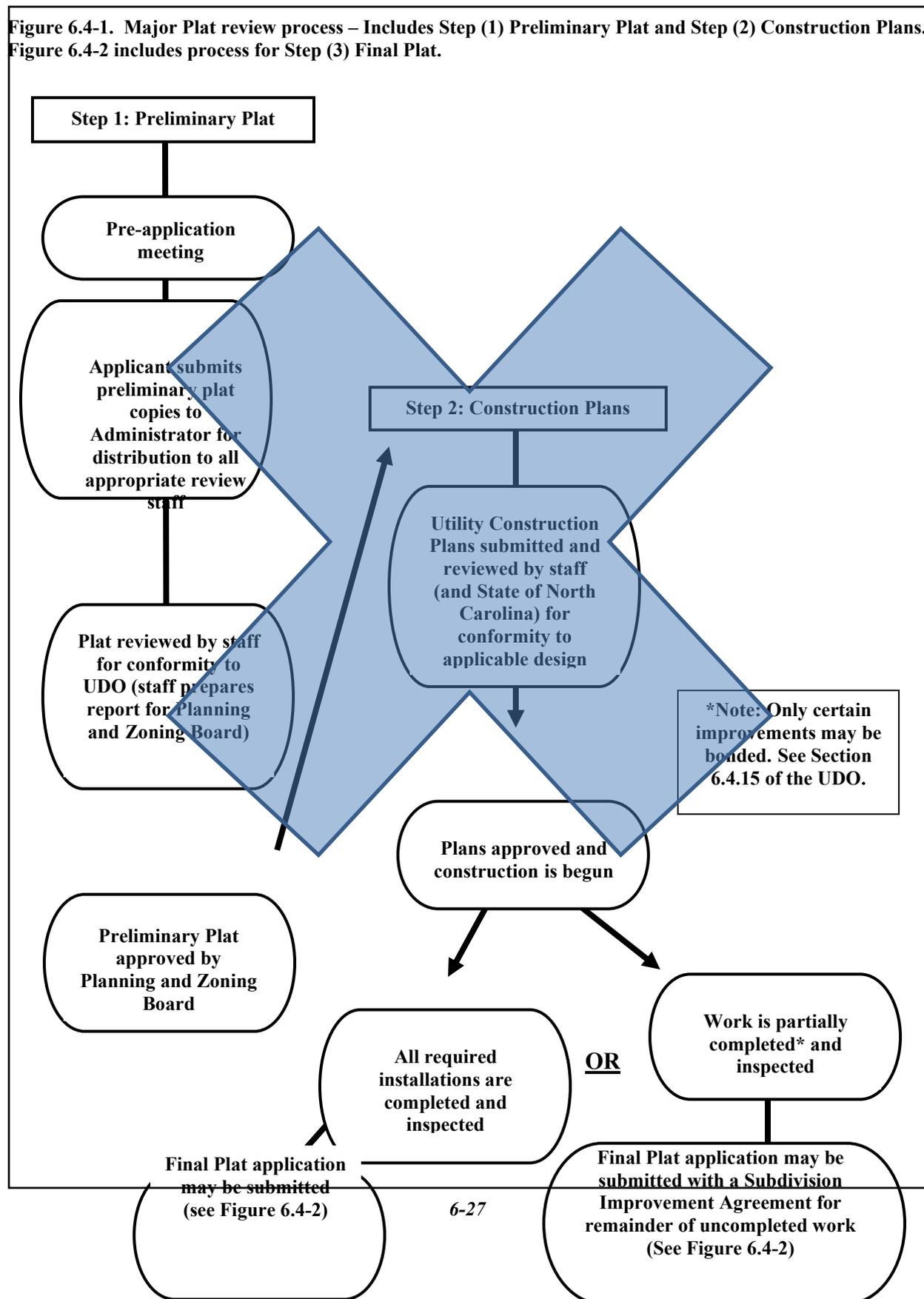
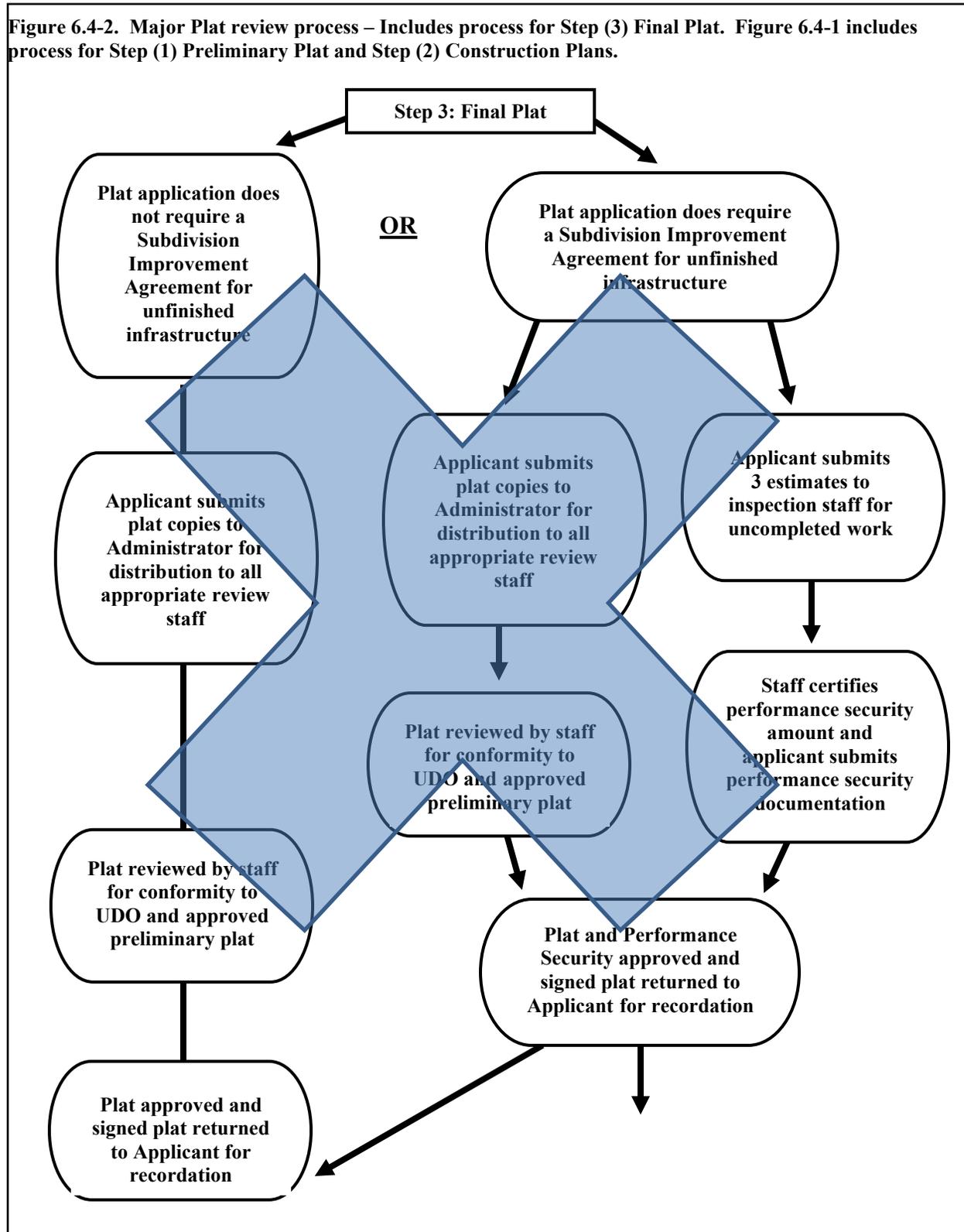


Figure 6.4-2. Major Plat review process – Includes process for Step (3) Final Plat. Figure 6.4-1 includes process for Step (1) Preliminary Plat and Step (2) Construction Plans.



6.5. OPEN SPACE STANDARDS

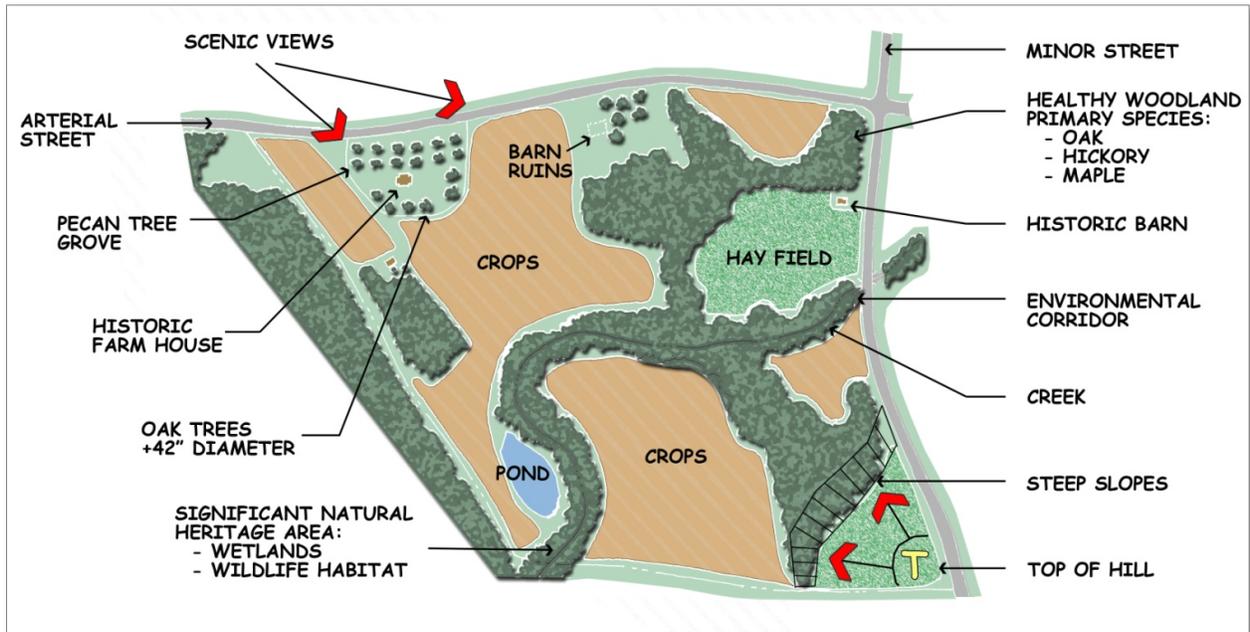
6.5.1. PURPOSE AND APPLICABILITY

- A. The purpose of this Section is:
 - 1. To protect existing environmental resources including streams, wetlands, floodplains, soils, forest stands, trees and other significant vegetation and wildlife.
 - 2. To promote the reservation of open space in environmentally sensitive areas.
 - 3. To provide recreational amenities for the residents of the Town.
- B. The provisions of this section shall apply to an application for any residential development of more than five (5) dwelling units and a density of more than one (1) dwelling unit per two (2) acres (0.5 DUA).
- C. The Administrator may require connection to a community open space network and/or trails system if the proposed development is adjacent to the boundary of an established community public open space as included in the *Livable Communities Blueprint Town's Comprehensive Plan, Cabarrus County Active Living & Parks Master Plan, and/or Carolina Thread Trail Master Plan for Cabarrus County*, which is hereby incorporated by this reference as if set forth in its entirety herein. The open space/trail system shall be maintained by the applicant or subsequent owners provided, however, that the applicant may request to publicly dedicate any trail that the Town of Mount Pleasant or other non-profit entity accepts into a trail system.

6.5.2. EXISTING FEATURES PLAN

- A. Existing features plans are required to be submitted with all subdivision sketch plans and multi-family residential site plans for developments more than five (5) dwelling units and a density of more than one (1) dwelling unit per two (2) acres (0.5 DUA).
- B. Existing features plans shall contain the following information at a minimum:
 - 1. Existing topography at intervals of no less than 5 feet
 - 2. Perennial and intermittent streams
 - 3. Ponds and wetlands
 - 4. Special flood hazard areas
 - 5. Existing groundcover: forested areas, grasslands, pasture, cropland, rock outcroppings, etc.
 - 6. Existing structures
 - 7. Historic or archaeological sites
 - 8. Significant natural heritage areas as delineated by the North Carolina Natural Heritage Program

Figure 6.5-1: Conceptual Existing Features Plan



6.5.3. MINIMUM REQUIRED OPEN SPACE

Open space shall be dedicated in accordance with the table below. Percentages are based on total development area. Open space dedication for conservation development is set forth in Section 6.7.

Density (DUA)	Percent Open Space
0.2 DUA or less	n/a
0.21 DUA-1.9 DUA	10%
2.0 DUA-3.9 DUA	15%
4.0 DUA or more	20%

How to Calculate DUA (Dwelling Units Per Acre):

$$\frac{\text{Total Number of Dwelling Units}}{\text{Total Development Area in Acres}} = \text{DUA}$$

6.5.4. ALTERNATIVES TO DEDICATION

- A. As an alternative to incorporating required open space on a development site, the developer has the option of:
 - 1. Requesting that the Town permit the purchase of land lying within a planned public park or open space system within or immediately adjacent to the Town’s zoning jurisdiction and its dedication to the appropriate public authority; or
 - 2. Requesting that the Town accept fees in lieu of land dedication for the purpose of providing public open space.
 - 3. Such requests shall be considered exceptions and shall be heard and decided by the Planning & Zoning Board as part of subdivision or site plan approval.

- B. Any request for alternative open space shall be accompanied by the following information:
 - 1. The exact location (either a tax identification number or a metes and bounds description), size, and current assessed and appraised value of land proposed for purchase and public dedication.
 - 2. The intended recipient of the dedication of land and evidence that the recipient (if other than the Town) approves of the dedication.
 - 3. The proposed timing of the purchase and dedication.

- C. If fees in lieu are proposed, the amount of fees offered shall be commensurate with the value of the land used for the development and the amount of open space required, based on the tax assessed value or appraisal completed within the last six months. For example, if one acre of open space is required per this ordinance and the cost of usable land within the development site is \$50,000 per acre, then the minimum fee in lieu of open space would be equal to \$50,000. All fees in lieu of open space dedication shall be placed in a fund separate from the General Fund to be used exclusively for the purchase of open space or park land or for the improvement of open space or park land already owned by the Town.

- D. In considering a request for an alternative to dedication, the Planning & Zoning Board may:
 - 1. Approve the request without modification; or
 - 2. Approve the request with modifications or conditions agreed to by the developer; or
 - 3. Approve only a portion of the request, requiring a portion of the required open space to be included on the site of the proposed development; or
 - 4. Deny the request.

6.5.5. IDENTIFICATION OF PRIMARY, SECONDARY, AND TERTIARY CONSERVATION AREAS

6.5.5.1. Primary Conservation Areas

The following areas shall be considered primary conservation areas and shall be preserved first in designating areas for required open space:

- Land within riparian buffers on perennial and intermittent streams as required by Section 9.3.
- Wetlands and buffers of 50 feet from edge of wetland
- Areas within a 100-year floodplain (special flood hazard areas)
- Non-regulated isolated wetlands and depressions that accommodate ephemeral pools
- Natural Heritage Areas (NHNA) as defined by the National Heritage Program
- Areas within a Natural Heritage Element Occurrence (NHEO) as defined by the National Heritage Program
- Areas identified by the Biodiversity and Wildlife Habitat Assessment (BWhA) by the National Heritage Program

6.5.5.2. Secondary Conservation Areas

The following areas shall be considered secondary conservation areas and shall be preserved after all primary conservation areas have been used towards meeting minimum open space requirements:

- Buffers within 100 feet of a designated wetland or perennial stream
- Areas within a 500-year floodplain
- Areas adjacent to existing preserved, or managed open space areas
- Mature forest of at least one contiguous acre
- Unfragmented forest areas that comprise any portion of a 50 acre or more forest block
- Wildlife corridors of a minimum of 150 feet in width that connect to NHNAs, NHEOs, BWhA areas, wetlands, or floodplains
- Greenways as shown on adopted Town and County plans
- Slopes of greater than 10%
- Rock outcroppings and a 200 foot protection area
- Farmland within a present use value program and a 200 foot buffer area
- Areas with sensitive soils including Armenia loam (Ar), Altavista sandy loam (AaB), Chewalca sandy loam (Ch), Iredell loam (IdA), Sedgfield sandy loam (SfB) and Wednadkee (We)

6.5.5.3. Tertiary Conservation Areas

The following areas shall be considered tertiary conservation areas and shall be preserved after all primary and secondary conservation areas have been used towards meeting minimum open space requirements:

- Land with cultural or historic significance
- Viewsheds (contributes to rural view from public roadway)
- Heritage trees (existing healthy individual trees greater than 12 inches DBH)
- Undeveloped land and tree save areas
- Farmland of statewide importance
- Agricultural uses and pollinator gardens

6.5.5.4. Other Open Space Areas

The following areas that are not primary, secondary, or tertiary conservation areas may be used to meet remaining minimum opens space requirements.

- Passive recreational areas including squares, greens, or parks
- Active recreational areas including playgrounds and recreation amenity centers

6.5.6. CONFIGURATION OF OPEN SPACE

The minimum standards for open space configuration are outlined below:

- A. The minimum width for any open space is 50 feet. Exceptions may be granted for trail easements, linear parks, and tree conservation areas.
- B. At least 60 percent of open space shall be contiguous. For the purposes of this section, contiguous includes any open space bisected by a local street, provided that:
 - 1. A pedestrian crosswalk provides access to the open space on both sides of the street; and
 - 2. The right-of-way area is not included in the calculation of minimum open space required.
- C. Where feasible, the open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas.
- D. Open space should be directly accessible to the largest practicable number of dwelling units within the development.
- E. No lot shall be more than one quarter (1/4) mile from open space, as measured in a straight line from the lot line to the nearest point of open space.
- F. Access from a public or private street shall be provided to all designated open space with a minimum 15 foot wide access to the open space area. Lakes or ponds within the development used as open space shall provide adequate community access beyond this 15-foot minimum as determined by the Administrator.
- G. A minimum of .025 acres of active open space per dwelling unit (lot) shall be provided for all subdivisions in the form of ~~a park, playground, or recreational amenity center~~ active open space as set forth in Section 6.5.7. For example, a subdivision containing 100 dwelling units shall be required to provide 2.5 acres of active open space for the development (.025 x 100 lots = 2.5 acres). Active open space shall be considered a part of the overall open space required for the development.
- H. Area within a floodway shall not be counted towards meeting the minimum open space requirements. A maximum of 75 percent of the required open space shall be located within a primary conservation area or a slope of greater than 25%.

6.5.7. OPEN SPACE TYPES

All open space used to meet the minimum requirements of this section shall be classified as one (1) or more of the following categories and be classified as private common area open space or public open space. The Existing Features Plan should be used as a guide by the developer and Administrator to determine the most appropriate open space type and location, based upon the primary, secondary, and tertiary conservation areas outlined in Section 6.5.4. Also Town and County trail, parks and recreation, and open space plans shall be considered when evaluating the most appropriate open space type.

6.5.7.1. Nature Preserve (Passive)

The Nature Preserve open space type shall be used for the conservation of primary and secondary conservation areas. Areas designated as nature preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail. Nature preserves are also the encouraged open space type for tertiary conservation areas that consist of tree conservation areas and scenic viewsheds such as ridge lines, field borders, meadows, fields, stream views, and natural woodlands that can be seen from roadways.

EXAMPLES OF NATURE PRESERVES



6.5.7.2. Greenway (Active)

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways connect points of interest in a community such as schools, parks, civic uses, and, in some cases, primary and secondary conservation areas. Greenways shall be used for, at a minimum, trails for walking, jogging, and biking. If land proposed for development within an area designated for a greenway on adopted Town and County plans, then a greenway right-of-way or easement shall be set aside, and a greenway constructed by the developer in accordance with the requirements of Appendix C.

EXAMPLES OF GREENWAYS



6.5.7.3. Greenbelt (Passive)

Greenbelts typically run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent communities. Greenbelts can also provide a valuable wildlife corridor between primary and secondary conservation areas. Greenbelts are wider and provide more existing natural vegetation than any buffer yard required as part of Section 4.4.3. Greenbelts differ from greenways in that they are left natural, and are not intended for recreational use. A greenbelt shall have an average width of not less than 40 feet in order to count towards the minimum open space requirement.

EXAMPLES OF GREENBELTS



6.5.7.4. Agricultural Preserve (Passive)

Open spaces designated as agricultural preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities as secondary and tertiary conservation areas. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations. If farming operations cease, an agricultural preserve may be used as a nature preserve or greenbelt.

EXAMPLES OF AGRICULTURAL PRESERVES



6.5.7.5. Square or Green (Passive or Active)

Squares or greens are primary intended for passive recreational use and may have monuments, pavilions, sitting areas. Squares or greens shall be bounded by streets on a minimum of 50 percent of their perimeter. Squares or greens are encouraged to be entirely bounded by streets and/or lanes. Squares and greens shall be planted parallel to all streets and shall contain canopy trees along street frontages. The area of a square or green that contains gazebos, picnic shelters, or similar structures, may be considered active open space.

EXAMPLES OF SQUARES



6.5.7.6. Park (Passive or Active)

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10 percent of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens. Portions of a park that contain playgrounds, sports fields, or similar amenities may be considered active open space.

EXAMPLES OF PARKS



6.5.7.7. Playground (Active)

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks or recreational amenity centers, or may stand alone.

EXAMPLES OF PLAYGROUNDS



6.5.7.8. Recreational Amenity Center (Active)

Recreational amenity centers are intended for active recreational use and may include swimming pools, splash pads, tennis courts and similar uses. Recreational amenity centers shall be centrally located to the residences that they serve.

EXAMPLES OF RECREATIONAL AMENITY CENTERS



6.5.8. ALLOWED USES OF OPEN SPACE

Unless otherwise stated, open space intended to achieve the performance standard may be used for the following:

- Conservation areas for natural, archeological or historic resources;
- Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- Pedestrian or multi-purpose trails;
- Passive recreation areas;
- Active recreation areas, provided that impervious area is limited to no more than 25 percent of the total open space for the development;
- Golf courses (excluding clubhouse areas and maintenance facilities), proved that the area does not exceed 50 percent of the total open space for the development and that impervious area is no more than 25 percent of the total open space for the development;
- Water bodies, such as lakes, pond and floodways, provided that the total surface area does not exceed 50 percent of the total open space for the development;
- Crop production, community garden;
- Stormwater control measures, provided that area does not exceed 25 percent of the total open space for the development and the stormwater control measure is designed as a pond amenity of greater than one-half (1/2) acre or greater, is surrounded by open space, and is accessible to all residents; and
- Easements for drainage, access and underground utilities.

6.5.9. PROHIBITED USES OF OPEN SPACE

Open space intended to achieve the performance standard shall not be used for the following:

- Individual conventional wastewater disposal systems (excluding innovative systems);
- Overhead electric transmission lines or high voltage electric transmission lines; and
- Streets and impervious parking areas.

6.5.10. OPEN SPACE DEDICATION, OWNERSHIP, AND MAINTENANCE

- A. Any areas reserved as open space shall be indicated on a preliminary and/or final subdivision plat. An Phasing Plan shall be submitted as a part of the application for preliminary plat approval. An Open Space Maintenance Plan shall be submitted prior to the approval of the first final plat. All open space shall be dedicated prior to or simultaneously with the first final plat approval. Any active open space shall be completed prior to the issuance of the a zoning permit for the fifth dwelling unit and prior to approval of a second phase final plat.
- B. Open space may be owned or administered by one (1) or a combination of the following methods:
 - 1. Fee simple ownership by a unit of government or private non-profit land conservancy;
 - 2. Common ownership by Homeowners Association;
 - 3. Split deeded ownership by individual property owners within the development;
 - 4. By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility).
 - 5. Deed restricted open space easements on individual private properties.
- C. The Town Board of Commissioners shall have the authority to accept or reject land dedications made as a requirement of this Section.

- D. The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- E. In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.
- F. The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.
- G. The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Administrator.
- H. Homeowners' Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Administrator and such document shall include, but not be limited to, the following:
 - 1. Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.
 - 2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.
 - 3. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.
 - 4. The open space restrictions must be permanent, not just for a period of years.
 - 5. The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.
 - 6. The association or similar legal entity must be able to adjust the assessment to meet changing needs.
 - 7. The association shall be responsible for maintaining all public storm water drainage systems and easements within the development not being maintained by the Town, County, State or other approved entity.
 - 8. It shall be expressly stated within the restrictive covenants/homeowners association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.
- I. Open-space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained as determined by the Town Board by any of the following mechanisms or combinations thereof:

1. Dedication of open space to the Town, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication and is financially capable of maintaining such open space.
2. Common ownership of the open space by a property owner's association which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the homeowner's association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice:
 - demand that deficiency of maintenance be corrected; or
 - enter the open space to maintain same. The cost of such maintenance shall be charged to the homeowners association.

6.6. LOT DESIGN STANDARDS

6.6.1. PURPOSE OF SITE DESIGN STANDARDS

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets and other public facilities.

6.6.2. MINIMUM LOT STANDARDS

- A. The provisions of this § 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 6 of this Ordinance.
- B. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see § 4.7) and buffer yards (see Article 7) will exist on the lot.

6.6.3. BLOCKS

The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. The maximum and average perimeter of any blocks within a subdivision shall not exceed that as shown in Table 6.6-1 (a dash [-] indicates that the requirement is not applicable). Block lengths shall be measured from intersection to intersection and/or intersection to end point.

Table 6.6-1 Block Size Requirements

Zoning District	Maximum Length (in feet)
AG, RE	–
RL, RM, RH, CC, C-1, C-2	1,800
I-1, I-2	–
PUD	1,500

6.6.4. CORNER LOTS

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

- run at right angles to the right-of-way line, or
- in the case of cul-de-sacs or curvilinear street rights-of-way, radial to the curve.

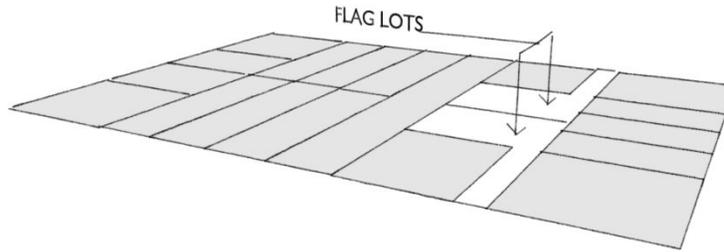
6.6.5. LOT FRONTAGE REQUIREMENTS

- A. Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in Article 6 of this Ordinance shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided in this section.
- B. For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five (5) lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.
- C. Frontage on a public street shall not be required in the following situations; provided, however, that an easement providing access to the public street shall be recorded and substituted with the application for development approval:
 - 1. Parcels within nonresidential subdivisions;
 - 2. Townhome lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots; and
 - 3. Lots fronting on approved private streets.
- D. Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment.

6.6.6. FLAG LOTS

- A. Flag lots may be developed on a limited basis in subdivisions where individual development of each lot is contemplated and the Administrator determines that no future street access through the property will be needed. Flag lots may be used to better use irregularly shaped properties or sites with physical limitations, or to eliminate or reduce access to a thoroughfare or collector street. Flag lots shall not be permitted in any proposed Subdivision except as provided for in this section.

Figure 6.6-1: Flag Lots



- B. The maximum number of flag lots shall be set forth in Table 6.6-2, where the Administrator finds that the flag lot(s): (1) allow for the more efficient use of irregularly shaped parcels of land, or (2) where the integrated nature of multiple buildings on a site dictates the need for such lots.

Table 6.6-2. Maximum Number of Flag Lots*

Size of Subdivision	Maximum Number of Flag Lots
2 – 20 lots	1 lot
Over 20 lots	1 per every 20 lots

*This table does not apply to the AG District. The AG district does not have a limit on the number of flag lots. The Administrator may approve additional flag lots if evidence is presented that physical hardships prevent development of land using conventional lot design.

- C. The minimum width of the “pole” portion of a flag lot shall be fifteen (15) feet for residential lots and thirty (30) feet for non-residential lots.
- D. The “pole” portion of the lot shall have a maximum length not exceeding the following for each district:

Table 6.6-3 Flag Lot Depth Requirements

Zoning District	Maximum “Pole” Length (in feet)
AG, RE, RL	400
RM, RH, CC, C-1	200
C-2, I-1, I-2	250
PUD	Not permitted

6.6.7. CUL-DE-SAC LOTS

A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

- lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet; and
- lot area equal to or greater than the minimum lot area (if one is specified); and
- the minimum required lot width at the building line.

**6.6.8. PERIMETER BUFFER YARD FOR RESIDENTIAL SUBDIVISIONS
(these standards shall apply to major subdivisions only)**

- A. A buffer yard shall be required along the perimeter of a residential subdivision in order to separate residential lots from:
 - abutting thoroughfares; and
 - abutting non-residential uses.
- B. The buffer yard for abutting non-residential uses shall be designed and landscaped per Section 7.4 of this Ordinance. The buffer yard for abutting a thoroughfare shall be a minimum of Type C buffer as set forth in Table 7.4-2 of this Ordinance with no structure being closer than 30 feet from the edge of right-of-way. A buffer of less than 40 feet shall include a berm or fence a minimum of six (6) in height.
- C. All required buffer yards shall be platted as common areas and may be included as “open space-greenbelt” subject to the standards and criteria as set forth in Section 6.5 of this Ordinance.

6.6.9. INFRASTRUCTURE STANDARDS

- A. Public and/or private streets shall be designed in accordance with Article 10 of this Ordinance.
- B. Standards for the design and installation of public utilities shall be in accordance with Appendix C of this Ordinance.

6.7. CONSERVATION DEVELOPMENTS

6.7.1. PURPOSE AND APPLICABILITY

- A. The purpose of Conservation Development design is an optional residential development design tool intended to preserve agricultural and forestry lands, natural and cultural features and environmentally sensitive areas that would be likely lost through conventional development approaches.
- B. The conservation development design option may be utilized for any residential development of greater than 10 units within any zoning district in which residential uses are permitted.

6.7.2. DEVELOPMENT DENSITY AND DIMENSIONS

- A. The development density shall not exceed the overall density permitted in the zoning district in which the development is located (except as set forth in Section 6.7.3.). Areas with slopes of greater than 25% and floodway areas shall not be included in the overall allowable density calculation.
- B. Lot widths and setbacks may be reduced by up to 50% of the minimum required for the zoning district in which the development is located, subject to the requirements set forth in this section. The district setbacks set forth in Section 4.7 (Table 4.7-2) shall apply along the boundaries of the development in addition to any buffers required in Article 7. Setbacks within the development shall be set forth as part of the design process as outlined in Section 6.7.4, but in no case shall be reduced to less than a minimum 10-foot separation between buildings and a minimum of 20 feet from a street right-of-way.

6.7.3. REQUIRED OPEN SPACE AND DENSITY BONUS

- A. A minimum of 40% of the total area of the development shall be set aside in Common Open Space and shall meet the requirements of Section 6.5.
- B. Any development exceeding the minimum open space of 40% may increase the number of residential units by 1% for every 1% increase in open space up to a maximum of 120% of the density yield for the base zoning district.

6.7.4. CONSERVATION DEVELOPMENT APPROVAL PROCESS

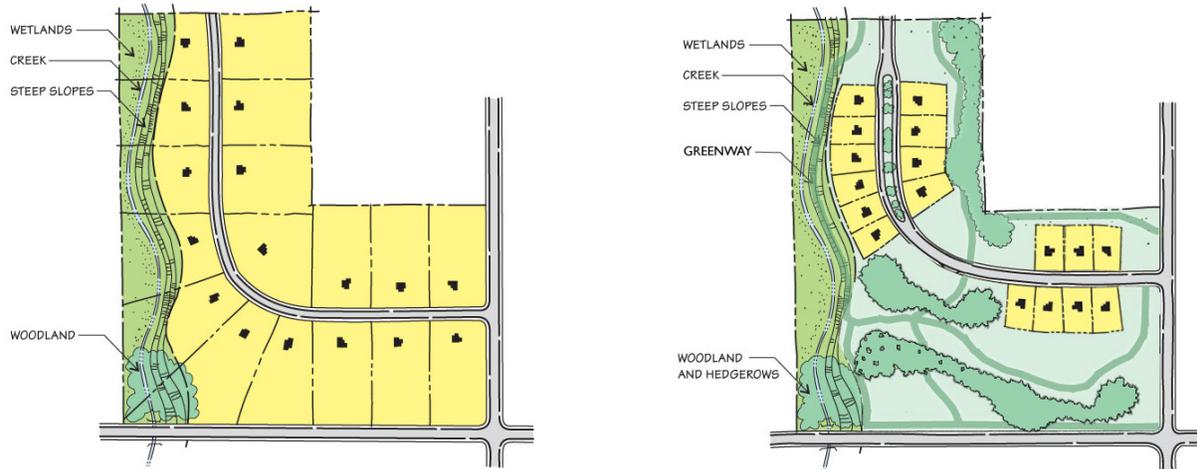
Approval of conservation development shall follow the same approval process for major subdivisions as set forth in Section 6.4, except that the following steps shall be added to the sketch plan phase:

- A. During the first step, the total yield for the property is calculated based on the total property area and the density for zoning district, minus the minimum open space for the base zoning district, as set forth in Section 6.5. (Density bonuses may be given in accordance with Section 6.7.3)
- B. Next, all potential Conservation Areas (primary, secondary, and tertiary), as defined in Section 6.5.4 shall be identified, using the Existing Features Plan described in Section 6.5.2.
- C. During the third step, potential building sites (up to the maximum identified in Step 1) are tentatively located. House sites should generally be located not closer than 50 feet to Primary Conservation Areas.
- D. The fourth step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids, or at least minimizes, adverse impacts on the Conservation Areas. Wetland crossings should be avoided.

Street connections shall be provided to minimize the number of cul-de-sacs and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels).

- E. The fifth step is simply to draw the lot lines where applicable.

Figure 6.7-1: Conservation Development Example



ARTICLE 12: SIGN STANDARDS

12.1. GENERAL PROVISIONS

12.1.1. PURPOSE

This sign ordinance is adopted under the zoning authority of the Town in furtherance of the more general purposes set forth in this Ordinance. The purpose of these sign regulations are:

- A. To encourage the effective use of signs as a means of communication in the Town while preserving the rights of free speech under the First Amendment to the United States Constitution;
- B. To maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth;
- C. To improve pedestrian and traffic safety;
- D. To minimize the possible adverse effect of signs on nearby public and private property; and
- E. To enable the fair and consistent enforcement of these sign restrictions.

12.1.2. APPLICABILITY

- A. A sign may be constructed, erected, placed, established, painted, created, or maintained in the Town only in conformance with the standards, procedures, exemptions, and other requirements of this Ordinance. The effect of this Ordinance as more specifically set forth herein is:
 1. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;
 2. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without a requirement for permits;
 3. To prohibit all signs not expressly permitted by this Ordinance; and
 4. To provide for the enforcement of the provisions of this Ordinance.
- B. Pursuant to NCGS 160D-908, fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the local government may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

12.1.3. ALTERATION OF CONFORMING SIGNS

The replacement of sign faces, lettering or other features of a sign which conforms in every manner to the provisions of this Article shall be considered maintenance and shall not require a permit. Any alteration which modifies the area, height or illumination of a sign, or alters its locations shall be subject to the issuance of a zoning permit and the regulations of this Section.

12.5. OUTDOOR ADVERTISING (BILLBOARD) SIGNS.

12.5.1. APPLICABILITY.

[Subject to NCGS 160D-912](#), the maximum permitted sign area, location, characteristics, and number of off-premise Outdoor Advertising Signs shall be determined in accordance with the standards in this Section 12.5.

12.5.2. The following regulations shall apply off-premise Outdoor Advertising Signs:

- A. Such signs shall be permitted only in the I-1 and I-2 districts with the issuance of a Conditional Use Permit.
- B. Such signs shall be limited to a maximum size of 150 square feet.
- C. Such signs shall be setback a minimum of fifty (50) feet from the public right-of-way, or any legal private access road.
- D. Such signs shall not exceed thirty (30) feet in height.
- E. There shall be only one (1) face per side of the sign. “Double-decker” signs with signs erected one over or above the other and side-by-side signs with signs erected one next to the other are prohibited.
- F. Such signs shall be a minimum of one-thousand (1,000) feet from any Residential Zoning District or residentially developed property, whether within the jurisdictional limits of the Town or not. The distance shall be measured radially from the proposed sign location to the nearest point of the residential district or property.
- G. Each such sign shall be a minimum of one-thousand (1,000) feet from any other off-premises outdoor advertising sign, located on the same or on the opposite side of the street. The distance shall be measured radially from the proposed sign location to the existing sign location.
- H. Such signs shall be a minimum of one-hundred (100) feet from any existing or proposed building, off-street parking area or other building or structure. The distance shall be measured radially from the proposed sign location to the nearest point of the building, off-street parking area or other building or structure.
- I. No vegetation in the public right-of-way shall be cut for the purpose of increasing or permitting visibility to such off-premises outdoor advertising sign unless approved by the chief engineer of the governmental authority having jurisdiction over such right-of-way.
- J. No off-premises outdoor advertising sign shall be located in a required front yard setback.
- K. Such signs shall meet 30 PSF wind loading requirements and all supports shall:
 - 1. be of steel, aluminum, concrete or other non-combustible material.
 - 2. No such sign shall be erected closer than ten (10) feet from any conductor of electricity, and all such signs shall comply with all requirements of the National Electrical Code with respect to clearance from overhead electrical conductors.
- L. Billboards with LED or electronic reader boards are not permitted. (See Section 12.2 Prohibited

ARTICLE 13
~~**NONCONFORMING USES AND STRUCTURES**~~
NONCONFORMITIES AND VESTED RIGHTS

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13.1. NONCONFORMING USES AND LOTS

13.1.1. CONTINUATION OF NONCONFORMING USES.

Any nonconforming uses in existence at the time of the adoption of this Ordinance may be continued and shall not be subject to this Ordinance to the extent that the regulations, restrictions and requirements of this Ordinance would prohibit that use, or to the extent that such structure would not be permitted to remain. Any Nonconforming Use which, at any time, is not in use for a continuous 60-day period shall be considered to have discontinued operations and, therefore, regardless of the reason or intent of such discontinuance, will no longer be permitted. The initial decision as to whether an existing Nonconforming Use has been discontinued shall be made by the Administrator, subject to said decision being appealed to the Board of Adjustment by the affected property owner within thirty (30) days of the ruling by the Administrator.

13.1.2. NONCONFORMING LOTS OF RECORD

Single Lot of Record

- A. Permitted uses in any district may be allowed on any single lot of record existing at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, generally applicable in the zoning district.
- B. Any existing lot of record which does not conform with lot area, depth or width requirements may be used for any permitted use in that zoning district so long as the parcel is not reduced in any manner or diminished so as to cause yards, lot coverage, or other open spaces to be less than required, except as provided in subsection 13.1.2.1.3.
- C. Dimensional requirements other than those applying to lot area, depth or width shall be met, provided that the Administrator may allow a reduction of not to exceed twenty-five per cent (25%) in the dimension of any required yard. Approval shall depend upon a written finding that such reduction is reasonably necessary for practical use of the lot and will not have substantial adverse effects on adjacent property. Reduction of yard requirements by more than twenty-five percent (25%) shall be obtained only through a variance granted by the Board of Adjustment.

13.1.3. EXPANSION OR ENLARGEMENT OF NONCONFORMING USES OR CHANGE TO ANOTHER NONCONFORMING USE.

- A. A Nonconforming Use shall not be expanded, enlarged or changed to another Nonconforming Use except as provided in this section 13.1.3.
- B. No structural alterations shall be made to a Building or other Structure substantially occupied by a Nonconforming Use except as necessary:
 - 1. to comply with the requirements of a federal or state laws or regulations, or local ordinance of general applicability;
 - 2. to accommodate a Conforming Use; or
 - 3. to make such structure conform to the applicable dimensional regulations.
- C. A Nonconforming Use may be changed to any Conforming Use. The applicable zoning district dimensional

regulations of Table 4.7-1 shall not apply to such change of Use. However, all other design standards of this Ordinance (such as parking, landscaping, etc.) shall apply. Nonconforming Uses shall not be expanded or enlarged unless such expansion or enlargement shall comply with all applicable zoning district dimensional regulations.

13.1.4. NONCONFORMING STRUCTURES

- A. Expansions or additions to structural parts of a Nonconforming Building or other Structure shall be permitted with the issuance of a Certificate of Nonconformity Adjustment. Repairs to existing Nonconforming Buildings or Structures that do not include an expansion or addition shall not require a Certificate of Nonconformity Adjustment.
- B. Nonconforming Buildings or other Structures shall not be expanded or enlarged unless such expansion or enlargement shall comply with all applicable zoning district dimensional regulations.

13.1.5. CONTINUED NONCONFORMANCE AFTER DAMAGE OR DESTRUCTION.

- A. When a Nonconforming Building or Structure or a Building containing a Nonconforming Use is damaged or destroyed by fire, storm or other casualty, such Building may be rebuilt, reconstructed and/or reoccupied only in accordance with the provisions of this Section 13.1.5.
- B. Where a Building or other Structure substantially occupied by a Nonconforming Use is damaged or destroyed as a result of fire or other natural/uncontrollable factor, such Building or Structure may be reconstructed and such Nonconforming Use may be continued, provided that any such reconstruction does not increase the degree of any Nonconformance, and only upon receipt of a Zoning Clearance Permit. However, if a Building or other Structure substantially occupied by a Nonconforming Use is voluntarily removed or altered, such structure and site shall be subject to all applicable design standards of this Ordinance, and shall be permitted only upon the issuance of a Certificate of Nonconformity as set forth in Section 13.1.6, below.

13.1.6. CERTIFICATE OF NONCONFORMITY ADJUSTMENT REQUIRED

13.1.6.1. Purpose Certificate of Nonconformity

Adjustment shall be required to enlarge, expand or otherwise alter any Nonconforming Use or Structure as set forth in this Section 13.1. A Certificate of Nonconformity Adjustment shall be issued by the Administrator subject to the requirements of this section.

13.1.6.2. Procedures

- A. Certificates of Nonconformity Adjustment shall follow the quasi-judicial hearing procedures set forth in Section 3.3 of this Ordinance.
- B. Application for a Certificate of Nonconformity Adjustment shall be submitted on a form prescribed by the Administrator. An applicant for a Certificate of Nonconformity Adjustment shall submit a detailed plan of the existing site, showing, the degree of Nonconformity with respect to the dimensional and design regulations of this Ordinance. In the case of a Nonconforming Use the application shall include a detailed explanation of the current Use including documentation of traffic generated by the current use.
- C. A Certificate of Nonconforming Adjustment may be granted by the Board of Adjustment Administrator in accordance with the provisions of this section. Steps in the nonconformity adjustment process are: based on the following criteria:

1. Noise. Does the nonconformity create noise above and beyond levels considered normal to the area?
2. Traffic. Does the nonconformity generate or have the potential to generate a significantly higher volume of traffic than surrounding land use?
3. Other measurable, physical effects. Does the nonconformity generate any other negative effects including but not limited to: dust, air pollution, foul smell, etc.?
4. Aesthetics. Does the nonconformity compliment or detract from the overall aesthetic character of the area?

Surrounding property values. Does the nonconformity detract from the prevailing property values?

- ~~Step 1 — Application.~~ An application for a nonconformity adjustment will be considered by the Zoning Administrator upon the filing of a form entitled "Request for Nonconformity Adjustment", available within the office of the Administrator.
- ~~Step 2 — Notification of neighboring landowners.~~ All landowners adjoining to any degree (including lying across roadways) the site of the nonconformity will receive notification of the filing of the request for a Certificate of Nonconformity Adjustment and given an opportunity, should they desire, to comment on the nonconformity within seven (7) days of the date of filing.
- ~~Step 3 — Decision by Zoning Administrator.~~ Within 30 days of the date of receipt of a request for a nonconformity adjustment, the Zoning Administrator will either approve or deny the request. His decision to approve may be based upon the applicant agreeing to site changes. The decision to approve or deny will be made
- ~~Step 4 — Changes to the nonconformity.~~ The Zoning Administrator will determine what the nonconformity operator/owner must do to the property for certification. For example, landscaping or fencing may be required or a shift of operations away from adjoining properties may be stipulated.

~~Denial by Administrator.~~ If the Administrator, after an analysis of the facts of the situation, finds the nonconformity cannot be adjusted, it will be handled as such and subject to those provisions of this Ordinance which deal with unreformable nonconformities. A denied applicant may petition the Planning & Zoning Board acting as a Board of Adjustment for a review of the Administrator's decision within 30 days. The procedures for an appeal are set forth in § 3.7 of this Ordinance.

~~Approval by Administrator.~~ Certificates of Nonconformity Adjustment may be issued with or without conditions. Those with conditions will be issued after a visual inspection by the Administrator.

13.1.7. REPLACEMENT OF NONCONFORMING MANUFACTURED HOMES ON INDIVIDUAL LOTS

Nonconforming manufactured homes on individual lots may not be replaced in the Corporate Town Limits.

13.1.8. NONCONFORMING MANUFACTURED HOME PARKS

- A. All manufactured home parks made nonconforming by this Ordinance ~~and not operating under a conditional use permit in accordance with this Ordinance,~~ may continue. However, the arrangement of spaces is not to be altered nor the number of spaces increased. In the absence of a plat recorded in the Cabarrus County Register of Deeds office prior to June 30, 1981, records in the Cabarrus County Tax Supervisor's office or approved septic permits on file at the Cabarrus Health Alliance will be utilized as verification reflecting the number of spaces.
- B. Manufactured homes within nonconforming parks may be removed and replaced provided that the replacement manufactured home is no older than 1976 and must conform to the design and installation standards of Sections **4.10.7 (C), 4.10.7 (D), 4.10.7 (G), 4.10.7 (H), and 4.10.7 (I)** of this Ordinance.

13.2. VESTED RIGHTS

13.2.1. APPLICABILITY

- A. Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:
 - 1. Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with NCGS 143-755.
 - 2. Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with NCGS 143-755.
 - 3. A site-specific vesting plan pursuant to NCGS 160D-108.1.
 - 4. A multi-phased development pursuant to section **13.2.3**.
 - 5. A vested right established by the terms of a development agreement authorized by NCGS Chapter 160D, Article 10.

- B. The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

13.2.2. DURATION OF VESTING

- A. Upon issuance of a development permit, the statutory vesting for a development project is effective upon filing of the application in accordance with NCGS 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

- B. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

13.2.3. MULTIPLE PERMITS FOR DEVELOPMENT PROJECT

Subject to **Section 13.2.2**, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

13.2.4. MULTI-PHASED DEVELOPMENT PLAN

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

13.2.5. CONTINUING REVIEW

Following issuance of a development permit, the Town may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

13.2.6. PROCESS TO CLAIM VESTED RIGHT

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under NCGS 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under NCGS 160D-405, a person claiming a vested right may bring an original civil action as provided by NCGS 160D-1403.1.

13.2.7. MISCELLANEOUS PROVISIONS

The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

13.2.8. MISCELLANEOUS PROVISIONS

As used in this section, the following definitions apply:

- A. Development. - As defined in NCGS143-755(e)(1).
- B. Development permit. - As defined in NCGS143-755(e)(2).
- C. Land development regulation. - As defined in NCGS 143-755(e)(3).
- D. Multi-phased development. - A development containing 25 acres or more that is both of the following:
 - 1. Submitted for development permit approval to occur in more than one (1) phase.
 - 2. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

13.2.9. SITE SPECIFIC VESTING PLANS

13.2.9.1. Site-Specific Vesting Plan

A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a Special Use Permit,

a Conditional Zoning district plan, or any other land-use approval designation as may be utilized by the Town. Unless otherwise expressly provided by the Town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the Town pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A Variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

13.2.9.2. Establishment of Vested Right

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

13.2.9.3. Approval and Amendment of Plans

- A. If a site-specific vesting plan is based on an approval required by a local development regulation, the Town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two (2) years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS160D-602 shall be held.

- B. The Town may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The Town shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the Town's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

13.2.9.4. Continuing Review

Following approval or conditional approval of a site-specific vesting plan, the Town may make subsequent reviews and require subsequent approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The Town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

13.2.9.5. Duration and Termination of Vested Right

- A. A vested right for a site-specific vesting plan remains vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town.

- B. Notwithstanding the provisions of subsection (A), the Town may provide for rights to be vested for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with Section 13.2.9.1.
- C. Upon issuance of a building permit, the provisions of NCGS 160D-1111 and NCGS 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.
- D. A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

13.2.9.6. Subsequent Changes Prohibited; Exceptions

- A. A vested right, once established as provided for in this section, precludes any zoning action by the Town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:
 - 1. With the written consent of the affected landowner.
 - 2. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
 - 3. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the Town, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.
 - 4. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the Town of the site-specific vesting plan or the phased development plan.
 - 5. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.
- B. The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.
- C. Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of the Town to adopt and enforce development regulations governing nonconforming situations or uses.

D. Miscellaneous Provisions

1. A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.
2. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.
3. In the event the Town fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice. (2020-25, ss. 5(b), 50(b).)

13.2.10. PERMIT CHOICE

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, NCGS 143-755 applies.

PURPOSE AND INTENT.

~~The purpose and intent of this Section is:~~

~~To provide detailed administrative rules, regulations and procedures in order to guide officials in the administration, interpretation and implementation of the the Unified Development Ordinance, and/or any other ordinances, regulations and or administrative rules adopted by the Town in order to implement a comprehensive plan for development.~~

~~To establish predictability and fairness for affected landowners;~~

~~To recognize that development projects for which vested rights have been obtained must be accounted for in the *Comprehensive Plan*, the Unified Development Ordinance, capital improvements programs, and other land development regulations.~~

~~To provide a method for determining and quantifying the number of projects, development projects, and land uses, which do not now comply with this Ordinance, or which may in the future fail to comply with this Ordinance due to subsequent amendments to this Ordinance but which are vested, so that such projects, development projects and land uses can be accounted for in the existing and future general plans and this Ordinance.~~

~~To establish uniform and non-burdensome procedures and specific criteria for the determination of vested rights and claims of equitable estoppel in order to aid in the accomplishment of sound and orderly planning;~~

~~To define the scope of vested rights that have been obtained by virtue of prior development approvals, including the expiration of development permits;~~

~~To protect legitimate investment backed expectations;~~

~~To protect the planning and implementation process;~~

~~To settle potential disputes and to minimize protracted and costly litigation;~~

~~To facilitate implementation of the goals, objectives and policies set forth in the *Comprehensive Plan*; and~~

~~To ensure that all applicable legal standards and criteria are utilized in the determinations to be made hereunder.~~

~~To implement the provisions of NCGS 160D-108 § 160A-385.1 regarding Vested Rights.~~

APPLICABILITY.

~~This Section 13.2 shall apply to any person(s) desiring to obtain a right to develop land beyond the time limitations as set forth in other sections of this Ordinance.~~

AUTHORIZATION.

~~The provisions of this Section 13.2 are authorized by NCGS 160D-108 § 160A-385.1 regarding Vested Rights.~~

DEFINITIONS.

~~The following terms shall have the definitions provided in this Section 13.2.3. If a contrary definition appears in NCGS 160D-108 § 160A-385.1, the term shall have the meaning set forth in that section. Any terms not defined herein shall have the meaning assigned in Appendix A to this Ordinance.~~

~~**LANDOWNER**—Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase or contract to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan under this section, in the manner allowed by ordinance.~~

~~**TOWN**—The Town of Mount Pleasant, North Carolina.~~

~~**PHASED DEVELOPMENT PLAN**—A plan which has been submitted to a Town by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan.~~

~~**PROPERTY**—All real property subject to zoning regulations and restrictions and zoning boundaries by the Town.~~

~~**SITE SPECIFIC DEVELOPMENT PLAN**—A plan which has been submitted to a Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: a Planned Unit Development plan, a TND Greenfield plan, a subdivision plat, a conditional or special use permit, a conditional district zoning plan, or any other land use approval designation as may be utilized by the Town. Such plans include the information set required by Section 13.2.8. A variance shall not constitute a site specific development plan.~~

~~Neither a Sketch Plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site specific development plan.~~

~~**VESTED RIGHT**—The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.~~

ESTABLISHMENT OF VESTED RIGHTS.

~~—A Vested Right shall be deemed established for any property upon the approval (with or without conditions) of a Site Specific Development Plan or a Phased Development Plan by the appropriate Town decision making agency in accordance with the provisions of this section 13.2.~~

~~—Notwithstanding the provisions of this § 13.2.4, the approval of a Site Specific Development Plan with the condition that a Variance be obtained shall not establish or be deemed to establish a Vested Right unless and until the Variance is obtained.~~

DURATION.

~~—An amendment or modification of a Site specific Development Plan or Phased Development Plan shall not extend the Vested Rights period unless the approval shall specifically provide for such extension.~~

~~—A Building Permit which is issued for a development for which Vested Rights have been established shall not expire or be revoked because of the time limitations on validity of permits under NCGS Chapter 160D, Article 11 § 160A 418 prior to the expiration of the Vested Rights period.~~

~~—Where a Variance is required as a condition of the approval of a Site Specific Development Plan, the effective date of the approval which commenced the period for development shall be the date on which the Variance is granted.~~

~~—A right to develop a Building or Structure or Use which has been vested as provided in this section 13.2 shall terminate at the end of the applicable vesting period for all Buildings or Structures and Uses for which no valid application for a Building Permit has been filed.~~

~~**Voluntary Annexation.** In accordance with NCGS § 160A 31(h) and 160A 58.1(d), petitioners filing for voluntary annexation shall also submit a statement declaring whether or not vested rights with respect to the properties subject to the petition have been established. Whenever the Town acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights under a permit, certificate, or other evidence of compliance issued by the Town surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. The Town may take any action regarding such a permit, certificate, or other evidence of compliance that could have been taken by the Town surrendering jurisdiction pursuant to its ordinances and regulations.~~

PROCEDURE FOR APPROVAL OF A VESTED RIGHT.

~~—The procedures for approval of a Site Specific Development Plan are set forth in § 13.2.8, below. The procedures for approval of a Phased Development Plan are set forth in § 13.2.9, below.~~

~~—Upon approval of a Site Specific Development Plan or a Phased Development Plan, each and every map, plat, site plan or other document prepared or used for the Development shall contain the following notation:~~

~~“Approval of this Site Specific Development Plan establishes a Vested Right under North Carolina General Statutes § 160A 385.1. Unless terminated at an earlier date, the Vested Right shall be valid until [date approved by Town].”~~

SCOPE OF VESTED RIGHTS.

~~—Following approval or conditional approval of a site specific development plan or a phased development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals by the Town to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with said original approval. Nothing in this section shall prohibit the Town from revoking the zoning clearance permit for failure to comply with applicable terms and conditions of the approval or this Ordinance as set forth in Section 1.6.~~

~~—A vested right, once established as provided for in this section, precludes any zoning action by the Town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan, except:~~

~~With the written consent of the affected landowner;~~

~~Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan;~~

~~To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;~~

~~Upon findings, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan or the phased development plan; or~~

~~Upon the enactment or promulgation of a State or federal law or regulation which precludes development as contemplated in the site specific development plan or the phased development plan, in which case the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.~~

~~The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property which is subject to a site specific development plan or a phased development plan upon the expiration or termination of the vesting rights period provided for in this section.~~

~~Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change or impair the authority of the Town to adopt and enforce zoning ordinance provisions governing nonconforming situations or uses. (See § 13.1 of this Ordinance).~~

~~A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan or a phased development plan, all successors to the original landowner shall be entitled to exercise such rights.~~

~~Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.~~

~~SITE SPECIFIC DEVELOPMENT PLANS (SSDPs).~~

~~**GENERAL.** The Town Board or the Planning and Zoning Board (for preliminary subdivision plats) may, but under no circumstances is it required, to approve a Site Specific Development Plan (SSDP). The SSDP shall bind the applicant and the Town Board (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this Section. The Administrator and the Town Attorney, or their designees, are authorized to negotiate Development Agreements on behalf of the Town Board to enforce a SSDP.~~

~~**Applicability.** The Town Board or the Planning and Zoning Board may approve a SSDP pursuant to this Section only if the proposed development to which the SSDP pertains is in conformity with the then adopted *Comprehensive Plan* and capital improvements program, zoning regulations, and other applicable requirements of this Ordinance. The SSDP shall be used solely as a means to enforce compliance with the terms of this Ordinance, and shall not be considered an inducement for the approval of any application for development approval.~~

~~**Duration.**~~

~~Upon approval of a Site Specific Development Plan, the right to develop such Development or Use shall continue for period of two (2) years from the date of approval of such Site Specific Development Plan.~~

~~Notwithstanding the foregoing, the Town, in its approval, may authorize a Vested Rights development period of longer than two (2) years, but in no event longer than five (5) years, if, in the Town's sole discretion, such longer period is necessary because of the size and phasing of the Development, the investment in the Development, the need for the Development, economic cycles, and such other conditions as the Town may consider relevant.~~

~~**Procedure for Approval of an SSDP.**~~

~~An application for an SSDP may be made to the Administrator in accordance with the procedures set forth herein. Application may be made by the landowner. If made by the holder of an equitable interest, the application shall be accompanied by a verified title report and by a notarized statement of consent to proceed with the proposed SSDP executed by the landowner. Application may be made by the Planning Board or the Town Board. If made by the Planning Board or the Town Board, the applicant shall obtain and attach a notarized statement of consent to proceed with the proposed SSDP executed by the owner of the subject property.~~

~~**Coordination of SSDP Application with other Discretionary Approvals.**~~

~~It is the intent of these regulations that the application for an SSDP will be made and considered simultaneously with the review of other necessary applications; including, but not limited to, land use approval designation as may be utilized by the Town. If combined with an application for rezoning, subdivision and plat approval, planned development or conditional use permit, the application for a SSDP shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information.~~

~~A SSDP is not a substitute for, nor an alternative to, any other required permit or approval, and the applicant must comply with all other required procedures for development approval.~~

~~**Contents of a SSDP.** No SSDP shall be approved by the Town Board or Planning and Zoning Board, nor shall any such SSDP or any provision of such SSDP have any legal force and effect, unless the application contains the following minimum provisions:~~

~~the approximate boundaries of the site;~~

~~significant topographical and other natural features effecting development of the site;~~

~~the approximate location on the site of the proposed buildings, structures, and other improvements;~~

~~the approximate dimensions, including height, of the proposed buildings and other structures;~~

~~the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways; and~~

~~Any other matters set forth in NCGS § 160A-385-1(b)(5).~~

~~The provisions of this Section supplement, but do not replace, any additional information required by Appendix B for any site plan, Planned Unit Development plan, a subdivision plat, a conditional use permit, a conditional use district zoning plan, or any other application for development approval required for the proposed development.~~

~~**Approval of Town Board or Planning and Zoning Board.**~~

~~No SSDP shall become effective until approved by the Town Board or Planning and Zoning Board. What constitutes a site specific development plan under this section that would trigger a vested right shall be finally determined by the document that triggers such vesting shall be so identified at the time of its approval. The Town Board or Planning and Zoning Board shall consider the proposed SSDP consistent with any procedures as may be established pursuant to NCGS § 160A-385.1. The Town Board or Planning and Zoning Board may:~~

~~Approve the SSDP;~~

~~Approve the SSDP with conditions; or~~

~~Reject the SSDP, in whole or in part, and take such further action as it deems to be in the public interest.~~

~~The Town Board or Planning and Zoning Board, in approving an SSDP, shall expressly find that the agreement meets those criteria in this Ordinance for approval of the Applications for Development Approval.~~

~~**Recordation of SSDP.**~~

~~No later than ten (10) days after the Town Board or Planning and Zoning Board approves an SSDP, the Administrator shall record a copy of the SSDP with the county register of deeds, and the recordation constitutes notice of the SSDP to all persons. The burdens of the SSDP are binding on, and the benefits of the SSDP inure to, the parties to the agreement and to all their successors in interest and assigns.~~

~~**Covenants.** Unless otherwise provided in the SSDP, any covenant by the Town Board or Planning and Zoning Board contained in the SSDP to refrain from exercising any legislative, quasi-legislative, quasi-judicial or other discretionary power, including rezoning or the adoption of any rule or regulation that would affect the proposed subdivision, shall be limited to a period not exceeding that specified in NCGS § 160A-385(d)(1). The covenant shall also contain a proviso that the Town Board or Planning and Zoning Board may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if it makes a determination on the record that the action is necessary to avoid a substantial risk of injury to public health, safety and general welfare. The covenant shall contain the additional proviso that the Town Board or Planning and Zoning Board may, without incurring any liability, engage in action that otherwise would constitute a breach of the covenant if the action is required by federal or state law.~~

~~**Notice of Decision.**~~

~~Within ten (10) days following a decision of an SSDP, the Administrator shall give notice of such action to the applicant.~~

~~**Third Party Rights.** Except as otherwise expressly provided in the SSDP, the SSDP shall create no rights enforceable by any party who/which is not a party to the SSDP.~~

~~**Amendment or Cancellation.** An SSDP may be amended, or cancelled in whole or in part, by mutual consent of the parties to the SSDP or by their successors in interest or assigns.~~

~~PHASED DEVELOPMENT PLANS (PDP's).~~

~~The procedures and requirements pertaining to Phased Development Plans (PDP's) shall be the same as those set forth for SSDP's in § 13.2.8, except as provided below:~~

~~**Duration.** The Town Board or Planning and Zoning Board may, but under no circumstances is it required, provide by ordinance that approval by the Town Board or Planning and Zoning Board of a phased development plan shall~~

~~vest the zoning classification or classifications so approved for a period not to exceed five years.~~

~~**Procedure.** The document that triggers such vesting shall be so identified at the time of its approval. The Town Board or Planning and Zoning Board still may require the landowner to submit a site specific development plan for approval by the Town with respect to each phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications.~~

~~**Discretion.** Nothing in this section shall be construed to require the Town Board or Planning and Zoning Board to adopt an ordinance providing for vesting of rights upon approval of a phased development plan.~~

EXPIRATION OF DEVELOPMENT APPROVALS.

TIME OF EXPIRATION.

Unless otherwise specifically provided for in this Ordinance, development applications shall automatically expire and become null and void, and all activities taken pursuant to such development application shall cease and become null and void, and all activities pursuant to such approval thereafter shall be deemed in violation of this Ordinance, when: 1) the applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the application for development approval, or that was made pursuant to the terms of any development agreement, including the failure to abide by specified time limits established therein; or 2) the applicant fails to present a subsequent development application as required by this title within the time so required or as may be required by Table 13.3 1 or 13.3 2 this Ordinance or North Carolina law. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development application, the time shall be presumed to be twelve (12) months from the date of approval.

DATE FROM WHICH TIME LIMIT IS MEASURED.

~~Each time period referenced on Table 13.3 1 and Table 13.3 2 shall run from the final action of the appropriate official, officer, commission, Board or the governing body with valid and legal jurisdiction to take such action or to approve such plans or to issue such permits. Except as may be otherwise indicated herein, the date of final action shall be the date such action was taken or such approval was granted or such permit was issued, as set forth on such action, approval or permit.~~

~~In order to assure that all applicants for actions, approvals or permits are informed of the applicable time limit, the date of final action and the expiration date shall be shown on each such action, permit or approval; but provided, however, that the Administrator's failure to include either the date of final action or the expiration date shall not be deemed to be a waiver of such dates nor shall it be the basis of any action by the applicant to challenge the applicable expiration date. The burden is on the applicant to know the date of issuance and the expiration date. If either or both of such dates are not shown, the applicant may request, and the Administrator shall promptly supply such date or dates.~~

~~All actions, approvals or permits shall expire on the expiration date unless a valid extension has been granted on or before the expiration date pursuant to section 13.3.3 herein.~~

EXTENSIONS OF TIME LIMITS.

~~**First Extension.** Unless otherwise prohibited by North Carolina law or this Ordinance, the Administrator may extend the time for expiration of a development permit or approval for a period not to exceed one (1) year from the date of the original decision granting approval, if the application for extension is made in writing within the original period of validity. Subsequent extensions may be made by the final approval body upon finding that conditions at the time of approval have not changed.~~

~~**Additional Extensions.** There shall be no additional extensions of any time limits for actions, approvals or permits set forth herein, as of right. Any extensions must be expressly requested by the applicant, in writing, and approved by the appropriate official, officer, board, commission or the governing body which originally took the action, approved the plan or issued the permit.~~

~~A request for an extension of an expiration date shall be made on a form provided by the Administrator and shall include, but shall not necessarily be limited to, the following:~~

~~the current date of expiration;~~

~~the extension period requested, which shall be no longer than the original period of time granted; and~~

~~the reason(s) that the applicant has been unable to proceed within the period of the original expiration date.~~

~~Before granting an extension, the official, officer, board, commission or the governing body~~

~~shall determine whether any applicable changes in land use regulations have occurred which would impose new requirements with respect to such action, approval or permit, if an extension were denied, and the applicant were compelled to re-file for an original action, approval or permit. If changes have occurred, the official, officer, board, commission or the governing body shall balance the burden imposed on the applicant if required to re-file for an original action, approval or permit against the benefit accruing to the public by requiring the applicant to comply with the new regulation.~~

**Table 13.3-1
TIME LIMITS FOR USE OF ZONING APPROVALS AND PERMITS ***

—Action/Permit/Approval	Time Limit
Conditional Use Permit under the current or a former ordinance (or a Special Use Permits under a former Ordinance)	One year to obtain a building permit and commence construction of the primary use authorized by the permit or, in the case of home occupations, to complete any necessary alterations, adjustments, modifications, or other activities authorized by the permit.
Variance	Six (6) months to obtain a building permit and to commence construction of the primary use authorized by the variance
Preliminary Site Plan	The approval of a preliminary site plan shall be effective for a period of one (1) year from the date of approval, at the end of which time the applicant must have submitted a complete final site plan for approval. If a final site plan is not submitted for final approval within the one (1) year period, the preliminary approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan for review.
Final Site Plan	The approval of a final site plan shall be effective for a period of one (1) year from the date that the final site plan is approved by the Administrator at the end of which time, substantial construction shall have commenced and shall continue without interruption, or a complete building permit application shall be submitted and reviewed by the Administrator. Failing same, the final approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan subject to the then existing provisions of this Ordinance.

* Where Vested Rights have been established in accordance with Section 13.2 of this Ordinance, the time limits as set forth in Section 13.2 shall apply.

**Table 13.3-2
TIME LIMITS FOR USE OF SUBDIVISION APPROVALS**

Plan/Plat Approval	Time Limit
Sketch Plan	Not applicable (not approved or rejected)
Preliminary Plat (for Major Subdivision)	Two years to obtain final plat approval.
Final Plat or Conveyance Plat	Thirty (30) days to record plat.

APPENDIX A

Definitions

1. **Terms Defined.** Words contained in this Appendix A are those having a special meaning relative to the purposes of this Ordinance. Words not listed in this section shall be defined by reference to: (1) Chapter 2 of the State Building Code or, if not defined therein, in (2) the most recent edition of the Merriam- Webster Dictionary. Words and terms not defined in this Appendix but defined elsewhere in the Unified Development Ordinance shall be given the meanings set forth therein. Particular uses not defined herein shall have the meaning assigned in the Use Matrix (Table 4.6-2) and the NAICS Manual.
2. **Word Usage.** In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:
 - Words used or defined in one tense or form shall include other tenses and derivative forms.
 - Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
 - The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
 - The word "shall" is mandatory.
 - The word "may" is permissive.
 - The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.
 - The word "Town" shall refer collectively to Town of Mount Pleasant.
 - The word "Board" shall mean the Board of Adjustment.
 - The words "Planning Board" shall mean the Town Planning and Zoning Board.
 - The words "Recorder" and "Recorder of Deeds" shall mean the County Register of Deeds.
 - In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.
 - All provisions of this ordinance shall be construed to be in addition to all other applicable laws, ordinances and rules of the federal government, the State of North Carolina or the Town; and in case of any conflict between this ordinance and any such other law, ordinance or rule, the more restrictive shall prevail.
 - The words "include" and "including" mean include or including by way of illustration and not by way of limitation.

hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. As distinguished from a nursing home, an "adult care home" means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services. Includes any "Adult Care Home" as defined by NCGS 131D-2, 131D-20, NCGS 131E-76, 131E-101 (including any "combination home").

ADVANCEMENT OF CAPACITY - The provision, by an Applicant for development approval or any other entity or person, of a Public Facility, or funding sufficient to ensure the acquisition of any necessary right-of-way and construction of a Public Facility, prior to the scheduled date of construction of the Public Facility in the Capital Improvements Program.

AFFILIATE - A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

AGGRIEVED PERSON - The Town Board, the Planning & Zoning Board, or the Administrator; a county or municipality within an area designated as a joint planning area; applicants, and persons, businesses, corporations, institutions, governments or other entities owning property or residing within one thousand (1,000) feet from the exterior boundaries of a proposed development; and any other person having standing to challenge a development order pursuant to North Carolina law.

AGRICULTURE- For purposes of this Ordinance [and subject to NCGS 160D-903](#), the terms "agriculture", "agricultural", and "farming" refer to all of the following:

1. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
2. The planting and production of trees and timber.
3. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
4. Aquaculture as defined in NCGS106-758.
5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
6. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism (as defined by NCGS 99E-30), the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.
7. A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.
8. [Bee hives, subject to NCGS 106-645.](#)

Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Uses which shall not be deemed as "agricultural uses" include (I) zoos, (II)

kennels, (III) riding stables and academies, (IV) non-domesticated animals, and (V) animals commonly perceived to be a threat to humans.

AGRICULTURAL ANIMALS - The following animals are considered accessory agricultural animals to an agricultural use, whether used for personal enjoyment or for commercial purposes: horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, pigs, goats, ostrich, emu or rhea. Agricultural animals do not include household pets as defined by this Ordinance.

AGRICULTURAL CONSERVATION EASEMENT - A negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement: (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question. (Source: NCGS 106-744, The Farmland Preservation Enabling Act)

AGRICULTURAL LAND - Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(1), and each tract must be under a sound management program. Sound management program. -- A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS 105-277.2).

AGRICULTURAL PRODUCE - Fruit, vegetables, eggs and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat and dairy products shall not be considered agricultural produce for the purposes of this Ordinance.

AIR TRANSPORTATION & SUPPORT ACTIVITIES - Any public or private airport, heliport, or helipad (except accessory helipads for emergency services) including terminal buildings, towers, runways, take-off/landing pads and other facilities directly pertaining to the operation of air transportation.

ALLEY - Any public space or thoroughfare 20 feet (6096 mm) or less wide which has been dedicated or deeded for public use. (Source: North Carolina State Building Code, Vol. 1, § 202)

ALTER or ALTERATION - Any change or modification in construction or occupancy. (Source: North Carolina State Building Code, Vol. 1, § 202)

AMBULATORY SURGICAL FACILITY - A facility designed for the provision of an ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under NCGS Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility. Includes any "ambulatory surgical facility" as defined in NCGS § 131E-146 or NCGS § 131E-176.

AMENDMENT - An amendment to the Unified Development Ordinance or a new Unified Development Ordinance.

AMERICAN STANDARD FOR NURSERY STOCK - The latest edition of the publication entitled "American

Standard for Nursery Stock", published by the American Nursery and Landscape Association ("ANLA")(formerly the American Association of Nurserymen), which document is hereby incorporated by reference as if set forth in its entirety herein.

AMPLITUDE - The maximum displacement of the surface of the earth from its normal resting position. Amplitude is generally measured in inches or mils.

AMUSEMENT ARCADE / ELECTRONIC GAMING OPERATION - Any business establishment which is engaged in providing an amusement activity such as an arcade, electronic games, skilled games, or similar activity whether as a principal or an accessory use. This includes amusements in which patrons or customers operate electronic machines, including, but not limited to computers and gaming terminals, to conduct games of chance or games of skill, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played, by predetermined odds, or skill. The term also includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés. This does not include any lottery endorsed by the State of North Carolina.

AMUSEMENT, INDOOR- An establishment offering sports, game playing or similar amusements to the public, including, but not limited to: skating rinks, bowling alleys, billiards, ping pong, mechanical or electronic games, but not gambling or card playing, within a fully enclosed structure. Indoor commercial amusement does not include non-commercial or charitable events.

AMUSEMENT, OUTDOOR - An establishment that offers games, rides, or other similar activities on a commercial basis in a fixed location, including but not limited to: miniature golf, amusement parks, water slides, amphitheaters, stadia, tracks, and drive-in theaters.

AMUSEMENT PARK - A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

ANIMAL CLINIC - Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.

ANIMAL HOSPITAL – see Animal Clinic.

ANIMAL OPERATION - Any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the NCGS shall not be considered animal operations for purposes of this Ordinance. (Source: NCGS 143- 215.10B)

ANIMAL SHELTER - A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals. (Source: NCGS 19A-23)

ANIMAL SERVICES - Any facility used for the purpose of giving licensed medical treatment to animals or pets or any other treatment of animals, such as grooming, boarding, or selling of pet supplies. This use may include indoor or outdoor animal kennels as allowed in the Use Matrix (Table 4.6-2).

ANIMAL UNIT ("AU") – For the purposes of this Ordinance, a unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: one (1) cow, one (1) horse, two (2) swine, three (3) goats or sheep, 10 fowl, or an equivalent animal unit. The total animal units located on a given parcel or Animal Operation shall be determined by adding the Animal Units for each animal type.

ANIMAL WASTE - Livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation. (Source: NCGS § 143-215.10B) includes Liquid residuals resulting from an animal operation that are collected, treated, stored, or applied to the land through an animal waste management system. (Source: NCGS § 90A-47.1)

ANIMAL WASTE MANAGEMENT SYSTEM - A combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste. (Source: NCGS § 143-215.10B)

APARTMENT HOUSE - Any Building or portion thereof used as a Multiple Dwelling for the purpose of providing three or more separate Dwelling Units which may share means of egress and other essential facilities. (Source: North Carolina State Building Code, Vol. 1, § 202)

APIARY - Bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found. (Source: NCGS § 106-635)

APPEAL - A request for a review of the Administrator's interpretation of any provisions of this Ordinance or a request for a determination that there is error in an order, requirement or decision made by the Administrator pursuant to this Ordinance.

APPLICANT - Any person, firm, partnership, joint venture, association, corporation, group or organization applying for an Application for Development Approval.

APPLICATION FOR DEVELOPMENT APPROVAL OR "APPLICATION" - A written request for any approval, permit, or action required by this Ordinance, including any written request for approval or issuance of a development order or development permit. This includes such terms as "proposals" and "requests."

ARCHITECT - A person who is duly licensed to practice architecture by the North Carolina Board of Architecture. (Source: NCGS § 83A-1)

ARCHITECTURAL TRIM - The ornamental or protective framing or edging around openings or at corners or eaves and other architectural elements attached to the exterior walls of buildings, usually of a color and material different from that of the adjacent wall surface, and serving no structural purpose. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, BUILDING - The area included within surrounding exterior walls, or exterior walls and fire walls, exclusive of courts. The area of a building or portion of a building without surrounding walls shall be the usable area under the horizontal projection of the roof or floor above. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, GROSS FLOOR - The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, NET FLOOR - The area actually occupied or intended to be occupied even though at any given time a portion of such floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features. (See: North Carolina State Building Code, Vol. 1, § 202)

ARTISAN - An establishment primarily engaged in the on-site production of goods by hand manufacturing that involves only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts, and the incidental direct sale to customers of goods produced on the site. Typical artisan uses include ceramic studios, custom jewelry, and artwork.

ASSISTED LIVING RESIDENCE - Any residential care facility group housing and services program for two (2) or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. "Assisted Living Residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NCGS 131E-102. There are three types of assisted living residences: Adult Care Homes, Group Homes (for developmentally disabled adults), and Multi-Unit Assisted Housing with services. (Source: NCGS 131D-2). Includes any "Assisted Living Residence" as defined by NCGS 131D-2 or NCGS 131D-20.

ATRIUM - A space, intended to occupancy within a building, extending vertically through the building and enclosed at the top. (Source: North Carolina State Building Code, Vol. 1, § 202)

AUCTION HOUSE - Any place where items are sold at auction to the highest bidder.

AUDITORIUM - A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "Places of Public Assembly."

AUTHORIZED AGENT - Any person with valid authority provided by the Owner, as evidenced by a notarized document authorizing the Agent to represent the Owner, and acting on behalf of the Owner of land seeking a development order or development permit approval.

AUTOMOBILE GRAVEYARD – [The term "automobile graveyard" shall mean any property which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any property upon which six \(6\) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard".](#)

[\(Source: NCGS 136-143\)](#)

[See "Junkyard."](#)

AUTOMOBILE REPAIR, MAJOR - An establishment engaged in engine rebuilding or reconditioning of automobiles, boats, and other motor vehicles, the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

AUTOMOBILE REPAIR, MINOR - An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE SALES, RENTAL - A use for the display, sale or rental of new and/or used wheeled motor vehicles.

AVIGATION EASEMENTS - A document acknowledging airport proximity, limiting the height of structures and granting permission for the conditions arising from the overflight of aircraft in connection with the operation of an airport.

AWNING - An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid or retractable skeleton structure over which an approved cover is attached. (Source: North Carolina State Building Code, Vol. 1, § 202)

BALCONY, ASSEMBLY ROOM - That portion of the seating space of an assembly room, the lowest part of which is raised 4 ft (1219 mm) or more above the level of the main floor. (Source: North Carolina State Building Code,

Vol. 1, § 202)

BALCONY (EXTERIOR) - An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports. (Source: North Carolina State Building Code, Vol. VII, § 202).

BAR - Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use.

BASEMENT - That portion of a building which is partly or completely, or having a floor, below grade (see "Story above grade"). (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

BASE COURSE - The layer of material that lies immediately below the wearing surface of a street pavement.

BEACH BINGO – In accordance with the definition set forth in NCGS 14-309.6, “beach bingo” means bingo games which have prizes of ten dollars (\$10.00) or less or merchandise that is not redeemable for cash and that has a value of ten dollars (\$10.00) or less. Beach Bingo is subject to the provisions of NCGS 14-309.14.

BEACON - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST HOME – A a business in a private home of not more than eight (8) guest rooms that offers bed and breakfast accommodations for a period of less than one (1) week and that meets all of the following criteria:

1. Does not serve food or drink to the general public for pay.
2. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
3. Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay.
4. Is the permanent residence of the owner or the manager of the business.

(Source: NCGS 130A-247 (5a))

BED AND BREAKFAST INN - A business of not more than ~~five (5)~~ nine (9) but not more than 12 guest rooms that offers bed and breakfast accommodations ~~to at least one but not more than ten persons per night~~ for a period of less than one (1) week, and that:

- Does not serve food or drink to the general public for pay;
- Serves only the breakfast meal, and that meal is served only to overnight guests of the business;
- Includes the price of breakfast in the room rate. The price of additional meals shall be listed as a separate charge on the overnight guest's bill at the conclusion of the guest's stay.
- Is the permanent residence of the owner or the manager of the business.

(Source: NCGS 130A-247 (6))

BEDROOM - A fully enclosed interior room with a closet, door, and window for egress.

BERM - A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks which serves as a screen or bufferyard with landscaping.

BEST MANAGEMENT PRACTICES (BMPs) - Methods, measures, practices, schedules of activities, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction these may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water. Economic, institutional and technical factors shall be considered in developing best management practices.

BICYCLE - A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than sixteen (16) inches in diameter or having three wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

BICYCLE FACILITIES - A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

BICYCLE LANE (BIKE LANE) - A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

BICYCLE PATH - A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

BLOCK - That property abutting one side of a street and lying between the two nearest intersecting streets, or nearest intersecting street and railroad right-of-way, un-subdivided acreage, waterways, but not an alley, of such size as to interrupt the continuity of development on both sides thereof.

BLOCK FRONTAGE - All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than thirty feet, 30'), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

BOARD - Unless otherwise indicated in the text, Board shall refer to the Town of Mount Pleasant Board of Adjustment.

BOARDING HOUSE OR ROOMING HOUSE - A building containing a single dwelling unit and three (3) or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services or other things of value.

BOARDING KENNEL - A facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats. (Source: NCGS § 19A-23)

BOAT – A floating watercraft vessel propelled on water by oars, sails, or an engine. For the purposes of this Ordinance the following shall apply to boat units:

- Two (2) personal watercraft, less than 13 feet in length shall equal one boat unit.
- One (1) watercraft vessel of less than 30 feet in length is equal to one boat unit.
- One (1) watercraft larger than 30 feet shall equal two boat units.

BOAT SALES/RENTAL – An establishment engaged in the retail sale or leasing of boats or personal watercraft.

BODY PIERCING – The intentional act of any person, or persons, of piercing any part of the body for another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body.

BONA FIDE FARM – [In accordance with NCGS 160D-903](#), a farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

1. A farm sales tax exemption certificate issued by the Department of Revenue.
2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS 105-277.3.
3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income

tax return.

4. A forest management plan.
5. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. For purposes of this section, "when performed on the farm" in NCGS 106-581.1(6) includes the farm within the extraterritorial jurisdiction (ETJ) and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this section, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under NCGS 106-743.2 is a bona fide farm purpose.

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farm sales tax exemption certificate from the Department of Revenue pursuant to NCGS 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to NCGS 105-277.3. Failure to maintain the requirements of this subsection for a period of three (3) years after the date the building or structure was originally classified as a bona fide farm purpose pursuant to this subsection subjects the building or structure to applicable zoning and development regulation ordinances pursuant to NCGS 160D-702 in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

BORROW PIT - An area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance. (Source: The Mining Act of 1971, NCGS 74-49)

BROADCASTING/TELECOMMUNICATIONS STUDIO – An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services, radio and television broadcasting, or cable and other pay television services, but excluding those uses classified as utilities and broadcasting towers.

BUFFERYARD - A strip of land established to protect one type of land use from another land use or to provide screening. Normally, a bufferyard is landscaped and developed in open space areas. See Article 7 of this Ordinance.

BUFFER, EXTERNAL - A bufferyard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

BUILDABLE AREA - The portion of a lot which is within the envelope formed by the required yards. See "Yard, Required."

BUILDING - A temporary or permanent structure having a roof supported by exterior walls or constructed columns and which can be used for residence, business, industry, or other public or private purposes or accessory thereto. The term "building" shall be construed as if followed by the words "or parts thereof".
~~Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)~~

BUILDING AREA - The total areas taken on a horizontal plane at the mean grade level of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhangs, and balconies.

BUILDING ENVELOPE - The three-dimensional space occupied by a building, including all eaves, covered porches, breezeways and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.

BUILDING FAÇADE - That exterior side of a building which faces, and is most nearly parallel to, a public or private street. The Façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

BUILDING HEIGHT - A vertical distance from the highest point of a building to grade.

BUILDING LINE - A line as determined by meeting the respective front, side and rear yard setbacks or in the case of irregular shaped lots with less than the minimum lot frontage (such as cul-de-sac lots), the building line shall be established at the point of minimum lot width. The Building Line shall be measured with a line perpendicular to the street or property line in front of which no structure may be erected.

BUILDING, MAIN OR PRINCIPAL - A building, or buildings, in which the dominant use of the lot on which it is situated is conducted. In any Residential Zoning District, any dwelling other than an Accessory Building shall be deemed to be the main building of the lot on which it is situated.

BUILDING, MIXED USE - A Building which contains Dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed Use Buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses, and are sometimes referred to as "Live-Work Units." Where a Mixed Use Dwelling is permitted by this Ordinance within a particular district, the ground-floor retail uses are also permitted.

BUILDING PERMIT - An authorization to construct a structure as issued by the Cabarrus County Building Inspections Department.

BUILDING, TEMPORARY - A structure designed, built, created or occupied for short and/or intermittent periods of time, including tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include an awning or other similar covering whether or not it is permanent in nature.

BUILT-UPON AREA - That portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.) (Source:15A NCAC 2H.1002).

BUSINESS KIOSK - A walk-up or drive-through self-service unit that provides convenience-type services including but not limited automatic teller machine (ATM) ice vending, movie rental, household propane tanks, and donation bins.

BUSINESS & PROFESSIONAL SERVICES - An establishment primarily engaged in providing services to commercial and business establishments, including but not limited to repair services, computer services, cleaning and maintenance services, and similar uses.

BULK - The size and shape of buildings, structures, and non-building uses; and the physical relationship of their exterior walls or construction or their location to lot lines and other buildings or structures or other walls or construction of the same building or structure; and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.

CALIPER - A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.

CAMP, THERAPEUTIC - A residential treatment facility provided in a camping environment which is designed to assist individuals to develop behavioral control, coping skills, self-esteem, and interpersonal skills. (Source: 10 NCAC 14V.5201, 10 NCAC 44E.0002).

CAMPGROUND - A plot, parcel, or tract of land upon which two (2) or more campsites or recreational vehicles are located, established, or maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition. A Therapeutic Camp is not considered a "Campground."

CAMPING UNIT - Any tent, trailer, cabin, lean-to, Recreational Vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE - Any plot, parcel, or tract, or portion thereof, intended for exclusive occupancy by a Camping Unit.

CANOPY - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies. (See Sign Regulations.)

CAPACITY - The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

CAPITAL IMPROVEMENT - A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the Town, a special district, or a private service provider.

CAPITAL IMPROVEMENT, PLANNED - A Capital Improvement designed for construction within a period not to exceed six (6) years in a Capital Improvements Program.

CAPITAL IMPROVEMENTS PROGRAM - A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. "Capital improvements program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CAR DEALERSHIP - See "Automobile Sales Establishment."

CARNIVAL - See "Outdoor Event, Temporary."

CARPORT - A roofed structure which may be attached or unattached to the principal structure providing space for the storage of one or more motor vehicles and enclosed on not more than three (3) sides by walls.

CARETAKER RESIDENCE - A dwelling unit which houses an individual or family who is employed by the primary user of the property or is the property owner to oversee and protect the daily operations of the property and structure(s). Such dwelling unit shall not be used for any purpose other than as a caretaker unit. The total square footage of the dwelling unit shall not exceed 2,500 square feet.

CAR WASH - An establishment that provides washing and cleaning of passenger or recreational vehicles by hand, by use of automated equipment operated by one (1) or more attendants, or by self-service facilities.

CARRY-OUT FOOD SERVICE - A business whose principal purpose is the preparation and sale of food or beverages

for consumption off-site, such as delicatessens, ice cream stores and hot dog stands, but shall not include liquor stores, restaurants, and drive-through commercial establishments.

CATERING SERVICE – A business that provides prepared food service at site for events or households.

CELLAR - That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling.

CEMETERY - Any one (1) or a combination of more than one (1) of the following in a place used or to be used and dedicated or designated for cemetery purposes:

1. A burial park, for earth interment.
2. A mausoleum.
3. A columbarium.

(Source: NCGS 65-48)

CEMETERY, LICENSED- Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State.

CEMETERY, UNLICENSED - Land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law.

CENTERLINE - The true centerline of a street right-of-way that has been fully dedicated to the required width.

CENTERLINE OFFSET OF ADJACENT INTERSECTIONS - The gap between the centerline of streets adjoining a common road from opposite or same sides.

CENTRAL WATER SYSTEM - See public Water System.

CERTIFICATE OF COMPLIANCE - The certificate issued by the Administrator, indicating that the use or occupancy of, or the connection or provision of utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure is in compliance with all regulation of this Unified Development Ordinance.

CERTIFICATE OF OCCUPANCY - The certificate issued by the North Carolina Department of Buildings, indicating that all required building and service systems shall have been inspected for compliance with the Building Code and other applicable laws and ordinances and that the Building, or portion of the Building, may be occupied or used.

CERTIFICATE OF STORMWATER COMPLIANCE - The approval for activities that meet the requirements for coverage under a stormwater general permit for development activities regulated by the Stormwater Management provisions of the North Carolina Administrative Code. (Source: 15A NCAC 2H.1002).

CERTIFY - A certification by an agency or official, pursuant to this Ordinance, of the existence of some fact or circumstance, whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.

CHANGE IN USE - A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building or extent of the use of the land.

CHANNEL - A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHILD CARE - A program or arrangement where three (3) or more children less than 13 years old, who do not reside

where the care is provided, receive care on a regular basis of at least once per week for more than four (4) hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

1. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
2. Recreational programs operated for less than four consecutive months in a year;
3. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
4. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
5. Public schools;
6. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
7. Bible schools conducted during vacation periods;
8. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
9. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
10. Any child care program or arrangement consisting of two or more separate components, each of which operates for four (4) hours or less per day with different children attending each component.
11. Track-out programs provided to school-age children when they out of school on a year-round school calendar.

(Source: NCGS 110-86)

CHILD CARE CENTER - An arrangement where, at any one time, there are three (3) or more preschool-age children or nine (9) or more school-age children receiving Child Care. Includes family child care homes and any other child care arrangement not excluded by NCGS 110-86(2), that provides Child Care, regardless of the time of day, wherever operated, and whether or not operated for profit. (Source: NCGS 110-86).

CHILD CARE HOME, FAMILY - A child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care. This type of Child Care may be permitted as a Home Occupation. (Source: NCGS 110-86).

CHURCH - See "Religious Institutions."

CIVIC, SOCIAL, FRATERNAL ORGANIZATION - An establishment that is organized and operated solely for a social, recreational, patriotic, fraternal, or philanthropic purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by NCGS 14-309.11(a) and NCGS 14-309.13.

CLEANING OR PROCESSING ESTABLISHMENT - A business that primarily involves the on-site cleaning, treatment, or chemical processing of goods or materials, or the storage of chemicals, used in off-site cleaning, treatment, or processing. This includes, but is not limited to, carpet cleaners, dry-cleaning plants, exterminating services, and taxidermists. This term does not include Dry Cleaning, and Laundry establishments.

CLINIC OR HEALTH CARE FACILITY - A building containing an association or group of physicians, dentists, clinical psychologists, and similar professional health care practitioners, including allied professional assistants who are assembled for the purpose of carrying on their professions. The health care facility may include apothecary, dental and medical laboratories, tissue labs, and/or X-ray facilities, but shall not include inpatient care or operating rooms for major surgery.

CONSERVATION DEVELOPMENT - A development design technique that concentrates buildings in specific areas

on a site to allow the remaining land to be used for recreation, common open space, and preservation of sensitive and open space areas.

COLLECTOR STREET - Streets accessing neighborhoods and routes serving intra-city rather than intra-state travel. A minor amount of through traffic may be carried by a collector street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than for arterial routes. A collector street includes any street classified as a Major Collector or Minor Collector pursuant to Article 10 and Appendix C of this ordinance.

COMMERCIAL VEHICLE - See "Vehicle, Commercial."

COMMISSION - Unless otherwise indicated in the text, Commission shall refer to the Concord Planning and Zoning Commission.

COMMON OWNERSHIP - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

COMMUNITY WATER SYSTEM - See definition of "Public Water System."

COMPREHENSIVE PLAN - A comprehensive plan for development of the Town, or any County-wide Comprehensive Plan adopted by the Town, pursuant to NCGS 160D-5-1, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof. Unless and until a formal Comprehensive Plan is adopted for the Town, any applicable Area Plan and/or the Official Zoning Map and the text of this Ordinance shall be considered the Comprehensive Plan.

CONCEPT PLAN - A generalized plan indicating the boundaries of a tract or tracts under common ownership, and identifying proposed land use, land use intensity and thoroughfare alignment.

SPECIAL USE - A "special use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a conditional use if designated as such by the Use Matrix of Table 4.6-2.

CONDOMINIUM - The ownership of single units in a multi-unit structure with common areas and facilities. (Source: Unit Ownership Act, NCGS 47A-3), real estate portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. (Source: North Carolina Condominium Act, NCGS 47C-1-103)

CONFERENCE AND BANQUET FACILITIES - See "Places of Public Assembly, Indoors."

CONFORMING USE - A use that is permitted within the applicable zoning district (see Use Matrix in Table 4.6-2).

CONNECTIVITY INDEX - The index of the connectivity of a street system prescribed by the Street Improvement Standards of Article 10.

CONSENT AGREEMENT - A regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in the Unified Development Ordinance and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes, which document contains an integrated development scheme for a particular phase or phases of development approval, and contains maps, diagrams and other appropriate materials showing future conditions

consistent with the provisions of this Ordinance.

CONSERVE AND CONSERVATION - To use, and the use of, all methods and procedures for the purposes of increasing the number of individuals of resident species of plants up to adequate levels to assure their continuity in their ecosystems. These methods and procedures include all activities associated with scientific resource conservation such as research, census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplantation into unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean to use, and the use of, methods and procedures to bring any endangered or threatened species to the point at which the measures provided for the species are no longer necessary. (Source: NCGS § 106-202.12)

CONSERVATION EASEMENT - A non-possessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological or cultural aspects of real property.

CONSTRUCTION PLAN - The maps or drawings accompanying a subdivision plat showing the specific location and design of improvements to be installed in the subdivision as a condition of the approval of the plat.

CONTIGUOUS - Bordering or adjoining, meeting or joining at the border or surface.

CONTRACTOR OFFICE – Offices for general contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing, and roofing. This excludes shops for any construction materials, assembly, equipment, or storage yards.

CONTRACTOR SHOPS – Shops for general contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing, and roofing. This may include shops for any construction materials, assembly, equipment, or storage yards.

CONTROLLED-ACCESS FACILITY - A State highway, or section of State highway, especially designed for through traffic, and over, from or to which highway owners or occupants of abutting property, or others, shall have only a controlled right or easement of access. (Source: NCGS 136- 89.49)

CONVENIENCE STORE - A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales.

CONVEY - To transfer all or a part of a title or equitable interest in land; to lease or assign an interest in land; or to transfer any other land interest.

CONVEYANCE PLAT - A plat that may be used for the transfer of land qualifying as a minor subdivision. See Article 6.

CORNER LOT - See "Lot, Corner."

CORRAL - A pen or enclosure for confining animals.

CORRECTIONAL INSTITUTION - A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each twenty-four hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

CORRIDOR (building) - A passageway into which compartments or rooms open and which is enclosed by partitions, other than partial partitions, and/or walls and a ceiling or a floor/roof deck above. (Source: North Carolina State Building Code, Vol. 1, § 202)

CORRIDOR (road) - A street or roadway identified as a principal link or gateway within the community.

COUNTY - The County of Cabarrus, North Carolina. Where this Ordinance refers to any territory, land area or property within the "County", the term "County" shall include all incorporated and unincorporated areas within Cabarrus County, North Carolina. Where appropriate, the term shall also include any personnel or agent of Cabarrus County.

COURTYARD - A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building. (Source: North Carolina State Building Code, Vol. VII, § 202).

CREMATORY - An establishment either part of or separate from a funeral home or veterinary services establishment that contains a furnace for the purpose of cremating the bodies of deceased persons or animals.

CRITICAL AREAS - Any lot, parcel or property, or portion thereof, located within the Floodplain Overlay District, the River/Stream Overlay District, or any Watershed Protection Overlay District.

CROSSWALK - A public right-of-way used primarily for pedestrians' travel through or across any portion of a block.

COUNTRY CLUB - A private club, including country clubs, that provides one (1) or more of the following: indoor and/or outdoor golf, tennis, or swimming facilities, indoor exercise or recreational rooms and equipment; and which may include a clubhouse with dining and banquet facilities; operated on a private membership basis and restricted to use by members and their guests.

CUL-DE-SAC - A short, dead-end street terminating in a vehicular turn-around area.

CURB FACE - The vertical or shaped portion of a curb, facing the roadway, and designed to direct storm waters.

CURB - A stone, concrete, or other improved boundary marking the edge of the roadway or paved area.

CURB OUTLET SYSTEM - Curb and gutter installed in connection with Stormwater Management, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

CUT, LAND - Land surface which is shaped through the removal of soil, rock or other materials.

DATA CENTER/CALL CENTER - A facility primarily intended for the storage or management of computer or electronic data or customer service via phone or electronic communication.

DAY CARE - See "Child Care."

DAYS - When used to establish time limits on various processes in this Ordinance, days shall mean business days.

DECISIONMAKER - The agency, official or entity authorized to render a final decision which approves, approves with conditions or denies an application for development approval.

DECLARATION - An instrument, duly recorded, by which the property is submitted to Chapter 47A of the North Carolina General Statutes, and such declaration as from time to time may be lawfully amended. (Source: Unit Ownership Act, NCGS § 47A-3); and any instruments, however denominated, which create a condominium, and any amendments to those instruments. (Source: North Carolina Condominium Act, NCGS § 47C-1-103)

DEDICATION - A gift, by the owner, of his property to another party without any consideration being given for the transfer. The dedication is made by written instrument and is completed with an acceptance.

DE NOVO HEARING - A new hearing. In a de novo hearing, the reviewing agency considers the application as if it originated before it, but may consider the findings of fact, conclusions of law, or recommendations of the agency which previously considered the case.

DENSITY - The total number of dwelling units per acre.

DENSITY BONUS - Dwelling units or non-residential square footage permitted in addition to the permitted density or intensity within a zoning district.

DENSITY, NET - The number of dwelling units divided by the net acreage remaining after subtracting all critical areas and streets-

DEPARTMENT Unless otherwise noted in the text, Department shall refer to Planning Department.

DEVELOPER - A person, firm, partnership, joint venture, association, corporation, groups or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval under this Ordinance.

DEVELOPMENT - The division of a parcel of land into two or more parcels; the construction, reconstruction conversion, structural alteration, relocation or enlargement of any structure; any mining, drilling, excavation, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated by this reference, and any of the following activities:

1. Change in use.
2. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
3. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or central water system and including the long-term storage of materials.
4. Erection of a permanent sign.
5. Any activity increasing the need for parking.
6. Construction, elimination or alteration of a driveway onto a public street.

DEVELOPMENT ORDER - Any action granting, denying or granting with conditions, an application for a development permit.

DEVELOPMENT PARCEL - Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

DEVELOPMENT PERMIT - Any zoning clearance; building permit; home occupation permit; sign permit; temporary use permit; certificate of occupancy; conditional use permit; preliminary subdivision plat; final subdivision plat or other plat approval; preliminary site plan; final site plan; rezoning (change of zone); Comprehensive Plan amendment; specific plan; or any other official action of the Town or any other state or local government commission, board, agency, department or official having the effect of permitting development of land located within the geographic area subject to the provisions of this Ordinance.

DIAGNOSTIC CENTER - A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs.

DIMENSIONAL REGULATIONS - Numerical standards including lot size, lot width, setbacks, separation distances, and similar criteria.

DISPOSITION - A transfer of all or part of a title or equitable interest in land; a lease or an assignment of an interest in land; or any other transfer or conveyance of an interest in land.

DORMITORY - A space in a building where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

DRAINAGE AREA OR WATERSHED - The entire area contributing surface runoff to a single point. (Source: 15A NCAC 2H.1002).

DRIVE-THROUGH USES - A commercial retail or personal service establishment designed or intended to enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include, but are not necessarily limited to branch banks, fast-food restaurants, and pharmacies.

DRIVEWAY - A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

DRYCLEANING STOREFRONT – A drop-off and pick-up location for garments taken off-site to be cleaned with an organic solvent.

DUST-FREE- - A land surface that is paved in one of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate or (4) the equivalent of the above.

DWELLING – Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
~~Any building which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).~~

DWELLING, DUPLEX - A building containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. A duplex may include: (1) a semidetached dwelling, which is a building containing two dwelling units attached horizontally (see illustration), or (2) a building with two units attached vertically, with one dwelling unit located on top of the other.

DWELLING, MIXED USE - See "Building, Mixed Use."

DWELLING, MULTI-FAMILY - A building or portion thereof designed for or occupied as three (3) or more dwelling units on a lot of record.

DWELLING, SINGLE-FAMILY - A building designed for occupancy by one (1) family.

DWELLING, SINGLE-FAMILY ATTACHED - Two (2) or more residential units, attached along and sharing one (1) or more common walls between any two (2) units, for which each unit is located on individual lot of record: An Attached Dwelling includes townhouses-

DWELLING, SINGLE-FAMILY DETACHED - A Single-Family Dwelling Unit that is not attached to any other Dwelling Unit by any means and is surrounded by yards on an individual lot of record.

DWELLING UNIT – A dwelling unit is a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

DWELLING, UPPER STORY – One or more dwelling units, intended for permanent residential occupancy, established above the first story of a structure that contains commercial or other nonresidential space on the first story of the structure

EASEMENT - A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for a specific purpose.

EASEMENT, NON-ACCESS - An easement prohibiting vehicular access from a public street.

EFFECTIVE DATE OF THIS ORDINANCE - The effective date of this Ordinance determined in accordance with Article 1 of this Ordinance.

ELECTRIC GENERATING FACILITY - Any plant facilities and equipment for the purposes of producing, generating, transmitting, delivering or furnishing electricity for the production of power. (Source: NCGS § 75A-2)

ENGINEER - An Engineer licensed by the State of North Carolina.

ENGINEER, TOWN –The contracted Professional Engineer for the Town of Mount Pleasant.

ENHANCEMENT - Improvement of the functions or an existing wetland system. Enhancement may include improved flood control capacity, increased groundwater recharge capability, increased density and diversity of native wildlife and vegetation, and improved aesthetic values (e.g., by removing non-native impediments, structures, impervious surfaces).

ENLARGEMENT OR "TO ENLARGE" - An increase in size or addition to the Floor Area of a Building or Structure, or an increase in the portion of a Building, Structure, or land area occupied by an existing Use.

ENTRANCE ROAD - A Street which: (1) leads into a Subdivision, Planned Unit Development, or a Traditional Neighborhood Development, and (2) intersects with a higher order Street.

EQUIPMENT - Rolling stock or movable personal property except that, for the purpose of this Ordinance, it shall not include those items defined as Heavy Equipment.

EQUIPMENT SALES/ RENTAL – The retail sales or rental of heavy equipment.

EQUIVALENT DWELLING UNIT OR "EDU" - See "Equivalent Residential Unit."

EQUIVALENT RESIDENTIAL UNIT OR "ERU" - (See Art. 14 “Adequate Public Facilities Standards” of this Ordinance.)

ERECT - To build, construct, attach, hang, place, suspend, affix and/or apply.

EVIDENCE - Any map, table, chart, contract or other document or testimony prepared or certified that is offered by a person to establish a claim, condition or assertion.

EXCAVATION - The removal of soil, rock or other matter from a land area.

EXISTING CAPACITY - The Capacity of the existing built and operational Public Facilities, as determined by the service provider.

EXISTING DEMAND - See "Public Facilities Standards" of this Ordinance.

EXOTIC ANIMALS - See Other Animals.

EXOTIC SPECIES (PLANT) - A species or higher taxon of plant not native or naturalized in North Carolina but appearing in the Federal Endangered and Threatened Species List or in the appendices to the International Treaty on Endangered and Threatened Species. (Source: NCGS § 106-202.12)

EXTENDED STAY LODGING FACILITY - Any building containing six or more units intended or designed to be used, rented, or hired out to be occupied, or which are occupied for sleeping purposes for guests, and which units contain kitchen facilities for food preparation including, but not limited to, such facilities as refrigerators, stoves and ovens. Extended Stay Lodging Facilities may contain lobbies, conference rooms, meeting rooms, child play areas, and/or restaurants.

EXTRACTIVE USES - Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining but excludes individual water well drilling.

FAÇADE – See “Building Façade”.

FAMILY - An individual, or two (2) or more persons related by blood, marriage or law, or a group of not more than any five (5) persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two (2) or persons related by blood, marriage or law, are a part of the family for this code. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

FAMILY CARE HOME – A facility subject to NCGS 160D-907 that is licensed by the State of North Carolina as a family care home with support and supervisory personnel that provide room and board, personal care, and habilitation services in a family environment in a single housekeeping unit for not more than six (6) resident persons, with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others. “Dangerous to others” means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

~~An adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons. (Source: NCGS 168-21)~~

FARMERS MARKET - A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers market differs from a produce stand in that there may be more than one (1) seller per parcel of land and the structure from which produce is sold at a farmers market need not be portable or capable of being dismantled or removed from the site.)

FEED LOT - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained.

JUNKYARD- The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(Source: NCGS 136-143)

LAGOON - A confined body of water to hold animal byproducts including bodily waste from animals or a mixture of waste with feed, bedding, litter or other agricultural materials. (Source: NCGS § 106-802, Swine Farm Siting Act)

LAND CLEARING & INERT DEBRIS LANDFILL - A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash. For purposes of this definition, "land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material. (Source: 15A NCAC § 13B.0101)

LAND DISTURBING ACTIVITY - Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. (Source: NCGS 113A-52)

LANDFILL - A disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility. (Source: NCGS 130A-290)

LANDFILL, DEMOLITION - A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid wastes approved by the Director of the North Carolina Division of Solid Waste Management or the Director's authorized representative. (Source: 15A NCAC § 13B.0101).

LANDLOCKED PARCEL - A parcel of land without access of record with the County Register of Deeds.

LANDOWNER - Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan or a phased development plan under this section, in the manner allowed by ordinance.

LANDSCAPE - An area set aside from structures and parking which is developed with natural materials (i.e. lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences and street furniture.

LANDSCAPE ARCHITECT - A person who holds a current certificate entitling him or her to practice "landscape architecture" and to use the title "landscape architect" in North Carolina under the authority of NCGS, chapter 89A. (Source: NCGS 89A-1).

LANDSCAPE CONTRACTOR - Within the meaning of this Chapter any person, partnership, association or corporation which holds a certificate issued by the North Carolina Landscape Contractors' Registration Board. (Source: NCGS 89D-1).

LATERAL SEWER - A sewer which discharges into a trunk line and has only collection lines tributary to it. A line from a structure or use which discharges into a collection line is not a lateral.

LIBRARY OR MUSEUM - A room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical or scientific objects.

LICENSED GEOLOGIST - A person who is licensed as a geologist under the provisions of the North Carolina

PERSON - Any individual or group of individuals, partnership, general or limited, firm, association, whether incorporated or unincorporated, corporation, company, firm, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or any governmental or quasi-governmental entity, or other legal entity. The term "Person" includes both for profit and not-for-profit entities.

PERSONAL CARE SERVICES - An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, massage therapy, aesthetician, nail salon, or similar uses, but shall not include any use which may be defined as a sexually oriented business.

PEST CONTROL SERVICES – A business that provides services to reduce or manage animal species that adversely impact human activities, damage property, or are otherwise considered a detriment to human health through the use of traps, chemicals, or similar means of management. This definition includes exterminators.

PETITIONER - An applicant.

PHARMACY - Any place where prescription drugs are dispensed or compounded. (Source: NCGS 90-85.3)

PHASED DEVELOPMENT ~~PLAN~~ – A development containing 25 acres or more that is both of the following:

1. Submitted for development permit approval to occur in more than one phase.
2. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

(Source: NCGS 160D-108)

~~A plan which has been submitted to a Town by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan.~~

~~PHASED SUBDIVISION APPLICATION OR PHASED SITE PLAN APPLICATION – An application for subdivision or site plan approval in which the applicant proposes not to immediately subdivide or develop the property but to develop the property in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, non residential development projects, planned unit developments, mixed use projects, and residential developments. A phased subdivision application or phased site plan application must be filed as part of an application for a specific plan or Master Preliminary Plan.~~

PHOTOGRAPY STUDIO – A workspace for the purpose of taking, producing, developing, printing, or duplicating photographs.

PHYSICIAN - An individual licensed to practice medicine pursuant to Article 1 of Chapter 90, NCGS.

PILINGS - Foundational structures placed into the earth to secure buildings and other structures.

PLACE OF PUBLIC ASSEMBLY - A fairground, auditorium, stadium, church, theater or any other place where people assemble. (Source: NCGS 130A-334)

PLAN, SITE - A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, wetlands and waterways; (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means or ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; (3) the location of building pads for all residential and non-residential buildings; and (4) and location and extent of all external buffers from surrounding areas.

PLAN, SITE-SPECIFIC DEVELOPMENT – A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on

the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the local government pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan. (Source: NCGS 160D-108.1)

~~A plan which has been submitted to a Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a preliminary or general development plan, a conditional or special use permit, a conditional or special use zoning district plan, or any other land-use approval designation as may be utilized by a Town. Unless otherwise expressly provided by the Town, such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site specific development plan under this section that would trigger a vested right shall be finally determined by the Town pursuant to Article 13 of this Ordinance, and the document that triggers such vesting shall be so identified at the time of its approval. A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site specific development plan. (Source: NCGS 160A 385.1)~~

PLAN, SKETCH - A sketch preparatory to the preliminary plat or site plan (or final plat or site plan in the case of minor subdivisions or conditional use permits) to enable the subdivider to save time and expense in reaching general agreement with the platting authority as to the form of the plat and the objectives of this Ordinance.

~~PLANNED CAPACITY—See Adequate Public Facilities Standards of this Ordinance.~~

~~PLANNED CAPITAL IMPROVEMENT—See Adequate Public Facilities Standards of this Ordinance.~~

PLANNED DEVELOPMENT - A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land zoned and improved as a development for which the otherwise applicable bulk use and other requirements may be modified in order to allow for more flexible planning in conformance with the development approval process and developed in accordance with this Ordinance.

PLANNING & ZONING BOARD - The Mount Pleasant Planning and Zoning Board. Also referred to as the "Board."

PLANT - Any member of the plant kingdom, including seeds, roots and other parts or their propagules. (Source: NCGS 106-202.12)

5. Degradation of aesthetic, scenic or cultural values associated with the ecosystem;
6. Degradation of environmental quality, including water quality, plant and wildlife communities, and ecosystem functions and stability.

SITE EVALUATION - An investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission. (Source: NCGS § 106-802, Swine Farm Siting Act)

SILTATION - Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited, or is in suspension in water.

SLAUGHTERHOUSE - A building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage and/or sale of the product on the premises.

SLEEPING UNIT - A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SLOPE - A vertical rise in feet measured over a horizontal distance, expressed as a percentage, measured generally at right angles to contour lines.

SLUDGE - Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects. (Source: NCGS § 130A-290)

SQUARE - Open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and monuments or public art.

SOCIAL ASSISTANCE – Government and non-profit institutional uses intended to provide financial or material assistance to those in need of temporary housing, food pantries, clothing closets, utility assistance, and similar uses.

SOLID MASONRY - Load-bearing or nonload-bearing construction using masonry units where the net cross-sectional area of cored brick in any plane parallel to the surface containing the cores shall be not less than 75 percent of its gross cross-sectional area. No part of any hole shall be less than 3/4 inch (19.1 mm) from any edge of the brick. Solid masonry units shall conform to ASTM C 55, C 62, C 73, C 145 or C 216. (Source: North Carolina State Building Code, Vol. VII, § 202).

SOIL SURVEY - The Soil Survey of Cabarrus County, North Carolina, published by the Soil Conservation Survey of the U.S. Department of Agriculture, dated September 1988, which document is hereby incorporated by this reference.

SOLID WASTE - Any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

1. Fecal waste from fowls and animals other than humans.

buildings; and

- the site is characterized by substantial frontage along the road or roads from which it takes primary or secondary access, or by numerous access points along a roadway serving primarily retail and/or commercial uses.

STRUCTURAL ALTERATION - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or exterior walls.

STRUCTURE – Anything constructed or installed either permanently or temporarily, the use of which requires a location on a parcel of land. This includes a fixed or movable building. “Structure” also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction. It does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, HVAC units, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

~~Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground or anything as defined by the Building Code, including an edifice or building of any kind. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences. Includes both permanent and temporary structures.~~

STRUCTURE, MAIN OR PRINCIPAL - See "Building, Main or Principal."

STRUCTURE, PERMANENT - Anything constructed or erected within a required location on the ground or which is attached to something having location on the ground, including a fence or free-standing wall.

STRUCTURE, TEMPORARY - A moveable structure not designed for human occupancy or for the protection of goods or chattel, and not forming an enclosure, and placed on a parcel of land for a period of time equal to one (1) year or less.

STUB-OUT (STUB-STREET) - A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

SUBDIVIDE or "SUBDIVIDE LAND" - The act or process of creating a Subdivision.

SUBDIVIDER - Any Person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

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 all divisions of land involving the dedication of a new street or change in existing streets; provided, however, that the following shall not be included within this definition: (1) the combination or re-combination of portions of previously platted subdivided or recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance; (2) the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved; (3) the public acquisition, by purchase, of strips of land for the widening or the opening of streets; and (4) the division of a tract in single ownership whose entire area is no greater than two (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 this Ordinance; (5) the division of a tract into parcels in accordance with the terms of a probated will or

VESTED RIGHT - The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific [vesting development](#) plan or an approved phased development plan for a specified time, regardless of changes in this Ordinance. (Source: NCGS 160D-108)

VETERINARIAN - A facility or establishment rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery or boarding. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence. Crematory facilities shall not be allowed in a veterinarian establishment.

WALL, EXTERIOR - A wall, bearing or nonbearing, which is used as an enclosing wall for a building, other than a party wall or fire wall. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

WAREHOUSING AND DISTRIBUTION, GENERAL - An establishment offering indoor or open-air storage and distribution and handling of materials and equipment, such as vehicle storage, monument or stone yards, grain elevators, or open storage yards.

WAREHOUSING AND STORAGE - Buildings used for the rental of space to the public for the storage of merchandise, commodities or personal property and where access is under the control of the building management, but excluding the warehousing and storage of explosive, corrosive noxious materials, such as dust, fumes or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties.

WASTE-RELATED USE - Any of the following, (see Use Matrix and this Appendix A for rules of interpretation: Concentrated Animal Feeding Operation or Animal Production; Demolition Landfill; Hazardous Waste facility; Land Clearing and Inert Debris Landfill; Materials Recovery Facility; Salvage Yard; Septic and Other Waste Management Service; Slaughter House; Solid Waste Disposal Facility (including any Landfill, Incinerator or Combustor); Hazardous Waste Collection facility; or Nonhazardous Waste Collection facility.

WASTEWATER - Any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system. (Source: NCGS § 130A-334).

WASTEWATER COLLECTION SYSTEM - A unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit. (Source: NCGS § 159G-3).

WASTEWATER FACILITIES - Structures or systems designed for the collection, transmission, treatment or disposal of sewage and includes trunk mains, interceptors, and treatment plants, including package treatment plant and disposal systems, and on-site septic systems.

WASTE REMEDIATION/JUNKYARD/SALVAGEYARD - ~~An establishment or place of business property~~ which is maintained, operated, or used for storing, keeping, buying, selling, or remediating junk or scrap material, or for ~~maintenance or operation of~~ keeping an automobile graveyard. ~~and~~ The term shall include garbage dumps and sanitary fills. ~~An establishment or place of business property~~ which stores or keeps for a period of 15 days or more materials within the meaning of "junk" as defined by ~~subdivision (3) of~~ NCGS 136-143 which had been derived or created as a result of industrial activity shall be ~~deemed to be a junkyard within the meaning of included in~~ this definition. The term "Junkyard" includes any "Automobile Graveyard." An "Automobile Graveyard is any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any ~~establishment or place of business property~~ upon which six (6) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard" within the meaning of this definition.