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ARTICLE 2: ADMINISTRATION

A. REVIEW AND TOWN DECISION-MAKING BODIES

1. REVIEW AND DECISION-MAKING BODIES GENERALLY

The following Town bodies and Town officials have powers and responsibilities in administering and reviewing applications for development approval under this Ordinance:

- (a) Administrator;
- (b) Planning Board;
- (c) Town Council; and
- (d) Board of Adjustment (BOA).

In addition to the review and decision-making bodies listed in this section, there are other Town boards and appropriate non-Town agencies who may be asked to review and comment on specific application types during various development reviews.

2. ADMINISTRATOR

The Administrator is the official responsible for administering the provisions of this Ordinance. The Administrator may delegate, through the assignment of official duties, these administrative decisions to other Town staff as he or she deems appropriate. The Town Manager appoints the Administrator, typically the Planning Director.

(a) Powers and Duties

(1) Application Review and Decision-Making Concerning:

- a. residential plot plans;
- b. minor site plans;
- c. preliminary plats for minor subdivisions;
- d. final plats for major and minor subdivisions;
- e. development clearance certificates;
- f. floodplain development permits;
- g. sign permits and exemptions;
- h. temporary use permits;
- i. certificates of occupancy in conjunction with Guilford County Inspections Department;
- j. vested rights;
- k. exempt subdivisions (exclusion plats);
- l. administrative adjustments;
- m. interpretations;
- n. administrative development approvals and determinations;
- o. street addresses; and
- p. watershed development permits.

(2) Report Making Authority to Collect Information, Conduct Research, and Prepare Staff Reports for the Following:

- a. zoning map amendments (rezoning);
- b. map amendments (conditional rezoning);
- c. amendments to the text of this Ordinance;
- d. open space mixed use developments;
- e. special use permits;
- f. major site plans;
- g. preliminary plats;
- h. variances;
- i. subdivision waivers;
- j. street closings; and,
- k. extinguishing easements.

(3) Additional Duties

- a. routes plans and applications through the Technical Review Committee;
- b. acts as the Town's stormwater administrator;
- c. acts as official jurisdictional plat Review Officer;
- d. administering and enforcing this Ordinance;
- e. conducting pre-submittal conferences;
- f. establishing application content requirements and a schedule for review of applications;
- g. reviewing applications for completeness;
- h. maintaining the Official Zoning Map and related materials;
- i. providing expertise and technical assistance to review bodies and decision-making bodies of the Town on other matters as may be requested;
- j. maintaining a record of all permits and approvals on file and making copies available upon request;
- k. initiating corrective zoning map amendments and zoning text amendments where necessary to ensure compliance with North Carolina General Statutes and adopted plans;
- l. as appropriate, forwarding applications, requesting review, and coordinating input from non-Town government agencies and service providers generally involved with development review (e.g., the Guilford County Health Department, the Summerfield Fire District, the Guilford County School Board, the NC Department of Transportation, and the NC Department of Environmental Quality); and,
- m. any other lawful actions as directed by the Town Council.

(b) Conflict of Interest

No staff member shall make a final decision on an administrative decision required by NCGS 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a

staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

3. TOWN COUNCIL

It shall have the following powers and duties under this Ordinance to exercise the authority granted it by State law.

(a) Decision-Making Authority (original) to Initiate, Review and Decide Applications for the Following:

- (1) map amendments (general rezoning);
- (2) map amendments (conditional-use rezoning);
- (3) amendments to the text of this Ordinance; and,
- (4) open space mixed use developments.

(b) Oath of Office:

All members appointed to boards shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

(c) Conflict of Interest:

A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild."

(d) Official Public Records:

Pursuant to GS 160D-308, the Town Board shall keep minutes of its proceedings.

4. PLANNING BOARD (FORMERLY REFERRED TO AS "ZONING BOARD")

The Planning Board is established pursuant to NCGS 160D-301. The following rules and regulations shall serve as the operating policy, bylaws, and rules of procedure for the Planning Board.

(a) Powers and Duties

(1) Decision-Making Authority to Review and Decide on the Following:

- a. minor site plans, as may be referred from the Administrator;
- b. major site plans;
- c. minor subdivisions, as may be referred from the Administrator;
- d. preliminary plat for major subdivisions; and,
- e. major revisions to previously approved major site plans or subdivision.

(2) Recommendation Authority to Review and Recommend to Town Council on the Following:

- a. map amendments (general rezoning);
- b. map amendments (conditional rezoning);
- c. amendments to the text of this Ordinance;
- d. open space mixed use developments;
- e. street closings;
- f. street name changes;
- g. easement removals;
- h. right-of-way abandonment;
- i. right-of-way encroachment;
- j. watershed matters as assigned, and
- k. comprehensive land use plans.

(3) Plan-Making Authority:

- a. creation of studies of the area within its jurisdiction and surrounding areas;
- b. determination of objectives to be sought in the development of a study area;
- c. preparation and adoption of plans for achieving these objectives;
- d. development and recommendation of policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- e. advising Town Council concerning the use and amendment of means for carrying out plans; and,
- f. exercising any functions in the administration and enforcement of various means for carrying out plans that Town council may direct.

(4) Delegated Authority:

Authority to exercise any other powers and duties as directed by Town Council, consistent with state law.

(5) Timing of Decisions:

Recommendations and decisions by the Board shall be made not more than forty-five (45) days from the close of the hearing, unless a further extension of time is granted and agreed to by the applicant.

(b) Membership, Appointment, and Terms of Office**(1) Number of Members**

The Planning Board shall consist of at least five (5) members and may have alternates, appointed by the Town Council. All members shall reside within the planning jurisdiction of the Town of Summerfield. Board members should be diverse in their representation of the Town and might be subject to other criteria as determined by Town Council. If the Town establishes an Extraterritorial Jurisdiction (ETJ), there shall be a means of proportional representation based on a population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census.

(2) Alternate Members

- a. In the absence of a regular Board member, an alternate shall act in the place and stead of the regular member and perform the same assigned duties and powers. Alternates are expected to attend meetings when not formally needed, as provided in Article 2.A.4.B.10.G.
- b. When called upon to participate because of a regular member's absence, alternates will alternate their participation among each other, as regulated by the Administrator and reflected within the minutes.
- c. At the discretion of the Board's Chair, alternate members in attendance may speak on matters under review by the Board, but of course cannot formally participate.
- d. The regular member who appears after the opening of the hearing will take on an "alternate" status for the duration of that portion of the meeting.
- e. If an alternate member is called on to participate in the consideration of an item from which a regular Board member has been excused due to conflict or otherwise, then the alternate shall relinquish their seat upon conclusion of that matter. Should a regular member be absent at the start of the meeting and arrive late, the regular member shall not be seated if an alternate is seated in their place.

(3) Length of Terms

Members and Alternate Members of the Board shall serve a term of three (3) years, provided that upon initial appointment the terms of office may be two (2) years or four (4) years, so as to provide for staggered terms. The terms of all Board members shall not expire at the same time.

(4) Maximum Consecutive Terms

Members shall serve at the will of the Town Council, with no maximum number of consecutive terms.

(5) Filling of Vacancies

Vacancies created by resignation or other causes shall be filled as follows:

- a. a new member or an alternate member may be appointed to fill the unexpired term of the member so vacating;
- b. members filling vacancies shall serve for the remainder of the unexpired term; and,
- c. a member who moves outside the corporate limits shall be replaced by a qualifying applicant appointed by the Town Council.

(6) Chair and Vice-Chair

- a. The Planning Board shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term, renewable without limit as to consecutive terms. Elections shall be held at the first available Board meeting after July 1 to elect officers.
- b. The Chair shall preside over all board meetings and the Vice-Chair shall preside over all meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the Planning Board shall vote to determine who shall serve as acting Chair for a particular meeting.

(7) Oath of Office

Pursuant to GS 160D-309 all members appointed to the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by GS 160A-61.

(8) Code of Ethics

The Board shall adopt and adhere to a similar Code of Ethics as recommended by the Board and adopted by Town Council.

(9) Staff to the Planning Board

The Administrator shall serve as the professional staff liaison and provide it with administrative support, including meeting notifications.

(10) Meetings

a. Open to the Public

All meetings shall be open to the public.

b. Schedule

The Planning Board shall hold at least one regular meeting each month at 6:30pm unless the Chair determines that there are no agenda items for consideration.

c. Publication of Notice

Notice of all Planning Board meetings shall be provided in accordance with state law and the publicly noticed meeting requirements.

d. Official Public Record

All meetings shall be recorded, and written minutes prepared as the official meeting minutes. The Board's clerk typically creates minutes although it may be delegated as needed. Minutes shall show the vote of each member upon every question or, if absent or failing to vote, indicate such fact. It shall also keep records of its examinations and other official actions. All such records and minutes shall be public record.

e. Agenda

The Board's clerk shall prepare a proposed agenda for each meeting. Any Board member may have an item placed on the proposed agenda if received, by the clerk, at least one week before the meeting. Each Board member shall receive an agenda package and it shall be available for public inspection following distribution to the Board. The Board may revise the draft agenda prior to adoption at the meeting.

The Order of Business shall be at the discretion the Board, but typically adheres to the following order: 1) Call to Order; 2) Introductions; 3) Meeting Agenda/Previous Meeting Minutes approval; 4) Business of the Board; 5) Other business (as needed); and 6) Adjournment.

f. Staff Reports

Staff reports are public record and part of the agenda package. Staff reports and recommendations shall typically be presented to the Board immediately before petitioners and others are heard.

g. Attendance

A regular member and alternate member of the Planning Board shall attend at least 75% of regular schedule board meetings held annually from the date of the member's appointment. Any member who fails to comply may be removed by the Town Council. The Chair of the Planning Board may notify the Town Council if a member fails to comply with this attendance requirement.

While Informational Meetings are separate from Planning Board activities, members may attend to gather more background and supplemental information for proposals before the

Board. Given the possibility of a Board quorum or effective majority, members in attendance shall abstain from discussing case material with other members present and be aware of public perception in this regard.

h. Special Meetings

Special or recessed meetings of the Board may only be called by the Chair. At least forty-eight (48)-hour notice of the time and place of these special meetings shall be given by the Chair to each member of the Board.

Emergency Meetings called by the Board shall be noticed per State Statute.

(11) Quorum and Necessary Vote

- a. Three (3) members of the five-member Planning Board shall constitute a quorum. No official business of the board shall be conducted without a quorum present.
- b. An affirmative vote of the majority of board members present and constituting a quorum is required for all decisions of the Planning Board.
- c. A member who is physically present has a duty to vote. A member who may ask to be excused in cases involving a conflict of interest as defined by Article 2.A.4.B.12. Failure to vote will be recorded as an affirmative vote.
- d. Decisions by the Board shall be made not more than forty-five (45) days from the time of the hearing.

(12) Conflict of Interest:

A planning board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild."

5. BOARD OF ADJUSTMENT (BOA)

The BOA is established pursuant to NCGS 160D, Article 3. Town Council can choose to appoint BOA members or serve as the BOA.

(a) Powers and Duties

(1) Decision-Making Concerning:

- a. special use permits;
- b. variances; and,
- c. changes in non-conforming uses.

(2) Review and Decision-Making Concerning Applications for Appeals on the Following:

- a. major and minor site plans
- b. major and minor subdivisions
- c. exempt subdivisions (exclusion plat)
- d. subdivision waivers
- e. sign permits and exemptions, temporary use permits

- f. development clearance certificates, vested rights (e.g. interpretations and administrative development determinations made by the Administrator); and,
 - g. any other order, requirement, decision, determination, or interpretation made by a town administrative official charged with enforcing this Ordinance
- (3) Authorization to Carry Out Any Other Powers and Duties Delegated to it by Town Council That are Consistent with State Law.

(b) Membership, Appointment, and Terms of Office

(1) Number of Members

The BOA shall consist of five (5) regular members appointed by the Town Council and shall serve at its pleasure. All members shall reside within the corporate limits of the Town.

(2) Alternate Members

An alternate member may sit only in lieu of a regular member, as assigned by the Chair in accordance with the Board's Rules of Procedure. When so seated, alternate members shall have the same powers and duties as the member they replace. In no instance shall more than five (5) regular and alternate members take part in a quasi-judicial hearing of the BOA.

(3) Length of Terms

Members and alternate members shall be appointed for three-year, staggered terms. Members shall serve until their successors are appointed.

(4) Filling of Vacancies

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only. A member who moves outside the corporate limits shall be replaced by a qualifying applicant.

(c) Chair and Vice-Chair

The BOA shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term, without limit as to consecutive terms. The Chair shall preside over all meetings and the Vice-Chair shall preside over meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the BOA shall vote to determine who shall serve as Chair for the meeting.

(d) Oath of Office

Pursuant to NCGS 160D-309 all members appointed to the Board of Adjustment shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

(e) Staff to the Board of Adjustment

The Administrator shall serve as the professional staff liaison to the BOA and provide it with administrative support. The Administrator shall also serve as Secretary for the BOA and shall notify board members of all meetings and keep the minutes. The Administrator may appoint another Town staffer to serve in these capacities.

(f) Meetings

(1) Schedule

The BOA shall hold at least one (1) regular meeting in each month unless the Chair determines that there are no agenda items for consideration.

(2) Official Public Record

The BOA shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicate such fact. The BOA shall also keep records of its examinations and other official actions. All such records and minutes shall be public record.

(3) Publication of Notice

Notice of all BOA meetings shall be provided in accordance with State law and public hearing requirements.

(4) Open to the Public

All meetings shall be open to the public.

(5) Procedure

In conducting its meetings, the BOA shall follow rules of procedure adopted in accordance with North Carolina General Statutes and Article 3.A.15 *Quasi-Judicial Public Hearing Procedures* consistent with the procedural requirements of this Ordinance and State law.

(g) Quorum and Necessary Vote

Three members of the five-member BOA shall constitute a quorum. No official business of the board shall be conducted without a quorum present. The requisite number of members necessary to render a quasi-judicial decision shall be as prescribed in Articles 3 and 8 herein. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(h) Conflict of Interest

A Board of Adjustment member when exercising any quasi-judicial function shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. "Close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild, the step, half and in-law relationships. (NCGS 160D-109)

(i) Attendance

A BOA regular member shall attend at least 75% of regular scheduled board meetings held annually from the date of the member's appointment. Any member who fails to comply may be removed by the Town Council. The Chair of the BOA shall notify the Town Council if a member fails to comply with this attendance requirement.

(j) Rules of Procedure

The BOA shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Town Hall.

B: SUMMARY TABLE OF DEVELOPMENT REVIEW RESPONSIBILITIES

Table 2.B.1 *Development Review Responsibilities* identifies the advisory or decision-making responsibilities of the various bodies that have specific permit review roles under this Ordinance. Certain decisions require approvals by several separate decision-making bodies.

TABLE 2.B.1 DEVELOPMENT REVIEW RESPONSIBILITIES							
A = APPEAL D = DECISION R = RECOMMENDATION SR = STAFF REPORT							
<> = PUBLIC HEARING () = PUBLIC MEETING							
Review and Decision-Making Bodies							
Permit or Procedure	Administrator	TRC (reserve)	Planning and Zoning Board	Town Council	Board of Adjustment	Guilford County	State of North Carolina
AMENDMENTS							
Map Amendments (general/conditional rezoning), text amendments (district)	SR		R	D			
Special Use Permit	SR						
SITE PLANS							
Residential Plot Plan	D				A		
Minor Site Plan	D				A		
Major Site Plan	SR		D		A		
Minor Subdivision							
Preliminary Plat	D				A		
Final Plat	D				A		
Major Subdivision							
Preliminary Plat	SR		D		A		
Final Plat [5]	D				A		
OTHER PLANS							
Landscape Concept Plan			D				
Tree Preservation Concept Plan	D				A		
Watershed Development Plan	D				A		

TABLE 2.B.1 DEVELOPMENT REVIEW RESPONSIBILITIES							
A = APPEAL D = DECISION R = RECOMMENDATION SR = STAFF REPORT							
<> = PUBLIC HEARING () = PUBLIC MEETING							
Review and Decision-Making Bodies							
Permit or Procedure	Administrator	TRC (reserve)	Planning and Zoning Board	Town Council	Board of Adjustment	Guilford County	State of North Carolina
PERMITS AND CERTIFICATES							
Development Clearance Certificate	D				A		
Building Permit						D	
Improvement Permit [8]						D	D
Driveway Permit [9]							D
Floodplain Development Permit	D				A		
Sign Permit	D				A	D	
Temporary Use (Event) Permit	D				A		
Vested Rights	D				A		
Erosion and Sedimentation Control Plan						D	
Grading Permit [7]						D	
Certificate of Occupancy [12]				A		D	A
VARIANCES AND EXEMPTIONS							
Variance	SR				D		
Subdivision Exemption (Exclusion Plat)	D				A		
Subdivision Waiver	SR		D	A			
Administrative Adjustment	D				A		
Appeal (General)					A		
OTHER PROCEDURES							
Interpretation	D				A		
Change in Non-Conforming Use	SR				D		
Street Name or Address	D						
Street Name Changes	SR		R	R			D
Street Closing	SR		R	R			D