

ARTICLE 3: PERMITS AND PROCEDURES

A:	Common Review Procedures (Common to all Types of Submittals)	3-3
	1. Authority to File Submittals.....	3-3
	2. Submittal Contents.....	3-3
	3. Fees.....	3-3
	4. Submission and Review Schedule.....	3-3
	5. Standardized Map Plans.....	3-3
	6. Pre-Submittal Conference.....	3-4
	7. Informational Meeting.....	3-4
	8. Preliminary Submission.....	3-5
	9. Determination of Completeness.....	3-6
	10. Review of Submittal.....	3-6
	11. Preparation of Staff Report.....	3-6
	12. Public Hearings and Public Notice Meetings.....	3-6
	13. Public Notice.....	3-8
	14. Standard Public Hearing Procedures.....	3-10
	15. Quasi-Judicial Public Hearing Procedures.....	3-12
	16. Conditions of Approval.....	3-16
	17. Notification to Applicant.....	3-15
	18. Appeal.....	3-15
	19. Deferral of Submittal or Hearing.....	3-15
	20. Changes to Submittal After Notice of Public Hearing.....	3-16
	21. Request for Withdrawal of Submittal.....	3-17
	22. Restrictions on Resubmittal and Waiver of Time Limit (Rezoning and Special Use Permits)....	3-17
	23. Examination and Copying of Submittal and Other Documents.....	3-18
	24. Simultaneous Processing of Submittals.....	3-18
	25. Expiration.....	3-18
B:	Procedures for Decisions by Administrator	3-18
	1. Interpretation.....	3-19
	2. Development Clearance Certificate (DCC) with Plot Plan.....	3-19
	3. Plot Plan or Minor Site Plan.....	3-20
	4. Subdivision Exemption (Exclusion Plat).....	3-21
	5. Minor Subdivision.....	3-22
	6. Temporary Use (Event) Permit.....	3-25
	7. Sign Permit.....	3-25
	8. Administrative Approvals and Determinations.....	3-27
C:	Procedures for Decisions by Planning Board	3-28
	1. Major Site Plan.....	3-28
	2. Major Subdivision.....	3-31
	3. Subdivision Waiver.....	3-36
D:	Procedures for Decisions by Town Council	3-37
	1. Zoning Map Amendment (General Rezoning).....	3-37
	2. Conditional Zonings Distinguished.....	3-40
	3. Text Amendment.....	3-42
	4. Open Space Mixed Use District.....	3-44

E: Procedures for Decisions by Board of Adjustment (BOA)..... 3-49

- 1. Special Use Permit..... 3-49
- 2. Variance 3-52
- 3. Appeal 3-55

F: Procedures for Decisions with or by Others 3-57

- 1. Street Name, Address, Sign and Closing* 3-57
- 2. Building Permit 3-60
- 3. Certificate of Occupancy (and Compliance) 3-60

*(Street closings require an Administrator staff report, Planning Board recommendation, and Town Council decision)

ARTICLE 3: PERMITS AND PROCEDURES

A. COMMON REVIEW PROCEDURES (COMMON TO ALL TYPES OF SUBMITTALS)

The provisions of this section shall apply to all development submittals and submittals under this Ordinance, unless otherwise stated in this section or in Article 3.B. Procedures for Specific Types of Development Submittals.

1. AUTHORITY TO FILE SUBMITTALS

- (a) Submittals for development approvals for a specific parcel of land shall be submitted by:
 - (1) the Town Council, Planning Board or Administrator; or
 - (2) the owner(s) of the land on which the development is proposed; or
 - (3) a person authorized to submit the submittal on behalf of the owner(s) as evidenced by a letter or document signed by such owner(s). This person may also be referred to, as appropriate, as an “authorized agent.”
- (b) If there are multiple owners or other persons authorized to submit the submittal, all such persons shall sign the submittal or a letter or document consenting to the submittal.
- (c) The burden of proof as to proper authority to file a submittal shall rest with the applicant(s). An approved submittal for development that is later found to have been submitted without proper and complete authority the application and any subsequent application were void at the outset (*void ab initio*).

2. SUBMITTAL CONTENTS

The Administrator is authorized to and shall establish the requirements for submittal contents and forms. The Administrator may amend and update these requirements as the Administrator determines necessary.

3. FEES

Town Council shall establish and publish submittal fees and may amend and update them as the Town Council determines necessary.

4. SUBMISSION AND REVIEW SCHEDULE

The Administrator is authorized and shall establish the submission and review requirements for development submittals. The Administrator may amend and update these requirements as determined necessary.

5. STANDARDIZED MAP PLANS

Several standardized map plans are referenced in this Ordinance in association with specific types of development submittals. Specifications and required components of these map plans are set forth in Appendix 1: *Map Standards*. This list is intended to represent types of map plans generally and does not include all required plan types, nor does it include plan types required by other agencies. The general purpose of each standardized map plan is as follows:

(a) Sketch Plan

This is submitted early in the development review process to allow for comment and changes before significant time and money is invested in detailed planning. The Sketch Plan provides basic information about the applicant and the proposed development. It is not formally approved or denied and is not binding on either the applicant or the Town. The details required of a Sketch Plan for various development types are included in sections B through E of this Article, and in Appendix 1: *Map Standards*.

(b) Preliminary Plat

This and all required attachments are submitted as the first step in the subdivision approval process. Preliminary plat approval authorizes the applicant to prepare and submit construction plans for all required improvements. Preliminary plat approval does not authorize the transfer of lots, does not authorize the commencement of improvements, and does not authorize the commencement of any construction on the lots created.

(c) Final Plat

Approval of installed improvements, evidence of approval of completed improvements, or submission of completion bonds is required prior to the commencement of the final plat procedure. A final plat shall then be prepared to the standards of this Ordinance and submitted for approval. After review, execution of certifications, and approval of the final plat, it shall then be recorded with the Guilford County Register of Deeds and the transfer of lots may begin.

(d) Site Plan

A detailed site plan is prepared for formal review and approval. It includes specific details about the physical characteristics of the parcel(s) of land. It will show the proposed size and location of buildings, parking areas, utility locations, driveways, water and sewer provisions, site grading and drainage, and landscape buffer areas. Additional required attachments may include details for building elevations, signage, tree preservation, stormwater management facilities, and other major improvements. An approved site plan authorizes the applicant to proceed with grading and building permits.

(e) Master Development Plan

This will show delineated areas where particular types of development or groups of buildings will be located, along with access and internal circulation through the development. Specific site plan or subdivision submittal and approval is required prior to the commencement of any type of construction.

(f) Plot Plan

This must be prepared and submitted by the lot owner in order to apply for a Development Clearance Certificate (DCC) and subsequent building permit for a principal or accessory residential structure. A plot plan must be drawn to scale showing the placement of a proposed home or other proposed accessory structure(s).

6. PRE-SUBMITTAL CONFERENCE

Prior to the preparation, review, and approval of a subdivision, site plan, or rezoning, a pre-submittal conference is required. Its purpose is to obtain comments from the technical review authorities regarding the development of a proposed development or case. Such discussions save time, money, and effort in preparing and submitting necessary plans and plats. Various departments and agencies have information, requirements, and insight necessary for a successful project. It is advisable for the applicant to prepare a draft sketch plan in accordance with Appendix 1: Map Standards, for the pre-submittal conference. As required for specific development types, the Town will forward preliminary materials to technical review authorities which will review and make comment. A synopsis of information and comments will be prepared, and a copy will be forwarded to the applicant.

7. INFORMATIONAL MEETING**(a) Purpose**

Informational meetings are opportunities for informal communication between applicants, owners and occupants of nearby lands, and other residents who might be affected by development proposals. The purpose of the meeting is to educate neighbors about the proposed development and submittal, to receive feedback, to address concerns, and to resolve conflicts and outstanding issues, if possible. Such meetings, when required, must be held prior to a Planning Board meeting. The Town Council, the

Planning Board, or the Board of Adjustment may also continue a meeting or hearing and request that the developer hold an informational meeting to resolve issues and concerns of the neighboring property owners.

(b) Applicability

Informational meetings are required for submittals for rezoning, Open Space Mixed Use developments, major site plans, and zoned subdivisions of 5 or more lots.

(c) Procedure

An informational meeting shall comply with the following procedures:

(1) Timing

It shall be scheduled after 5:30 p.m. on a weekday.

(2) Location

It shall be held at a location convenient to adjacent owners and occupants of nearby lands.

(3) Notification

a. Mailed Notice

The Town shall mail notice of the informational meeting to all property owners as shown on the county tax listing of all parcels of land. Notice shall be mailed within one-quarter mile (0.25) from the property line of any portion of the parcel involved in the development submittal, except the notice shall only be mailed to abutting property owners in adjacent jurisdictions.

b. Notice Content

The notice shall state the meeting date, time, place, and general nature of the proposal.

c. Posted Notice

The property shall be prominently posted with a notice that includes the meeting date, time, and place.

(4) Conduct of Meeting

The applicant shall host the meeting and he or his representative(s) will present the development proposal, answer questions, respond to concerns, and consider ways to resolve conflicts. Any binding agreements between the applicant and neighbors shall be the responsibility of the applicant. No agreement shall be contingent upon the Town waiving any portion of the laws, procedures, or regulations of this Ordinance.

8. PRELIMINARY SUBMISSION

(a) Purpose

A preliminary submission is to assist the developer in complying with Ordinance requirements and other applicable State and local laws. It also provides reasonable assurance that detailed construction plans, and record plats have a better likelihood of approval before undertaking plan preparations. If a development is to be created in stages, it is required for the purpose of coordinating the entire tract, that the preliminary plat or site plan be submitted for all of the land which is or likely to be included in subsequent stages. All fees are due and payable upon completed submittal.

(b) Content

The submittal shall include all required materials specified in the appendix of this Ordinance for the purposes of commencing review. Any submittal that is incomplete, as determined by the Administrator,

shall not be processed. The Administrator shall notify the applicant of deficiencies. Correction of any erroneous information may be required. All proposed development plans shall be prepared by a registered civil engineer, professional land surveyor, or other qualified design professional as permitted by North Carolina General Statutes.

9. DETERMINATION OF COMPLETENESS

The Administrator shall determine if a submittal is complete. A complete submittal is one that:

- (a) contains all information and materials established by the Administrator as required for submittal of the particular type of submittal;
- (b) is in the form established by the Administrator as required for submittal of the particular type of submittal;
- (c) includes information in sufficient detail for evaluation as to whether it complies with the appropriate substantive standards of this Ordinance; and,
- (d) is accompanied by the fee established for the particular type of submission.

10. REVIEW OF SUBMITTAL

- (a) When a submission is determined to be complete, the Administrator shall refer it to the appropriate staff, review agencies, and review bodies for evaluation in accordance with the procedures and standards of this Ordinance. The timeframe and review cycle shall be based on the date the submittal is determined to be complete. Scheduling of any public hearing(s) or approvals shall be done after reviewing agencies have been given adequate time for review and comment.
- (b) If a submittal is subject to coordinated technical review by other agencies, the Administrator shall prepare a memorandum of understanding summarizing all reviewer comments including conditions, deficiencies, corrections, and revisions necessary for approval of the proposed development and forward a copy to the applicant. Other agencies that could be included in a coordinated technical review are the Guilford County Fire Marshal, Guilford County Department of Environmental Health, NCDOT, the Town Engineer and the Town Fire Marshal.

11. PREPARATION OF STAFF REPORT

(a) Staff Report Required

If a submittal is subject to staff review and a subsequent public hearing or consideration by a review body, the Administrator shall review the submittal, relevant support material, and any comments from other staff and review agencies, and then prepare a written staff report.

(b) Content

The staff report shall be addressed to the review body or decision-making body, as appropriate, and shall state whether the submittal complies with all appropriate Ordinance standards and other adopted Town plans. The staff report may identify ways in which areas of noncompliance might be eliminated and adverse effects might be mitigated. The staff report shall be transmitted to the applicant and made available to the review body or decision-making body and to the public a reasonable period of time before the first scheduled review body meeting or public hearing on the submittal according to the published submittal schedule.

12. PUBLIC HEARINGS AND PUBLIC MEETINGS

(a) Distinction Between Public Hearings and Public Notice Meetings

Under State law, some types of development submittals are subject to review in a public hearing while others require a public notice meeting. These two types are distinguished.

(1) Public Notice Meeting

A public notice meeting occurs whenever a board of the Town meets and deals in any way with the business of that board. Public meetings, whether regular or special meetings, are governed by NCGS and the procedural rules established by the particular Town board holding the meeting. Although the board holding the meeting may allow the public to speak during a public comment period, public input on a particular application under consideration by the particular Town board is not the meeting intent and is not required by State law. Two basic legal requirements of a public meeting are that the public be notified and be allowed to attend. As set forth in this Ordinance, major site plans and major subdivisions are reviewed and approved in a public meeting by the Town Planning Board.

(2) Public Hearing

A public hearing is also a public meeting, but the main purpose of most public hearings is to obtain public testimony or comment. A public hearing may occur as part of a regular or special meeting, or it may be the sole purpose of a special meeting, with no other matters addressed. There are two types of public hearings, legislative and quasi-judicial.

- a. Legislative public hearings are required by State law to obtain public input on proposed changes in Town laws, such as the Ordinance text or Map. These hearings are generally less formal than quasi-judicial public hearings.
- b. Quasi-judicial public hearings involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the record or facts presented during the hearing. These hearings are subject to stricter procedural requirements than legislative hearings and involve sworn testimony. Under this Ordinance, all quasi-judicial hearings are held by the Board of Adjustment, and are required for special use permits, variances, changes in non-conforming use, and appeals.

(b) Scheduling a Public Hearing or Publicly Noticed Meeting

When a submittal is subject to either, the Administrator shall ensure that it is scheduled for a regular scheduled meeting of the body reviewing the submittal.

(1) Timing

The public hearing or meeting on the submittal shall be held to comply with the schedule set forth in accordance with NCGS.

(2) Required Public Hearings and Publicly Noticed Meetings

Table 3.A.12 *Required Public Hearings and Publicly Noticed Meetings* identifies the review and decision-making bodies responsible for conducting public hearings on development submissions, where public hearings are required, and the type of hearing (standard public hearing or quasi-judicial public hearing). The table also shows publicly noticed meetings held by advisory review bodies on development submittals. The Boards shall keep minutes of proceedings (NCGS 160D-308).

TABLE 3.A.12: REQUIRED PUBLIC HEARINGS AND PUBLIC MEETINGS [1] [2]			
P = STANDARD PUBLIC HEARING Q = QUASI-JUDICIAL PUBLIC HEARING M = PUBLIC MEETING			
APPLICATION TYPE	BODIES CONDUCTING PUBLIC HEARING OR PUBLIC MEETING		
	PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT
Major Site Plan	M		
Major Subdivision	M		
Subdivision Waiver	M		
Street Name Change	P	P	
Street Closing	P	P	
Zoning Map Amendment (General)	P	P	
Zoning Map Amendment (Conditional)	P	P	
Text Amendment	P	P	
Variance			Q
Special Use Permit			Q
Appeal			Q
Change/New Non-Conforming Use			Q

NOTES:

[1] This table depicts common applications involving a public hearing or public meeting requiring notice to the public. Other situations involving a public meeting and notice (such as appeals of decisions) may arise from time to time that this ordinance could not anticipate.

[2] A publicly noticed meeting is less formal than a public hearing, does not invite formal public comment, but does provide opportunity for information sharing.

13. PUBLIC NOTICE

(a) Content

All notices required under this Ordinance shall comply with North Carolina General Statutes and unless otherwise specified in this Ordinance shall:

- (1) identify the date, time, and place of the public hearing;
- (2) describe the land involved by street address or by its relationship to a fronting street and the nearest cross street (if applicable) and its size (except posted notice);
- (3) describe the nature and scope of the proposed development or action;
- (4) indicate that interested parties may appear, speak, and submit evidence and written comments on the matter;
- (5) indicate where additional information on the matter may be obtained; and,

- (6) indicate where written comments or evidence on the submittal may be submitted before the public hearing.

(b) Published Notice

The Administrator shall publish a notice per NCGS § 160D-601 when the provisions of this Ordinance require that notice of a public hearing be published.

(c) Mailed Notice

- (1) The Administrator shall mail notice of the public hearing to all property owners as shown on the county tax listing of all parcels of land. Notice shall be mailed to all abutting property owners. This includes not only property that actually touches the property being rezoned but also property separated from rezoned property by a street, railroad, or other transportation corridor.
- (2) The notice shall state the meeting date, time, place, and general nature of the proposal.
- (3) The Administrator shall prepare an affidavit affirming that notice meeting the content requirements of this subsection was mailed. It shall be conclusive that notice has been given in accordance with the terms of this subsection.
- (4) Per North Carolina General Statutes, mailed notice shall not be required when a submittal for a Zoning Map Amendment (General Rezoning) includes more than 50 lots or tracts owned by at least 50 different landowners. Alternate published notice shall be prepared and accomplished as required.

(d) Posted Notice

- (1) The Administrator shall post the notice on the subject property/properties per NCGS 160D-602(c) the posting shall be made in the same time period as the mailing of the notice – at least ten but not more than twenty-five days prior to the date of the hearing.
- (2) Notices shall be posted on Town signs designed specifically for such notices.
- (3) The posted notice shall be located adjacent to each public street right-of-way bordering the subject property/properties. If no part of the subject property/properties is visible from the public right-of-way, the notice shall be posted in the public right-of-way of the nearest street in such a manner as to ensure consistency with the intent of this subsection.
- (4) In addition to posted notice on the subject property/properties, notice of the public hearing shall also be posted in a conspicuous location within Summerfield Town Hall at least 10 days before the date fixed for the hearing.
- (5) The Administrator shall prepare an affidavit affirming that notice meeting the requirements of this subsection was posted. It shall be conclusive that posted notice has been given in accordance with the terms of this subsection.

(e) Constructive Notice

- (1) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt is made to comply with applicable notice requirements. Minor defects may include but are not limited to:
 - a. errors in a legal description; or
 - b. typographical or grammatical errors that do not impede communication of the notice to affected parties.

- (2) Failure of a party to receive written notice shall not invalidate subsequent action. However, in all cases, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property/properties require strict adherence.
- (3) If questions arise at the hearing regarding the adequacy of notice, the body conducting the hearing may review the required affidavits and notices before taking final action on the request.

(f) **Town of Summerfield Website Notice**

Any person or organization may access any public hearing notice, meeting agenda, and meeting minutes on the Town of Summerfield's official website. Notice of public hearings for Town Council and the Planning Board shall be posted on the Town's website no later than 10 days prior to the hearing date. Packets for individual cases may be reviewed for free at Summerfield Town Hall or may be purchased there.

14. STANDARD PUBLIC HEARING PROCEDURES

All public hearings that are designated in Table 3.A.12 *Required Public Hearings and Publicly Noticed Meetings* as standard public hearings (P) shall comply with the procedures set forth in this subsection.

(a) **Burden of Proof**

The burden of demonstrating that a submittal complies with applicable review and approval standards is on the applicant. The burden is not on the Town or other parties to show that the standards are not met by the applicant.

(b) **Conduct of Hearing**

(1) **Rights of All Persons**

Any person may appear at the hearing and submit documents, materials, and other written or oral testimony, either individually or as a representative of an organization. Persons speaking at the hearing shall identify themselves, state their home or business address, and if appearing on behalf of another person or organization, state the name and mailing address of the person or organization they represent.

(2) **Presentation of Testimony and Submission of Documents and Materials**

The body conducting the hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.

(3) **Continuance of Hearing**

The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place.

(b) **Order of Proceedings**

The order of proceedings shall generally be as follows, with modifications made as prescribed by the hearing chairperson.

(1) **Presentation of Staff Report**

Town staff shall provide a brief introductory narrative and/or graphic description of the submittal and present the staff report and any previous review body findings and recommendations.

(2) **Applicant Presentation**

The applicant shall present any information the applicant deems appropriate.

(3) **Public Comment**

Any person other than the applicant or the applicant's representative(s) may be permitted to speak in accordance with the review or decision-making body's rules of procedure, or at its discretion, as appropriate, in support of or in opposition to the submittal. At the discretion of the chairperson, such person may be granted additional time to speak when it is justified.

(4) Town Staff Response to Comments

Town staff may respond to any comments, documents, or materials presented by the applicant or the public.

(5) Close of Hearing

The chairperson of the body conducting the hearing shall close the hearing.

(d) Record of Public Hearing

(1) Per G.S. 160D-308 the body conducting the hearing shall record the proceedings by appropriate means; the record shall consist of:

- a. the submittal under consideration;
- b. the staff report;
- c. all other written Town staff materials prepared for the submittal;
- d. all other written materials related to the submittal provided by the public;
- e. review-body recommendations, where relevant, and the record from its proceedings;
- f. this Ordinance and any relevant adopted Town plans;
- g. all documents entered into the record at the hearing; and,
- h. the recorded testimony.

(2) If a sound recording is made, any person shall be entitled to listen to the recording at a reasonable time or make copies at that person's own expense at Summerfield Town Hall.

(e) Action by the Decision-Making Body

(1) After the close of the public hearing, the decision-making body shall consider the submittal, relevant support materials, staff report, all review recommendations, public testimony, and other information from the public hearing. It shall decide on the submittal based on such information and the relevant review standards and the body shall act in consideration of the interests of the applicant and Town citizens.

(2) Determination of Consistency and Statement of Reasonableness

As required by NCGS 160D-605(a), prior to adopting or rejecting any zoning amendment, the Town Council shall adopt one of the following statements which shall not be subject to judicial review:

- a. A statement approving the zoning amendment and describing its consistency with the Summerfield Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.
- b. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

If the amendment is adopted and the action is deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment shall be considered concurrently.

15. QUASI-JUDICIAL PUBLIC HEARING PROCEDURES

All public hearings that are designated in Table 3.A.12 *Required Public Hearings and Publicly Noticed Meetings* as quasi-judicial public hearings (Q) shall comply with the procedures set forth in this subsection.

(a) Burden of Proof

The burden of demonstrating that a submittal complies with applicable review and approval standards of this Ordinance is on the applicant, which shall be demonstrated by competent, material, and substantial evidence. If the applicant submits competent, material, and substantial evidence tending to show that the applicant has met their burden, the applicant is presumed to be entitled to approval. The burden shall then shift to any party with standing wishing to oppose the applicant to present competent, material, and substantial evidence tending to show that the applicant has not or cannot meet their burden. In that case, the body conducting the hearing shall weigh the evidence presented by the applicant and the opposing party and determine which evidence is most convincing.

(b) Conduct of Hearing

(1) Opportunity to Present Testimony and Evidence

Any person with standing shall be afforded a reasonable opportunity to present testimony and competent, material, and substantial evidence in support of or in opposition to the submittal and to ask questions of the applicant, applicant's representatives, and Town staff. At the discretion of the chairperson of the public hearing, persons may be granted an opportunity to ask questions of any other member of the public who has testified at the hearing. An applicant must either represent him- or herself or be represented by an attorney.

(2) Presentation of Testimony and Submission of Documents and Materials

The body conducting the hearing may place reasonable and equitable time restrictions on the presentation of testimony and the submission of documents and other materials and may exclude testimony or evidence that is determined irrelevant, immaterial, incompetent, unreliable, or unduly repetitious. (Note: A quasi-judicial hearing is a formalized means of gathering relevant evidence and not an opportunity for citizens to merely speak their minds, as is the case with a public hearing concerning a legislative matter, such as a rezoning.)

(3) Not Bound by Rules of Evidence

In conducting a quasi-judicial public hearing, the Board of Adjustment is not bound by the rules of evidence or limited to consideration of evidence that is admissible in a court of law. The BOA may consider all testimony and evidence presented at the public hearing that it deems competent, material, and substantial to the submittal under consideration, except as otherwise limited by State law.

(4) Cross Examination

Any inquiry under cross-examination shall be limited to matters raised in the direct examination of the witness. No re-direct or re-cross shall be allowed unless requested by the applicant, an affected party, or the Town. The requestor shall state the desired area of inquiry and the request to redirect or re-cross is approved by the chairperson of the hearing. If re-direct or re-cross is allowed, it shall be limited to questions of the witness on issues raised in the cross-examination.

(5) Continuance of Hearing

The BOA may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. The Board may continue an evidentiary hearing that has been convened without further advertisement.

(c) **Order of Proceedings**

The order of proceedings shall generally be as follows, with modifications made as prescribed by the hearing chairperson:

(1) **Swearing In**

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

(2) **Ex Parte Disclosure**

Members of the BOA shall disclose all ex parte communications at the beginning of the hearing. Persons who have actual or perceived conflicts of interest with respect to the case being heard shall identify the nature of the conflict. The remaining voting members of the BOA shall thereafter determine whether a conflict exists and whether such member shall be recused from hearing the case. A member shall be recused from voting if he has a conflict as identified in NCGS § 160D-109(d).

(3) **Presentation of Staff Report**

The Town shall provide a brief introductory narrative and/or graphic description of the submittal and present the staff report and any findings and recommendations of other review bodies, including testimony of witnesses and experts. Cross-examination by members of the BOA shall be allowed after each witness. Cross-examination by the applicant and the affected parties is also allowed.

(4) **Applicant Presentation**

The applicant shall present any testimony and evidence the applicant deems appropriate, including testimony of witnesses and experts. Further examination by members of the BOA shall be allowed after each witness. Cross-examination by the Town and affected the parties is also allowed.

(5) **Affected Parties Presentations**

Other parties may present any testimony and evidence they deem appropriate, including testimony of witnesses and experts. Further examination by members of the BOA shall be allowed after each witness. Cross-examination by the applicant and the Town is also allowed unless otherwise directed by the chairperson. First, those in support of the submittal are allowed to speak and enter testimony and evidence into the record, followed by those in opposition.

(6) **Rebuttal**

The chairperson shall allow all parties to the proceeding to present a rebuttal in the following order:

- a. affected parties or their representative(s), if appropriate;
- b. applicants or their representative(s), if requested; and,
- c. Town staff, if necessary or desired.

(7) **Conclusion**

The chairperson shall allow all parties to the proceeding a prescribed number of minutes to present a summation of their presentation in the following order:

- a. affected parties or their representative(s), if any; and,

- b. applicant(s) or their representative(s).

(8) Close of Hearing

After receiving all testimony and evidence in accordance with this section, the hearing chairperson shall close the hearing. Only clarifications of evidence already presented or allowance of the applicant to comment on any proposed conditions offered by the BOA shall be allowed after the hearing has been closed.

(d) Establishment and Maintenance of Record

- (1) The BOA shall record the proceedings by any appropriate means, and the record shall consist of:
 - a. the submittal under consideration;
 - b. the staff report;
 - c. all other written Town staff materials prepared for the submittal;
 - d. all other written materials related to the submittal that is presented at the public hearing;
 - e. review-body recommendations, where relevant, and the record from its proceedings;
 - f. this Ordinance and any relevant adopted Town plans;
 - g. all written communications about the submittal received by members of the BOA and Town staff;
 - h. all documents entered into the record at the hearing; and,
 - i. the testimony and other statements and opinions offered at the public hearing.
- (2) If a sound recording is made, any person shall be entitled to listen to the recording at a reasonable time, or make copies at that person's own expense, at Summerfield Town Hall.

(e) Action by the Board of Adjustment

- (1) After the close of the public hearing, the Board of Adjustment shall consider the submittal, relevant support materials, the staff report, all review body recommendations (if relevant), the public testimony, and other evidence entered into the record from the public hearing. The BOA shall act in consideration of the interests of the applicant, affected parties, and Town citizens. Any BOA decision shall be based upon competent, material, and substantial evidence in the record. Reasonable and appropriate conditions may be attached to any quasi-judicial decision.
- (2) The form of the decision shall include at least the following elements:
 - a. a description or summary of material and substantial factual evidence presented at the hearing including the BOA's determination of any contested facts and their submittal to the applicable standards;
 - b. a vote on each of the relevant findings of fact based on evidence presented at the hearing with statements supporting why such vote was taken;
 - c. the decision.
 - d. any conditions of approval, if appropriate; and,
 - e. reasons for the decision, including the required conclusions, the findings of fact, and presented evidence.

(3) Variances

a. In considering all proposed variances to this Ordinance, the Board of Adjustment shall, before making any finding in a specific case, first determine that the proposed variance will not:

- i. allow the establishment of a use not otherwise permitted;
- ii. extend, in area, or expand a nonconformance;
- iii. change the district boundaries shown on the Zoning Map;
- iv. materially diminish or impair established property values within the surrounding area; or
- v. in any other respect impair the public health, safety, morals and general welfare.

b. **No change in permitted uses may be authorized by variance**

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

c. **Findings of Fact**

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

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

(4) The BOA decision shall become effective upon filing of the written decision with the Clerk to the BOA.

a. **Decision Notification to Applicant and Others**

Within five business days after a BOA decision has been rendered, the Administrator shall deliver a copy of the decision via personal delivery, electronic mail, or first-class mail to the applicant, property owner, and any person who has submitted a written request for a copy. The Administrator shall certify that proper notice has been given.

b. **Appeal of a BOA Decision**

Any appeal of a final BOA decision shall be to the Superior Court of Guilford County and shall be filed with the Clerk of Court by the later of 30 days after the decision becomes effective or after a written copy has been delivered. When first-class mail is used to deliver the notice, three days shall be added to the file-by date. (Note: Appeals from final decisions by other decision-making bodies shall be as specified for the particular submittal type.)

16. CONDITIONS OF APPROVAL**(a) General**

Where the express terms of this Ordinance authorize a decision-making body to approve a development submittal with conditions, such body may impose reasonable and appropriate conditions or restrictions on the approval. The conditions may, as appropriate, ensure compliance with particular standards of this Ordinance, prevent or minimize adverse effects from the proposed development on surrounding lands, or ensure conformance to the goals, objectives, policies, strategies, and actions including the Summerfield Comprehensive Plan and other adopted plans addressing the Town's growth and development. The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit approval. No condition approved by the BOA shall allow for a use not otherwise allowed by this Ordinance on the subject property.

(b) Limitations

The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit approval.

17. NOTIFICATION TO APPLICANT

The Administrator shall notify the applicant of the decision in writing.

18. APPEAL

Any appeal from a final decision by the BOA shall be to the Superior Court of Guilford County and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the BOA is filed with the Town Clerk. Appeals from final decisions by other decision-making bodies shall be as specified for the particular submittal type.

19. DEFERRAL OF SUBMITTAL OR HEARING**(a) Request Before Public Hearing Notice**

An applicant may request that a review body's consideration of a submittal at public hearing be deferred by submitting a written request for deferral to the Administrator before the public hearing notice is published or mailed. The Administrator may grant such requests for good cause. The date of the public hearing at which the submittal will be heard shall be set at the time the deferral is granted.

(b) Request after Public Hearing Notice

If a request for deferral of a review body's consideration of a submittal is made after the public hearing notice is published or mailed, the request for deferral shall be submitted to the Administrator and shall be placed on the public hearing agenda and acted upon by the body conducting the hearing. The decision-making body may grant such requests for good cause, or if finding no good cause for deferral, may proceed to hold the hearing. The date of the public hearing at which the deferred submittal will be heard shall be set at the time the deferral is granted. If a deferral is granted, the submittal may be subject to additional submittal fees to defray the additional costs of processing the submittal.

20. CHANGES TO SUBMITTAL AFTER NOTICE OF PUBLIC HEARING

After notice of public hearing has occurred, changes to a submittal (including changes to a submittal at the public hearing) other than those made solely to satisfy staff or review body recommendations or conditions shall be governed by the provisions of this section.

(a) Major Changes

No substantive changes may be made in major elements of the development proposal relating to use, density, intensity, and/or access without referral of the submittal, as amended, back to the Administrator for staff review and to any review bodies for review, as is required for the original review of the submittal.

(b) **Clerical Errors**

Minor additions, deletions, or corrections responding to clerical errors in a submittal may be made without referral of the submittal back to the Administrator and review bodies.

(c) **Changes to Conditions of Approval**

Proposed changes in conditions of approval may be considered without referral of the submittal back to the Administrator or review bodies provided the decision-making body determines that the changes do not constitute a major substantive change in the development proposal.

21. REQUEST FOR WITHDRAWAL OF SUBMITTAL

(a) **Submission of Request**

Any request for withdrawal of a submittal subject to a public hearing shall be submitted in writing to the Administrator or shall be made through a verbal request at a public hearing.

(b) **Request before Public Hearing Notice**

The Administrator shall approve a request for withdrawal of a submittal if it is submitted before the public hearing notice is published or mailed.

(c) **Request after Public Hearing Notice**

If the request for withdrawal of a submittal is made after the public hearing notice is published or mailed, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review body conducting the hearing. Whenever a submittal subject to a requirement for a public hearing before Town Council is withdrawn after the public hearing notice is published or mailed but before a decision by Town Council, no similar submittal may be submitted for the same lands for a period of 90 days following the withdrawal.

(d) **Fees**

Fees shall be refunded for withdrawn submittals provided the request for withdrawal is filed with the Administrator prior to any required public notification.

22. RESTRICTION ON RESUBMITTAL AND WAIVER OF TIME LIMIT (REZONINGS AND SPECIAL USE PERMITS)

(a) Whenever an initial request for a development permit or approval is denied, no re-submittal for substantially the same request involving the same parcel(s) of land or portion thereof shall be filed for a public meeting or hearing within a one-year period from the date of final action on the previous submittal, unless there is:

(1) a substantial change in circumstances relevant to the issues and/or facts considered during review of the submittal that might reasonably affect the decision-making body's submittal of the relevant review standards to the development proposed in the submittal; or,

(2) new or additional information that was not available at the time of review that might reasonably affect the decision-making body's submittal of the relevant review standards to the development proposed in the submittal; or

(b) A second submittal for the same parcel of land or portion thereof for a materially different development request may occur within a one-year period from final action on the initial submittal. Criteria to help determine whether a submittal is materially different may include (for example):

(1) a major change in the proposed development to a significantly less-intense land use (e.g., heavy commercial to limited office);

- (2) a dramatic reduction in the level of traffic to be generated (e.g., by a factor of 50% or more);
- (3) a dramatic reduction in the amount of impervious surface to be constructed (e.g., by a factor of 50% or more); or,
- (4) the final decision on the submittal was based on a material mistake of fact, being defined as evidence that influenced the decision.

23. EXAMINATION AND COPYING OF SUBMITTAL AND OTHER DOCUMENTS

At any time upon reasonable request and during normal Town Hall business hours, any person may examine a submittal, a finalized staff report, or materials submitted in support of or in opposition to a submittal. Copies of such materials shall be made available in accordance with the Town’s current fee schedule.

24. SIMULTANEOUS PROCESSING OF SUBMITTALS

Whenever two or more submittals for a development permit or approval are required under this Ordinance, the submittals may, at the discretion of the Administrator, be processed simultaneously, so long as all applicable State and local requirements are satisfied.

25. EXPIRATION

Development permits and approvals shall expire as provided by this Ordinance for the various types of development submittals. If no provision for expiration is given by this Ordinance for a particular type of development permit or approval, and if no expiration period is imposed as part of an approval by the decision-making body, the permit or approval shall expire if development is not commenced or a subsequent permit is not obtained within two years. This provision shall not apply to general rezoning. A change in ownership shall not affect this time frame.

B. PROCEDURES FOR DECISIONS BY ADMINISTRATOR

This section includes the individual review procedures, standards, and related information for each of the submittals for development permits and approvals, as summarized below:

PROCESS FOR THE FOLLOWING REQUESTS FOR:

1. Interpretation
2. Development Clearance Certificate (DCC) with Plot Plan
3. Minor Site Plan
4. Subdivision Exemption (Exclusion Plat)
5. Minor Subdivision
6. Temporary Use (Event Permit)
7. Sign Permit

- > Each begins with a pre-submittal conference, if required, followed by...
 - > Submission of complete application/materials followed by...
 - > Administrator review and decision followed by...
 - > Guilford County Health Department Review of water and septic (for Minor Subdivision)

1. INTERPRETATION

(a) Purpose

The purpose of this section is to provide a uniform mechanism for interpreting provisions of this Ordinance whose meaning or submittal to a particular circumstance may not be readily clear.

(b) Authority

Interpretations of all provisions of this Ordinance shall be made by the Administrator, including but not limited to:

- (1) interpretations of Ordinance text;
- (2) interpretations of zoning district boundaries;
- (3) interpretations of compliance with a condition of approval; and,
- (4) interpretations of whether an unspecified use falls within a similar use classification allowed in a zoning district.

(c) Initiation

A submittal for a formal written interpretation may be initiated by the Town Council, the Planning Board, the BOA, any resident or landowner, or any person having a contractual interest in land in the Town.

(d) Procedure

(1) Review and Action by the Administrator

The Administrator shall review and act on the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and Article 3.B.(e) *Interpretation Standards*.

(2) Appeal

An appeal from a written interpretation from the Administrator shall be reviewed and a determination made by the BOA in accordance with Article 3.E.3 *Appeal*.

(3) Official Record

The Planning Department shall maintain a record of written interpretations that shall be available for public inspection, upon reasonable request, during normal business hours.

(4) Expiration

A written interpretation shall not expire but may be overturned or modified by a subsequent written interpretation or an appeal decision or superseded by an amendment to this Ordinance.

(e) Interpretation Standards

Interpretation of zoning district boundaries on the Official Zoning Map shall be in accordance with the standards in Article 1.G.4 *Interpretation of Zoning Map Boundaries*. Interpretations of whether an unspecified use falls within a similar use classification allowed in a zoning district shall be in accordance with the standards in Article 4.C *System for Categorizing Uses*. Interpretations of other text provisions and their submittal shall be based on the following:

- (1) the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision, as established in Article 11: *Definitions* and by common and accepted usage of the term;
- (2) the intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history to its adoption; and,

(3) the general purposes served by this Ordinance, as set forth in Article 1.C *General Purpose and Intent*.

(f) **Effect of Interpretation**

A written interpretation shall be binding on subsequent decisions by the Administrator in applying the same provision of this Ordinance in the same circumstance.

2. DEVELOPMENT CLEARANCE CERTIFICATION (DCC) WITH PLOT PLAN

(a) **Purpose**

The Development Clearance Certificate is the means by which the Town of Summerfield communicates to Guilford County that a building permit, as well as other permits under the County's purview, may be issued for a particular development. The DCC often serves as a cover document which summarizes an accompanying package of information related to the request.

(b) **Applicability**

No building permit may be issued for the following types of development without first receiving a DCC from the Administrator:

(1) **Residential Plot Plan**

This typically includes house and driveway and may include a swimming pool or other improvement requiring a building permit.

(2) **Change in Use**

This typically involves a proposed change in the occupancy of a building from one permitted use to another as may be authorized in a particular zoning district.

(3) **Site Plan Approval**

This typically involves the development or redevelopment of a non-residential use according to a site plan approved by the Town.

(4) **Other Forms of Development**

From time to time, the County may ask the Town to issue a DCC to an applicant for other forms of development not specifically identified by this Ordinance.

3. PLOT PLAN OR MINOR SITE PLAN

(a) **Purpose**

Site plan review is intended to ensure that the layout and general design of a proposed development is compatible with surrounding uses and complies with all applicable Ordinance standards and Town regulations. This section establishes the procedure and standards for review and approval of residential plot plans and minor site plans.

(b) **Applicability**

Interpretations of all provisions of this Ordinance shall be made by the Administrator, including but not limited to: interpretations of Ordinance text; interpretations of zoning district boundaries; interpretations of compliance with a condition of approval; and, interpretations of whether an unspecified use falls within a similar use classification allowed in a zoning district.

(1) **Residential Plot Plans**

No building permit for a single-family or two-family dwelling on a single lot shall be issued until a plot plan, prepared in accordance with the specifications of Appendix 1: *Map Standards*, is

approved by the Town, and a DCC is issued by the Town. This requirement also applies to accessory structures.

(2) Minor Site Plans

Unless exempted in accordance with Article 3.B.5.(b)(3) *Exemptions*, the following developments shall be required to have a minor site plan approved by the Town in accordance with this section before issuance of a building permit:

- a. changes in use;
- b. new single-building, non-residential development or additions of less than 2,500 ft² in gross floor area; and,
- c. new single-building development containing three or four dwelling units.

(3) Exemptions

The following development may be exempted from the requirements of this section:

- a. internal construction that does not increase gross floor area or building height, increase the density or intensity of use, or affect parking requirements; and,
- b. a change in use that does not increase gross floor area or building height, increase the density or intensity of use, or affect parking requirements.

(c) Initiation

A submittal for site plan approval may be initiated by the owner or the owner's representative.

(d) Residential Plot Plan or Minor Site Plan Procedure

(1) Basic Procedures

Except as modified by Articles 3.B.5.(e)(2 - 5) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Section 3.A *Common Review Procedures*.

(2) Review and Action by Administrator

The Administrator shall review and act upon the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and standards in Article 3.C.1(f) *Site Plan Standards*.

(3) Conditions of Approval

In approving a residential plot plan or minor site plan, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(4) Appeal

An appeal from the Administrator's decision on a residential plot plan or minor site plan submittal shall be reviewed and decided by the BOA in accordance with Article 3.A.18 *Appeal*.

4. SUBDIVISION EXEMPTION (EXCLUSION PLAT)

The following divisions of land require the recording of an "exempt plat" in accordance with the specifications set forth in North Carolina General Statutes and with the information required in Appendix 1: *Map Standards*:

- (a) where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town Subdivision Regulations.
- (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- (c) The public acquisition by purchase of strips of land for the widening or opening of streets or the location

- of public utility rights-of-way.
- (d) The division of a tract of land in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the Town Subdivision Regulations.
- (e) The division of land into plots or lots for use as a cemetery.
- (f) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

5. MINOR SUBDIVISION

(a) Purpose

The purpose of this section and Article 7: *Subdivision Standards* is to promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the Town by:

- (1) providing for the orderly growth and development of the Town;
- (2) coordinating streets/roads within proposed subdivisions with any Town transportation plans and other public facilities;
- (3) coordinating pedestrian and bicycle facilities within proposed subdivisions with any Town plans for such facilities;
- (4) providing right-of-way for streets and utility easements;
- (5) avoiding congestion/overcrowding and encouraging the proper arrangement of streets in relation to existing or planned streets;
- (6) ensuring adequate open space and recreation facilities to serve development; and,
- (7) ensuring there is proper recordation of landownership or property owner association records, where applicable.

(b) Applicability

(1) General Submittal

The review procedures in this section and standards in Article 7: *Subdivision Standards* shall apply to minor subdivisions, as defined in Article 11: *Definitions*.

(2) Subdivision Plat Approvals Required

- a. No subdivision may take place until both a subdivision preliminary plat and final plat for the subdivision are approved in accordance with this section.
- b. Preliminary plat approval shall be required prior to final plat approval or installation of infrastructure proposed as part of the subdivision.
- c. Final plat approval shall be required before any conveyance of proposed lots or the submittal of any submittal for a building permit authorizing the development on any lot or parcel proposed as part of the subdivision.

(3) Exemptions

A division of land that does not fall within the definition of subdivision as defined by North Carolina General Statutes shall be assessed in accordance with statutes.

(c) Initiation

Submittals for approval of a subdivision preliminary plat, final plat, or subdivision exemption may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(d) **Preliminary Plat Required for All Subdivisions**

- (1) A preliminary plat shall be required for all subdivisions, including group developments.
- (2) The preliminary plat shall be prepared by a registered land surveyor, registered landscape architect, registered architect, or licensed engineer, and shall be prepared in accordance with the specifications of Appendix 1: *Map Standards*.

(e) **Minor Subdivision Preliminary Plat Approval**

(1) **Basic Procedure for Minor Subdivision Review**

Except as modified by Article 3.B.5.(e)(2 - 4) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on minor subdivision submittals are as established in Article 3.A *Common Review Procedures*.

(2) **Review and Action by Administrator or Planning Board**

The Administrator shall review and act upon the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and the standards in Article 3.B.5.(j) and Article 7: *Subdivision Standards*. The Administrator will reserve the right to seek Planning Board approval for minor subdivisions at his/her discretion.

(3) **Conditions of Approval**

In approving a minor subdivision (preliminary plat), the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(4) **Appeal**

An appeal from the Administrator's decision on a minor subdivision submittal shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

(5) **Revision of A submittal**

In cases where revision of the submittal is required, the applicant shall be provided 45 business days to revise the submittal. If a revised preliminary plat submittal is not received within this timeframe, it shall be considered withdrawn. Upon receipt of a revised submittal within the appropriate timeframe, the Administrator shall review and act upon the revised submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and standards in Article 3.B.5.(h) and Article 7: *Subdivision Standards*.

(6) **Appeal**

An appeal from the Planning Board's decision on a preliminary plat submittal shall be reviewed and decided by the BOA in accordance with Section 3.E.3 *Appeal*.

(f) **Minor and Major Subdivision Preliminary Plat Approval by Guilford County Environmental Health Division**

A preliminary plat shall be submitted for approval by the Environmental Health Division of the Guilford County Health Department or the State of North Carolina prior to final preliminary plat approval. The following approval procedure shall be utilized:

(1) **For Individual Septic Systems**

A health drawing or plot plan for each lot shall be submitted to the County with every preliminary plat in accordance with the specifications of Appendix 1: *Map Standards* or submission of a soil evaluation prepared by a soil engineer or other professional permitted by North Carolina General Statutes to the County with every preliminary plat and approved by the Environmental Health Division of the Guilford County Health Department.

(2) **For Community or Alternate Sewage Systems**

A soil evaluation with all required information prepared by a soil engineer or other professional permitted by North Carolina General Statutes shall be submitted to the State. Evidence of submission and approval by the State will be required by both the County and the Town.

- (3) The Environmental Health Manager will sign and date each preliminary plat prior to its return to the Town.

(g) **Expiration**

- (1) Preliminary plat approval shall automatically expire if a submittal for approval of a final plat, including every phase of the subdivision, is not submitted within two years after the date of preliminary plat approval. A change in ownership of the land shall not affect this time period.

- (2) Upon written request submitted at least 30 days before expiration of the two year period provided in Section 3.B.6.(g)(1) and upon a showing of good cause, the Administrator may grant one extension not to exceed six months for the applicant to submit required final plat submittals.

(h) **Minor and Major Subdivision Preliminary Plat Standards**

A preliminary plat shall be approved only upon a finding that all of the following standards are met:

- (1) the subdivision plat includes all information required by Appendix 1: *Map Standards*;
- (2) the development complies with the applicable standards in Article 7: *Subdivisions*;
- (3) the development complies with all other applicable standards in this Ordinance;
- (4) the development complies with all requirements or conditions of any applicable development approvals; and,
- (5) the development complies with all other applicable Town regulations.

(i) **Effect of Approval of Preliminary Plat**

Approval of a preliminary plat shall constitute approval of the general layout and shapes of subdivision lots and open spaces and the layout, alignment, and design of the streets, utility lines, and other public infrastructure serving the subdivision. Approval of a preliminary plat allows the applicant to prepare construction plans for approved streets, installation of approved utilities and public infrastructure, and preparation and submittal of a final plat for all or part of the subdivision. Approval of a preliminary plat does not constitute approval of a final plat or authorize the conveyance of proposed lots or parcels.

(j) **Inspection of Public Improvements and Performance Guarantees**

Before submitting a submittal for approval of a final plat, the applicant shall submit a request for inspection of all required public improvements to the Administrator, or to the County if authorized by the Administrator. To the extent that any required improvements are not approved as complete, the applicant shall provide a performance guarantee in accordance with Article 6.L *Performance and Maintenance Guarantees* for the incomplete improvements.

(k) **Amendments**

A preliminary plat may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

6. TEMPORARY USE (EVENT) PERMIT

(a) **Applicability**

The provisions of this section shall apply to all temporary uses identified, as well as any temporary uses and events similar in nature as may be interpreted by the Administrator set forth in Article 5.C *Temporary Use and Event Standards*.

(b) Procedure**(1) Basic Procedures**

Except as modified by Articles 3.B.6.(b)(2 - 5) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

(2) Review and Action by Administrator

The Administrator shall review and act upon the submittal in accordance with the procedures and requirements of Article 3.A.10 *Review of Submittal* and the standards in Article 5.C *Temporary Use and Event Standards*.

(3) Conditions of Approval

In approving a temporary use permit, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(4) Appeal

An appeal of the Administrator's decision on a temporary use permit submittal shall be reviewed and approved by the BOA in accordance with Article 3.E.3 *Appeal*.

(5) Expiration

A temporary use permit shall be effective beginning on the date specified in the permit approval and shall remain effective for the period indicated on the permit.

(c) Temporary Use Permit Standards

A temporary use permit shall be approved only upon a finding that the temporary use, as proposed, complies with the relevant standards in Article 5.C *Temporary Use and Event Standards*.

(d) Renewal or Amendment

A temporary use permit may be renewed or amended only in accordance with the procedures and standards established for its original approval.

7. SIGN PERMIT**(a) Purpose and Intent**

As authorized by NCGS § 160A-174, the purpose of this section is to regulate the type, number, placement and scale (size and height), quality of material, construction, erection, alteration, illumination, display, use, maintenance and removal of signs in the Town. In addition, the purpose of this section is to:

- (1) reduce excess and distracting signage and sign clutter;
- (2) encourage the innovative use of design;
- (3) promote both renovation and proper maintenance to ensure that permitted signs don't become a hazard or nuisance;
- (4) protect the public interest in the creation, maintenance, safety, and appearance of streets and highways;
- (5) promote safety and an attractive and visually harmonious environment for visitors and business interests;
- (6) preserve and increase property values in both residential and non-residential areas;
- (7) prevent the overcrowding of land;

- (8) be sensitive to and recognize the need for local businesses to adequately identify their products and services and to provide reasonable regulations while safeguarding their interests;
 - (9) prevent the over-concentration, improper placement, and excessive height, bulk, number, and area of signs;
 - (10) encourage signs that will enhance community appearance and help create an aesthetic environment that contributes to the ability of the community to attract sources of economic development and growth;
 - (11) allow for adequate and effective signs for communicating identification while preventing signs from dominating the visual appearance of the area in which they are located;
 - (12) create a more productive, enterprising, and professional business atmosphere; and;
 - (13) promote a positive appearance and aesthetically pleasing overall environmental setting as part of a community-wide effort to protect and enhance the quality of life for residents and visitors.
- (b) **Applicability**
- (1) **General Submittal**

Except for signs exempted in accordance with Article 6.J(3), a sign permit approved in accordance with the procedures of this section and the standards of Article 6.J *Sign Regulations* is required before any sign may be erected or altered in the Town.
 - (2) **Exemptions**

Certain types of signs specified in Article 6.J(4) are exempt from the requirement to obtain a sign permit.
- (c) **Initiation**
- A submittal for a sign permit may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.
- (d) **Procedure**
- (1) **Basic Procedures**

Except as modified by Articles 3.B.7.(d)(2 – 4) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.
 - (2) **Review and Action by Administrator**

The Administrator shall review and act upon the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and the standards in Article 6.J *Sign Regulations*.
 - (3) **Conditions of Approval**

In approving a sign permit, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.
 - (4) **Appeal**

An appeal from the Administrator's decision on a sign permit submittal shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

8. ADMINISTRATIVE APPROVALS AND DETERMINATIONS

(a) Purpose

It shall be the responsibility of the Zoning Administrator to make determinations under development regulations.

(b) Determinations and Notice of Determination

Determinations shall be given in writing to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

(c) Duration of Development Approval

A development approval issued expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced.

(d) Changes

After a development approval has been issued, no deviations from the terms of the application or the development approval shall be made until written approval of proposed changes or deviations has been obtained.

(e) Inspections

Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(f) Revocation of Development Approval

In addition to initiation of enforcement actions under NCGS 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to NCGS 160D-405.

(g) Appeal

If an appeal is filed regarding an administrative development approval or determination pursuant to this Article, it shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

C. PROCEDURES FOR DECISIONS BY PLANNING BOARD

This section includes the individual review procedures, standards, and related information for each of the submittals for development permits and approvals, as summarized below.

PROCESS FOR THE FOLLOWING REQUESTS FOR:

1. Major Site Plan
2. Major Subdivision
3. Subdivision Waiver

- > Each begins with a pre-submittal conference, if desired, followed by...
 - > Submission of complete submittal materials followed by...
 - > Town Staff review and report followed by...
 - > Planning and Zoning Board decision followed by...
 - > Guilford County Health Department Review of water and septic.

1. MAJOR SITE PLAN

(a) Purpose

Site plan review is intended to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with all applicable standards in this Ordinance and all other applicable Town regulations. The purpose of this section is to establish the procedure and standards for review and approval of site plans.

(b) Applicability

(1) Major Site Plans

The following developments shall be required to have a major site plan approved by the Town in accordance with this section before issuance of a building permit:

- a. new non-residential development with two or more buildings;
- b. new single-building non-residential development or additions with 2,500 ft² or more in gross floor area;
- c. new single-building building with three or four dwelling units;
- d. zero-lot-line development; and,
- e. any site plan linked to a special use permit.

(2) Exemptions

None.

(c) Initiation

A submittal for site plan approval may be initiated by any person who submits a submittal in accordance with Article 3.A.1 *Authority to File Submittals*.

(d) Major Site Plan Procedure**(1) Basic Procedures**

Except as modified by Articles 3.B.5(e)(2 - 4) procedures and requirements for the submission, completeness determination, review, recommendation, and decision on submittals are as established in Article 3.A *Common Review Procedures*. Specific steps to be completed before any publicly noticed meeting include:

- a. pre-submittal conference with Town staff per Article 3.A.6;
- b. make application to the Town with a complete submittal per Article 3.A.8 and 9; and,
- c. staff review and report on the complete submittal per Article 3.A.10 and 11).

(2) Pre-Submittal Conference

Before preparing a complete submittal, the applicant shall meet with the Administrator to review a sketch plan prepared in accordance with Article 3.A.5(a).

(3) Reviews and Comments by Administrator**a. Initial Review**

A major site plan shall be reviewed by the Administrator consistent with the provisions of Article 3.C.1(f) *Site Plan Standards* and Appendix 1: *Map Standards*. The Administrator shall detail in a written response any deficiencies with respect to site details that do not comply with any Ordinance provision.

b. Technical Review

A major site plan requires a coordinated technical review by the Summerfield Fire Department, Guilford County Department of Environmental Health, NCDOT, and the Town Engineer.

c. Incorporation of Staff Comments and Resubmission

The applicant shall incorporate comments made by the Administrator into a revised site plan. The Administrator shall reserve the right to require subsequent resubmissions if staff comments are not sufficiently addressed.

(4) Review and Action by Planning Board

- a. The Planning Board shall review the major site plan to consider the submittal, consistency with the Comprehensive Plan, relevant support materials, and the staff comments and make its decision based on the submittal's compliance with Ordinance standards. The Planning Board shall determine whether the major site plan submittal complies with the standards in Article 3.C.1(f) *Site Plan Standards* and other standards of this Ordinance. The Board shall, by a majority vote of a quorum present, take one of the following actions:
 - i. approves the submittal;
 - ii. conditionally approves the submittal;
 - iii. continue consideration of the submittal; or,
 - iv. deny the submittal.
- b. In cases where revision of the submittal is required, the applicant shall be provided 45 business days for revisions. If a revised major site plan submittal is not received within that timeframe, it shall be considered withdrawn. Upon receipt of a revised submittal within the appropriate timeframe, the Administrator shall review the revised submittal and act accordingly.

(5) Appeal

An appeal from the Planning Board's decision on a major site plan submittal shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

(f) Site Plan Standards

A site plan shall be approved only upon a finding that all of the following standards are met:

- (1)** The development complies with the applicable district and use-specific standards;
- (2)** The development complies with all other applicable standards in this Ordinance;
- (3)** The development complies with all requirements or conditions of any applicable development approvals; and,
- (4)** The development complies with all other applicable Town and other governmental regulations.

(g) Coordination with Other Procedures

To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with building plan review or other submittals for approvals required for the particular project at the applicant's own risk.

(h) Performance Guarantees

The submittal of a performance bond or guarantee may be approved where required street paving and other on-site or off-site public infrastructure or required landscaping and other private site improvements have not been installed or completed for good cause in accordance with the standards in Article 6.L. *Performance and Maintenance Guarantees*.

(i) Expiration of Site Plan or Plot Plan

Approval shall expire, and a new site plan or plot plan is required in accordance with the procedures in this section if construction or development does not begin within two years following site plan or plot plan approval or if it is begun within two years and is then discontinued for a period greater than 180 days. A change in ownership of the land shall not affect this time period.

(j) Amendments

Except for minor deviations as defined below, a site plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(1) Minor Deviations

Minor deviations to an approved site plan are modifications that, in the opinion of the Administrator, do not constitute an amendment and can be considered as a minor deviation.

(2) Minor Deviations from Site Plan and Conditions

- a.** Subsequent plans and permits for development under an approved site plan may include minor deviations from the site plan or its conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the site plan approval process or any other change that has no material effect on the character of the approved site plan or any of its approved conditions. The following shall constitute minor deviations:
 - i.** structure floorplan revisions;
 - ii.** minor shifts in building size or location; or,
 - iii.** facility design modifications for amenities and the like.

- b. Changes that materially affect the basic concept of the site plan or basic parameters set by the site plan conditions are not considered minor deviations, and shall only be changed as amendments to the site plan per Article 3.C.1(d) *Major Site Plan Procedure*.

(k) Street, Utility, Parking and Drive Construction

(1) Plans

When required, street and utility construction plans for all public or private streets, driveways, roadways and parking, well water service, septic systems, and storm sewer facilities shall be submitted to the Administrator, or to the County as authorized by the Administrator, following conditional approval or approval of the site plan. For each phase of the site plan, street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside the section and being required to serve that section.

(2) No Construction without Plan Approval

None of the improvements listed above shall be constructed until the street and utility construction plans for such improvements have been reviewed and approved by the appropriate authority.

(3) Inspections

Work performed pursuant to approved street, utility, parking and drive construction plans shall be inspected and approved by the appropriate authority.

(l) Permits

Upon approval of the site plan, the developer shall be eligible to apply for building and any other permits and authorizations as required by this Ordinance or other laws, unless otherwise provided in this Ordinance.

2. MAJOR SUBDIVISION

(a) Purpose

The purpose of this section and Article 7: *Subdivision Standards* is to promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the Town by:

- (1) providing for the orderly growth and development of the Town;
- (2) coordinating streets and roads within proposed subdivisions with the Town's transportation plan(s) and with other public facilities;
- (3) coordinating pedestrian and bicycle facilities within proposed subdivisions with the Town's plan(s) and policies for such facilities;
- (4) providing right-of-way for streets and utility easements;
- (5) avoiding congestion/overcrowding and encouraging the proper arrangement of streets in relation to existing or planned streets;
- (6) ensuring there is adequate open space and recreation facilities to serve development; and,
- (7) ensuring there is proper recordation of land ownership or property owner association records, where applicable.

(b) Applicability

(1) General Submittal

The review procedures in this section and standards in Article 7: *Subdivision Standards* shall apply to major subdivisions as defined in Article 11: *Definitions*.

(2) Subdivision Plat Approvals Required

- a. No subdivision may take place until both a subdivision preliminary plat and final plat for the subdivision are approved in accordance with this section.
- b. Preliminary plat approval shall be required prior to final plat approval or installation of infrastructure proposed as part of the subdivision.
- c. Final plat approval shall be required before any conveyance of proposed lots or the submittal of any submittal for a building permit authorizing the development on any lot or parcel proposed as part of the subdivision.

(3) Exemptions

A division of land that does not fall within the definition of a “subdivision” as defined by North Carolina General Statutes shall be assessed in accordance with North Carolina General Statutes.

(c) Initiation

Submittals for approval of a subdivision preliminary plat, final plat, or subdivision exemption may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(d) Preliminary Plat Required for All Subdivisions

A preliminary plat shall be required for all subdivisions. It shall be prepared by a registered land surveyor, registered landscape architect, registered architect, or licensed engineer and shall be prepared in accordance with the specifications of Appendix 1: *Map Standards*.

(e) Major Subdivision Preliminary Plat Approval**(1) Basic Procedures**

Except as modified by Articles 3.C.2(e)(2 - 4), procedures and requirements for the submission, completeness determination, review, recommendation, and decision on submittals are as established in Article 3.A *Common Review Procedures*. Specific steps to be completed before review of the submittal by the Planning Board include:

- a. pre-submittal conference with Town staff per Section 3.A.6;
- b. informational meeting if required;
- c. submittal of complete submittal per Article 3.A.8 and 3.A.9; and,
- d. staff review and report on the complete submittal (Article 3.A.10 and 3.A.11).

(2) Formal Submittal**a. Initial Review by Administrator**

The preliminary plat shall be reviewed by the Administrator, consistent with the provisions of Article 7: *Subdivision Standards* and Appendix 1: *Map Standards*. The Administrator’s written response shall detail any deficiencies with respect to any preliminary plat or subdivision details that do not comply with any provision in this Ordinance.

b. Technical Review

A major site plan requires a coordinated technical review by the Summerfield Fire Department, Guilford County Department of Environmental Health, NCDOT, and the Town Engineer.

c. Incorporation of Staff Comments and Resubmission

The applicant shall incorporate comments made by the Administrator and technical review agencies into a revised preliminary plat. The Administrator shall reserve the right to require subsequent resubmissions if staff comments are not sufficiently addressed.

d. Review and Action by Planning Board

The Planning Board shall review the preliminary plat to consider the submittal, relevant support materials, and staff comments and make its decision based on the submittal's compliance with the standards in Article 3.C.2.(h) and Article 7: *Subdivision Standards*. If the Planning Board determines that the preliminary plat submittal complies with the subdivision standards, the Board shall, by a majority vote of a quorum present, take one of the following actions:

- i. approves as submitted;
- ii. conditional approval;
- iii. deny; or,
- iv. continue the case.

(3) Revision of a Submittal

In cases where revision of the submittal is required, the applicant shall be provided 45 business days to revise the submittal. If a revised preliminary plat submittal is not received within that timeframe, the submittal shall be considered withdrawn. Upon receipt of a revised submittal within the appropriate timeframe, the Administrator shall review and take action on the revised submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal* and the standards in Article 3.B.5.(h) and Article 7: *Subdivision Standards*.

(4) Appeal

An appeal from the Planning Board's decision on a preliminary plat submittal shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

(e) Minor and Major Subdivision Preliminary Plat Approval by the County Environmental Health Division

A preliminary plat shall be submitted for approval by the Environmental Health Division of the Guilford County Health Department or the State of North Carolina prior to final preliminary plat approval. The following approval procedure shall be utilized:

(1) For Individual Septic Tank Systems

A health drawing or plot plan for each lot shall be submitted to the County with every preliminary plat in accordance with the specifications of Appendix 1: *Map Standards* or a soil evaluation shall be submitted. The soil evaluation must be prepared by an environmental scientist, geotechnical/soil engineer or other professional permitted by North Carolina General Statutes and it must be submitted to the County with every preliminary plat and it must be approved by the Environmental Health Division of the Guilford County Health Department.

(2) For Community of Alternate Sewage Systems

A soil evaluation prepared by a soil engineer or other professional permitted by North Carolina General Statutes shall be submitted with all required information to the State. Evidence of submission and approval by the State of North Carolina will be required to both the County and the Town.

- (3) The Environmental Health Manager must sign and date each preliminary plat prior to its return to the Town.

(g) Expiration

- (1) Preliminary plat approval shall automatically expire if a submittal for approval of a final plat, including every phase of the subdivision, is not submitted within two years after the date of preliminary plat approval. A change in ownership of the land shall not affect this time period.
- (2) Upon written request submitted at least 30 days before expiration of the two-year period and upon a showing of good cause, the Administrator may grant one extension not to exceed six months for the applicant to submit required final plat submittals.

(h) Minor and Major Subdivision Preliminary Plat Standards

A preliminary plat shall be approved only upon a finding that all of the following standards are met:

- (1) the development complies with the applicable standards in Article 7: *Subdivision Standards*;
- (2) the development complies with all other applicable standards in this Ordinance;
- (3) the development complies with all requirements or conditions of any applicable development approvals; and,
- (4) the development complies with all other applicable Town regulations.

(i) Effect of Approval of Preliminary Plat

Approval of a preliminary plat shall constitute approval of the general layout and shape of subdivision lots and open space and layout, alignment, and design of the streets, utility lines, and other public infrastructure serving the subdivision. Preliminary plat approval allows the applicant to proceed with construction of approved streets, installation of approved utilities and public infrastructure, and preparation and submittal of a final plat for all or part of the subdivision. This approval does not constitute approval of a final plat or authorize the conveyance of proposed lots or parcels.

(j) Inspection of Public Improvements and Performance Guarantees

Before submitting a submittal for approval of a final plat, the applicant shall submit a request for inspection of all required public improvements to the Administrator (or to the County as may be authorized by the Administrator). To the extent that any required improvements are not approved as complete, the applicant shall provide a performance guarantee in accordance with Article 7.F *Performance and Maintenance Guarantees* for the incomplete improvements

(k) Amendments

A preliminary plat may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(l) Minor and Major Final Plat Approval

(1) Procedure

a. Basic Procedures

Except as appropriately modified herein, the procedures and requirements for the submission, completeness determination, review, recommendation, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

b. Submittal Submission

No submittal for approval of a final plat for a subdivision or an approved phase of a subdivision shall be submitted unless:

- i. a subdivision preliminary plat is approved and is unexpired; and,
- ii. construction and installation of all public improvements approved as part of the subdivision plan for the subdivision section or phase are inspected and approved as complete or a performance guarantee for incomplete improvements is provided in accordance with Article 7.F *Performance and Maintenance Guarantees*.

c. Review and Action by the Administrator

The Administrator shall review and act upon the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal*. If the final plat is approved, the Administrator shall enter certificates of approval and acceptance of dedication to public use of any right-of-way, easements, public improvements, parks, and open space shown on the plat.

d. Conditions of Approval

In approving a final plat, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

e. Appeal

An appeal from the Administrator's decision on a final plat submittal shall be reviewed and decided by the BOA in accordance with Article 3.E.3 *Appeal*.

f. Certification

If the final plat submittal is approved, the applicant shall revise it as necessary to incorporate any conditions of approval and any required certification forms and signatures and shall submit the revised plat to the Administrator within 15 days after the date of approval. Upon determining that the plat is properly revised, the Administrator shall enter onto the plat a signed certification that the plat is approved by the Town in accordance with this Ordinance, along with any other certifications as may be appropriate.

g. Recordation

The applicant shall file an approved and certified final plat with the Guilford County Register of Deeds for recording and shall provide proof of recording to the Administrator.

h. Expiration

Final plat approval shall automatically expire if the plat is not recorded with the Guilford County Register of Deeds within 60 days after the date it is certified as approved.

(2) Final Plat Standards

A final plat shall be approved only upon a finding that all of the following standards are met:

- a. the final plat is in substantial conformity with the approved subdivision plat;
- b. the final plat complies with the standards in Article 7 *Subdivision Standards*;
- c. the final plat complies with all other relevant provisions of this Ordinance;
- d. the final plat complies with all other relevant Town regulations; and,
- e. the final plat includes all required certificates.

(3) **Effect of Approval of Final Plat**

Approval of a final plat allows an applicant to proceed with recording the plat and conveying the platted lots by reference to the recorded plat.

(4) **Amendment**

An approved final plat may be amended or modified only in accordance with the procedures and standards established for its original approval. If the final plat is recorded and lots or parcels conveyed to others, any submittal to amend the final plat that proposes to alter the layout or size of any street, alley, or other accessway or open space shall be submitted by the owners of all the lots or parcels shown on the original approved and recorded final plat. Submittals seeking to modify any one lot line or other modifications not affecting streets or open space areas shall not require submittal of all owners within the final plat.

(5) **Acceptance of Dedications**

Approval of a final plat and recordation of the plat with the Guilford County Register of Deeds shall, unless otherwise specified on the plat, constitute the acceptance of the dedication to public use of any right-of-way, easements, completed public improvements, and public parks or open space as shown on the final plat. This acceptance of dedication shall not constitute or imply a responsibility of the Town or other public agency to open or maintain such right-of-way, easements, public improvements, or parks or open space until so determined by the Town Council or other public agency.

3. **SUBDIVISION WAIVER**

(a) **Purpose**

The purpose of a subdivision waiver is to allow certain deviations from Article 7 *Subdivision Standards* when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal submittal of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. Subdivision waivers are to be sparingly exercised and only in rare instances and under exceptional circumstances to relieve undue and unique hardship to the owner.

(b) **Initiation**

A submittal for a subdivision waiver may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(c) **Procedure**

(1) **Basic Procedures**

Except as modified by Articles 3.B.1.(d)(2 - 4), procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

(2) **Review and Recommendation by Planning Board**

The Planning Board shall review the submittal for the subdivision waiver, relevant support materials, and staff comments and make its decision based on the submittal's compliance with the standards in Article 3.C.3(d) *Subdivision Waiver Standards*. If the Planning Board determines that the subdivision waiver submittal complies with the standards, it shall take one of the following actions by a majority vote of a quorum present:

- i. approval as submitted;

- ii. approval subject to conditions;
- iii. denial; or,
- iv. continuance of the meeting.

(3) Appeal

An appeal from the Planning Board’s decision on a major site plan submittal shall be reviewed and decided by the Board of Adjustment in accordance with Article 3.E.3 *Appeal*.

(d) Subdivision Waiver Standards

A subdivision waiver of the standards of Article 7: *Subdivision Standards* shall be approved only upon a finding that all of the following standards are met.

- (1) Strict submittal of Ordinance subdivision requirements would result in practical difficulties and unnecessary hardships.
- (2) Any practical difficulties or unnecessary hardships are the result of topographical or other conditions peculiar to the land and are not the result of the actions of the landowner’s actions.
- (3) Granting the subdivision waiver would not destroy the intent of the requirements being waived.

D. PROCEDURES FOR DECISIONS BY TOWN COUNCIL

This section includes the individual review procedures, standards, and related information for each of the submittals for development permits and approvals, as summarized in Table 2.B.1 *Development Review Responsibilities*. The general flow is as follows:

PROCESS FOR THE FOLLOWING REQUESTS FOR:

1. Zoning Map Amendment
2. Conditional Zoning (Distinguished)
3. Text Amendment
4. Open Space Mixed Use Development

- > Each begins with a pre-submittal conference followed by...
 - > Submission of complete submittal materials followed by...
 - > Informational meeting followed by...
 - > Town Staff review and report followed by...
 - > Planning and Zoning Board recommendation followed by...
 - > Town Council hearing and decision.

1. ZONING MAP AMENDMENT

(a) Purpose

The purpose of this section is to provide a uniform means for amending the Official Zoning Map (Rezoning). Map amendments include all boundary changes for base zoning districts, overlay zoning areas, or open space mixed use districts.

(b) Authority

Town Council may adopt an ordinance amending the Official Zoning Map upon compliance with the provisions of this section.

(c) Initiation

Any property owner or his/her agent, or citizen or his/her agent may initiate the process to amend this Ordinance including the Zoning Maps by submitting an application and a site-plan at least thirty (30) days prior to the regularly scheduled meeting. In addition, a statement of reasonableness of the proposed request shall be prepared for each application for a rezoning. Pursuant to NCGS 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- 1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- 2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

(d) Fee

There shall be a fee payable to the Town of Summerfield for each application for rezoning. The amount of said fee shall be fixed by the Council and shall be sufficient to defray all administrative costs incurred in processing the application, notifying abutting property owners, obtaining technical assistance and publishing the notice of public hearing.

(e) Procedure

Town Council may adopt an ordinance amending the Official Zoning Map upon compliance with the provisions of this section.

(1) Basic Procedures

Except as modified by Article 3.D.1(e)(2 - 7), procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*. Specific steps to be completed before review of the submittal by the Planning Board include:

- a. Pre-submittal conference with Town staff per Article 3.A.6;
 - b. Submittal of complete submittal per Article 3.A.8 and 9;
 - c. Informational meeting with area residents and property owners per Article 3.A.7; and,
 - d. Staff review and report on the complete submittal per Article 3.A.10 and 11.
- (2)** Submittals for all residential rezoning requests (except RR) and all non-residential rezoning requests in excess of 10 acres shall include a Resource Map that depicts environmental, cultural, historical, and other resources that represent assets to the property as identified by the Comprehensive Plan. When development is proposed for land deemed by the Planning Director to contain significant resources representative of Rural Character as determined by the policies of the Comprehensive Plan, the Planning Director reserves the right to require the identification of those features for any rezoning regardless of the acreage. Examples of resources include

environmentally sensitive areas, viewsheds, historic features and settlement patterns, pastures and farm buildings, woodlands, and other natural and man-made land features. These examples are meant to be illustrative in nature and do not represent a list of assets that apply the same to every property. At a minimum, the Resource Map must include the location and amount of land in special flood hazard areas and other lands not suitable for development, Primary and Secondary Conservation Areas and any other lands not suitable for development.

- (3) Submittals for rezoning requests expected to generate 100 trips during peak hours or 1,000 average daily trips shall include a Traffic Impact Analysis prepared by a licensed traffic engineer.
- (4) Submittals proposing over 75 lots and/or density greater than 1.0 units/acre shall include an analysis of groundwater availability prepared by a licensed geologist.

(5) **Review and Staff Report by Administrator**

Before review by the Planning Board, the submittal shall be reviewed by the Administrator, who may suggest revisions to the proposed conditions consistent with the provisions of Article 3.A.16 *Conditions of Approval*. Only those revisions agreed to in writing by the applicant shall be incorporated into the submittal and may be reflected in the staff report.

(6) **Review and Recommendation by Planning Board**

a. Following staff review, the Planning Board shall hold a public hearing concerning the submittal in accordance with Article 3.A.13 *Public Notice*. After close of the comment period, the Planning Board shall provide advice and comment to the Town Council regarding the proposed amendment's consistency with any comprehensive plans based upon the Planning Board's review of the submittal, the Comprehensive Plan, and other adopted plans, relevant support materials, staff report, and any comments given by the public. Following their review, the Planning Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions based on the standards in Article 3.D.1(e) *Map Amendment Standards*:

- i. approves as submitted;
- ii. deny; or,
- iii. continue the case.

b. In making its recommendation, the Planning Board, shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Town Council. (NCGS § 160D-604(d), -605(a), -701)

(7) **Public Hearing, Review, and Decision by Town Council**

a. Following staff review and receipt of the Planning Board's recommendation, Town Council shall conduct a standard public hearing on the submittal in accordance with Article 3.A.13 *Public Notice* and Article 3.A.14 *Standard Public Hearing Procedures*. After close of the hearing, Town Council shall consider the submittal, consistency with the Comprehensive Plan, relevant support materials, staff report, Planning Board recommendation, and any comments given by the public. Town Council, by a majority vote of a quorum present shall take one of the following actions based on the standards in Article 3.D.1.(e) *Map Amendment Standards*:

- i. approves as submitted;

- ii. deny;
- iii. remand the case to the Planning Board for further consideration; or,
- iv. continue the case.

b. Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the Town Council shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explain why the Town Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. (NCGS § 160D-604(d), -605(a), -701.) Town Council will approve a Statement of Consistency and Reasonableness to describe its decision in these statutorily outlined terms.

(8) Expiration

Approval of an amendment to the Official Zoning Map (Rezoning) shall not expire, but the amended map is subject to further amendment in accordance with amendment procedures set forth in this section.

(f) Zoning Map Amendment Standards

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of Town Council. In evaluating the proposed amendment, consideration should include all uses permitted in that district. In determining whether to adopt or deny a proposed amendment, the Town shall consider and weigh whether and the extent to which the proposed amendment:

- (1) complies with the Summerfield Comprehensive Plan and all other Town-adopted plans that are applicable;
- (2) is needed because there are changed conditions that require an amendment;
- (3) addresses a demonstrated community need;
- (4) is compatible with existing and proposed uses surrounding the subject land and whether it is the appropriate zoning district for the land;
- (5) would result in a logical and orderly development pattern or deviate from logical and orderly development patterns;
- (6) would encourage premature development;
- (7) would result in strip or ribbon commercial development;
- (8) would result in the creation of an isolated zoning district unrelated to and not serving adjacent and surrounding districts;
- (9) would result in significant adverse impacts on property values of surrounding lands;
- (10) would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment; and,
- (11) would result in the facilitation of recharge to the groundwater system.

2. CONDITIONAL ZONING DISTINGUISHED

Submittals for an amendment to the Official Zoning Map (Rezoning) that are accompanied by conditions or limitations proposed by the applicant shall be considered as submittals for conditional zoning and shall be reviewed in accordance with this section and Article 3.D.2 *Conditional Zoning*.

- (b) Pursuant to NCGS 160D-703(b), property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations.

Any violation of a term or condition of a Conditional Zoning District shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.

- (c) At no time shall a submittal for an amendment to the Official Zoning Map (Rezoning) be converted into a submittal for a Conditional Zoning, nor shall a submittal for a Conditional Zoning be converted into a submittal for an amendment to the Official Zoning Map (Rezoning). Such conversions shall require withdrawal and re-submittal of a new application.

(d) **Review and Consideration of Potential Vested Rights**

The Administrator shall review and consider the proposed plan for potential vested rights and shall advise both the applicant and the approving authority of potential vested rights in accordance with NCGS § 160D-108, -108.1. A plan showing the information specified by North Carolina General Statutes definition of a “site-specific development plan” shall be used for review and consideration.

- (e) As part of its review of the submittal, the Planning Board or Town Council may suggest revisions to the proposed conditions, consistent with the provisions of Article 3.A.16 *Conditions of Approval*. Only those revisions agreed to in writing by the applicant shall be incorporated into the submittal.

(f) **Expiration**

(1) If no submittal for approval of a subdivision preliminary plat or site plan (major or minor) for any part of the rezoned land is submitted within two years after approval of the conditional rezoning, the Administrator shall initiate a Conditional Zoning Map Amendment submittal to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. A change in ownership of the land shall not affect this time period. However, this period may be approved for up to five years as set forth within this Article.

(2) For some developments, Town Council may provide that the expiration period noted under the provisions of this Article can exceed two years but shall not exceed five years, as warranted in light of all relevant circumstances, including but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Such a determination shall be in the sound discretion of Town Council. As a condition of approval when an extended expiration period is requested, the Town may require the applicant to submit a phased development plan. This condition is intended to be consistent with NCGS § 160D-108.1(e) concerning the “duration and termination of vested right.”

(3) Upon written request submitted at least 30 days before expiration of the timeframe provided and upon a showing of good cause, the Administrator may grant one extension not to exceed six months for the applicant to submit required development submittals.

(g) **Effect of Approval**

Lands rezoned to a conditional district shall be subject to the standards applicable to the parallel general use (base) zoning district, as modified by the conditions proposed by the applicant and approved by Town Council. The applicant shall record the restrictive conditions of approval with the Guilford County Register of Deeds. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Official Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals only in accordance with the approved conditions and appropriate procedures and standards set forth in this Ordinance.

(h) Minor Deviations from Conditions

- (1) Subsequent plans and permits for development within the conditional use zoning district may include minor deviations from the approved conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the conditional rezoning review process or any other change that has no material effect on the character of the approved conditional use zoning district or any of its approved terms or conditions. The following shall constitute examples of minor deviations:
 - a. floorplan revisions internal to the structure;
 - b. minor shifts in building size or location; and,
 - c. facility design modifications for amenities and the like.
- (2) Changes that materially affect the basic configuration or intent of approved conditions are not considered minor deviations and shall be amendments that may only be considered in accordance with the procedure used to establish the conditional zoning district.

(i) Designation on Official Zoning Map

Designation of a conditional zoning on the Official Zoning Map shall bear the same designation as the parallel base zoning district but shall also include the suffix "CZ" along with the case number approving the conditional zoning.

3. TEXT AMENDMENT**(a) Purpose**

The purpose of this section is to provide a uniform means for amending the text of this Ordinance.

(b) Authority

Town Council may adopt an ordinance amending the text of this Ordinance upon compliance with the provisions of this section.

(c) Initiation

A submittal to amend the text of this Ordinance may be initiated by Town Council, Planning Board, Administrator, an owner of land in the Town, or a person with a financial or other interest in land in the Town. No re-submittal for substantially the same text amendment request, as determined by the Administrator, shall be filed for a public hearing or consideration by Town Council within a one-year period from the date of the most recent action unless there is:

- (1) a substantial change in circumstances, facts, and/or proposed text amendment content as compared to the previous text amendment case; or,
- (2) the request is initiated by Town Council.

(d) Procedure**(1) Basic Procedures**

Except as appropriately modified under this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*. Steps to be completed before any public hearing on the submittal include:

- a. Pre-submittal conference with Town staff per *Section 3.A.6*;
- b. Submittal of complete submittal per Article 3.A.8. and 9; and,
- c. Staff review and report on the complete submittal per Article 3.A.10 and 11.

(2) Review and Recommendation by Planning Board

- a. Following staff review, the Planning Board shall hold a public hearing concerning the submittal in accordance with Article 3.A.13 *Public Notice*. After close of the public hearing, the Planning Board will decide based upon the submittal, consistency with the Comprehensive Plan and other Town plans, relevant support materials, staff report, and any comments given by the public. Upon making a decision, the Planning Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions based on the standards in Article 3.D.1 *Map Amendment Standards*:
 - i. adoption of the amendment as written;
 - ii. adoption of a revised amendment;
 - iii. deny; or,
 - iv. continue the meeting.
- b. In making its recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Town Council. (NCGS § 160D-604(d), -605(a), -701.)

(3) Public Hearing, Review and Decision by Town Council

- a. Following staff review and receipt of the Planning Board's recommendation, Town Council shall conduct a standard public hearing on the submittal in accordance with Article 3.A.13 *Public Notice* and Section 3.A.14 *Standard Public Hearing Procedures*. After close of the hearing, Town Council shall consider the submittal, consistency with the Comprehensive Plan, relevant support materials, staff report, Planning Board recommendation, and any comments given by the public. Town Council, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Article 3.D.3 *Text Amendment*:
 - i. approves as submitted;
 - ii. conditional approval;
 - iii. deny;
 - iv. remand to the Planning Board for further consideration; or,
 - v. continues the hearing.
- b. Zoning regulations shall be made in accordance with a comprehensive plan. When adopting or rejecting any zoning amendment, the Town Council shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explain why the Town Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. Town Council will approve a Statement of Consistency and Reasonableness to describe its decision in these statutorily outlined terms.

(4) Expiration

Approval of an amendment to the text of this Ordinance shall not expire, but the amended text is subject to further amendment in accordance with amendment procedures set forth in this section.

(e) **Text Amendment Standards**

Amending the text of this Ordinance is a matter committed to the legislative discretion of the Town Council. In determining whether to adopt or deny a proposed amendment, the Town shall consider and weigh whether and the extent to which the proposed amendment:

- (1) complies with the Summerfield Comprehensive Plan and all other adopted plans that are applicable;
- (2) is in conflict with any provision of this Ordinance, and related Town regulations;
- (3) is needed because there are changed conditions that require an amendment;
- (4) addresses a demonstrated community need;
- (5) is consistent with the purpose and intent of the zoning districts in this Ordinance or would improve compatibility among uses and ensure efficient development within the Town;
- (6) would result in a logical and orderly development pattern; and,
- (7) would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

4. OPEN SPACE MIXED USE DISTRICT DEVELOPMENT

The procedures set forth in this section apply to Open Space Mixed Use developments. Notwithstanding other provisions in the UDO to the contrary, procedures and standards for Open Space Mixed Use-Village developments are set forth in Article 4. Where there is inconsistency between the language in the UDO generally and this UDO Article 4, the language in the UDO Article 4 shall control.

(a) **Purpose**

Open Space Mixed Use developments are planned and developed under unified control and in accordance with more flexible standards and procedures designed to encourage moderately priced housing and to be more conducive to preserving open space and natural resources by allowing cluster development permitting limited mixed-use of residential and commercial use by allowing development of individual lots smaller in area than those other general use (base) zoning district regulations with a maximum overall density of 1.15 units per acre. The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish any Open Space Mixed Use zoning district.

(b) **Scope**

An Open Space Mixed Use district is established by amendment of the Official Zoning Map to rezone land to an Open Space Mixed Use zoning district classification that is defined by a master plan and a "terms and conditions" document. Subsequent development within the Open Space Mixed Use district occurs through the site plan review and subdivision review procedures, as appropriate to ensure compliance with the approved master plan and terms and conditions document.

(c) **Initiation**

To ensure unified control, a submittal for an Open Space Mixed Use zoning classification may be initiated only by the owner(s) of all the property to be included in the proposed Open Space Mixed Use district.

(d) **Procedure**

(1) **Basic Procedures**

Except as appropriately modified in accordance with this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on

submittals are as established in Article 3.A *Common Review Procedures*. Specific steps to be completed before any public hearing on the submittal include:

- a. Pre-submittal conference with Town staff per Article 3.A.6;
- b. Submittal of complete submittal per Article 3.A.8. and 9;
- c. Informational meeting with area residents and property owners per Article 3.A.7; and,
- d. Staff review and report on the complete submittal per Article 3.A.10 and 11.

(2) Pre-Submittal Conference (On-Site Preferred)

For Open Space Mixed Use requests, the pre-submittal conference required under Article 3.A.6 shall include a meeting with Town staff, preferably on-site, to discuss a sketch plan of the proposed development conditions and to identify sensitive environmental and/or rural character preservation areas that should be incorporated into the development plan prior to filing for rezoning. The intent of the conference is to familiarize Town staff with special features of the property and to provide an informal opportunity for staff to offer guidance to the applicant regarding the tentative location of conservation areas, potential building sites, street alignments, and other development factors.

(3) Informational Meeting

After any pre-submittal conference but before the submittal of a formal submittal, an informational meeting can be held; it shall be held in accordance with the requirements of Article 3.A.7.

(4) Environmental Inventory required as part of Complete Application

Submittal to include Resource Map that depicts environmental, cultural, historical, and other resources that represent assets to the property as identified by the Comprehensive Plan. Examples of resources include environmentally sensitive areas, viewsheds, historic features and settlement patterns, pastures and farm buildings, woodlands, and other natural and man-made land features. These examples are meant to be illustrative in nature and do not represent a list of assets that apply the same to every property. At a minimum, the Resource Map must include the location and amount of land in special flood hazard areas and other lands not suitable for development, Primary and Secondary Conservation Areas and any other lands not suitable for development.

(5) Traffic Impact Analysis (TIA)

Submittals for rezoning requests expected to generate 100 trips during peak hours or 1,000 avg daily trips shall include a Traffic Impact Analysis prepared by a licensed traffic engineer.

(6) Groundwater Availability Report

Submittals proposing over 75 lots and/or density greater than 1.0 units/acre shall include an analysis of groundwater availability prepared by a licensed geologist.

(7) Master Plan and Conditions for Development

The submittal shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development and uses. It shall also include a "terms and conditions" document, define development parameters and environmental mitigation, and also outline how community facilities will be provided to serve the Open Space Mixed Use. At a minimum, submittal documents shall indicate the following:

- a. acreage;
- b. maximum number of dwelling units or gross floor area for each area;
- c. proposed uses for each area;

- d. proposed open space with proposed designation as conservation area, passive or active use, and private or public;
- e. lot dimensions and standards;
- f. max building heights;
- g. max building coverage for residential;
- h. max building size for non-residential;
- i. proposed areas in parking;
- j. access;
- k. proposed building types for each tract or area;
- l. street types, ownership, and dimensions including block length and sidewalk standards;
- m. development standards that address parking, landscaping, lighting, signage, and fencing;
- n. proposed watershed protection measures, including their general location, if the development is within a Watershed Critical Area overlay district or a General Watershed Area overlay district; and,
- o. proposed methodologies and best practices for serving utilities to the proposed use types, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities. Documents must demonstrate how the site design will facilitate recharge to the groundwater system in accordance with policies of the Summerfield Comprehensive Plan.

(8) Review and Staff Report by Administrator

Before review by the Planning Board, the submittal shall be reviewed by the Administrator, who may suggest revisions to the proposed conditions consistent with the provisions of Article 3.A.16 *Conditions of Approval*. Only those revisions agreed to in writing by the applicant shall be incorporated into the submittal and may be reflected in the staff report.

(9) Technical Review

An Open Space Mixed Use submittal requires a coordinated technical review by the Summerfield Fire Department and the Guilford County Fire Marshal, Guilford County Department of Environmental Health, NCDOT, and the Town Engineer.

(10) Review and Consideration of Potential Vested Rights

The Administrator shall review and consider the proposed plan for potential vested rights and shall advise both the applicant and the approving authority of potential vested rights in accordance with NCGS § 160D-108, -108.1. A plan showing the information specified by North Carolina General Statutes definition of a “site-specific development plan” shall be used for review and consideration.

(11) Review and Recommendation by Planning Board

- a. Following staff review, the Planning Board shall hold a public hearing concerning the submittal in accordance with Article 3.A.14 *Standard Public Hearing Procedures*. After close of the comment period, the Planning Board decides based upon the submittal, consistency with the Comprehensive Plan and other adopted plans, relevant support materials, staff report, and any comments given by the public. Upon making a decision, the Planning Board, by a majority

vote of a quorum present, shall adopt a written recommendation for one of the following actions based on the standards in Article 3.D.1 *Map Amendment Standards*:

- i. approval subject to the Open Space Mixed Use Master Plan and Terms and Conditions as submitted;
 - ii. approval subject to conditions related to the Open Space Mixed Use Development Master Plan and Terms and Conditions;
 - iii. denial; or,
 - iv. continuance of the meeting.
- b. As part of its review of the submittal, the Planning Board may suggest revisions to the proposed conditions, consistent with the provisions of Article 3.A.16 *Conditions of Approval*. Only those revisions agreed to in writing by the applicant shall be incorporated into the submittal.
 - c. In making its recommendation, the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board (G.S 160D-604 (d)).

(12) Public Hearing, Review, and Decision by Town Council

- a. Following staff review and receipt of the recommendation made by Planning Board, Town Council shall conduct a standard public hearing on the submittal in accordance with Article 3.A.13 *Public Notice* and Article 3.A.14 *Standard Public Hearing Procedures*. After close of the hearing, Town Council shall consider the submittal, consistency with the Comprehensive Plan, relevant support materials, staff report, Planning Board recommendation, and any comments given by the public.
- b. As part of its review of the submittal, Town Council shall review the proposed conditions and may suggest revisions to the proposed conditions, consistent with provisions of Article 3.A.16 *Conditions of Approval*.
- c. Town Council, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Article 3.D.1 *Map Amendment Standards*:
 - i. approval subject to the Open Space Mixed Use Master Plan and Terms and Conditions as submitted;
 - ii. approval subject to conditions related to the Open Space Mixed Use Master Plan and Terms and Conditions;
 - iii. denial;
 - iv. remand back to the Planning Board for further consideration; or,
 - v. continuance of the hearing.
- d. Determination of Consistency and Statement of Reasonableness

As required by NCGS 160D-605(a), prior to adopting or rejecting any zoning amendment, the Town Council shall adopt one of the following statements which shall not be subject to judicial review:

- i. A statement approving the zoning amendment and describing its consistency with the Summerfield Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.
- ii. A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.

If the amendment is adopted and the action is deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment shall be considered concurrently.

(13) Conditions of Approval

In approving an Open Space Mixed Use zoning district master plan or terms and conditions, the Town Council may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(14) Expiration

- a. If no submittal for approval of a subdivision preliminary plat or site plan for any part of the rezoned land is submitted within two years after approval of the Open Space Mixed Use development, the Administrator shall initiate a submittal to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. A change in ownership of the land shall not affect this time period. However, this period may be approved for up to five years under relevant circumstances as provided for in Article 3.D.2.(g) *Expiration*.
- b. For Open Space Mixed Use development, Town Council may provide that the expiration period noted under Article 3.D.2.(g) *Expiration* can exceed two years but shall not exceed seven years, as warranted in light of all relevant circumstances, including but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Such a determination shall be in the sound discretion of Town Council. As a condition of approval when an extended expiration period is requested, the Town may require the applicant to submit a phased development plan. This condition is intended to be consistent with NCGS § 160D-108 concerning the “duration and termination of vested right.”
- c. Upon written request submitted at least 30 days before expiration of the timeframe provided and upon a showing of good cause, the Administrator may grant one extension not to exceed six months for the applicant to submit required development submittals.

(e) Open Space Mixed Use District Standards

Review of and the decision on an Open Space Mixed Use development submittal shall be subject to the standards in Article 3.D.1 *Map Amendment (Rezoning) Standards*, and the requirements for the proposed type of Open Space Mixed Use district in Article 4.B.5(c) *Zoning District Descriptions and Standards*.

(1) Designation on Official Zoning Map

Designation of an Open Space Mixed Use zoning district on the Official Zoning Map shall note the case number approving the Open Space Mixed Use zoning classification.

(2) Effect of Approval

Lands rezoned to an Open Space Mixed Use zoning district shall be subject to the approved Open Space Mixed Use master plan and Open Space Mixed Use terms and conditions, which shall be

recorded with the Register of Deeds. The master plan and terms and conditions are binding on the land as an amendment to the Official Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the master plan in accordance with the appropriate procedures and standards set forth in this Ordinance. Any permits or approvals shall comply with the master plan and the terms and conditions.

(h) Amendments Procedure

(1) General

If an applicant determines it is necessary to alter the concept or intent of the Open Space Mixed Use master plan or the Open Space Mixed Use terms and conditions, these shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

(2) Amendments Defined

The following items are considered an alteration of the concept or intent of the master plan or terms and conditions and are treated as an amendment:

- a. changes in use designations;
- b. density/intensity increases;
- c. decreases in open space;
- d. substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so that traffic flows both inside and outside the development are affected);
- e. changes in the location of any public easement;
- f. changes in the proportion of housing types by more than 15%; or;
- g. violation of any specific condition of the Open Space Mixed Use terms and conditions.

(3) Minor Deviations

Minor deviations are modifications to an approved Open Space Mixed Use that in the opinion of the Administrator do not constitute an amendment and can be considered a minor deviation in accordance with Article 3.D.4(i) *Minor Deviations from Master Plan and Terms and Conditions*.

(i) Minor Deviations from Master Plan and Terms and Conditions

- (1)** Subsequent plans and permits for development within an approved Open Space Mixed Use district may include minor deviations from the Open Space Mixed Use master plan or terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the Open Space Mixed Use zoning classification process. It may also include any other change that has no material effect on the character of the approved Open Space Mixed Use development, master plan or any of its approved terms or conditions. The following shall constitute minor deviations:

- a. floorplan revisions internal to the structure(s);
- b. minor shifts in building size or location; or,
- c. facility design modifications for amenities and the like.

- (2)** Changes that materially affect the basic concept of the Open Space Mixed Use master plan or basic parameters set by the Open Space Mixed Use terms and conditions are not considered

minor deviations and shall only be changed as amendments to the Open Space Mixed Use master plan or terms and conditions.

E. PROCEDURES FOR DECISIONS BY BOARD OF ADJUSTMENTS (BOA)

This section includes the individual review procedures, standards, and related information for each of the submittals for development permits and approvals, as summarized in Table 2.B.1 *Development Review Responsibilities*. The general flow is as follows:

PROCESS FOR THE FOLLOWING REQUESTS FOR:

1. Special Use Permit
2. Variance
3. Subdivision Waiver
4. Appeal

- > Each begins with a pre-submittal conference followed by...
 - > Submission of complete submittal materials followed by...
 - > Informational meeting applicable followed by...
 - > Town Staff review and report followed by...
 - > Board of Adjustment hearing and decision.

1. SPECIAL USE PERMIT

(a) Purpose

A use designated as a special use in a particular zoning district is one that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish procedures and standards for review and approval of special use permits that provide for such special consideration.

(b) Applicability

A special use permit is required for development of any use designated in Table 4.D.1.1 *Permitted Use Table* as a special use in the zoning district where proposed.

(c) Initiation

A submittal for a special use permit may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(d) Procedure

Town Council may adopt an ordinance amending the Official Zoning Map upon compliance with the provisions of this section

(1) Basic Procedures

Except as appropriately modified in accordance with this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*. Specific steps to be completed before any review of the submittal by the BOA include:

- a. Pre-submittal conference with Town staff per Article 3.A.6;
- b. Submittal of complete submittal per Article 3.A.8. and 9;
- c. Informational meeting (if applicable) with area residents and property owners per Article 3.A.7; and,
- d. Staff review and report on the complete submittal (Article 3.A.10 and 11).

(2) Review and Consideration of Potential Vested Rights

The Administrator shall review and consider the proposed plan for potential vested rights and shall advise both the applicant and the approving authority of potential vested rights in accordance with NCGS § 160D-108. A plan showing the information specified by North Carolina General Statutes definition of a “site-specific development plan” shall be used for review and consideration.

(3) Public Hearing, Review and Action by Board of Adjustment

Following staff review, the Board of Adjustment shall conduct a quasi-judicial public hearing on the submittal in accordance with Article 3.A.13 *Public Notice* and Article 3.A.15 *Quasi-Judicial Public Hearing Procedures*. After close of the hearing, the BOA shall consider the submittal, relevant support materials, staff report, and testimony or evidence given at the hearing and entered into the record. The BOA, by a majority vote of its members who are eligible to vote, shall take one of the following actions based on the standards in Article 3.E.1(e) *Special Use Permit Review Standards*:

- a. approval as submitted;
- b. approval subject to conditions;
- c. denial; or,
- d. continuance of the hearing.

(4) Conditions of Approval

In approving a special use permit, the BOA may impose reasonable and appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(5) Permit Issuance

If the submittal is approved, the Administrator shall prepare and issue a special use permit to the applicant that identifies the site and approved plans and documents and lists any conditions of approval.

(6) Submission of Site Plans with Special Use Permit Submittal

Site plans for any development made pursuant to any special use permit shall be submitted for review according to the requirements of Article 3.E. Site plans shall not be approved prior to the issuance of a special use permit. The site plan shall not be substantially different than the development plan presented to the BOA for special use permit consideration. A substantially different site plan may require resubmittal of the submittal. In approving such site plans, the Administrator or Planning Board, as appropriate, may make minor modifications to the requirements where such modification will result in equal or better performance, provided that the objective and purpose of the requirements and conditions of the special use permit are maintained.

(7) Expiration

a. General

- i. The BOA may prescribe a time limit within which a building permit for the development authorized by a special use permit shall be obtained. Failure to obtain a building permit

within the specified time limit may void the special use permit. The local government shall follow the same development review and approval process required for issuance of the special use permit, including any required notice or hearing, in the review and approval of any revocation of that approval (160D-403(f), -705(c)).

- ii. Unless specified otherwise by the BOA, a special use permit may expire if a building permit for the development authorized by the special use permit is not obtained within one year after the date of issuance of the special use permit or if the development authorized by the special use permit is discontinued and not resumed for a period of one year. The local government shall follow the same development review and approval process required for issuance of the special use permit, including any required notice or hearing, in the review and approval of any revocation of that approval (160D-403(f), -705(c)).

- b. **Extension:** Upon written request submitted at least 30 days before expiration of the time period provided and upon a showing of good cause, the Administrator may grant one extension not to exceed six months. Failure to submit a written request for an extension within the time limits established by this section shall result in the expiration of the special use permit.

(e) Special Use Permit Review Standards

A special use permit shall be approved by the BOA only after having voted that each of the following standards have been met. The special use:

- (1) complies with all applicable standards in Article 6 *Use-Specific Standards*;
- (2) is compatible with the character of surrounding lands and uses permitted in these zoning district(s);
- (3) avoids significant adverse impact on surrounding lands regarding, but not limited to, service delivery, parking and loading, odors, noise, glare, and vibration;
- (4) is configured to minimize adverse effects, including visual impacts of the proposed use on adjacent lands;
- (5) avoids significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources;
- (6) maintains safe ingress and egress onto the site and safe road conditions around the site;
- (7) allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning district;
- (8) complies with all other relevant Town, State, and Federal laws and regulations; and;
- (9) is a proposed use as represented by an "S" in the permitted use table located in Table 4.D.1.

(f) Effect of Approval

A special use permit shall authorize only the particular special use and associated development that is approved. A special use permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership unless specifically conditioned as part of the approval.

(g) Amendments

A special use permit may be amended or modified only in accordance with the procedures and standards established for its original approval.

2. VARIANCE

(a) Purpose

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal submittal of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. Variances are to be sparingly exercised and only in rare instances and under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

(b) Authority

The Board of Adjustment shall review and decide any submittals for variances from the requirements of this Ordinance in accordance with this section.

(c) Applicability

The following standards may be varied through the variance procedure:

- (1) Maximum height standards, maximum lot coverage standards, minimum yard and setback standards, minimum lot area standards, and minimum lot width standards for each zoning district in Article 4: *Zoning Districts*;
- (2) Placement of accessory buildings, number of lots served by an access easement, terminus of a road, and other circumstances that require variance from the specific standards of this Ordinance; and,
- (3) The standards in:
 - a. Section 6.B *Transportation, Road and Circulation Standards*;
 - b. Section 6.C *Off-Street Parking, Loading, and Circulation*;
 - c. Section 6.D *Trail and Sidewalk Standards*;
 - d. Section 6.E *Conservation Area and Open Space Requirements*;
 - e. Section 6.F *Landscaping Requirements*;
 - f. Section 6.G *Fences and Walls*;
 - g. Section 6.H *Lighting Regulation*;
 - h. Section 6.I *Commercial, Office and Mixed-Use Standards*; and,
 - i. Section 6.J *Sign Regulations*.

(d) Initiation

A submittal for a variance may be initiated by anyone who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(e) Procedure

(1) Basic Procedures

Except as appropriately modified in accordance with this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

(2) Review and Action by Board of Adjustment

- a. Following receipt of the submittal from the Administrator, the BOA shall conduct a quasi-judicial public hearing in accordance with Article 3.A.13 *Public Notice*, Article 3.A.14 *Quasi-Judicial Public Hearing Procedures*. After close of the hearing, the BOA shall consider the submittal, relevant support materials, and any testimony or evidence given at the hearing and included in the record. It shall take one of the following actions based on the standards in Article 3.E.2(f) *Variance Standards*:
 - i. approval as submitted;
 - ii. approval subject to conditions; or,
 - iii. denial.
- b. Granting a variance shall require an affirmative vote of at least four-fifths (4/5) of the members of the BOA who are eligible to vote.

(3) Conditions of Approval

In approving a variance, the BOA may impose appropriate conditions that are reasonably related to the variance on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(4) Appeal

Any appeal of a BOA decision concerning a variance shall be to the Superior Court for Guilford County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision of the BOA is filed in the Summerfield Planning Department or after the date a written copy of the decision is delivered (via personal delivery or by registered or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the Administrator or BOA at the public hearing, whichever is later.

(5) Recording of the Variance Required

- a. The Administrator shall record the letter of approval for the variance with the Guilford County Register of Deeds within a reasonable time after the date the variance is approved.
- b. Except where required as a prerequisite for a site plan associated with new development, an approved and recorded variance shall run with the land. In cases in which a variance is a prerequisite to site plan approval, failure of an applicant to apply for a building permit and commence construction within one year of receiving variance approval may render the decision of the BOA null and void. The local government shall follow the same development review and approval process required for issuance of the special use permit, including any required notice or hearing, in the review and approval of any revocation of that approval (160D-403(f)). Such time period shall not be extended with transfer of ownership.

(f) Variance Standards

A variance submittal shall be approved only upon a finding and vote that all of the following standards have been met:

- (1) unnecessary hardship would result from the strict submittal of this Ordinance (*note*: it shall not be necessary to demonstrate, in the absence of a variance, that no reasonable use can be made of the property);
- (2) the hardship results from conditions that are peculiar to the property such as location, size, or topography (*note*: hardships resulting from personal circumstances, as well as those resulting from conditions that are common to the neighborhood or the general public, may not be the basis for

granting a variance). A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

- (3) the hardship did not result from actions taken by the applicant or the property owner (*note*: 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,
- (4) the requested variance is consistent with the spirit, purpose, and intent of this Ordinance such that public safety is secured and substantial justice is achieved.

(g) Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

- (1) the citing of other nonconforming or conforming uses of land or structures in the same or other districts;
- (2) the request for a particular use expressly, or by inference, prohibited in the district; or,
- (3) economic hardship or the fact that property may be utilized more profitably with a variance.

(h) Subsequent Development

Development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the Town. A variance shall not ensure that the development receiving a variance receives subsequent approval for other submittals for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

(i) Amendment

A variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

3. APPEAL

(a) Right of Appeal

Any person who has standing under NCGS § 160D-405 or the Town may appeal a final and binding written decision of the Administrator with respect to the administration of this Ordinance to the Board of Adjustment.

(b) Initiation

An appeal shall be initiated by the owner or other party subject to the decision by filing a written Notice of Appeal with the Town Clerk within 30 days of the date of a final and binding interpretation or decision being appealed. Any other party who has standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision. A decision notice shall be delivered to the owner of the property subject to the decision and to the appellant, if different from the owner, and can be by personal delivery, electronic mail, or first-class mail. It shall be presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least 6" high and identifying a means to contact the Administrator for information about the decision is prominently posted on the subject property, provided that such sign remains on the property for at least 10 days. The sign posting shall be the responsibility of the landowner or applicant and shall not be considered the only form of constructive notice. Verification of the posting shall be provided to the Town. Any submittal for an appeal, including the grounds of the appeal, shall be filed with the Town Clerk.

(c) **Procedure**

(1) **Basic Procedures**

Except as appropriately modified in accordance with this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

(2) **Staff Submittal to Board of Adjustment**

Upon receipt of a written Notice of Appeal, the Administrator shall transmit to the BOA all documents and exhibits constituting the record upon which the action appealed from is taken. These materials shall constitute the record of the appeal. The Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is subject of the appeal if the appellant is not the property owner.

(3) **Review and Action by Board of Adjustment**

a. Following receipt of the Notice of Appeal from the Administrator, the BOA shall conduct a quasi-judicial public hearing in accordance with Article 3.A.12 *Public Notice*, Article 3.A.14 *Quasi-Judicial Public Hearing Procedures*. An appeal of a Notice of Violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the BOA after the Notice of Appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with the enforcement of this Ordinance. In such case, enforcement proceedings shall not be stayed except by a court-issued restraining order. If enforcement proceedings are not stayed, the appellant may file a request for an expedited hearing of the appeal, and the BOA shall meet to hear the appeal within 15 days after the request is filed. The official who made the decision 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 public hearing. After close of the hearing, the BOA shall consider the Notice of Appeal, materials transmitted by the Administrator, and any testimony or evidence given at the hearing and entered into record. The BOA shall affirm (wholly or partly), modify, or reverse the decision being appealed based on evidence of record of the appeal and evidence presented at the public hearing. The BOA shall modify or reverse a decision on appeal only if it finds that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the submittal of the facts on record to the standards of this Ordinance. The BOA in rendering a decision shall have all the powers of the official who made the decision. Reasonable and appropriate conditions may be part of any decision rendered by the BOA. The BOA shall render its decision within a reasonable time after the conclusion of the public hearing.

b. Modifying or reversing an interpretation or decision shall require an affirmative vote of a majority of members of the BOA who are eligible to vote. For purposes of this section, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take their place.

(4) **Appeal**

Any appeal from the decision of the Board of Adjustment shall be to the Superior Court for Guilford County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision is filed in the Planning Department, or after the date a written copy of the decision is delivered (via personal delivery or by registered

or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the public hearing, whichever is later.

(5) Expiration

A decision on an appeal submittal shall not expire but may be overturned or modified by a subsequent appeal decision or superseded by an amendment to this Ordinance.

(d) Effect of Pending Appeal

A pending appeal stays all Town actions seeking enforcement of or compliance with the interpretation or decision being appealed unless the Administrator certifies to the BOA that because of facts stated in the certificate, a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance due to the violation’s transitory nature. In that case, proceedings shall not be stayed other than by an order issued by the BOA or a court of competent jurisdiction after notice to the Administrator and for due cause shown.

(e) Effect of Appeal Decision

To the extent a decision by the BOA on an appeal pertains to submittal of a particular provision of this Ordinance in a particular circumstance, the appeal decision shall be binding on subsequent decisions by the Administrator or other Town administrative official applying the same provision in the same circumstance.

F. PROCEDURES FOR DECISIONS WITH OR BY OTHERS

This section includes the individual review procedures, standards, and related information for each of the submittals for development permits and approvals, as summarized in Table 2.B.1 *Development Review Responsibilities*. The general flow is as follows:

PROCESS FOR THE FOLLOWING REQUESTS FOR:

1. Street Name, Address, Sign and Closing*
2. Building Permit
3. Certificate of Occupancy (and Compliance)

- > Each begins with a pre-submittal conference, if desired, followed by...
 - > Submission of complete submittal materials followed by...
 - >Town Staff review and/or external agency review and decision.

**(Changing existing street names and street closings require an Administrator Staff Report, Planning and Zoning Board recommendation, and Town Council decision.)*

1. STREET NAME, ADDRESS, SIGN AND CLOSING

(Note: For purposes of this full Ordinance section, “street” shall be used interchangeably with similar terms, such as “road,” “roadway,” “highway,” “route,” etc.)

(a) Purpose and Authority

The Town is the only agency with authority to assign or modify street names or addresses and to permanently close existing streets within its Town limits, but it shares Guilford County’s desire to protect public safety by facilitating the finding of homes and businesses for the delivery of goods and services. The Town coordinates with the County and its EMS and Metro 9-1-1 to ensure Town names and

addresses are not easily confused. (The County's GIS Division is also responsible for the management of the Master Road Name database for all of Guilford County.)

(b) Street Names

A name shall be assigned to any road, whether public or private, which provides vehicular access to two or more parcels. The developer shall submit names (not numbers) for new streets contained within proposed developments. The Administrator shall approve all street names (but not name changes) with right of appeal to the Town Planning Board. Proposed streets obviously in alignment with existing streets shall be given the same name.

(c) Street Naming Conventions

New or revised street names shall follow the following naming conventions:

(1) The street shall not contain:

- a. phonetically similar words or duplicate existing street names that lie within the County limits, its municipalities, or even within one mile of the County, irrespective of the suffix;
- b. complicated words or unconventional spellings;
- c. symbols (e.g., no "#," "&," hyphen, periods, apostrophe, etc.);
- d. the word "and" (in order to avoid confusion);
- e. any names considered discriminatory, exclusionary, or deemed inappropriate; or,
- f. initials.

(2) If prefixes are utilized, the following apply:

- a. "North" shall be used for the northern portion of streets having the same name;
- b. "South" shall be used for the southern portion of streets having the same name;
- c. "East" shall be used for the eastern portion of streets having the same name;
- d. "West" shall be used for the western portion of streets having the same name;
- e. "N.C. Highway" shall be used for all State-numbered streets;
- f. "U.S. Highway" shall be used for all Federal-numbered streets, excluding those on the Interstate System; and,
- g. "Interstate Highway" shall be used for all Federal-numbered streets on the Interstate System.

(3) If suffixes are utilized, the following apply:

- a. "Street" shall be used for streets running generally in a north-south direction;
- b. "Avenue" shall be used for streets running generally in an east-west direction;
- c. "Drive," "Trail," and "Trace" shall be used for streets which follow a wandering alignment in different directions and/or intersecting both a "Street" and an "Avenue;" these streets should generally be scenic and attractive;
- d. "Road" shall be used for streets running generally in a diagonal direction and/or connecting urban areas;
- e. "Boulevard" and "Parkway" shall be used for divided streets, the sides of which are separated by a park or open median strip for their main extent;
- f. "Terrace," "Point," "Cove," "Dale," or "Way" shall be used for short streets with an exit from one end only (dead end) with no potential for extension;

- g. "Court" shall be used for cul-de-sacs;
 - h. "Circle" shall be used for short streets that are circular or semi-circular in form and intersect the streets from which they emanate at two different places;
 - i. "Place" or "Lane" shall be used for short streets generally not over a block in length (exit from both ends) with no regard to predominant direction ("Lane" is only for private lanes as defined by this Ordinance);
 - j. "Alley" shall be used for short streets of substandard width as between buildings or at the rear of property, generally used for service; and,
 - k. no suffix shall be used with a name that is itself already a suffix designation (e.g., no "Parkway Circle" or "Boulevard Drive").
- (4) Due to the size of street name signs and to equipment used by the postal service, the length of street names may not exceed 15 characters. Street names should be simple and use the most common spelling.

(d) Street Addresses and Assignment

The Town does not utilize an established grid system as Greensboro and High Point does, but does attempt to keep street numbering conventions consistent with the surrounding area, when possible (odd-numbered on one side of the street and even-numbered on the other side):

(1) Timing

Addresses will be assigned following preliminary plat or site plan approval for single-family attached and non-residential group development. Approval of a final plat is required for conventional single-family developments before numbers are assigned and building permits issued. The Planning Board will be furnished with an approved plat or site plan on which to assign addresses and it will be kept on file with the Town.

(2) Primary Addresses

Each unit of property will be assigned a primary address consisting of up to four numerals. Single-family structures (attached or detached) are assigned individual street numbers for each unit.

(3) Secondary Addresses

a. Property with Two or More Dwelling Units

Each unit of property will be assigned a primary address consisting of assigned secondary addresses. The secondary address will include the primary address followed by a dash and number and/or letter (e.g., "1621-A Smith Street" with "1621" being the primary address and "A" being the secondary address; the first unit on the first floor would be "1621-1A Smith Street," the first unit on the second floor would be "1621-2A Smith Street," etc.).

b. Non-Residential Buildings

Office, commercial, and industrial buildings with more than one tenant will also be assigned secondary addresses when common exterior drives are used. The secondary address will include the primary address followed by a suite number (e.g., "1621 Smith Street, Suite 101" with "Suite 101" being the first unit on the first floor, "...Suite 201" being the first unit on the second floor, etc.).

(4) Vacant Property

It's difficult to determine how many structures will eventually be built on vacant land within a given area, so numbering structures consecutively does not provide flexibility for change; therefore, a street number will typically be assigned for each 100 linear feet of lot frontage.

(5) Corner Lots

The owner or developer shall be assigned an address that accommodates the front entrance of the structure at the time of permit submittal.

(6) Posting of Addresses

Posting of addresses by the property owner shall be as per required by the "Posting Standards" as identified within the most current Guilford County Development Ordinance. The intent is to standardize postings and complement public safety and location-finding in coordination with the County and its EMS and Metro 9-1-1.

(7) Change of Existing Addresses

When assigning new address numbers (not street names), as few existing ones as possible will be changed and changes shall be subject to the following:

- a. existing addresses may be changed for just cause. Examples include: no address was left for a vacant lot; a street name change occurred per the Town Ordinance; a person has been unknowingly using the wrong address for an extended time (as determined by the Administrator); a change from a rural route and box number is needed; or a street address number series presently in use is incorrect and misleading;
- b. the Town will notify all necessary local government departments and the U.S.P.S of any new assignment or change in street address.

2. BUILDING PERMIT**(a) Purpose**

Building permits in the Town are issued by Guilford County in accordance with NCGS § 160D-108(b) and North Carolina State Building Codes. The building permit is intended to certify that the proposed construction, moving, alteration, or repair of structures complies with the construction standards in the Building Codes and with all other applicable State and local laws, including this Ordinance.

(b) Applicability

No construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure may occur until a building permit has been applied for and issued by Guilford County in accordance with NC State Building Codes.

- (c) Development Clearance Certificate (DCC) Required for Some Building Permits: No building permit shall be issued for development without first receiving a Development Clearance Certificate from the Town, as specified in Article 3.B.2.

3. CERTIFICATE OF OCCUPANCY (AND COMPLIANCE)**(a) Purpose**

The Certificate of Occupancy (CO) is intended to ensure that completed development has complied with all applicable standards of the current NC Building Codes and the regulations of this Ordinance.

(b) Applicability**(1) General**

No land, newly-erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a CO is approved and issued in

accordance with this section, certifying that the land, building, or structure and its use complies with this Ordinance.

(2) Non-Conforming Use

A CO shall be required for the purpose of renewing or altering a non-conforming use.

(c) Initiation

A submittal for a CO may be initiated by any person who may submit submittals in accordance with Article 3.A.1 *Authority to File Submittals*.

(d) Procedure

(1) Basic Procedures

Except as appropriately modified in accordance with this Article, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on submittals are as established in Article 3.A *Common Review Procedures*.

(2) Review and Action by Administrator

The Administrator shall review and act upon the submittal in accordance with the procedures of Article 3.A.10 *Review of Submittal*, and the standards in Article 3.F.3 *Certificate of Occupancy Standards*.

(3) Issuance

A CO shall be issued as soon as practical after completion of construction or alterations of such building or sign after:

- a. inspection by the Town to determine compliance with all applicable provisions of this Ordinance;
- b. if required, issuance of an Operations Permit for a septic system or other approved sanitary disposal method by the County or State Health Department; and,
- c. compliance with all applicable provisions of related health, building, and fire codes.

(4) Conditions of Approval

In approving a CO, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(5) Certificate of Occupancy and Compliance

A CO may also serve as a Certificate of Compliance under NC State Building Codes, in which case it shall be known as a Certificate of Occupancy and Compliance. In approving a CO, the Administrator may impose appropriate conditions on the approval in accordance with Article 3.A.16 *Conditions of Approval*.

(6) Temporary Certificate of Occupancy (TCO)

A Temporary Certificate of Occupancy may be issued by the Town prior to the completion of all construction, alterations, or changes if such occupancy will not violate any health or safety considerations of applicable codes.

a. Time Period

A TCO may be for a time period as the Administrator deems appropriate to complete the work, but not to exceed 180 days.

b. Construction Assurance (consistent with Article 6)

A surety will be posted in an amount sufficient to ensure that the missing elements specified in the plan will be accomplished within the period of the TCO.

c. Work Incomplete

If the work is not completed within the period of the TCO, the Administrator shall notify the owner. The owner shall cease use of the building and land immediately and shall not resume such use until a CO has been issued. Failure to cease use shall subject the owner or operator to civil penalties and other enforcement actions available under this Ordinance and compliance with all applicable provisions of related health, building, and fire codes.

d. Certificate of Operation

If required, an operations permit for a septic system, or other approved sanitary disposal method, must be issued by the County or State Health Department prior to temporary occupancy.

(7) Appeal

An appeal from the Administrator's decision on a CO submittal, as it pertains to the requirements of this Ordinance shall be reviewed and approved by the BOA in accordance with Article 3.E.3 Appeal. An appeal from a decision on a CO submittal as it pertains to State Building Codes shall be appealed to the NC Commissioner of Insurance.

(d) Certificate of Occupancy Standards

A CO shall be approved only upon a finding that the land, building, structure, or proposed use complies with all relevant standards of this Ordinance, any other applicable Town requirements and conditions of approval, and NC State Building Codes.

(e) Amendment

A CO may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.