

ARTICLE THREE – APPLICATION AND PROCEDURES: ^{85 86}

Sec. 3.1 REVIEW AND DECISION-MAKING AUTHORITY – SUMMARY TABLE:⁸⁷

The following table provides a brief synopsis of the review and decision-making processes for development applications.

Sec. 3-1 (A) REVIEW AND DECISION-MAKING AUTHORITIES					
R=REVIEW DM=DECISION MAKER PH=PUBLIC HEARING EH=EVIDENTIARY HEARING					
ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	STAFF	Technical Review Committee (TRC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Zoning Compliance, Watershed, and Floodplain Development Permits	R and DM	R			
Land Use Plan / Future Land Use Map Amendments	R	R		R (1) ⁸⁸	DM and PH
Ordinance and Comprehensive Plan Text Amendments	R	R		R (1)	DM and PH
Zoning and Future Land Use Map Amendments - General	R	R		R (1)	DM and PH
Zoning Map Amendments - Conditional	R	R		R (1)	R, DM, and PH
Special Use Permits ⁸⁹	R	R	DM and EH (2)		
Variances (including Floodplain and Watershed regulations)	R	R	DM and EH (2)		
Interpretations/Appeals of Determinations (including	R	R	DM and EH (2)		

⁸⁵ This section seeks to place all review procedures in one central section and provide as simplistic of an explanation of ‘how’ each process works as possible.

⁸⁶ This section replaces Article 4, 5, 6, and 20 of the current ordinance, expanding existing language, and ensuring consistency with State law and accepted planning practices.

⁸⁷ A summary table providing a basic overview of the various processes and who is involved with review. This is to help the reader understand ‘who’ is managing various processes..

⁸⁸ AS a reminder, the Planning Board holds a meeting open to the public but does not hold a ‘public hearing’ where a decision is made. The Board makes a recommendation on these items to the Elected officials, who hold a Legislative Hearing and decide. Rezoning requests are recommended to be ‘noticed’ (i.e., letters mailed to adjacent property owners and signs posted on subject property) for Planning Board meetings. This will be decided by the client.

⁸⁹ As a reminder, NFOCUS is recommending the Board of Adjustment process special use permits, not the Town Council.

Floodplain and Watershed regulations)					
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ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	STAFF	Technical Review Committee (TRC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Subdivision					
Exempt	R and DM				
Minor	R and DM	R			
Major	R and DM	R		R	
Vested Right (NCGS 160D-108.1) – site specific vesting plans	R	R		R	R and DM

NOTES:

- (1) The Planning Board reviews applications and makes a recommendation prior to the public hearing held by the Town Council. The Council may choose to refer an application back to the Planning Board at the conclusion of the public hearing. Per town policy, all Zoning Map amendments (general and Conditional) reviewed at the Planning Board will have the subject parcel(s) posted with the date/time/location of the meeting and a letter sent to adjacent property owners.
- (2) The Board of Adjustment holds an evidentiary hearing.
- (3) The Planning Board offers comments on the Concept Plan for a Major Subdivision. ⁹⁰

Sec. 3.2 Applications: ^{91 92}

Sec. 3.2.1 Authority to File Applications ^{93 94}

- A. The landowner, as identified by the records of the Union County Tax Office, or their authorized agent may submit applications for development under the provisions of this Ordinance.
- B. If the applicant is not the owner, or sole owner, of the land, a notarized letter signed by the owner(s) consenting to the submission of the application is required along with all application information and materials for Staff to accept the request.

Sec. 3.2.2 Timely Processing of Applications ⁹⁵

⁹⁰ As proposed, Board members shall only review and offer comment on Concept Plans rather than approve them. Staff will be responsible for acting all subdivision proposals.

⁹¹ Central section of the Ordinance addressing application submittal requirements to avoid unnecessary repetition.

⁹² Current Unionville regulations do not adequately address these proposed standards.

⁹³ This is standard. No one should be able to commit the owner of a property to an application without consent. This language gives staff more authority to prevent submittal of applications without specific authorization from the property owner.

⁹⁴ Similar language is contained in Section 48 of the current ordinance.

⁹⁵ Captures standards currently contained in Section 66 of the current ordinance.

Staff, Planning Board, Board of Adjustment, the Town Council and all other authorized review and decision-making bodies shall make every reasonable effort to process, review, and act on applications in a timely manner, consistent with the need to fully consider the application's proposed impact and ensure that it is consistent with the spirit and intent of the adopted Comprehensive Land Use Plan and otherwise advances the public health, safety, and general welfare.⁹⁶

Sec. 3.2.3 Burden of Proof ⁹⁷

The burden of demonstrating that an application complies with applicable submittal, review, and approval criteria is on the applicant.

Sec. 3.2.4 Form of Application and Filing Fees ⁹⁸

- A. Unless otherwise specified herein, three copies of all applications, including required supporting documentation, shall be submitted by the applicant. Applications detailing the submittal requirements for each type of application are available in the Planning Department.⁹⁹
- B. Officials responsible for accepting applications shall maintain a list specifying the materials and information required with each application filed. The list shall be made available to all applicants and to any other person who requests a copy.
- C. Staff are authorized to propose and promulgate administrative regulations, including but not limited to the type and amount of data required for a completed application, to implement the provisions of this Ordinance.
- D. Application Fee: All submittals shall include the required application fee in the amount established by the Town Council in the adopted fee schedule. Application fees are non-refundable.

Sec. 3.2.5 Pre-application Conference ¹⁰⁰

- A. Prior to submittal of an application for review and approval of a:
 - 1. Non-residential development (site plan),
 - 2. Variance request,

⁹⁶ Separate from the new UDO, NFOCUS staff will be developing a simple submittal calendar for applications to aid the client establish sufficient time for review and to accommodate required advertising for applications. This will be a model for their use. If they choose not to do so, we are not responsible.

⁹⁷ Language designed to reference applicant's always have the burden of providing sufficient documentation their development proposal meets applicable land use regulations. This documentation comes from providing the information required for all applications as detailed in the Ordinance.

⁹⁸ 'Fees' are currently referenced under Section 9 of the current ordinance. NFOCUS has moved the section to this article to combine with permit submittal and review procedures.

⁹⁹ NOTE: NFOCUS Staff will have to determine what the client's needs are in terms of number of applications OR if there is an option for electronic submittal.

¹⁰⁰ Staff is recommending certain applicants/applications hold a pre-application meeting prior to their submittal to ensure staff can review development requirements, opportunities, and constraints to help streamline the development review process. Current regulations (Section 50) do not 'spell out' which applications require this review. NFOCUS is recommending specificity.

3. Special Use Permit (SUP),
4. Rezoning (Conditional), or
5. Major Subdivision,

The applicant shall schedule a pre-application conference with Staff.

- B. In preparation for the pre-application conference, the applicant shall submit a sketch plan illustrating the location, size, and major design elements of the proposed development no later than five working days prior to the pre-application meeting.
- C. Staff may request that representatives of other public agencies be present at the pre-application conference, including, but not limited to:
 1. Building Inspections,
 2. Health Department,
 3. North Carolina Department of Transportation (NCDOT), and
 4. Utility Providers.
- D. The applicant will be advised of the various development standards and review/approval processes for the project as well as any preliminary concerns regarding the project.

Sec. 3.2.6 Application Completeness ¹⁰¹

- A. An application is complete and ready for processing only if it is submitted in the required form and quantity, includes all required information, and is accompanied by the required filing fee.
- B. Staff shall review all submitted applications to determine compliance with submittal requirements.
- C. Staff shall accept or reject an application within five business days from the date of submittal. If the application is not acted upon within this period, the applicant shall receive a full refund of all filing fees if rejected.¹⁰²
- D. Staff shall notify the applicant, in writing, of any deficiencies and invite the applicant to revise the application. If or when the application complies with all submittal requirements, Staff shall accept the application as complete and notify the applicant of its acceptance.¹⁰³
- E. No further processing of incomplete applications will occur until deficiencies are corrected.

Sec. 3.2.7 Withdrawal of Applications

¹⁰¹ Staff needs a minimum of 5 business days to review applications to determine compliance with applicable regulations. This replaces Section 49 of the current ordinance and simplifies existing language.

¹⁰² Staff needs a minimum of 5 days to determine if an application is complete. Only when an application is complete and formally accepted does any 'permit review clock' begin for a given application.

¹⁰³ This must be done within the 5 days or the application is considered 'accepted for processing'.

- A. Submission of Request. Any request for withdrawal of an application subject to a Legislative or Quasi-Judicial Hearing shall be submitted in writing to Staff or shall be made through a verbal request at an advisory board meeting.
- B. Prior to Notice of Hearing. Staff shall approve a request for withdrawal submitted prior to public notification of the hearing in accordance with the provisions of the Ordinance.
- C. Subsequent Notice of Hearing. Withdrawal of an application after notification of the hearing in accordance with the Ordinance shall be considered, for the purposes of this Article, a denial of the application.
- D. Fees. There are no refunds for withdrawn applications.

Sec. 3.2.8 ~~Effect of Denial on Subsequent Applications~~¹⁰⁴

~~If the Town Council or Board of Adjustment denies an application, or the application is withdrawn after publication of the notice of the hearing, no application for the same or similar amendment, affecting the same property or a portion of it, may be submitted for a period of one year. Said one year period begins on the date of denial or withdrawal, as appropriate.~~

Sec. 3.2.9 Manner of Review

Applications requiring a public hearing are reviewed using either a legislative or a quasi-judicial process as follows:

- A. Comprehensive Plan amendments – legislative
- B. Special Use Permits, Variances, Appeals – quasi-judicial
- C. Zoning Atlas and Unified Development Ordinance amendments – legislative
- D. Conditional Zoning District – legislative

Sec. 3.3 Neighborhood Information Meeting (NIM):¹⁰⁵

- A. Before review of:
 - 1. Special Use Permit application by the Board of Adjustment;
 - 2. Applicant initiated Conditional Zoning Map amendment or review of a development agreement proposal by the Planning Board, and
 - 3. Major Subdivision Concept Plan Application by the Planning Board.

¹⁰⁴ Recent changes in State law result in units of local government not being able to establish/enforce a prohibition or delay in the refilling of a denied application.

¹⁰⁵ Staff is recommending that certain applications be required to hold a neighborhood meeting allowing residents to learn of a development project prior to an evidentiary hearing (i.e., Board of Adjustment) or review by the Planning Board.

An applicant shall schedule a Neighborhood Information Meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.¹⁰⁶

- B. The applicant shall coordinate the date, time, and location of the meeting with Staff, who shall attend the meeting to review procedural requirements associated with the application only.
- C. The applicant shall obtain property owner mailing address information from the Union County tax office and shall mail notices of the meeting date and time via first class mail to each property owner within five hundred (500) feet of the property subject to the application.
- D. Notices shall be mailed a minimum of 10 days prior to the date of the proposed Neighborhood Information Meeting. The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- E. The meeting shall be held a minimum of:¹⁰⁷
 - 1. 30 days prior to an evidentiary hearing held by the Board of Adjustment.
 - 2. 21 days prior to the date of the Planning Board meeting.

Sec. 3.4 Technical Review Committee:

As detailed in Section 2.4 of this Ordinance, those applications required review and comment by the Technical Review Committee (TRC) shall be submitted for review and comment as part of the normal Staff review process detailed herein.

Sec.3.5 Permits:

Sec. 3.5.1 Permit Approval Required.

- A. No person shall undertake any land use and/or development activity including the commencement of earth disturbing activities subject to this Ordinance without first obtaining approval. Upon approval, a permit shall be issued for the approved land use and/or development activity.¹⁰⁸
- B. Certain permits associated with land use and/or development are issued by agencies other than town, as noted herein.
- C. In any case where an application proposes more than one (1) use on a property, Staff shall determine:
 - i. Which use shall be the principal land use or land uses,

¹⁰⁶ To clarify: the onus of scheduling and advertising the NIM is on the applicant. Staff's attendance at the meeting is solely to 'educate' adjacent property owners on the process by which the request will be reviewed.

¹⁰⁷ This should give adjacent property owners sufficient time to prepare for either the Board of Adjustment or Planning Board meeting.

¹⁰⁸ Captures requirements of Section 46 (a) of the current ordinance.

- ii. The type of permit and permit review process required is based on a review of **Section 5.2 Table of Permitted Uses of the Ordinance**¹⁰⁹ (i.e., Permitted, Use, use requiring Special Use Permit, use requiring Conditional Zoning, etc.).
- iii. Upon determination of the use(s) and the type of zoning permit(s) required, Staff shall inform the applicant of their determination.

D. In accordance with G.S. 160D-108(b) “Permit Choice”, if

- i. A land development regulation is amended between the time a development permit application was submitted, and a development permit decision is made or
- ii. If a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal,

The provisions of G.S. 143-755 apply.

E. The permits and/or approvals listed below are required, depending upon the type(s) of development proposed:

- i. Zoning Compliance Permits (also known as Zoning Permits) are issued by Staff for all new or expanded use of property (See Section 5-2), building and/or development projects. Types of Zoning Compliance Permits for various types of development required appear in Sections 3.5.5 through 3.5.9¹¹⁰ of this Article.

A Zoning Compliance Permit may also be obtained as part of a Development Agreement in accordance with Section 3.5.13 of this Article.

- ii. Building Permits – County Code Enforcement staff issues building permits following issuance of a zoning permit by Staff.
- iii. Certificate of Occupancy – The County issues upon final building inspections and site plan compliance approval by Staff.
- iv. Environmental Impact and Infrastructure – The State of North Carolina and various agencies of the United States require specific permits for the impact of natural resources and/or areas deemed sensitive and/or protected. In addition, the State of North Carolina requires specific permits for the expansion of public infrastructure including streets, potable water, wastewater, and storm water. Professional engineers licensed to perform services in the State of North Carolina shall be consulted by applicants for assistance in preparation of plans and studies required before impacting natural resources and expanding public infrastructure.

¹⁰⁹ Section reference may need to be updated depending on ‘how’ jurisdiction wishes to address the TOPU.

¹¹⁰ This references the sections of this Article detailing the various zoning compliance permits staff is responsible for processing.

Sec. 3.5.2 Periodic Inspections

Staff shall have the right, upon presentation of proper credentials to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

Sec. 3.5.3 Permit Expiration¹¹¹

- A. Expiration of Zoning Permits and Approvals. Permits and approvals, other than those identified in herein, shall run with the land and expire as set forth in the process for each permit and/or approval based upon permit and approval type detailed in this Article.
- B. Building Permit Expiration. The County inspections department may void a building permit for a project within the County's jurisdiction if the authorized work has not begun within six months after issuance of the permit, or work was commenced but was discontinued for a period of 12 months per N.C.G.S. 160D-1111.

Sec. 3.5.4 Certificates **PENDING**

Sec. 3.5.5 Zoning Compliance Permits and Expedited Procedure for Small Projects

- A. Zoning Compliance Permit. A Zoning Compliance Permit (zoning permit) is required for the construction or development of any new use. In addition to new uses, a zoning permit is required for expansion of existing uses, as well as for changes of use. The types of zoning permits below apply based upon the characteristics of the development proposed:
 - i. Special Events/Temporary Structures – See Section 3.5.6 of this Article.
 - ii. Site Development and Construction Plan Approval(s) – See Section 3.5.7 of this Article.¹¹²
 - iii. Special Use Approvals – See Section 3.5.8 of this Article for required information and procedures.
 - iv. Sign Permits – See Section 3.5.9 of this Article for required information and procedures.
 - v. Watershed Protection Permit – Refer to Article ____ of this Ordinance for permitting procedures.
 - vi. Watershed Occupancy Permit – Refer to Article ____ of this Ordinance for permitting procedures.
 - vii. Subdivision Plat Approval – See Section 3.5.12. Additional details for the subdivision of land appear in Article _____¹¹³ of this Ordinance.
 - viii. Floodplain Development and Certification Permit – Refer to Article ____ of this Ordinance for permitting procedures.¹¹⁴

¹¹¹ Captures existing standards from Section 62 of the current ordinance.

¹¹² Section 46 (b) of the current ordinance.

¹¹³ Placeholder for subdivision standards.

¹¹⁴ Placeholder for the floodplain ordinance.

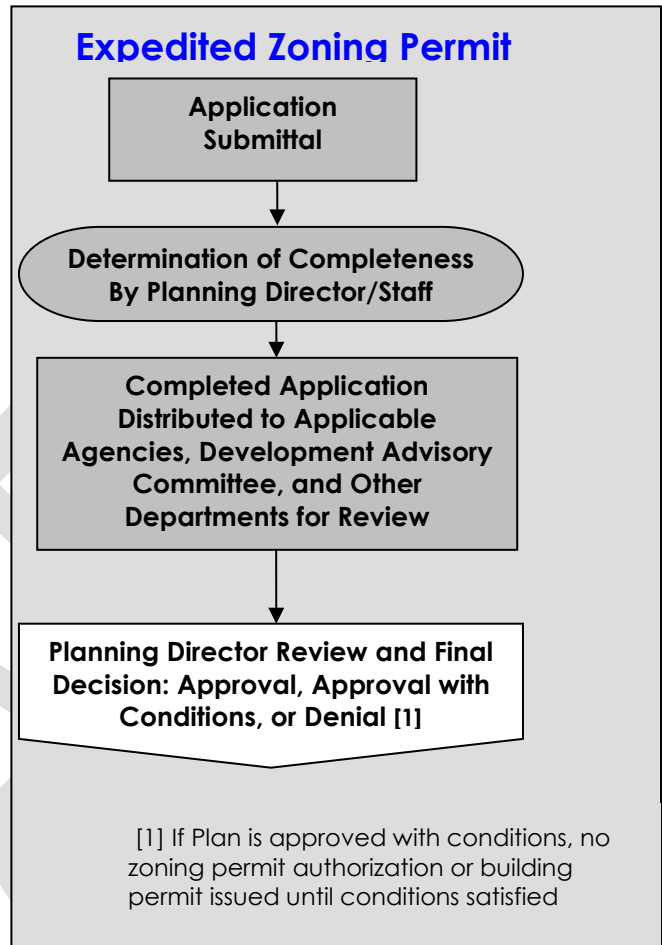
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B. Expedited procedure for Small Projects. An expedited procedure for the following types of projects is set forth below shall be followed to obtain a Zoning Compliance Permit for the construction of one single-family or one two-family (duplex) residential structure on a single parcel of property and expansions of uses and changes of use that do not require approvals described in Section 3.5.7 of this Ordinance.^{115 116}

C. Application for Expedited Procedure for Small Projects.

Required information for an Expedited Procedure shall include the following:

- i. Completed application form on-file with the Planning Department,
- ii. A plot map of the subject property, drawn to scale, containing the following:
 1. The length of all property lines,
 2. A north arrow denoting the orientation of the lot and all proposed structures,
 3. The location of all existing structures, driveways, and areas of impervious surface,
 4. The location of the proposed structure(s) and distances from all property lines,
 5. The location of the proposed driveway,
 6. The location of the proposed septic system and proposed drain lines on the property,
 7. The location of the proposed well,
 8. The location of any protected features on the property (i.e., stream buffers, flood plain, wetlands, etc.), and
 9. The location and dimensions of proposed parking areas.



¹¹⁵ Simple zoning permits for residential construction including accessory structures. Current standards are grouped in Section 52 of the current ordinance.

¹¹⁶ Flow-charts are used throughout to aid the reader in understanding the review process.

Staff are available to discuss compliance matters but shall not complete plot plans for applicants.

- D. Review. The review of complete applications may vary depending upon the applicability of technical plans and specifications as outlined in this Article. In any event Staff shall issue a zoning permit only upon finding that the proposed development, use and/or structure satisfies the requirements set forth in this Ordinance.
- E. Permit validity. Upon the approval of a zoning permit authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any unless a greater period is authorized by G.S. 160D-108.¹¹⁷

Failure to obtain requisite building permit(s) within this time shall render the zoning permit void. Upon issuance of a building permit(s), a zoning permit for improvements shall remain valid as long as a valid building permit exists for the project. A zoning permit issued for the use of a premises in accordance with then current adopted ordinance(s) shall run with the land and remain valid for the duration of said use, or temporary period as stipulated in said permit.

Any unapproved change, as determined by Staff in the approved plans shall render the zoning permit invalid and in violation of this Ordinance. Violations of this Ordinance are subject to the remedies and penalties pursuant to **Article Nine Enforcement¹¹⁸** of this Ordinance.

¹¹⁷ Language designed to ensure consistency with State law.

¹¹⁸ Placeholder for enforcement regulations.

Sec. 3.5.6 Special Events/Temporary Structures Zoning Permit ¹¹⁹

A. Purpose. To insure that proposed special events and temporary structures comply with the requirements of Section 5.4 of this Ordinance and any other applicable standards and specifications of this Ordinance, no use that is classified as a special event requiring a permit, and/or no structure that is classified as a temporary structure and permitted as such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure zoning permit from Staff.

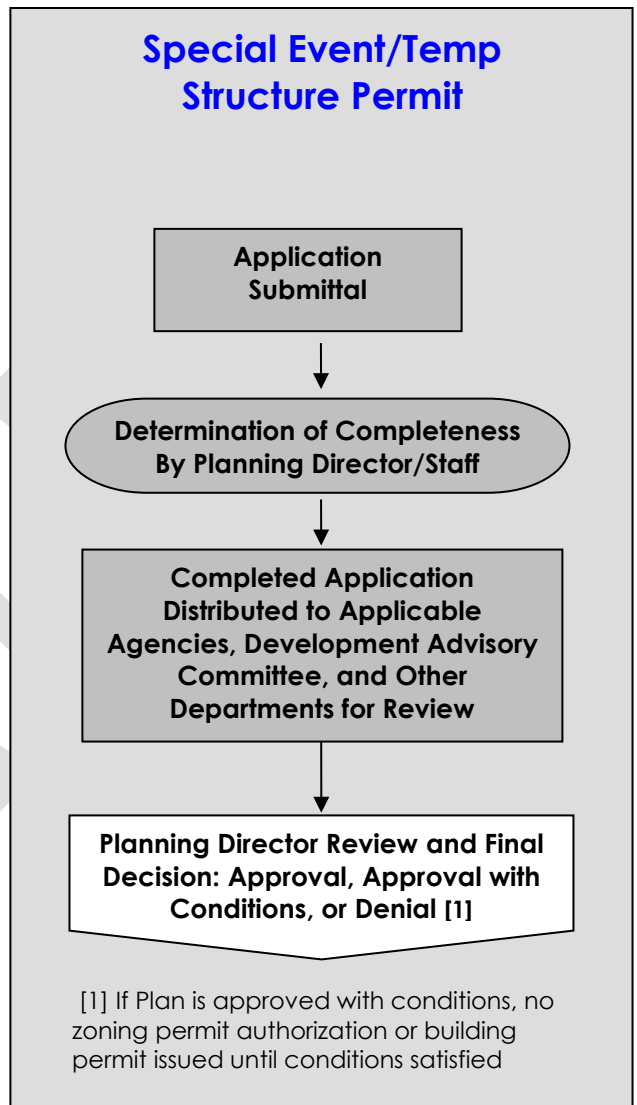
B. Submittal:

- i. The submittal requirements detailed in Section 5.4 of this Ordinance shall be complied with.
- ii. Persons seeking issuance of a special event/temporary structure zoning permit for an event shall file an application with a minimum of five (5) days prior to the proposed event date.

C. Review. Staff shall review the application and determine whether it provides the information required. Staff shall issue a special event/temporary structure zoning permit only upon finding that the proposed special event or temporary structure satisfies the requirements set forth Section 5.4 and any other applicable standards and specifications of this Ordinance.

D. Permit validity. The special event/temporary structure zoning permit shall run with the land and be valid only for the date(s) stated on the permit.

E. Public emergencies. In the event of a natural disaster, catastrophic event or public emergency, Staff may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency



¹¹⁹ As a reminder, NFOCUS is recommending this become a staff/administrative function.

in accordance with _____¹²⁰ of the Town Code of Ordinances and Section 1.17 of the Ordinance.

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¹²⁰ Section reference intended to provide detail on any local government standard for emergency declarations that may exist in addition to what we are proposing for this Article.

Sec. 3.5.7 Site Development and Construction Plan Approval(s)¹²¹

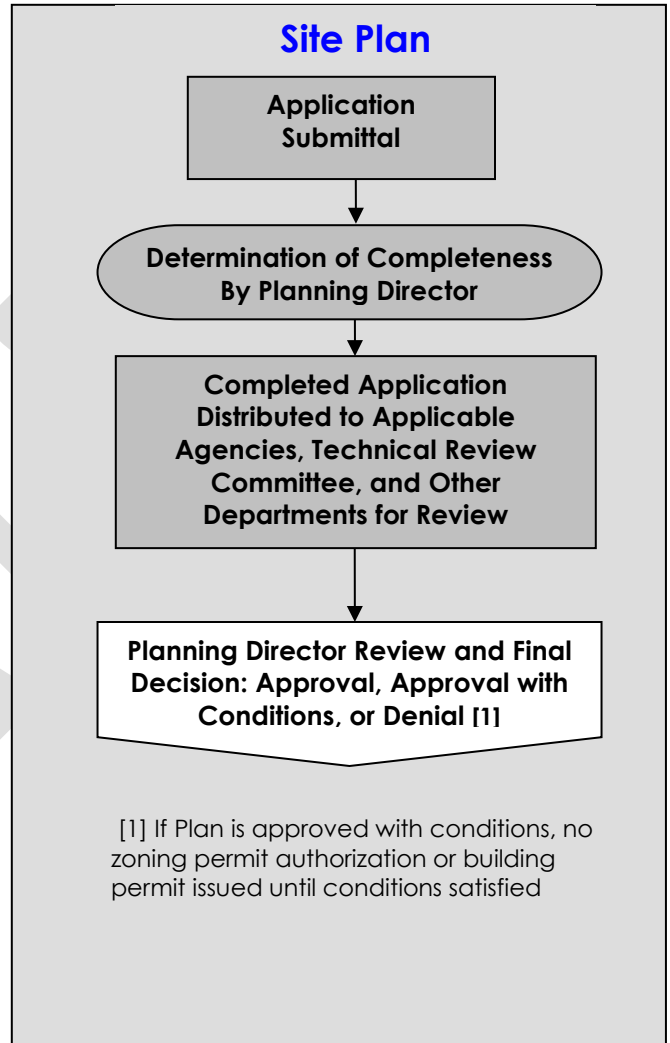
A. Purpose. The site development and construction plan review process are required for development projects to prepare for expected impacts upon public services and facilities.

This review process ensures adequate services and facilities can be provided for these developments and to ensure that they do not negatively impact the area in which they are proposed to be located or the Town as a whole.

Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Site Development Plan review process:

- i. New construction and changes of use.
 - 1. Non-residential buildings, structures, or developments with a gross floor area of more than 240 square feet;¹²²
 - 2. Any residential development containing more than two (2) individual units; and/or¹²³
 - 3. Any development where public streets are extended.
- ii. Additions to existing buildings increasing gross floor area by more than 200 square feet of gross floor area.

B. Exemptions. Projects involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the Site Development Plan review processes as set forth herein shall be reviewed as Zoning Permit in accordance with the provisions of Section 3.5.5 of this Article.



¹²¹ This process is typically for non-residential projects or multi-family projects requiring a professionally prepared site plan.

¹²² Why 240 sq.ft.? Additional building square footage would typically require additional parking spaces thereby requiring additional review by staff.

¹²³ This would mean something more than a typical duplex unit (i.e., two-dwelling units in a single structure).

C. Site Development Plan submittal.

- i. Application required. An application shall be required for all Site Development Plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a Site Development Plan.
- ii. The Site Development Plan shall be a professionally prepared site plan, completed by a registered architect, engineering, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which they are trained and licensed to perform, containing the following information:^{124 125}
 1. The boundary of the lot(s) to be developed labeled with bearings and distances;
 2. The name, address, and phone number of the applicant and the property owner;
 3. Name of project, vicinity map, north arrow, scale, tax map reference number, date of plan preparation, and subsequent revision dates;
 4. Zoning of the property to be developed and all adjacent zoning and existing adjacent land uses;
 5. Adjacent right-of-way widths with road names and numbers;
 6. A development summary including total acres, proposed use(s), total building square footage, required and proposed parking spaces;
 7. Demonstrated compliance with all applicable performance standards contained in this Ordinance;
 8. Maximum and proposed impervious surface and required stream buffers associated with Watershed Protection Overlay Districts as detailed in Section 4.7 of this Ordinance,¹²⁶
 9. Estimated traffic generated by the proposed development in trips per day;
 10. Location of all proposed buildings and structures labeled with floor area, building height and function, and proposed finished floor elevation;
 11. Vehicular use areas including existing and proposed streets and access drives, off street parking and loading to comply with **Section of this Ordinance**, and entry/exit points of adjacent parcels;
 12. Overhead and underground utilities with accompanying easements and storm drainage facilities/easements (including septic tanks and

¹²⁴ 'Professionally prepared' means completed by a surveyor, landscape architect, or other similar professional designated under State law as having the authority to complete such work.

¹²⁵ NFOCUS Staff is expanding on the information required as part of the formal submittal.

¹²⁶ Shall be addressed with final draft. This is the reference to watershed regulations.

wastewater disposal fields, wells, fire hydrants, irrigation, and security lights);

13. Solid waste disposal facilities including required screening;
14. All proposed free-standing and wall-mounted signs. Signs must comply with **Section _____ of this Ordinance**;
15. A landscape plan demonstrating compliance with **Section _____ of this Ordinance**; ¹²⁷
16. Existing contour lines (dashed) and proposed contours (solid) at 5-foot intervals with 10-foot contours bold. Where site conditions warrant, 2-foot contours may be required; ¹²⁸
17. Retaining walls, tree wells, or rip rap as part of the grading plan;
18. Streams, ponds, drainage ditches, swamps, floodway, and floodplain boundaries;
19. Phase lines and numbers if the development is to be phased;
20. Methods of disposal of trees, limbs, stumps, and construction debris associated with the permitted activity.
Open burning of trees, limbs, stumps, and/or construction debris associated with the permitted activity is expressly prohibited; ¹²⁹
21. Compliance with adopted access management, transportation and/or connectivity plans and denote the location of future roadway(s) and access easements, whether public or private, to ensure and encourage future connectivity; and ¹³⁰
22. Additional information may be required based on the site location and the type of development proposed. ¹³¹

D. Review.

- i. Plans shall be reviewed by Staff for compliance with the requirements of this Article and standards and specifications of this Ordinance.

¹²⁷ **Yellow highlighted section(s)** are references to provisions of the UDO that are yet to be formalized. These are placeholders.

¹²⁸ Why require contour lines? An area of concern for the town is stormwater drainage and flow. Contour data is necessary for staff to try and ascertain 'where' natural drainage areas are located and how they will be impacted by proposed development.

¹²⁹ Staff is recommending local jurisdictions ban the open burning of land clearing debris as part of construction project. This would not impact residents from burning leaves or other 'private' foliage on their property unless part of some form of development project where a 'site plan' is required.

¹³⁰ Ensuring proper reference and foundation for project to comply with adopted access management plans. This section requires projects requiring a site plan to demonstrate compliance with such plans.

¹³¹ This would be addressed in staff review comments, which will ideally be handled by staff in writing (i.e., formal letter).

- ii. When a complete application has been accepted, the plan(s) shall be distributed to applicable agencies, TRC, and other departments for review and comment.
- iii. Staff shall review the plan(s) based on, but not limited to, the following general criteria:
 - 1. Compliance with all applicable ordinances.
 - 2. Extent and intensity of impacts to the surrounding area.
 - 3. Respect for existing site conditions, including slope, vegetation, drainage patterns, etc.
 - 4. Safe and efficient vehicular and pedestrian circulation.
 - 5. Logical placement of structures and other site functions.
 - 6. Compliance with any previously issued Special Use or Conditional Use Permit(s) associated with the project.

Following review of the site plan, Staff shall take action on the application within 30 days of acceptance of a complete application.¹³²

- iv. Action shall be one of the following:

- 1. Approval,
- 2. Approval with conditions, or
- 3. Denial.

Failure to meet the criteria for site plan approval listed herein, and/or to address all review comments solicited during plan review, will result in denial of the application.

- v. If a plan is approved with conditions, no zoning authorization allowing land disturbing activity or subsequent building permit shall be issued until all conditions of approval have been met to the satisfaction of Staff.

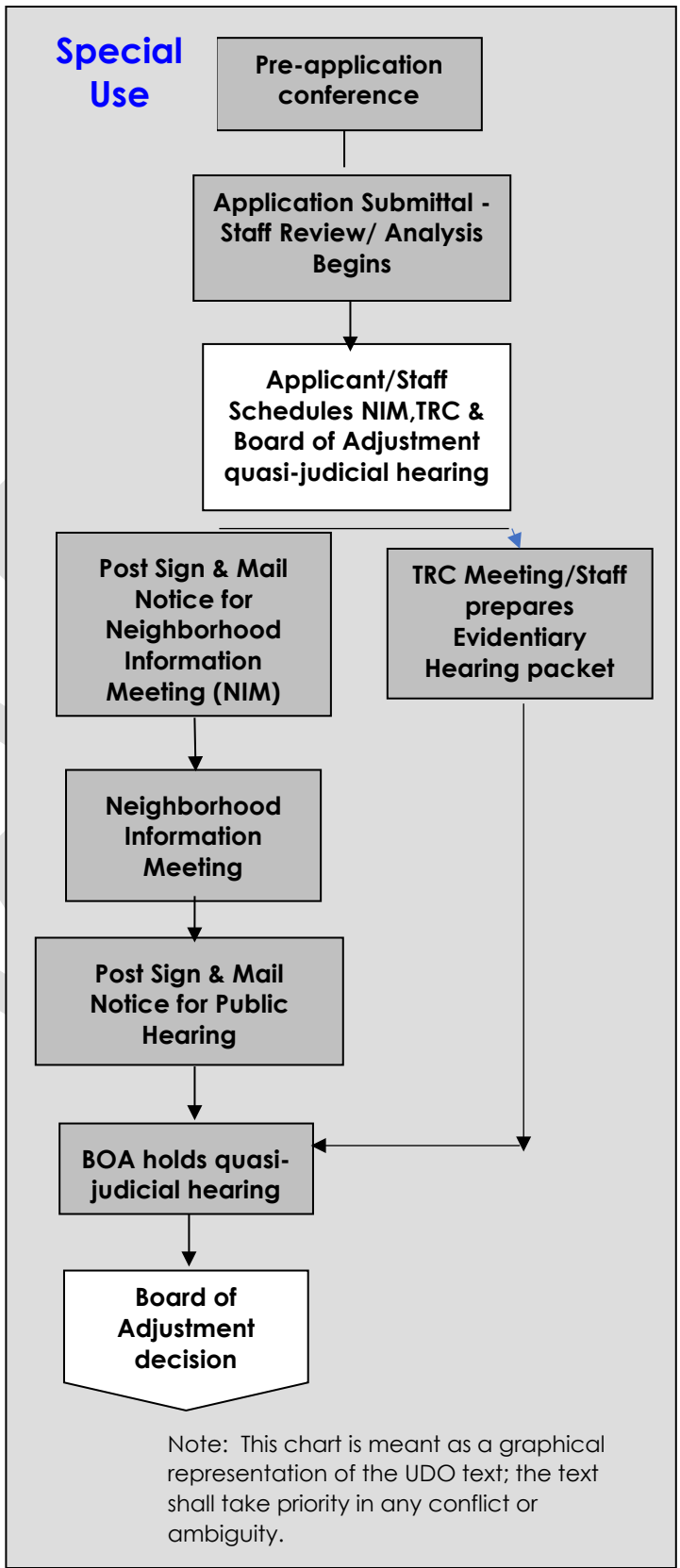
- E. Permit validity. Approval of Site Development Plans and zoning permits authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. Staff may grant a single extension of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Multi-phased development containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).¹³³

¹³² 30 days should allow sufficient time for staff and TRC review. It will mean; however, staff must complete review and TRC review in a timely fashion.

¹³³ Consistent with State law.

Sec 3.5.8 Special Use Approvals ¹³⁴

- A. Purpose. Special uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding parcels, require individual consideration of their location, design, configuration, and/or operation at the location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare.
- B. Any use identified in Article 5 of this Ordinance as a special use in a zoning district shall not be permitted without the approval of the Board of Adjustment in accordance with the requirements and procedures set forth herein.
- C. Submittal.
 - i. Application required. An application shall be required for all special use permit applications on-file with the Planning Department. The application shall be filed with Staff and shall contain all information identified as required demonstrating compliance with the applicable provisions of the Ordinance.
 - ii. The application shall be accompanied by an electronic file copy plus at least seven (7) paper copies of a Site Development Plan containing all information



¹³⁴ Section 54 of the current ordinance.

required by Section 3-4.6 (C) of this Ordinance for filing(s) on the subject property.¹³⁵

D. Review. Staff shall review the application for special use and distribute copies to applicable agencies, TRC, and other departments for review and comment.

E. Formal review.

i. Evidentiary hearing. Upon receipt of a notice from Staff of a request an evidentiary hearing on the application and Site Development Plan for a special use permit, an evidentiary hearing shall be scheduled before the Board of Adjustment.¹³⁶

ii. Action by the Board of Adjustment.

1. The Board of Adjustment shall consider the request within 45 days of receiving information regarding the special use permit application from Staff. Under no circumstances may the evidentiary hearing be scheduled until the required neighborhood information meeting is held in accordance with Section 3-3 of this Article.

2. The Board of Adjustment, after conducting the quasi-judicial evidentiary hearing, may:

a. Deny approval;

b. Continue the application pending submittal of additional information; or

c. Approve the proposed special use permit.

3. The decision on the special use permit application shall be by a simple majority vote of those members of the Board present at the meeting at which the action is taken.

4. The minutes shall state if the proposed special use meets or does not meet each of the conditions set forth in Section 3.5.8 (E) (5) of this Section, the standards set forth in Article 5 of this Ordinance for the proposed special use, and all other requirements set forth by this Ordinance for the proposed special use.

5. Findings and Conditions. In granting the permit, the Board shall find there to be competent, material, and substantial evidence in the record to support these conclusions and the Board of Adjustment must find that all the below listed facts exist or the application shall be denied.

a. That the use or development is located, designed, and proposed to be operated does not materially endanger the public health or safety;

¹³⁵ Again, number of copies determined by local jurisdiction.

¹³⁶ This presumes the client wishes to have SUPs reviewed by the BOA. That will be our recommendation, but we will have to revise on a case-by-case basis.

- b. That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;
 - c. That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining property, or that the use or development is a public necessity; and
 - d. That the use or development will be in harmony with the area in which it is to be located and conforms to the general plans for the land use and development of the Town of Unionville and its environs.
 - 6. Additional Conditions. In granting the special use permit, the Board of Adjustment may designate only those conditions, in addition and in connection therewith, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting, at which the special use permit is granted, on the special use permit itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns.
 - 7. Recoding of Permit. The special use permit, as approved, shall be recorded by Staff with the Register of Deeds for Union County as a deed restriction. The applicant or property owner shall be responsible for paying the recording fee. No building permit shall be issued for the subject property until the recording is made.
 - 8. Transfer of approval. A special use approval is not transferable from one property to another but is transferred to a subsequent owner of the property to which applied.
- F. Applicants and those individuals with standing shall have the burden of presenting competent material evidence and sworn testimony demonstrating the request either complies or does not comply with the provisions of the Ordinance.
- 1. The Board can only base a decision on the evidence placed in the record by the applicant or those individuals with standing supporting or refuting the compliance of the request.
- G. Notice of hearing. Notice of evidentiary hearings required under this section for special use approvals shall be provided in accordance with the requirements established by NC General Statute 160D-406 for evidentiary hearing notification.¹³⁷

¹³⁷ Staff is referencing the required State statute for advertising. Evidentiary hearings must be advertised as follows: notice of hearing sent to the applicant, all adjacent property owners (including those separated by rights-of-way) via first class mail at least 10 days, but not more than 25 days, prior to the date of the hearing. During the same period, staff must post a notice of public hearing on the property (date, time, location of the evidentiary hearing). Evidentiary hearings **are not** required to be advertised in the newspaper. Why just reference State law

- H. Project phasing. If a project approved as a special use is to be developed in phases, a master plan for the entire development site must be approved by the Board of Adjustment at the same time and in the same manner the special use permit application is considered.
- i. Final plans for phases of the special use may be submitted in stages and shall be approved by Staff provided that the following requirements are met:
 1. All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.
 2. Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.
 3. All the data required for the project as a whole shall be given for each stage shown on the plan.
 4. A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial instrument valid for the duration of the project implementation period.
 5. The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan for the special use.
 6. Each phase of the special use must comply with all conditions attached to the approval of the special use permit by the Board of Adjustment.
- I. Appeals. An appeal from the decision of the Board of Adjustment regarding a special use application and Site Development Plan may be made by an aggrieved party and shall be made to Union County Superior Court in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the Board of Adjustment is received by the applicant.
- J. Permit validity. Approval(s) of a special use permit application and Site Development Plan shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for a minimum of not less than two (2) years from the date of approval by the Board of Adjustment. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the special use approval null and void. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).
- K. Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the Board of Adjustment or with any other conditions imposed upon the special use permit, the zoning permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use permit shall be issued. If a failure to comply with conditions in a special use

and not just list requirement? If the State law changes, we do not have to update the UDO. Local staff will, however, need to be vigilant.

permit occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the special use permit may issue a finding of fact that a violation of the requirements of this Ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm, or corporation to continue the special use until the responsible party makes the necessary corrections and the Board of Adjustment conducts an evidentiary hearing and finds that the violation no longer exists.

- L. Minor modifications. Minor modifications to the approved special use permit may be approved by Staff per authorization under N.C.G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where conditions established by the special use permit create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of special use permit approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s).
- M. Special Use Permit recorded. Special Use Permits shall be recorded by the holder of the permit with the Union County Register of Deeds within 90 days of approval. Modifications to Special Use Permits shall be recorded in the same manner in which the original permit was recorded.

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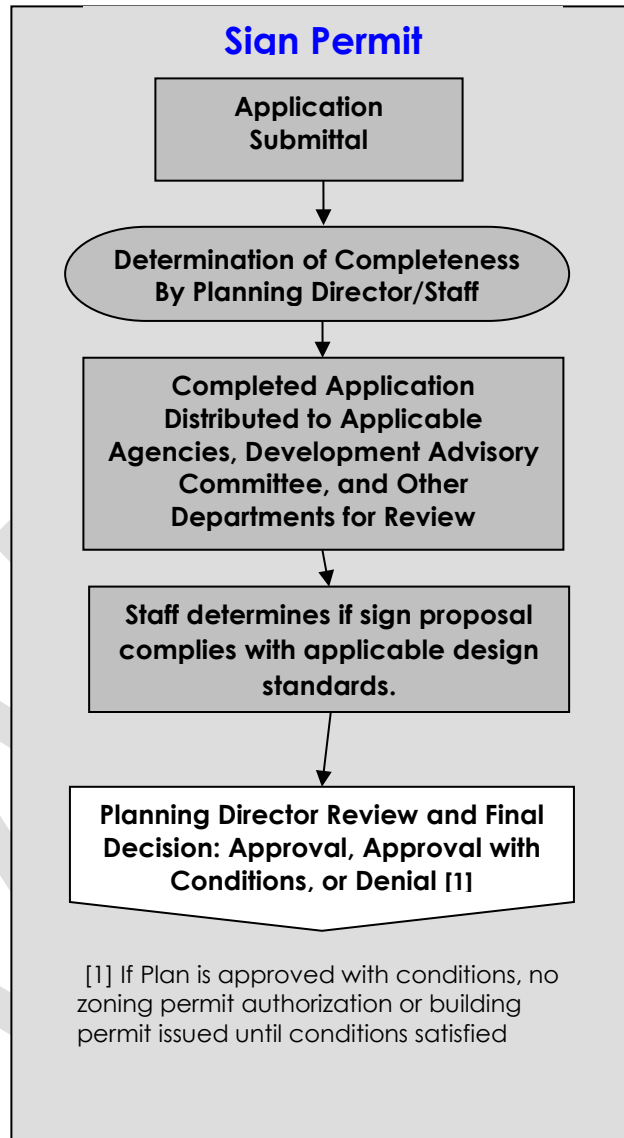
Sec 3.5.9 Sign Permits ¹³⁸

A. Purpose. To regulate the provision of sign standards and sign restrictions within the planning and regulation jurisdiction of the town, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit.

B. Application submittal.

i. Application required. An application shall be required for all Sign Permit review requests. This application shall contain pertinent information regarding the proposed project.

i. A Site Development Plan and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign (if the sign is to be attached to a building), height, dimensions and square footage of the proposed sign and any other data as Staff may determine to be necessary for review of the application.



C. Review. Provided the application for a sign permit is complete, the Staff shall review the application and determine whether it is complete within fourteen (14) working days of its submittal. Staff shall issue a sign permit only upon finding that the proposed sign or sign structure satisfies the requirements of **Section _____**.¹³⁹

D. Permit validity. Upon issuance of a sign permit, the applicant will have 12 months to commence work on the approved signage, after which the zoning permit shall automatically become null and void. Signs included in a Site Development Plan application and approval are subject to Permit Validity of **Section _____** of this Article.

¹³⁸ New section spelling out how sign permits are reviewed by the Town.

¹³⁹ Final location of sign regulations is pending and may be renumbered.

Sec. 3.5.10 Watershed Permit

Please refer to Article _____ of this Ordinance for permitting requirements.¹⁴⁰

Sec. 3.5.11 Watershed Occupancy Permit

Please refer to Article _____ of this Ordinance for permitting requirements.¹⁴¹

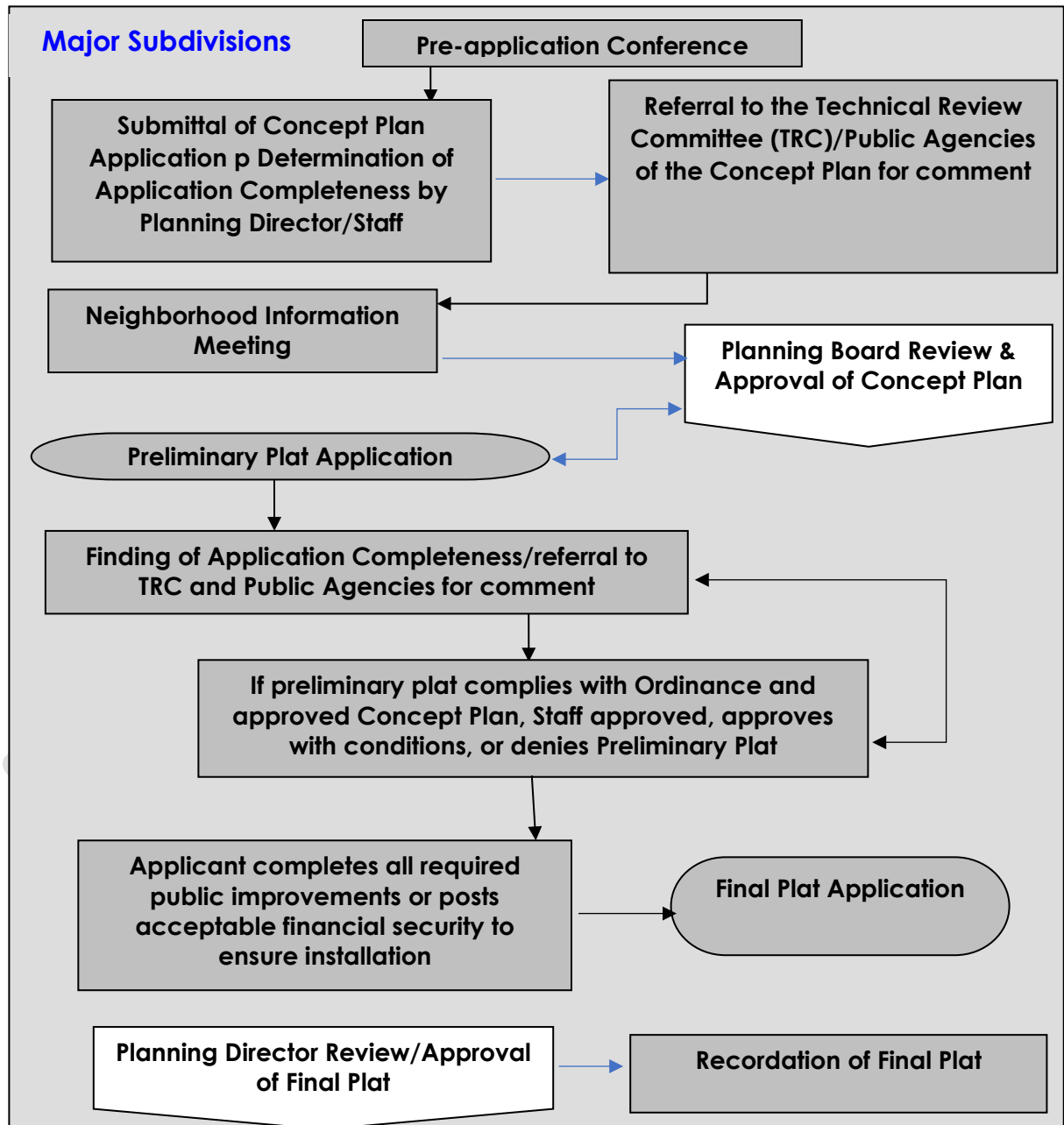
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¹⁴⁰ Section reference will be finalized prior to final draft of the UDO. This section is only necessary if the community is required to abide by State watershed standards.

¹⁴¹ Section reference will be finalized prior to final draft of the UDO.

Sec. 3.5.12 Subdivision Plat Approval^{142 143}

A. Major Subdivisions



¹⁴² NFOCUS NOTE: process shall be updated based on Town comment(s).

¹⁴³ This section replaces portions of Part 2 of Article 4 of the current ordinance. Actual 'subdivision design standards' will be contained in a separate article.

- i. Review and Approval Process:
 1. Purpose. The Major Subdivision review process is required for those divisions of land meeting the definition of “Subdivision, Major” appearing in Article _____¹⁴⁴ of this Ordinance Concept Plan: Reviewed and Approved by Planning Board;
 2. Preliminary Plat: Approved by Staff.
 3. Final Plat: Reviewed and Approved by Staff.¹⁴⁵

B. Application Procedures.

- i. Concept Plan.

1. Pre-application meeting required in accordance with Section 3.2-4 of the Ordinance.
2. Concept Plan required. A Concept Plan application package is required for a proposed Major Subdivision and shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth herein, as required under Article 7 of the Ordinance, and applicable state standards.¹⁴⁶
3. Filing of Application.
 - a. A complete application containing all information as required by Staff.
 - b. The Concept Plan shall contain all information required under Article _____ of this Ordinance.
4. Staff Review.
 - a. Staff shall review and determine application completeness within 5 business days. Only complete applications containing all required elements, including submittal fees, shall be accepted. Rejected applications shall be returned to the applicant with a detailed explanation of deficiencies.
 - b. All Concept Plans shall be reviewed by the TRC as detailed in Section 3.4 of this Ordinance.

¹⁴⁴ Final article may be renumbered.

¹⁴⁵ State law creates distinctions between administrative actions/approval (i.e., staff action) and advisory board actions. Staff is responsible for the day-to-day management of land use regulations, and the Planning Board is the main advisory body they rely on. The Planning Board should not ‘take on’ administrative functions as that would potentially create conflicts where you may have staff indicating a project meets the provisions of the Ordinance, yet the Board may see something differently. Then, we have an issue where the ‘professional staff’ and the citizen advisory committee are at odds with an applicant going before a court of competent jurisdiction for an appeal. This modification still has the Board acting in their advisory capacity with staff making the decision.

¹⁴⁶ A concept plan is required for major subdivisions.

- c. Staff shall review for compliance with the requirements of this Section, Article _____, and the provisions of NCGS 160D. Once this review is completed, Staff shall transmit comments to the Planning Board for their consideration.

5. Planning Board Review.

- a. The Concept Plan shall be reviewed within 30 days of the submittal of a complete application package and only after TRC review has occurred.
- b. The Concept Plan shall be reviewed at a regular Planning Board meeting.
- c. The Board shall determine compliance with applicable design criteria and development standards of Article 7 of the Ordinance.
- d. The Board shall:
 - i. Approve,
 - ii. Approve with conditions, or
 - iii. Recommended revisions.

the Concept Plan. Any imposed condition shall be associated with demonstrating compliance with applicable design standards.

Rejection of a Concept Plan shall be limited for non-compliance with development and/or design standards only and not on the personal feelings of the Board members with respect to their opinions on the 'appropriateness' of the subdivision in the area where located.¹⁴⁷

- e. Applicants whose Concept Plan is recommended for revision shall address the Board's comments and resubmit the Plan for further consideration at a future meeting.
- f. Approved Concept Plan are valid for a period of 12 months from the date of Planning Board action. If a Preliminary Plat application is not submitted within this period, the Concept Plan approval shall become null and void requiring resubmittal.

ii. Application and Preliminary Plat:

¹⁴⁷ The Planning Board needs to be careful in exercising 'authority' here. The Board can only 'reject' a subdivision for non-compliance with applicable development criteria (i.e., non-compliance with roadway standards, lot area/width, requirements, etc.). What we must avoid is a subdivision being denied because there are concerns the proposed 'division' is not 'appropriate' for a given area of the community based on factors not germane to the application of subdivision standards. We cannot have a situation where the 'professional staff' finds sufficient cause to recommend approval based on the technical merits of the project complying with the Ordinance, but the Board sees the project as not being viable for non-technical issues.

1. Preliminary Plat(s) required. A Preliminary Plat shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by this Article and applicable state standards.
2. Filing of Application.
 - a. A complete application containing all information as required by Staff.
 - b. The Preliminary Plat shall contain all information required under Article 7 of this Ordinance.
3. Staff Review.
 - a. Staff shall review and determine application completeness within 5 business days. Only complete applications containing all required elements, including submittal fees, shall be accepted. Rejected applications shall be returned to the applicant with a detailed explanation of deficiencies.
 - b. All Preliminary Plats shall be reviewed by the TRC as detailed in Section 3.4 of this Ordinance.
 - c. Staff shall review for compliance with the requirements of this Section, Article 7, and the provisions of NCGS 160D. Once the review is completed, Staff shall transmit all review comments to the Planning Board for their advisory review.
4. Staff Decision. Staff shall:
 - i. Approve,
 - ii. Approve with conditions, or
 - iii. Deny.the Preliminary Plat.

Any imposed condition shall be associated with compliance with applicable design standards. Denial of a Preliminary Plat shall be limited to issues associated with non-compliance with development and/or design standards only.

- iii. Approval of the Preliminary Plat for Major Subdivisions authorized by N.C.G.S. 160D-403 shall run with the land and constitute approval of a sites specific vesting plan in accordance with N.C.G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by N.C.G.S. 160D-108.

Staff may grant a single extension of up to three (3) years upon submittal by the applicant of sufficient justification for the extension.

The Final Plat for the Major Subdivision shall be presented for approval prior to the end of the two-year period. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Preliminary Plat void.

Multi-phased development of subdivisions containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

- iv. Final Plat. Plats for recording Major Subdivisions shall be prepared by a professional land surveyor in accordance with the standards set forth by the applicable State standards and in accordance with the standards and specifications of Article _____ of this Ordinance.

The Final Plat of a Major Subdivision shall be reviewed by Staff for compliance with the requirements of this Ordinance and for conformity with the approved Preliminary Plat.

Substantial changes from the Preliminary Plat, as determined by the Staff, shall require an additional review to ensure compliance.

No Final Plat shall be approved by Staff until all improvements are installed, fees paid in lieu, or their execution guaranteed as permitted by this Ordinance and all certificates required for Final Plats by this Ordinance or approvals by state law have been properly completed and signed. Provided the Final Plat is complete, and no further review is determined to be required, the Staff shall act on the Final Plat of Major Subdivisions within fifteen (15) working days of receipt of the Mylar Plat.

- v. Staff are authorized to approve the Final Plat for recording. Following Final Plat approval, the applicant shall record the Plat for a Major Subdivision in accordance with this subsection.
- vi. Signatures and recordation.
 - 1. Signatures. Upon approval of a Final Plat for Major Subdivisions, the Plat shall be signed in the appropriate place by the Staff and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording.
 - 2. For Major Subdivisions installing new public infrastructure the following certificates shall also be shown where applicable: Certificate of Dedication; Certificate of Approval for Street and Road Maintenance; Certificate of Streets and Other Public Infrastructure Improvements; and Certificate of Water and Sewer System Approval. The language for these certificates appears at the end of Article _____ of this Ordinance.
- vii. Recordation. A Final Plat for Major Subdivisions shall be recorded in the office of the Union County Registrar of Deeds Office in accordance with North Carolina General Statutes within 90 days following approval.

No Subdivision Plat shall be considered finally approved until the Plat has been recorded. If the Final Plat of all or part of the area shown on an approved Preliminary Plat for a Major Subdivision is not recorded in the office of the Register of Deeds within two years of approval, the Preliminary Plat shall be resubmitted to Staff for consideration following the process set forth in this Article.

Final Plats for Subdivisions developed in phases shall be recorded in accordance with the schedule presented by the applicant during the Preliminary Plat approval and approved as part of the Preliminary Plat approval process.

- viii. If the Final Plat of all or part of the area shown on an approved Preliminary Plat for a Major Subdivision to be developed in phases is not recorded in the office of the register of deeds within the approved schedule, the Preliminary Plat shall be resubmitted to Staff for consideration following the process set forth in this Article. No lots in a Subdivision shall be sold prior to approval and recording of a Plat for the Subdivision.
- ix. Appeals. Appeal of any denial of a Preliminary or Final Plat shall be processed in accordance with the provisions of NC General Statute 160D-1403.¹⁴⁸

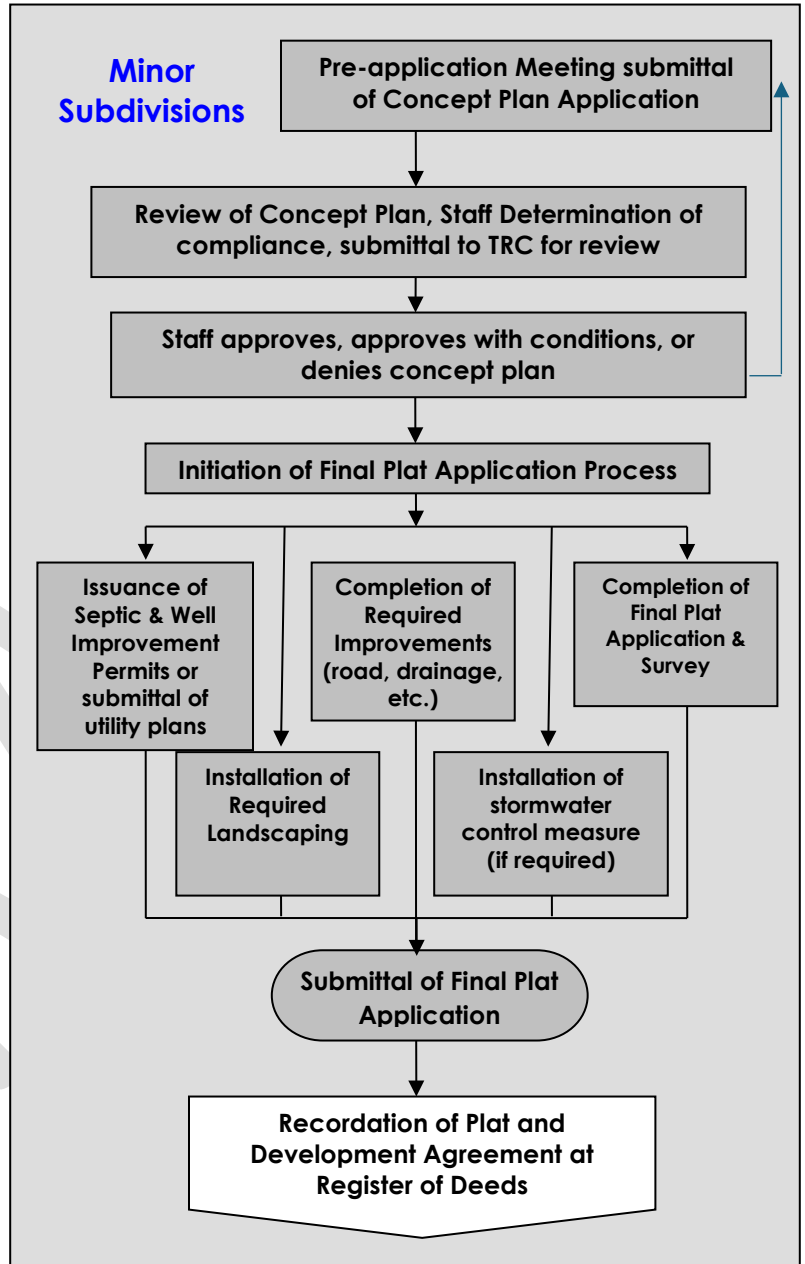
¹⁴⁸ Per NCGS 160D-1403 appeals on denial of plats are taken to Superior Court.

C. Minor Subdivisions.¹⁴⁹

- i. The Minor Subdivision review process is required for those divisions of land meeting the provisions of Article _____ of this Ordinance.
- ii. Review and approval of the Preliminary and Final Plat by the Staff permits a speedy review in accordance with G.S.160D-802(b) while ensuring that the proposed Subdivision meets all requirements established within Article _____ of this Ordinance.
- iii. Plat submittal.

1. Plat required. Plats for Minor Subdivisions shall be prepared by a professional land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the Planning Department and applicable state standards.

2. Filing of application. A complete application containing all information as required by Staff, including applicable review fees.



¹⁴⁹ NFOCUS NOTE: only for those subdivisions meeting the definition of being classified as a minor subdivision, which will be in the Article addressing subdivision development. Minor projects are staff review only (no Planning Board involvement).

- iv. Staff review. Plans for development not requiring Site Development Plan review shall be reviewed by Staff for compliance with the requirements of this Article.
- v. Final Plat approval.
 - 1. Recordation and signatures.
 - a. Signatures. Upon approval of a Plat for Minor Subdivisions, the Plat shall be signed in the appropriate place by Staff and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. The language for these certificates appears at the end of this Article.
 - b. Recordation. A Plat for Minor Subdivisions shall be recorded by the developer in the Union County Registrar of Deeds Office within 60 days following approval by Staff.
 - c. No Plat shall be considered finally approved until the Plat has been recorded. No lots in a Subdivision shall be sold prior to approval by Staff and recording of a Plat for the Subdivision.
 - d. Permit validity. Minor Subdivision Plats which have been granted approval shall be recorded as set forth herein within 60 days following approval or the approval becomes invalid.

Sec. 3.5.13 Floodplain Development and Certification Permit

Please refer to **Article _____ of this Ordinance** for floodplain development permit requirements.

Sec. 3.5.14 Zoning Vested Rights

- A. Vested rights and permit choice are inherent rights established by G.S. 160D and applied herein accordingly.
- B. Each approval procedure stipulated in this Article establishes criteria in accordance with G.S. 160D-108 and G.S. 160D-108.1 for ensuring due process in the vesting of rights to develop, use and enjoy real property in accordance with applicable standards & specifications.
- C. Notice and Hearings:
 - i. All notices which this Article requires for hearings or public meetings shall identify the date, time and place of the hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or group of parcels, the notice shall also identify the location of the subject property.
 - ii. Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of hearing, the requirements set forth in the North

Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this Article, the requirements contained in the North Carolina General Statutes will control. Evidentiary hearing notices appear in N.C.G.S. 160D-406(b) and legislative hearing notices appear in N.C.G.S. 160D-602.

- iii. Notice procedure. The following guidelines detail the notification procedure to be followed for hearings required by this Article unless otherwise set forth in this Article. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a hearing or public meeting. See N.C.G.S. 160D-406 (applicable to quasi-judicial procedures), 160D-602 (applicable to legislative actions).

Sec. 3.5.15 Development Agreements ¹⁵⁰

A. Authorization and Applicability. The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections N.C.G.S. 160D-1001 through G.S. 160D-1012.

B. Content of Development Agreement

- i. The development agreement shall establish the period of time for completion of the development and construction of the project subject to the agreement.
- ii. The development agreement shall establish the property to which the agreement shall apply by metes and bounds description attached to the agreement as "Exhibit A."
- iii. The development agreement shall cite all terms and conditions applicable to the development of the land subject to the agreement including standards and/or specifications that differ from the provisions of this Ordinance.
- iv. The development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development.

C. Procedures for Entering into Development Agreements

- i. The development agreement shall be drafted in a format as directed by Staff. The development agreement shall then be presented to the Planning Board for a formal recommendation at a regularly scheduled meeting. Said meeting shall be held prior to notification for a legislative hearing by the Town Council.
- ii. The development agreement and the Planning Board recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.

¹⁵⁰ State law allows local governments to enter into development agreements with developers related to the development of property. Staff is recommending this process be included in the UDO and this new 'tool' be included within the local government 'toolbox' as a means of working with the development community to encourage development within the community.

- iii. The notice for the legislative hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.
- iv. The development agreement shall be presented at a legislative hearing allowing an opportunity for the public to comment on the proposed development agreement. The information presented at the legislative hearing shall be considered by the Town Council in formulating its decision on the approval of an ordinance authorizing approval of said agreement.
- v. Upon finding that said agreement is in the best interest of the Town of Unionville , the Town Council may by adoption of an ordinance adopting the development agreement and authorizing it's execution by the Mayor, approve such agreement to be administered in full force and effect by Staff.
- vi. The development agreement shall be recorded in the Union County Register of Deeds office within fourteen (14) days of execution and prior to the issuance of any development permits authorizing development activities to commence.

D. Administration of Development Agreements and Termination for Material Breach

- i. The development agreement shall run with the land obligating the parties to the agreement to any and all stipulations therein and may only be amended in accordance with the laws of North Carolina governing such agreements as stipulated herein.
- ii. Staff shall conduct a periodic review at least every 12 months, at which time the developer is required to demonstrate good faith compliance with the terms of the development agreement. If, as a result of a periodic review, Staff finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, Staff shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.
- iii. If the developer fails to cure the material breach within the time given, then the Town Council may unilaterally terminate or modify the development agreement. In accordance with N.C.G.S. 160D-1008(c) the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405.
- iv. A development agreement adopted pursuant to this Section shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of this Ordinance.

Sec. 3.6 Amendments to Ordinance and Zoning Map ¹⁵¹

Sec. 3.6.1 General

The Town Council may amend, supplement, modify, or repeal any provision of this Ordinance or amend the zoning maps according to the procedure established by G.S.160D-601 through G.S. 160D-605.

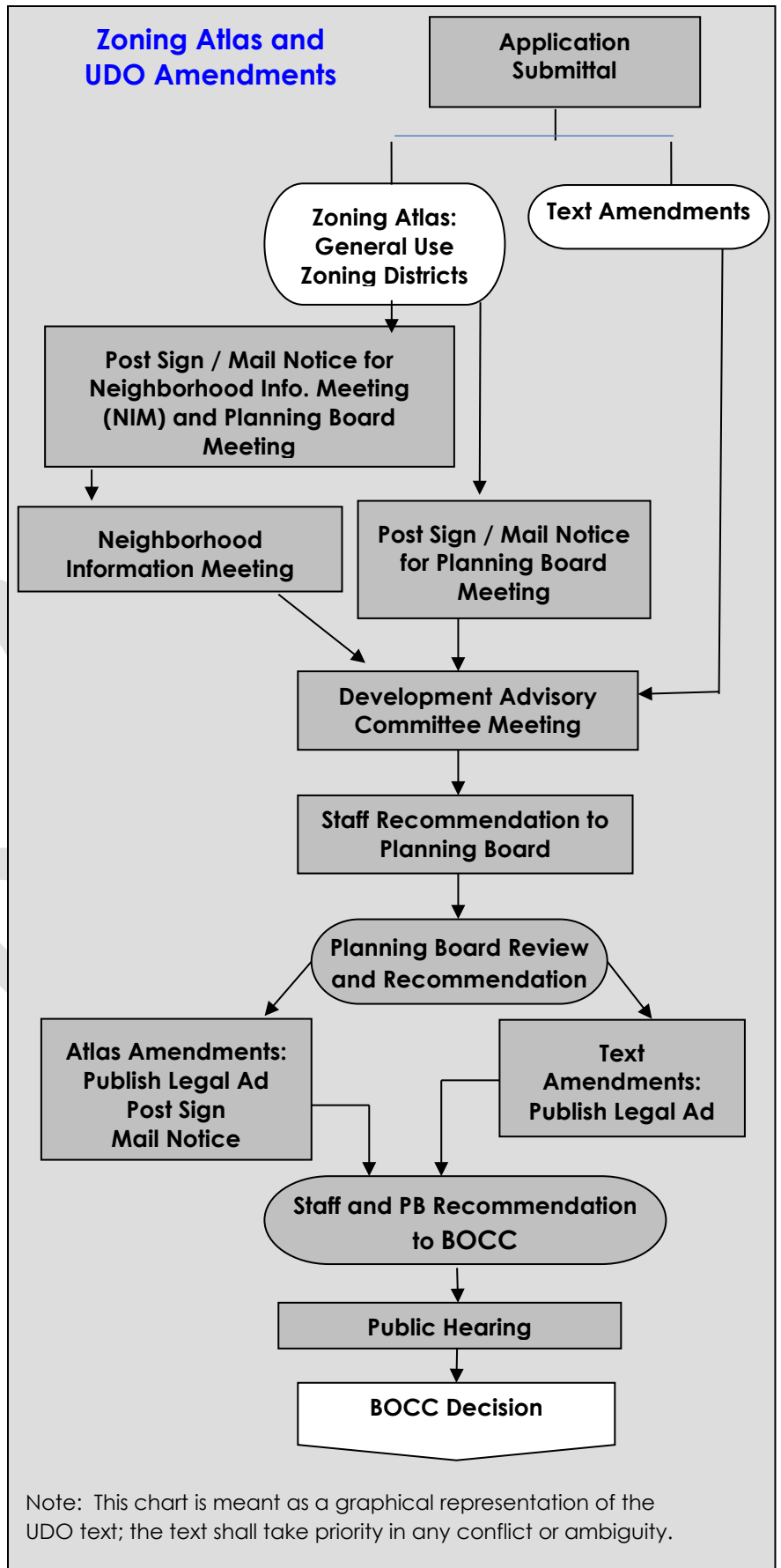
Such amendments shall be evaluated for compliance with the Plan as detailed in Section 1.5 of the Ordinance and other applicable adopted plans and may require amendments to ensure compatibility.

Amendments and modifications shall be acted upon by the Town Council, after recommendation from the Planning Board.

Sec.3.6.2 Initiation of Amendments

Proposed changes or amendments to either the text of this Ordinance or the Official Zoning Map may be initiated by the:

- A. Town Council,
- B. The Planning Board,
- C. Staff;
- D. Any owner of a legal or equitable interest in land



¹⁵¹ Replaces Section 143 of the current code.

located in the Town 's jurisdiction, or

- E. Any resident of the town's jurisdiction having a legal or equitable interest in land affected by the proposed amendment.

Persons other than those listed shall be required to certify the owner of the parcel of land shown on the Union County tax listing has received actual notice of the proposed amendment and a copy of the notice of the legislative hearing in accordance with the provisions of N.C.G.S. 160D-602(d). See Section 3.6.6 of this Article for content of an application for amendment(s).

Sec.3.6.3 Intent of Amendments

For the purpose of establishing and maintaining sound, stable and desirable development, this Ordinance shall not be amended except to:

- A. Correct a manifest error in the Ordinance,
- B. Extend the boundary of an existing zoning district, because of changed or changing conditions in a particular area or in the Town generally, or
- C. Rezone an area either to a different conventional zoning district or conditional district, or
- D. Change the regulations and restrictions thereof.

Amendments shall be reasonably necessary to promote public health, safety, and general welfare and to achieve the purposes of the adopted Comprehensive Plan or part thereof.

Sec.3.6.4 Down Zoning

Consistent with NCGS 160D-601 (D), no amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment.¹⁵²

Sec.3.6.5 Administrative Changes

The following changes to this Ordinance are authorized and may be carried out by either the Town Clerk, Staff, or their designee, without processing a formal amendment:

- A. Corrections to the Official Zoning Map to reflect updated information on property boundaries, street alignments, natural stream alignments, etc. shall not be considered amendments;
- B. Edits to the text of this Ordinance and/or the Official Zoning Map to update a table of amendments, add information to the legend of the Official Zoning Map, correct typographical errors, add and/or correct geographical information, and/or insert notations representing amended text in an article, section, subsection, or provision; and

¹⁵² Per State law 'down zoning' means an action that decreases development density of land or reduces permitted uses of the land than was allowed under a previous zoning designation.

- C. Deletions of provisions stricken down by either a legislative action of the North Carolina legislature or a court of competent jurisdiction.

Sec.3.6.6 Amendment Process:

- A. Content and valid authorization of applications. Applications shall contain the following:
 - 1. Completed and signed application forms as provided by Staff;
 - 2. For amendments to the Zoning Atlas:
 - a. A map at a legible scale showing the land which would be covered by the proposed amendment,
 - b. A legal description of the land including a metes and bounds description, sufficient in the estimation of Staff to plot or otherwise identify the amendment on the Official Zoning Map of the Town of Unionville.
 - 3. For amendments to the Ordinance:
 - a. A copy of the existing text provision(s) which the applicant proposes for amendment,
 - b. A written statement which describes in detail the changes the applicant proposes to make.
 - 4. The alleged error in the Zoning Map and/or Ordinance text that would be corrected by the proposed amendment with a detailed explanation of such error in the Zoning Map and/or Ordinance text and detailed reasons how the proposed amendment will correct the alleged error.
 - 5. The changed or changing conditions, if any, in the area or in the Town generally, which makes the proposed Zoning Map and/or Ordinance text amendment reasonably necessary to promote the public health, safety and general welfare.
 - 6. The way the proposed Zoning Map and/or Unified Ordinance text amendment will carry out the intent and purpose of the adopted Land Use Plan or part thereof.
 - 7. All other circumstances, factors, and reasons that the applicant offers in support of the proposed Zoning Map and/or Ordinance text amendment.
 - 8. Any person designated by the owner(s) of the property included in the petition to serve as agent for the owner shall submit such authorization in writing with the application.
 - 9. Applications for Conditional Zoning of property shall follow the procedures appearing in Section 3.7 of this Ordinance.
- B. Review by the Planning Board.

1. In General. Upon submission of a request for amendment of the Ordinance or an Official Zoning Map amendment, the request shall be scheduled for review by the Planning Board in a public meeting in accordance with the provisions of this Article.
 - a. All applicants proposing amendments to the Official Zoning Map shall be required to schedule and hold a neighborhood information meeting (NIM) in accordance with the provisions of this Ordinance.
2. Notification. All Zoning Map amendments shall abide by the following notification requirements:
 - a. A letter shall be sent to all adjacent property owners informing them of the date, time, location, and purpose of the Planning Board's review of the application. Letters shall be sent a minimum of 10 days prior to the date of the Planning Board meeting;
 - b. A sign shall be posted on the subject parcel(s) advertising the date, time, location, and purpose of the Planning Board's review of a Zoning Map amendment request. Posting shall occur 10 days prior to the date of the Planning Board meeting.¹⁵³
3. Review. The Planning Board shall make recommendations to the Town Council regarding whether to approve or deny each proposed amendment.

The Planning Board shall consider both the consistency and reasonableness of the amendment with the adopted Comprehensive Land Use Plan.

In making a recommendation on Zoning Map amendments, the Planning Board shall keep the following policy guidelines in mind:

- a. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- b. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- c. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not

¹⁵³ The yellow highlighted section denotes a recommended policy regarding 'advertising' of Planning Board meetings where rezonings are heard. Staff will be seeking guidance from the client if this policy is going to be implemented.

merely uses which applicants state that they intend to make of the property involved.

- d. There is convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change.
 - e. The proposed change is in accord with the land use plan and sound planning principles.
4. Continuance of Planning Board Review. In those cases where, upon hearing the request, the Planning Board feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Board to decide, the Planning Board may continue their meeting for up to 60 days (2 regular meetings).

The Board shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, and/or conduct other investigations during this time to enable the Board to decide at the reconvening of the continued meeting.

The Planning Board shall act upon either an affirmative or negative recommendation on continued items at the continued meeting.

5. Recommendation. Following a recommendation by the Planning Board on the proposed amendment(s), the action shall be reported to the Town Council for a legislative hearing and final action according to the process set forth herein. The legislative hearing will be scheduled as provided by the rules of procedure of the Council.
6. Content of recommendation and statement of consistency. Any recommendation made by the Planning Board pursuant to this section shall be in writing. In addition, the Planning Board shall approve a statement in accordance with G.S. 160D-605(a) describing whether or not the proposed amendment is consistent with the adopted Plan.
7. Conflict of Interest. A member of the Planning Board shall not participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. A member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member. A 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 with an affected person. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G.S. 160D-109).

E. Review by the Town Council.

1. Review and Legislative Hearing. Before adopting, amending, or repealing any ordinance authorized by this Article, the Council shall hold a legislative hearing.

Following receipt of either a recommendation, or receipt of the petitioner's request for an amendment, the Town Council shall hold a legislative hearing on the proposed amendment to obtain public comment(s). The legislative hearing shall be scheduled and conducted as provided by the Council's rules of procedure.

2. Notification. The Town Clerk or authorized designee shall prepare a public notice for the legislative hearing as required below: (N.C.G.S. 160D-601 and 160D-602).

- a. Method of procedure for publishing notice of all amendments per N.C.G.S. 160D-601.

A notice of the legislative hearing shall be given once a week for two 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 fixed 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. Method of procedure for mailed notice of Zoning Map Amendments per N.C.G.S. 160D-602.

- i. In addition to the publication requirements for notices of legislative hearings required herein, the procedures adopted pursuant to this section provide that whenever there is a zoning map amendment the owner of that parcel of land as shown on the County tax listing and the owners of all parcels of land abutting that parcel of land including those separated by a street, railroad, or other transportation corridor as shown on the County tax listing shall be mailed a notice of a legislative hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the County tax abstracts.

This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the legislative hearing.

Except for a Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Town

Council that the owner of the parcel of land as shown on the County tax listing has received actual notice of the proposed amendment and a copy of the notice of legislative hearing. The person or persons required to provide notice shall certify to the Town Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

- ii. The first-class mail notice required herein shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection.

In this instance, the Town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160D-601, but provided that each advertisement shall not be less than one-half of a newspaper page in size.

The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this section.

- iii. When a zoning map amendment is proposed, the Town shall prominently post a notice of the legislative hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way during the same time period as stated herein.

When multiple parcels are included is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

3. Action.

- a. Before acting on any proposed amendment, the Town Council shall consider any recommendation made by the Planning Board, comments and/or recommendations made by Staff, the comments made at the legislative hearing, and may consider any other relevant additional information available.
- b. When considering a proposed amendment, the Council shall not evaluate the petition based on any specific proposal for the

use or development of the property unless explicitly required by this Ordinance.

The petitioner shall not use any graphic materials or descriptions of the proposed development except for those that would apply to all uses permitted by the requested classification.

- c. Upon reviewing all pertinent information, the Board may take whatever action it may deem appropriate, including tabling the application for the purpose of additional neighborhood meeting(s) as required by this Ordinance.

- d. Statements of Consistency and Reasonableness.

Prior to adopting or rejecting any amendment, the Town Council shall approve a statement in accordance with G.S. 160D-605(a) describing whether or not the proposed amendment is consistent with the adopted Comprehensive Land Use Plan.

When either adopting or rejecting a zoning map amendment the Board shall approve a statement analyzing the reasonableness of the proposed amendment in accordance with N.C.G.S. 160D-605(b).

The statement of reasonableness may consider, among other factors:

- i. The size, physical conditions, and other attributes of the area proposed to be rezoned;
- ii. The benefits and detriments to the landowners, the neighbors, and the surrounding community;
- iii. 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;
- iv. Why the action taken is in the public interest; and
- v. Any changing conditions warranting the amendment.

Such statements may be combined into a single statement per G.S. 160D-605(C) and incorporated into ordinances amending either the text of an ordinance established under the authority of G.S. 160D or, the Official Zoning Map established under the authority of N.C.G.S. 160D-105(a) reflecting the division of territorial jurisdiction established under authority of G.S. 160D-703.

- 4. Conflict of Interest. A Board member shall not vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. A member shall not vote on any legislative

decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable impact on the member. A 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 with an affected person. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G.S. 160D-109).

5. Appeal. Appeals of legislative decisions shall be as provided by Article 14 of Chapter 160D of the North Carolina General Statutes.

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Sec. 3.7 Amendments to the Comprehensive Plan and Future Land Use Map¹⁵⁴

Sec. 3.7.1 General

- A. The Comprehensive Plan shall be so prepared that all or individual elements and parts thereof may be adopted and/or amended by the Town Council.
- B. For the purpose of establishing and maintaining sound, stable, and desirable development within the town, the Comprehensive Plan or portion thereof shall not be amended except as follows:
 - 1. Because of changed or changing conditions in a particular area or areas of the Town ;
 - 2. To correct an error or omission; or
 - 3. In response to a change in the policies, objectives, principles or standards governing the physical development of the Town .

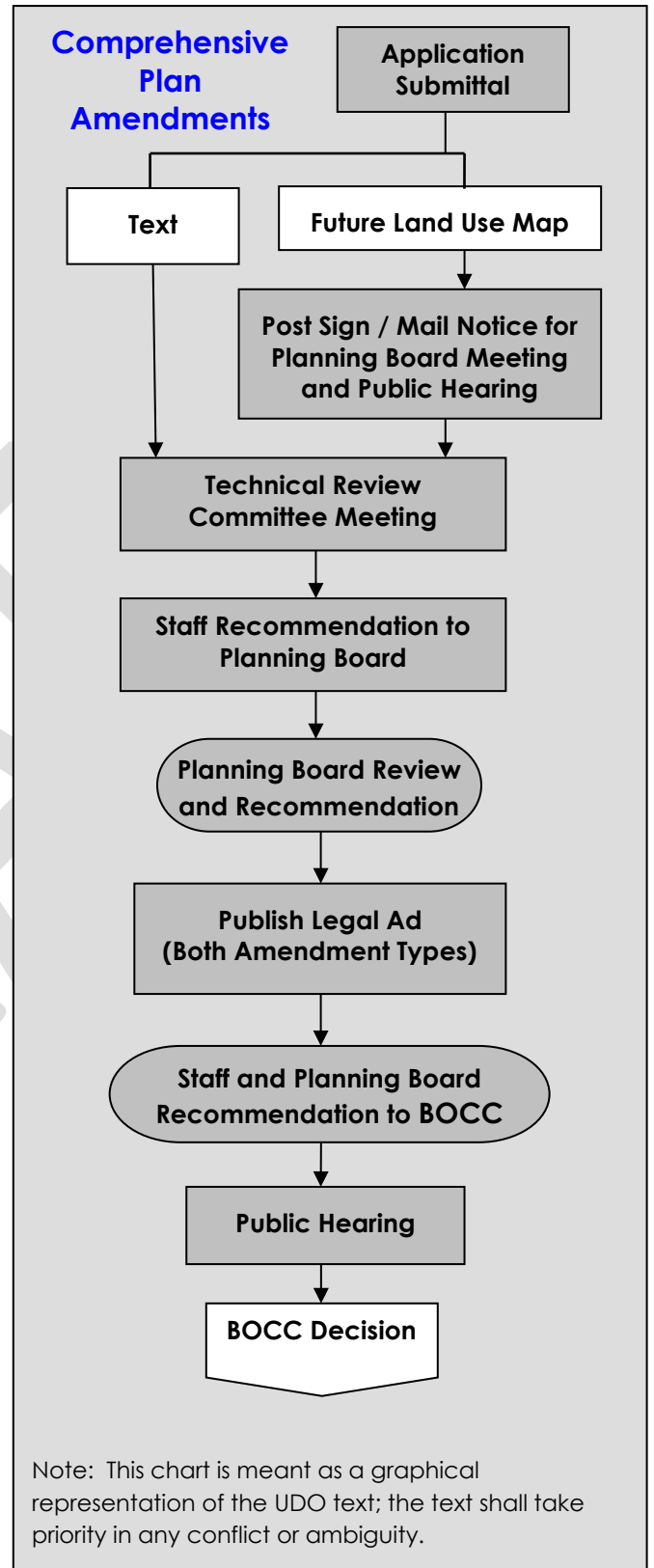
Sec.3.7.2 Initiation of Amendments

Proposed changes or amendments to either the text of the Comprehensive Plan or the Future Land Use Map may be initiated by the:

- A. Town Council,
- B. The Planning Board,
- C. Staff;

Sec.3.7.3 Public Hearing Required

A public hearing shall be held before adoption of any proposed Comprehensive Plan amendment. The Town Council shall hear applications and receive public comment for proposed Comprehensive Plan amendments in a Public Hearing.



¹⁵⁴ NFOCUS Staff needs to work with Unionville representatives if they want to provide this process or address through the submittal of a zoning map amendment.

Sec.3.7.4 Administrative Changes

The following changes to Comprehensive Plan or Future Land Use Map are authorized and may be carried out by Staff without processing a formal amendment:

- A. Corrections to the Future Land Use Map to reflect updated information on property boundaries, street alignments, natural stream alignments, etc. shall not be considered amendments; and
- B. Edits to the text of the Comprehensive Plan or Future Land Use Map (FLUM) to update a table of amendments, add information to the legend of the FLUM, correct typographical errors, add and/or correct geographical information, and/or insert notations representing amended text.

Sec.3.7.5 Amendment Process:

- A. Content and valid authorization of applications. Applications shall contain the following:
 - 1. Completed and signed application forms as provided by Staff;
 - 2. For amendments to the Future Land Use Map:
 - a. A map at a legible scale showing the land which would be covered by the proposed amendment,
 - 3. For amendments to the text of the Comprehensive Plan:
 - a. A copy of the existing text provision(s) which the applicant proposes for amendment,
 - b. A written statement which describes in detail the changes the applicant proposes to make.
 - 4. The alleged error in the Future Land Use Map and/or Comprehensive Plan text that would be corrected by the proposed amendment and detailed reasons how the proposed amendment will correct the alleged error.
 - 5. The changed or changing conditions, if any, in the area or in the Town generally, which makes the proposed Future Land Use Map and/or Comprehensive Plan text amendment reasonably necessary to promote the public health, safety and general welfare.
 - 6. The way the proposed amendments will carry out the intent and purpose of the adopted Comprehensive Plan or part thereof.
 - 7. All other circumstances, factors, and reasons that the applicant offers in support of the proposed amendments.
 - 8. Any person designated by the owner(s) to serve as agent for the owner shall submit such authorization in writing with the application.
- B. Review by the Planning Board.
 - 1. In General. Upon submission of a request for amendment of the Comprehensive Plan or the Future Land Use Map, the request shall be

scheduled for review by the Planning Board in a public meeting in accordance with the provisions of this Article.

- a. All applicants proposing amendments to the Future Land Use Map shall be required to schedule and hold a neighborhood information meeting (NIM) in accordance with the provisions of this Ordinance.

2. Notification. All Future Land Use Map amendments shall abide by the following notification requirements:

- a. A letter shall be sent to all adjacent property owners informing them of the date, time, location, and purpose of the Planning Board's review of the application. Letters shall be sent a minimum of 10 days prior to the date of the Planning Board meeting;
- b. A sign shall be posted on the subject parcel(s) advertising the date, time, location, and purpose of the Planning Board's review of a Zoning Map amendment request. Posting shall occur 10 days prior to the date of the Planning Board meeting.

3. Review. The Planning Board shall make recommendations to the Town Council regarding whether to approve or deny each proposed amendment.

The Planning Board shall consider both the consistency and reasonableness of the amendment with the currently adopted Comprehensive Land Use Plan”.

In making a recommendation on Zoning Map amendments, the Planning Board shall keep the following policy guidelines in mind:

- a. The proposal will place all property similarly situated in the area in the same land use category, or in appropriate complementary categories.
- b. There is convincing demonstration that any text change furthers the goals and policies of the adopted Comprehensive Plan.

4. Continuance of Planning Board Review. In those cases where, upon hearing the request, the Planning Board feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Board to decide, the Planning Board may continue their meeting for up to 60 days (2 regular meetings).

The Board shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, and/or conduct other investigations during this time to enable the Board to decide at the reconvening of the continued meeting.

The Planning Board shall act upon either an affirmative or negative recommendation on continued items at the continued meeting.

5. Recommendation. Following a recommendation by the Planning Board on the proposed amendment(s), the action shall be reported to the Town Council for a legislative hearing and final action according to the process set forth herein. The legislative hearing will be scheduled as provided by the rules of procedure of the Town Council .
6. Content of recommendation and statement of consistency. Any recommendation made by the Planning Board pursuant to this section shall be in writing. In addition, the Planning Board shall approve a statement in accordance with G.S. 160D-605(a) describing whether or not the proposed amendment is consistent with the adopted Plan.

F. Review by the Town Council.

1. Review and Legislative Hearing. Before adopting, amending, or repealing any ordinance authorized by this Article, the Council shall hold a legislative hearing.

Following receipt of either a recommendation, or receipt of the petitioner's request for an amendment, the Town Council shall hold a legislative hearing on the proposed amendment to obtain public comment(s). The legislative hearing shall be scheduled and conducted as provided by the Council's rules of procedure.

2. Notification. The Town Clerk or authorized designee shall prepare a public notice for the legislative hearing as required below: (N.C.G.S. 160D-601 and 160D-602).

- a. Method of procedure for publishing notice of all amendments per N.C.G.S. 160D-601.

A notice of the legislative hearing shall be given once a week for two 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 fixed 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. Method of procedure for mailed notice of Zoning Map Amendments per N.C.G.S. 160D-602.

- i. In addition to the publication requirements for notices of legislative hearings required herein, the procedures adopted pursuant to this section provide that whenever there is a zoning map amendment the owner of that parcel of land as shown on the County tax listing and the owners of all parcels of land abutting that parcel of land including those separated by a street, railroad, or other transportation corridor as shown on the County tax listing shall be mailed a notice of a legislative hearing on

the proposed amendment by first class mail at the last addresses listed for such owners on the County tax abstracts.

This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the legislative hearing.

Except for a Town -initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Town Council that the owner of the parcel of land as shown on the County tax listing has received actual notice of the proposed amendment and a copy of the notice of legislative hearing. The person or persons required to provide notice shall certify to the Town Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

- ii. The first-class mail notice required herein shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection.

In this instance, the Town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish notice of the hearing as required by G.S. 160D-601, but provided that each advertisement shall not be less than one-half of a newspaper page in size.

The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this section.

- iii. When a zoning map amendment is proposed, the Town shall prominently post a notice of the legislative hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way during the same time period as stated herein.

When multiple parcels are included is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

3. Action.

- a. Before acting on any proposed amendment, the Town Council shall consider any recommendation made by the Planning Board, comments and/or recommendations made by Staff, the comments made at the legislative hearing, and may consider any other relevant additional information available.
- b. Upon reviewing all pertinent information, the Board may take whatever action it may deem appropriate, including tabling the application for the purpose of additional neighborhood meeting(s) as required by this Ordinance.
- c. Statements of Consistency and Reasonableness.

Prior to adopting or rejecting any amendment, the Town Council shall approve a statement in accordance with G.S. 160D-605(a) describing whether the proposed amendment is consistent with the adopted Comprehensive Land Use Plan.

When either adopting or rejecting a Future Land Use Map amendment the Council shall approve a statement analyzing the reasonableness of the proposed amendment in accordance with N.C.G.S. 160D-605(b).

The statement of reasonableness may consider, among other factors:

- i. The benefits and detriments to the landowners, the neighbors, and the surrounding community;
- ii. The relationship between the current land use map designation and the proposed designation and potential impacts to development;
- iii. Why the action taken is in the public interest; and
- iv. Any changing conditions warranting the amendment.

Such statements may be combined into a single statement per G.S. 160D-605(C) and incorporated into ordinances amending either the text of the Comprehensive Plan established under the authority of G.S. 160D or, the Future Land Use Map.

4. Appeal. Appeals of legislative decisions shall be as provided by Article 14 of Chapter 160D of the North Carolina General Statutes.

Sec. 3.8 Conditional Zoning^{155 156}

Sec.3.8.1 Purpose

Conditional zoning is established in accordance with N.C.G.S. 160D-703(b) to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a Primary General Use District.

Additional standards and regulations, mutually agreed upon in writing by the Town of Unionville and the petitioner, may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with the requirements of this section.

Sec. 3.8.2 Conditional Zoning Districts

Conditional Zoning is available for any of the Primary General Use or Overlay District classifications enumerated in Article 4 of this Ordinance. The conditional zoning designation shall be indicated on all zoning maps and other official documents with the suffix, "(CZ)" and enumerated to reference the ordinance on record of the approval.

Sec. 3.8.3 General Requirements

The following provisions shall apply in the administration of conditional zoning:

- A. A conditional zoning application shall be considered only upon request of the owner of the affected property, or a duly authorized representative of the property owner demonstrated by written, signed and notarized documentation.
- B. All standards and requirements of the corresponding Primary General Use District shall be met, except to the extent that the conditions imposed by the conditional zoning are more restrictive than the general use standards.
- C. No uses shall be permitted except those enumerated in the ordinance adopting the conditional zoning.
- D. The conditions agreed upon pursuant to the Conditional Zoning approval shall be stated in the adopting ordinance and may limit the uses which are permitted on the property. By way of illustration and not limitation, conditions may specify location on the property of the proposed structure(s), the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the height of structures, the location and extent of rights-of-way and other areas to be dedicated for public purposes, and other such matters as may be identified as appropriate for the proposed development.
- E. Minor modifications to the approved Conditional Zoning ordinance may be approved by Staff per authorization under N.C.G.S. 160D-703(b). The minor

¹⁵⁵ Language consistent with the provisions of NCGS 160D.

¹⁵⁶ This section takes the place of Section 58 of the current ordinance.

modifications authorized herein are intended to provide relief where conditions established by the Conditional Zoning ordinance create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of ordinance adoption and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the zoning. The permit holder shall bear the burden of proof to secure the modification(s).

- F. Any violation of a provision of a Conditional Zoning ordinance shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any other such violation.
- G. If for any reason any provision of a Conditional Zoning ordinance is found to be illegal or invalid, or if the applicant should fail to accept any condition, the entire Conditional Zoning ordinance shall be null and void, and the property shall revert to its previous zoning classification without further action by the Town Council .
- H. If no formal action (e.g. construction plan submittal, permit application, etc.) have been taken to begin the development of the property in accordance with the Conditional Zoning ordinance within 24 months of its approval by the Town Council , or no vested right has been obtained, then the property shall revert to its previous zoning classification, or Staff may initiate appropriate action to rezone the affected property to any other classification deemed consistent with the adopted Comprehensive Land Use Plan.
- I. If the use or uses commenced pursuant to a Conditional Zoning ordinance adopted pursuant to this section are abandoned or discontinued or no vested right has been obtained then the property shall revert to its previous zoning classification, or Staff may initiate appropriate action to rezone the affected property to any other classification deemed consistent with the adopted Comprehensive Land Use Plan.
- J. No variances or special use permits may be issued for developments on property that is subject to a Conditional Zoning ordinance.¹⁵⁷

Sec. 3.8.4 Application Procedure

When applying for Conditional Zoning, the application shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans.

Applications for Conditional Zoning shall be processed, considered, and voted upon in accordance with procedures established herein for zoning map and zoning text amendments, except as provided below:

- A. In addition to the information required herein, the application for a Conditional Zoning request shall include a site plan completed in accordance with Section

¹⁵⁷ It does not make any sense for a unit of local government to allow a variance of existing development provisions associated with the processing of development applications. This language is intended to make sure this 'policy' is observed.

3.5.7 of this Article and include all other information required to provide the approving bodies with a complete and accurate description of the proposed development.

This shall include submittal requirements for land use(s) normally reviewed through the special use permit process.

- B. Applications for all Conditional Zoning requests shall include a traffic impact analysis (TIA), regardless of daily traffic trips, consistent with **Section 6.23** of this Ordinance.¹⁵⁸
- C. Applications shall be reviewed in accordance with the provisions of this Article. In cases where the proposed use has established land use criteria, including for special use permits, Staff shall evaluate the required for compliance with applicable standards and submittal requirements.
- D. The Planning Board shall review the application and all requisite documents at a regularly scheduled meeting consistent with the provisions and procedures contained in Section 3.6.6 (B) of this Article. In making its recommendation, the Planning Board shall consider the following:¹⁵⁹
 - i. Whether the proposed reclassification is consistent with the purposes, goals, objectives, and policies of the adopted land use plan, and other plans for the physical development of the Town as adopted by the Town Council ;
 - ii. Whether the proposed reclassification is compatible with the overall character of existing development in the immediate vicinity of the subject property;
 - iii. The adequacy of public facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreational facilities, police and fire protection, schools, stormwater drainage systems, water supplies and wastewater treatment systems and garbage services; and
 - iv. Whether the proposed reclassification will adversely affect a known archeological, environmental, historical, or cultural resource.
- E. The Planning Board may recommend approval of the application, including recommending conditions for the zoning; recommend denial of the application; or continue the consideration of the application in order to receive further information regarding the application as authorized by sub-section 3.6.6 (B) (4) of this Article.
- F. Upon receipt of the recommendations from the Planning Board, the Town Council shall hold a legislative hearing on the application for Conditional Zoning. Notice of the legislative hearing shall be provided in accordance with the provisions for

¹⁵⁸ NFOCUS Staff is recommending all Conditional Zoning applications contain a traffic impact analysis. Staff recommends a central section for traffic impact standards so that all applications requiring submittal of a traffic plan will meet the required submittal standards.

¹⁵⁹ What follows is existing language staff is recommending be maintained in the new UDO.

legislative hearings for zoning map amendments as set forth in Section 3.6.6 (E) (2) of this Ordinance and G.S. 160D-601 and G.S.160D-602.

- G. The Council's consideration of an application for Conditional Zoning is legislative in nature, and the Board may consider any relevant information in its deliberations, including the criteria for issuing special use permits as specified within this Ordinance. Consideration shall be given to adopted land use plans for the area, small area plans, corridor plans, and other land use policy documents, and to surrounding land uses.
- H. The Board may adopt or not adopt a Conditional Zoning ordinance in accordance with the procedures defined in sub-section 3.6.6 (E) (3) of this Article or may continue its consideration of the application as necessary to conclude consideration and deliberations.
- I. During the adoption of a Conditional Zoning ordinance, specific conditions may be proposed by the petitioner, the Town Council , Planning Board, or Staff, but only those conditions mutually approved by the Town Council and the petitioner in writing may be incorporated into the zoning regulations and permit requirements.
- J. Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to Town ordinances, an officially adopted land use, comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
- K. Specific findings of the Town Council s are not required for action on an application for Conditional Zoning. However, a statement analyzing the reasonableness of the proposed rezoning shall be prepared for each conditional zoning district as required by sub-section 3.6.6 (E) (3) of this Article. In adopting this statement, the Board shall consider the standards detailed in this section of the Ordinance.
- L. Upon adoption of a Conditional Zoning ordinance, the Official Zoning Map of the Town of Unionville shall be amended to add the conditional zoning district and denote the reference as required herein. Staff shall maintain a book or file for Conditional Zoning ordinances, and each Conditional Zoning ordinance shall be filed therein. Failure to comply with this provision shall not render the ordinance invalid.
- M. The Conditional Zoning ordinance adopted as provided herein shall be perpetually binding upon the affected property unless subsequently changed or amended as provided for in this Ordinance.
- N. Conditional Zoning ordinances are legislative in nature, and judicial review of Conditional Zoning ordinances shall be as provided by Article 14 of Chapter 160D of the North Carolina General Statutes.

Sec. 3.9 Appeals of Administrative Decisions¹⁶⁰

- A. Appeals to the Board of Adjustment from the determinations of Staff, including decisions related to the administration and enforcement of **Watershed Protection Standards** and Floodplain Regulations, are permitted as provided for in this section and in accordance with N.C.G.S.160D-705(b). Additionally, N.C.G.S.160D-1403(b) provides for separate and original civil actions without filing an appeal under this section.
- B. Decisions for Appeal. Any final and binding order, requirement, or determination made in writing by Staff charged with administering and/or enforcing the provisions of this Ordinance may be appealed to the Board of Adjustment. Any such determination shall be given to the owner of the property that is subject to the determination and to the party who sought the determination, if different than the property owner. Said notice shall be delivered by personal delivery, electronic mail or by first-class mail.
- C. Standing - parties who may file an appeal. Any person who has standing under N.C.G.S.160D-1402(c) may bring an appeal to the Board of Adjustment.
- D. Period to File an Appeal. A person with standing shall have thirty (30) days from the date of receipt of the written determination within which to file an appeal. Any person or entity with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to appeal.
- E. Constructive Notice. Per G.S.160D-403(b) persons with standing to appeal shall have constructive notice of a determination from the date a sign providing notice a determination has been made is prominently posted on the property.

A sign containing the words "Zoning Decision," "Subdivision Decision" or similar language for other determinations in letters at least six inches high and identifying a means to contact a Town official for information about the determination, with said sign being posted for a minimum of ten days. Posting of the sign shall be the responsibility of the landowner or applicant, with verification of posting provided to the Town being required.

Sec. 3.9.1 Filing of Appeal.

- A. The appeal shall be filed with Staff in writing and shall contain information identifying the property, the owner, and the purpose for the request.
- B. All required application(s) and fees shall be submitted. Failure to submit required documentation shall void the appeal request.
- C. Upon acceptance of the appeal application by Staff, a hearing shall be scheduled for the Board of Adjustment within forty-five (45) days of the date of submittal of a complete application. Notwithstanding, the appellant can apply for an expedited hearing to occur within fifteen (15) days of such filing as provided in Subsection D below.
- D. The filing of an appeal per N.C.G.S.160D-405 shall stay the enforcement of the action appealed unless Staff certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life and property or because the violation is transitory in nature, a stay would

¹⁶⁰ Replaces Article(s) 5 and 6 of the current ordinances, updating language to meet State law.

seriously interfere with enforcement of this Ordinance. In such case, enforcement proceedings shall not be stayed except by a restraining order granted by the Superior Court of Union County on notice to the administrative official from whom the appeal is taken, with due cause shown. If enforcement proceedings are not stayed, the appellant may file for an expedited hearing of the appeal to occur within fifteen (15) days after such request is filed.

Sec. 3.9.2 Action by the Board of Adjustment.

- A. Upon receiving the appeal application, the Board of Adjustment shall hold an evidentiary hearing on the appeal. Notice of the hearing shall be as provided in Section 3.5.8 (F) of this Article.
- B. Staff shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is being taken. Said information shall also be provided to the applicant and to the owner of the property that is subject to the appeal, if such person(s) is not the applicant.
- C. The evidentiary hearing shall be conducted in accordance with the rules of procedure of the Board of Adjustment and in accordance with N.C.G.S. 160D-406. All persons providing evidence at the hearing shall be sworn or affirmed by either the Chair or the Clerk to the Board. The official who made the decision that is being appealed shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the evidentiary hearing.
- D. Either after the evidentiary hearing or at a subsequent or continuation meeting to be held within 30 days of the close of the evidentiary hearing, the Board of Adjustment shall adopt an order reversing, affirming, wholly or partly, or modifying the contested action. The Board of Adjustment's decision shall be based upon competent, material, and substantial evidence.
- E. The Board of Adjustment shall not reverse or modify the contested action unless it finds that the administrative officer erred in the application or interpretation of the requirements of this Ordinance.
- F. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of a majority of the Board's members. For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered "Board members" for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.
- G. The parties to an appeal may agree to mediation or other forms of alternative dispute resolution.
- H. Any decision made by the Board of Adjustment regarding an appeal shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be approved by the Board of Adjustment, signed by the Chair, and shall be filed with the Town Clerk.

- I. The effective date of the decision shall be upon the date it is filed with the Town Clerk. The decision shall be delivered by Staff or their designee via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the evidentiary hearing on the case. The person making such deliveries shall certify in writing to the file that the delivery has been made.

Sec. 3.9.3 Effect of reversal or modification.

If the Board of Adjustment reverses or modifies the contested action, all subsequent actions taken by administrative officers with regard to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment unless an appeal is taken on the Board's decision.

Sec. 3.9.4 Appeal from Board of Adjustment.

An appeal from any decision of the Board of Adjustment may be made by an aggrieved party and shall be made to Union County Superior Court in the nature of certiorari.

Per G.S.160D-1405(d), any such petition to the Superior Court shall be filed by the later of thirty (30) days after a written copy of the decision is delivered to the applicant, property owner, and to any other person who, prior to the date the decision becomes effective, has submitted a written request for a copy of the decision. Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

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Sec. 3.10 Variance.¹⁶¹

Sec. 3.10.1 Purpose.

- A. The variance processes fulfilled by the Board of Adjustment is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance in accordance with NC General Statute.160D-705(d).
- B. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on property owners in general or to increase the profitability of a proposed development. Rather, it is intended to provide relief where the requirements of this Ordinance render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

Sec. 3.10.2 Provisions That May Not Be Varied By the Board of Adjustment. In no event shall the Board of Adjustment grant a variance:

- A. Modifications applicable to Conditional Zoning Districts and/or Special Use Permits may be considered in accordance with the provisions of either Section _____ of this Ordinance for Conditional Zoning districts or Section _____ of this Ordinance for Special Use Permits respectively.¹⁶²
- B. To the flood protection provisions within a designated floodway district that would result in any increase in the flood levels during the regulatory flood discharge.
- C. Which would permit uses of land or densities not otherwise permitted in the district in which the property is located.
- D. Which would conflict with the North Carolina State Building Code, the North Carolina Fire Prevention Code, or any other codes of the State of North Carolina unless otherwise authorized by laws and/or regulations.

Sec. 3.10.3 Application.

The following process shall be followed in applying for a variance:

- A. An application for a variance shall be filled consistent with the provisions of Section 3.2.1 of this Ordinance.
- B. Applicants are required to schedule a pre-application meeting consistent with Section 3.2.5 of this Ordinance.
- C. An application, including the required review fee, for a variance shall be filed with Staff on required forms consistent with Section 3.2 inclusive of the Ordinance.
- D. Once the application is deemed complete and formally accepted by Staff, the request shall be scheduled for consideration at an evidentiary hearing by the Board of Adjustment in accordance with NC General Statute160D-406.

¹⁶¹ Again, NFOCUS Staff is collapsing Articles 5 and 6 into this central section of the revised ordinance.

¹⁶² Section highlighted for tracking purposes only as section references may change during the editing process.

Sec. 3.10.4 Action by The Board of Adjustment.

The following action shall be taken by the Board of Adjustment upon receipt of the completed application in accordance with NC General Statute 160D-406:

- A. An evidentiary hearing shall be held on the requested variance within forty (40) days of receipt of a formally accepted application.
- B. Notice of the hearing in accordance with NC General Statute 160D-406(b) and any administrative materials to be presented in accordance with NC General Statute 160D-406(c) shall be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing to:
 1. The person or entity whose variance application or request is the subject of the hearing;
 2. The owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
 3. Owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and,
 4. To any other person who makes a written request for such notice at least ten (10) days prior to the date of the hearing.
- C. A sign stating the purpose, time, date, and place shall be prominently posted on the subject property or an adjacent street or highway right-of-way at least ten (10) but not greater than twenty-five (25) days prior to the date of the hearing.
- D. In considering the application, the Board of Adjustment shall review the application materials, the Staff recommendation, the general purpose, and standards set forth in this Article for the granting of variances, and all testimony and evidence received by the Board at the evidentiary hearing.
- E. After conducting the evidentiary hearing, the Board of Adjustment may:
 1. Continue the evidentiary hearing that has been convened without further advertisement;
 2. Deny the request; or
 3. Grant the request upon the concurring vote of four-fifths (4/5) of the members of the Board of Adjustment necessary to grant a variance per NC General Statute.160D-406(i).

Any approval or denial of the request shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in subsection 3.9.6 below or, for flood protection regulation variances, as set forth in Article 18 of this Ordinance.

For purposes of this section, vacant positions and members of the Board who are disqualified from voting on the hearing decision shall not be considered "Board members" for calculation of the majority if there are no qualified alternate Board members available to take the place of such members.

Sec. 3.10.5 Conditions

Appropriate conditions, other than a change in the listed use, may be imposed on any variance, provided that the conditions are reasonably related to the variance. (NC General Statute 160D-705(d))

Sec. 3.10.6 Standards of Review.

The Board of Adjustment's decision shall be based on competent, material, and substantial evidence in the record. All persons providing evidence shall be sworn or affirmed by the Chairman or the Clerk to the Board. The Board of Adjustment shall not grant a variance until it makes each of the following findings per G.S.160D-705(d):

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate, in the absence of a variance, that 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, shall not be the basis for granting a variance.
- 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 shall not be regarded as a self-created hardship. And
- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance; such that public safety is secured, and substantial justice is achieved.

Sec. 3.10.7 Effective Date of Decision.

Any decision made by the Board of Adjustment regarding a variance shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards.

The written decision shall be approved by the Board of Adjustment, signed by the Chair, and shall be filed with the Town Clerk.

The effective date of the decision shall be upon the date it is filed with the Town Clerk.

Staff shall deliver decisions via personal delivery, electronic mail or by first class mail to the applicant, property owner and to any person who has submitted a written request for a copy prior to the close of the evidentiary hearing on the case. The person making such deliveries shall certify in writing to the file that the delivery has been made.

Following the effective date of the decision of the Board of Adjustment, the following actions may be taken:

- A. After the Board of Adjustment approves a variance, the applicant shall follow all appropriate procedures set forth in this Ordinance for the receipt of permits, certificates, and other approvals necessary in order to proceed with development.
- B. After the denial of the variance request, the applicant may make application for a rehearing in accordance with Board of Adjustment's rules of procedure and this Ordinance.

Sec. 3.10.8 Duration.

The variance may be issued for a limited duration only. Unless otherwise specified, construction and/or operation shall be commenced within twenty-four (24) months of the date of issuance of a variance, or the variance shall become void.

Sec. 3.10.9 Appeals.

An appeal from any decision of the Board of Adjustment may be made by an aggrieved party and shall be made to Union County Superior Court in the nature of certiorari.

Per NC General Statute 160D-1405(d), any such petition to the Superior Court shall be filed by the later of thirty (30) days after a written copy of the decision is delivered to the applicant, property owner, and to any other person who, prior to the date the decision becomes effective, has submitted a written request for a copy of the decision.

Said decision shall be delivered by personal delivery, electronic mail, or by first class mail. When first class mail is used to deliver the notice, three (3) days shall be added to the time to file the petition.

Sec. 3.10.10 Additional Criteria for Authorized Variances –Watershed Protection Overlay Districts¹⁶³

Please refer to Article _____ for the additional standards associated with issuance a Variance form Watershed Protection Overlay District standards.

Sec. 3.10.11 Additional Criteria for Authorized Variances – Special Flood Hazard Areas¹⁶⁴

Please refer to Article _____ for the additional standards associated with issuance a Variance form Floodplain Development standards.

¹⁶³ All watershed regulations are being preserved in its own separate Article. This section shall remain only if applicable.

¹⁶⁴ All floodplain regulations are being preserved in its own separate Article.