



ARTICLE  
*REVIEW &  
APPROVAL  
PROCEDURES* 3

## ARTICLE

# 3

## REVIEW & APPROVAL PROCEDURES

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# ARTICLE 3. REVIEW & APPROVAL PROCEDURES

## 3.1 PURPOSE & APPLICABILITY

- A. The purpose of this Section is to establish orderly processes to develop land within the Town of Mineral Springs. It is also the intent of this Section to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning Board, Board of Adjustment, and the Town Council.
- B. Pursuant to NCGS 160D-403(a), all applications for development approval shall be made by a person with a property interest in the property or a contract to purchase the property, except for government-initiated map or text amendments.
- C. In accordance with NCGS 160D-104, all development approvals run with the land unless otherwise provided for in this ordinance. In order for a development approval to be revoked, the same process that used for the approval must be followed, in accordance with NCGS 160D-403 (f).
- D. The development review process applies to all new development and alterations of existing development within the Town. The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Section would serve no useful purpose. The following chart indicates the appropriate approval process for each development type:

▼ **TABLE 3.1 APPROVAL PROCESSES**

Approval Type	Section Reference	Administrator	Board of Adjustment	Planning Board	Town Council
Zoning Permit with Plot Plan (single-family & two-family residential)	<a href="#">3.2.4</a>	✓			
Zoning Permit with Site Plan (multi-family residential & nonresidential)	<a href="#">3.2.5</a>	✓			
Zoning Permit for Sign	<a href="#">3.2.6</a>	✓			
Certificate of Compliance	<a href="#">3.2.3</a>	✓			
Minor Subdivisions and Final Plats	<a href="#">3.3</a>	✓			
Major Subdivision Preliminary Plats	<a href="#">3.3</a>			Recommend	✓
Special Use Permit	<a href="#">3.4</a>		✓		
Variance	<a href="#">3.5</a>		✓		
Appeal	<a href="#">3.6</a>		✓		
Certificate of Nonconformity Adjustment	<a href="#">3.7</a>		✓		
Alternative Design Proposal	<a href="#">3.8</a>				✓*
Map Amendment	<a href="#">3.9</a>			Recommend	✓
Text Amendment	<a href="#">3.10</a>			Recommend	✓
Development Vested Rights	<a href="#">3.11</a>			Recommend	✓

\*Town Council acting as Board of Adjustment in accordance with NCGS 160D-406

## 3.2 ZONING PERMITS

### 3.2.1 GENERAL PROVISIONS

- A. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall the use of any building or property be changed, nor shall any grading, excavation, or filling of any lot be commenced until the Administrator has issued a development approval or Zoning Permit for such, stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. Notwithstanding any other provisions of this Ordinance, no Zoning Permit is necessary for the following uses:
1. Street construction or repair;
  2. Electric power, telephone, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;
  3. Specific signs exempted in Article 7 of this Ordinance; and
  4. Mailboxes, newspaper boxes, walls, birdhouses, flag poles, pump covers, playhouses, animal pens, and doghouses under 50 square feet.
- B. Zoning permits for interior improvements (upfits) which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure, but require a building permit from Union County, may be approved by the Administrator without a plot plan, site plan, foundation survey, or review by the Technical Review Committee (TRC).
- C. All applications for Zoning Permits must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary for the Administrator to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance. A fee shall be paid, as provided in the schedule of fees adopted by the Town Board.
- D. Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. This means that applications should be made by the owners of property, their agents, or persons who have contracted to purchase property, or the agents of such persons. The Administrator may require an applicant to provide evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- E. The Administrator shall verify the location of the property in relation to any regulated Special Flood Hazard Area. Any property located within a Special Flood Hazard Area shall be subject to the Flood Damage Prevention Standards of Section [5.3.3](#), including the issuance of a Floodplain Development Permit.
- F. Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction that differs from that authorized shall be deemed a violation of this Ordinance and shall be subject to any and all sanctions as indicated under Section [2.7](#).
- G. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such permit provided that such action is authorized by the permit is commenced within six (6) months of issuance and provided that all other permits are obtained. Otherwise the permit shall be void. After a Zoning Permit has expired, no building permit or Certificate of Occupancy may be issued for the proposed use, until application for such use is repeated and a new Zoning Permit issued under current provisions. No Building Permit shall be issued by Union County and no building shall be occupied until a Zoning Permit is approved by the Administrator.
- H. If a Zoning Permit is denied, the Administrator shall specify the reasons for denial in writing and transmit the written denial within five (5) days of his/her decision to the applicant by first class mail. The applicant may appeal the action of the Administrator to the Board of Adjustment. Such appeal shall be made within 30 days of such permit denial, in accordance with Section [3.6](#) and NCGS 160D-405.
- I. The Administrator shall maintain a record of all Zoning Permits on file, and copies shall be made available upon written request by interested parties. A fee may be assessed for copies.
- J. No building which has been erected, added to, relocated, or structurally altered shall be used or occupied until a Certificate of Occupancy has been issued by the Union County Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued. No temporary utilities shall be connected until a Building Permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issue.

### 3.2.2 FOUNDATION SURVEY

- A. Upon construction of a building foundation (subsequent to the issuance of a zoning permit for that building or structure) the applicant shall be required to submit a copy of the foundation survey of that building or structure to the Administrator in order to ensure that the foundation is in accordance with all applicable setback and bulk requirements. The foundation survey, in scaled form and certified as being accurate by a surveyor or engineer registered with the State of North Carolina, shall show the location of the foundation on the lot and all applicable front, side, and rear yard setbacks. Failure to submit this foundation survey may result in the denial of a Certificate of Compliance.
- B. Foundation surveys are not required for the following:
1. Freestanding signs;
  2. Accessory structures; and
  3. For single-family residential uses (including manufactured homes), if the property contains 10 acres or more, then a survey is not required, provided that the structure is not to be located closer than 200 feet from any property line. If a proposed structure is to be located closer than 200 feet from any property lines, then a foundation survey shall only be required from those property lines.
- C. Should the Administrator find that such foundation survey is not in compliance with the applicable provisions of this Ordinance, the applicant shall be so advised in writing within five (5) days of receipt of such foundation survey. If corrective action is not taken by the applicant within five (5) days of receipt of such notice, the Administrator may revoke the Zoning Permit; in which instance he shall so notify the Union County Office that issued the Building Permit, and a violation of this Ordinance shall be deemed to exist, and any and all sanctions under Section [2.7](#) shall apply.

### 3.2.3 CERTIFICATE OF COMPLIANCE

- A. No building hereafter erected or structurally altered or changed in use shall be used or occupied until a Certificate of Compliance has been issued by the Administrator. Such Certificate of Compliance shall state that the building, portion of a building, or sign is in compliance with the provisions of this Ordinance, with the information stated on the zoning permit, and with the Foundation Survey, if applicable.
  
- B. In the event that poor weather conditions prevent the completion of landscaping or the installation of other improvements that do not prevent the safe and practical use of the site, the Administrator may issue a Temporary Certificate of Compliance for a period not to exceed 90 days. For larger projects, the Administrator may request a performance guarantee in the form of a bond or letter of credit in the amount of 125% of the cost estimate of such improvements as provided by a contractor, landscape architect, professional engineer, or similar professional. When such improvements are installed satisfactorily, the bond shall be released by the Administrator.



**3.2.4 ZONING PERMIT PROCEDURES FOR SINGLE-FAMILY RESIDENTIAL, TWO-FAMILY RESIDENTIAL & ACCESSORY STRUCTURES**

Zoning Permits for single-family residential, two-family residential, and accessory structures shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages:



**STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN (OPTIONAL)**

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

**STEP 2. APPLICATION AND PLOT PLAN SUBMITTAL**

- A. For all new single-family residential buildings, two-family residential buildings, and accessory structures, the applicant shall submit to the Administrator the application, fee, and two (2) copies of a scaled dimensional surveyed plot plan, drawn by and certified as true and correct by a surveyor or engineer registered with the State of North Carolina to the Administrator, except as provided for in Subsection B, with the following information:
  - 1. The exact shape, dimensions and location of the lot to be built upon and existing structures on the lot;
  - 2. The shape, dimensions, and location of the proposed structure(s);
  - 3. All minimum setback lines and distances from property lines to the proposed structure(s) , affirmatively showing that the area of proposed location will meet all setback requirements;
  - 4. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
  - 5. The location and dimensions of parking and the means of ingress and egress;
  - 6. The location of any well, septic tank, or septic field, with location approval from Union County Health Department, if applicable; and
  - 7. Any other information that may be needed to ensure that the proposed structure is in compliance with all applicable provisions of this Ordinance.

- B. If the structure is less than 500 square feet or if the property contains 10 acres or more, then a drawing certified by an engineer or surveyor shall not be required. A noncertified sketch may be provided in lieu thereof; provided that the structure(s) will not be located closer than 200 feet from any property line. In the event that the proposed residence is to be located closer than 200 feet from the property line, then the applicant shall submit a certified survey with respect to those property lines only. The sketch submitted shall in all other respects comply with the requirements set forth above.
- C. In the event the subject property is a corner lot, the applicant shall designate which intersecting street shall be the front of the lot.

### **STEP 3. ADMINISTRATOR REVIEW AND APPROVAL**

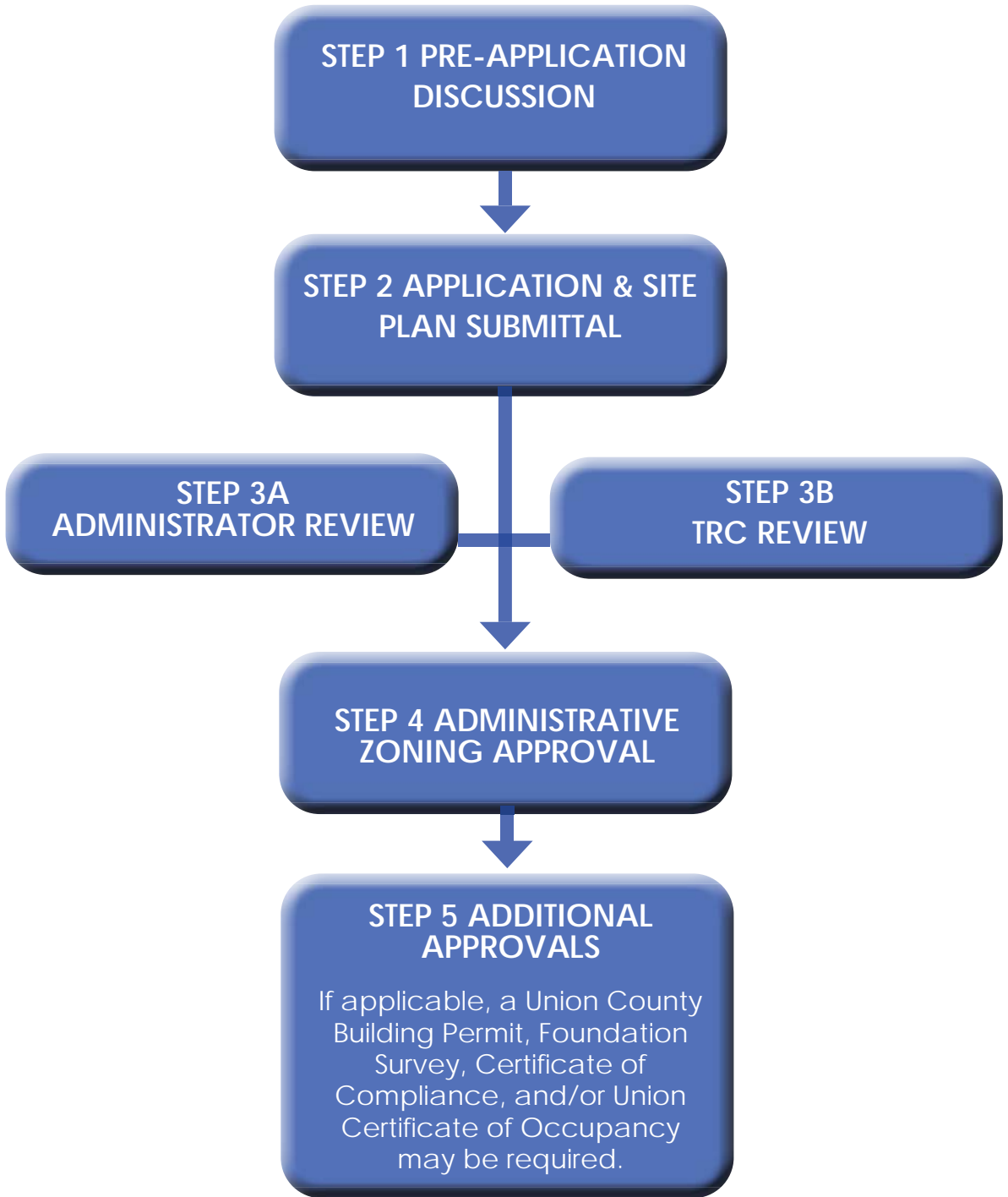
- A. The Administrator shall review the application and Plot Plan in accordance with the requirements of this Ordinance and any other applicable requirements and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within 15 calendar days of receipt of application. Failure to issue a zoning permit shall constitute denial.
- B. The Administrator may request other applicable agencies to provide comments regarding the proposed development.
- C. If the application and Plot Plan are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit.
- D. If the Zoning Permit is denied, then the Administrator shall provide the reasons in writing to the applicant. The applicant may appeal the action of the Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

### **STEP 4. ADDITIONAL APPROVALS (IF APPLICABLE)**

Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Union County Building Inspections, if applicable. Foundation surveys shall be reviewed and Certificates of Compliance shall be issued by the Town of Mineral Springs subject to the standards of Sections [3.2.2](#) and [3.2.3](#), prior to the issuance of a Certificate of Occupancy by Union County.

**3.2.5 ZONING PERMIT PROCEDURES FOR MULTI-FAMILY RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT**

Zoning permits for multi-family residential and non-residential development shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN**

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Site Plan, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 50 feet (1:50) with the following information.
1. Property boundaries with total acreage and relationship to adjacent properties and vicinity;
  2. Proposed site layout including proposed structures, existing structures, and the intended use of structures, and parking;
  3. Proposed site access and designation as public or private;
  4. Topography in five (5) foot contour intervals and existing water courses;
  5. Location of nearest existing and proposed water and sewer line sizes and types and statements regarding how property will be served with water, sewer, and fire protection or if well and on-site septic will be utilized;
  6. Sketch of any proposed drainage facilities; and
  7. Zoning of subject and adjacent properties.
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 15 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed. Any development is subject to other state and federal (and potentially private utility) requirements. For any

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

requirements applying to a development, the Town of Mineral Springs will require a letter from the regulating agency as proof of compliance. Proof of compliance will directly affect issuance of any Zoning Permit or Certificate of Compliance. These include, but are not limited to:

1. Wetlands- US Army Corps of Engineers;
  2. Soil and Erosion Control (compliance with ALL size developments, including those under an acre)- NC Department of Environmental Quality (NCDEQ);
  3. Drive entrances- NC Department of Transportation; and
  4. Other applicable agencies.
- D. One (1) copy of the Sketch Plan shall be retained on file and one (1) copy shall be returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

#### **STEP 2. APPLICANT SUBMITS APPLICATION AND SITE PLAN**

- A. The applicant shall submit the application, fee and the Site Plan that provides the following information:
1. Title Block: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plan preparation an revision, location of development (township, county and state), name and seal of registered surveyor or engineer preparing plan.
  2. Vicinity Map: A sketch vicinity map showing the location of the development in relation to the surrounding area.
  3. Site Data: Acreage in total tract, acreage in right-of-way, existing and proposed impervious area, acreage in open space (if required), residential density in dwelling units per acre (if applicable).
  4. Zoning and Town Limits: Indicate both on and adjacent to the land to be developed,

the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.

5. Tract Boundaries: Exact boundaries of the tract or portion thereof to be developed, with all bearings and distances accurately shown.
6. Property Lines: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being developed.
7. Topographic Lines: Topographic contour lines at five (5) foot intervals.
8. Natural Features/Critical and Sensitive Areas: Streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25% , significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
9. Existing Physical Features: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being developed.
10. Proposed Site Layout: All proposed building and parking locations with dimensions, easements, designation of any dedication or reservations to be made, building setback lines (if applicable) and proposed use of land.
11. Circulation Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and a street profiles.
12. Water & Sewer: Provision of water and wastewater disposal shall be indicated by one (1) of the following methods:
  - Utility Plan: Plans showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems.

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- Health Department or Department of Environmental Quality Approval: Location plans for individual water supply and septic system as approved by Union County Health Department and/or the North Carolina Department of Environmental Quality (NCDEQ) (if connection to public systems is not possible).

13. Stormwater System: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.

14. Grading and Soil and Erosion Control Plan: A Soil and Erosion Control Plan approved by NCDEQ.

15. Driveway Permits: Any driveway permits approved by NCDOT.

16. Article 5 and Article 6 Standards: Demonstration that all of the development standards of Article 5 and Article 6 have been met to potentially include:

- Landscaping Plan
- Lighting Plan
- Building Elevations: exterior wall materials, roof materials, dimensions, window area

17. Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, reserved open space or recreational facilities (indicate whether public or private), commercial areas, or buffer strips.

B. The following submittal requirements may be altered by the Administrator as applicable.

1. Four (4) full-size paper copies for initial review and two (2) copies for revisions; and
2. One (1) digital copy in PDF format for initial review and revisions.



**STEP 3A AND B. ADMINISTRATOR / TRC REVIEW**

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

**STEP 4. ADMINISTRATIVE ZONING APPROVAL**

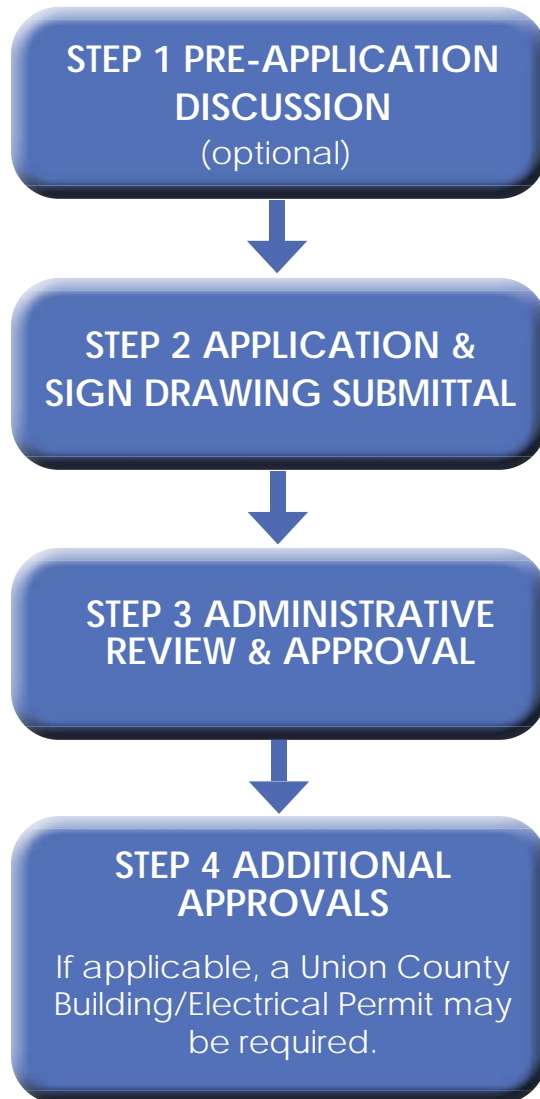
- A. If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit.
- B. If the Zoning Permit is denied, the Administrator shall provide the reasons in writing. The applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for herein. Such appeal shall be made within 30 days of such permit denial.

**STEP 5. ADDITIONAL APPROVALS**

Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Union County Building Inspections, if applicable. Following installation of the foundation, a foundation survey shall be completed and submitted to the Administrator in accordance with Section [3.2.2](#). Following completion of construction and prior the issuance of a Certificate of Occupancy by the Union County Building Inspector, the developer shall coordinate with the Administrator to conduct a final site development inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town development standards. Upon satisfactory completion of all required improvements a Certificate of Compliance shall be issued by the Administrator in accordance with Section [3.2.3](#), and the Certificate of Occupancy may be issued by the Union County Building Inspector.

**3.2.6 ZONING PERMIT PROCEDURES FOR SIGNS**

Zoning permits for signs shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN (OPTIONAL)**

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator or designee concerning the application of this Ordinance to the proposed signage is recommended.
- B. Before submitting a Zoning Permit application, the applicant may submit to the Administrator a sketch showing the proposed sign layout, design, location, and dimensions. The Administrator shall advise the sign owner or his authorized agent of the regulations pertaining to the proposed sign and the procedures to be followed.

**STEP 2. APPLICATION AND SIGN DRAWING SUBMITTAL**

The applicant shall submit the application, fee and a drawing of the sign and its location with the following information:

- A. The shape, dimensions, content, colors, and type of the sign;
- B. The location of the sign on the lot with respect to buildings, parking lots, property lines and adjacent rights-of-way;
- C. Whether or not the sign is externally illuminated (electric permit may be required from Union County Building Inspections);
- D. For wall signs, the building length and height; and
- E. Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

**STEP 3. ADMINISTRATOR REVIEW AND APPROVAL**

- A. The Administrator shall review the application and drawing in accordance with the requirements of this Ordinance and any other applicable requirements.
- B. If the application and drawing are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit for the sign.

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

C. If the Zoning Permit is denied, the Administrator shall provide the reasons in writing. The applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for herein. Such appeal shall be made within 30 days of such permit denial.

#### **STEP 4. ADDITIONAL APPROVAL**

Following approval of the Zoning Permit for an illuminated or freestanding sign, the applicant may obtain a Building Permit or Electrical Permit from Union County Building Inspections, if required.

### 3.3 SUBDIVISIONS

#### 3.3.1 SUBDIVISIONS DEFINED

- A. All plats and proposed subdivisions shall be reviewed by the Administrator for initial determination as to whether the proposed subdivision is to be classified as a subdivision or is exempt from subdivision requirements.
- B. In accordance with NCGS 160D-802, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Section:
1. The combination or recombination of portions of previously subdivided and recorded Lots where the total number of lots is not increased and the resultant Lots are equal to or exceed the standards of this Ordinance;
  2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
  3. The public acquisition by purchase of strips of land for the widening or opening of streets;
  4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance;
  5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes;
  6. The division of a tract for the sole purpose of the placement of permanent equipment and buildings for the provision of water and sewer service; and
  7. The division of a tract of land that was created by recombining two or more lots shown on a subdivision plat filed with the Union County Register of Deeds prior to the Town of Mineral Springs February 27, 2007 major rezoning, where that rezoning resulted in a more restrictive zoning classification for that subdivision. Such division of land shall result in lots

of the exact size, shape and dimensions as shown on the original subdivision plat and shall not create any nonconforming setbacks. Property ownership shall be the same as listed on February 27, 2007.

C. A subdivision plat may only be required for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

1. The tract or parcel to be divided is not exempted under subsection (B);
2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;
3. The entire area of the tract or parcel to be divided is greater than five (5) acres;
4. After division, no more than three (3) lots result from the division; and
5. After division, all resultant lots comply with all of the following:
  - Any lot dimension size requirements of the applicable land-use regulations, if any;
  - The use of the lots is in conformity with the applicable zoning requirements, if any; and
  - A permanent means of ingress and egress is recorded for each lot.

### 3.3.2 SUBDIVISION EXEMPTION

If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS 160D-802, then the division shall be considered a subdivision exemption and shall not be subject to the subdivision review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificates, signed and dated by all record property owner(s) with direct interest in the property, the surveyor, and the Administrator:

- **Certificate of Subdivision Type by Surveyor**

"This survey is of another category of subdivision such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision per NCGS 160D-802."

- **Exempt Plat Certificate**

I certify that this plat is exempt from subdivision regulations in accordance with NCGS 160D-802 and meets the minimum zoning standards of the Town of Mineral Springs.

---

Ordinance Administrator

Date

### 3.3.3 MINOR SUBDIVISION DEFINED

A. A minor subdivision is defined as a subdivision where:

- No public or private streets are proposed or necessary;
- No street rights-of-way are dedicated;
- The parcel of land is not within an existing major subdivision or a part thereof;
- Where no more than 10 lots are created after the subdivision is completed; and
- Where no public water or sewer systems are proposed.

B. However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way, from the property to be subdivided, the proposed subdivision shall not qualify for consideration under the Minor Subdivision review process.

C. Additionally, the procedure for review of Minor Subdivisions shall not be used for an additional time within three (3) years on any property less than 1,500 feet from the original property boundaries, by anyone, who owned, had an option on, or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.

D. Minor Subdivisions shall follow the review procedures of Steps 1 and 10-12 in Section [3.3.6](#). Prior to Final Plat approval, the applicant shall provide documentation of satisfactory approval by the Union County Health Department for onsite septic suitability for each new lot created.

### 3.3.4 MAJOR SUBDIVISION DEFINED

- A. A major subdivision is defined as a subdivision where one (1) or more of the following exist:
- New public or private streets or roads are proposed or necessary; and/or
  - More than 10 lots will result after the subdivision is completed,
- B. Major Subdivisions shall follow the review procedures of all of the steps in Section [3.3.6](#).

### 3.3.5 ZONING REGULATIONS FOR SUBDIVISION DEVELOPMENT TYPES

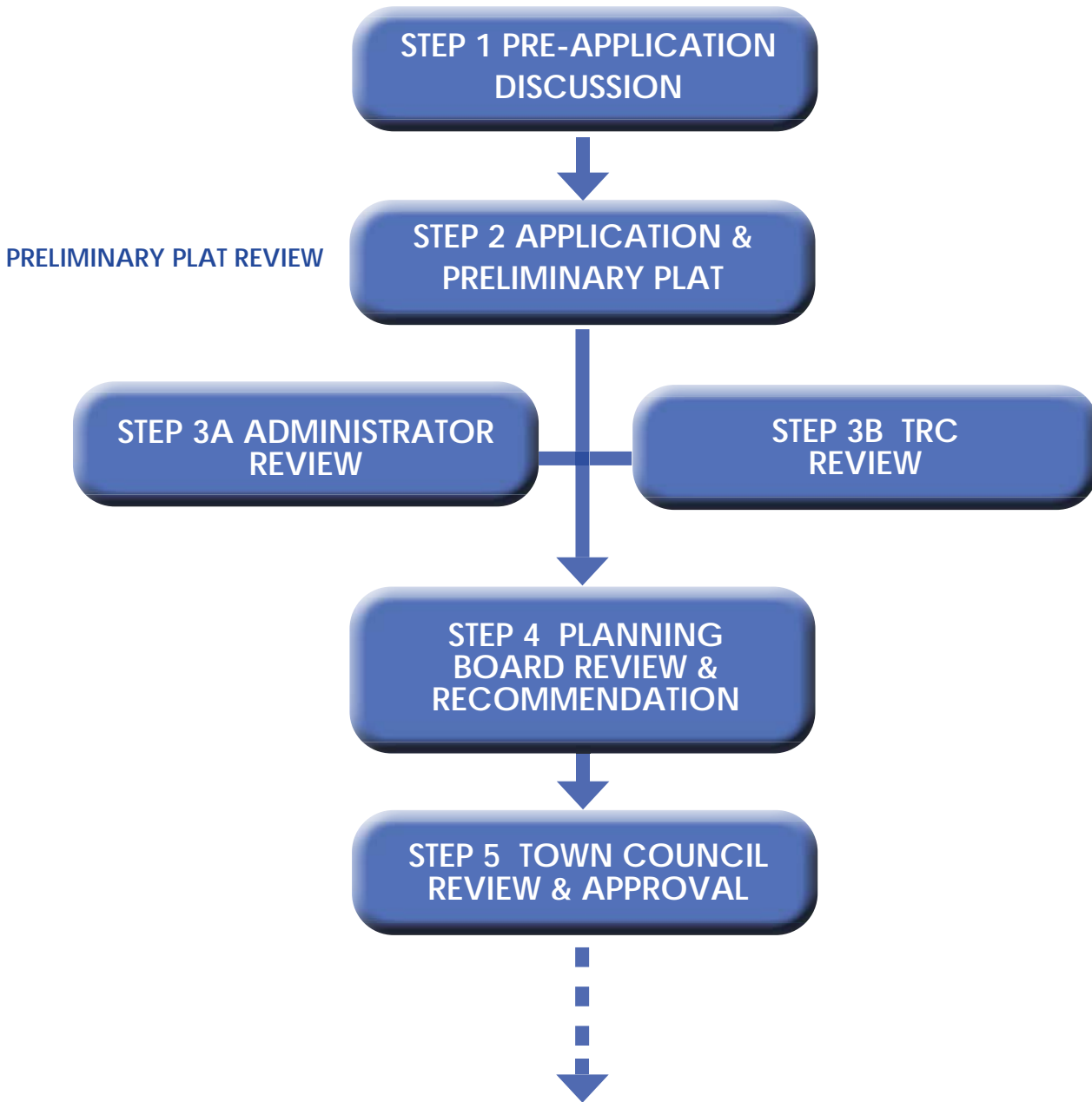
There are six (6) subdivision development types outlined below. These types can be either major or minor subdivisions, depending on the corresponding definitions. Each of these development types has corresponding regulations located in Section [5.2](#) Density and Dimensional Standards and Section [5.6](#) Infrastructure Standards:

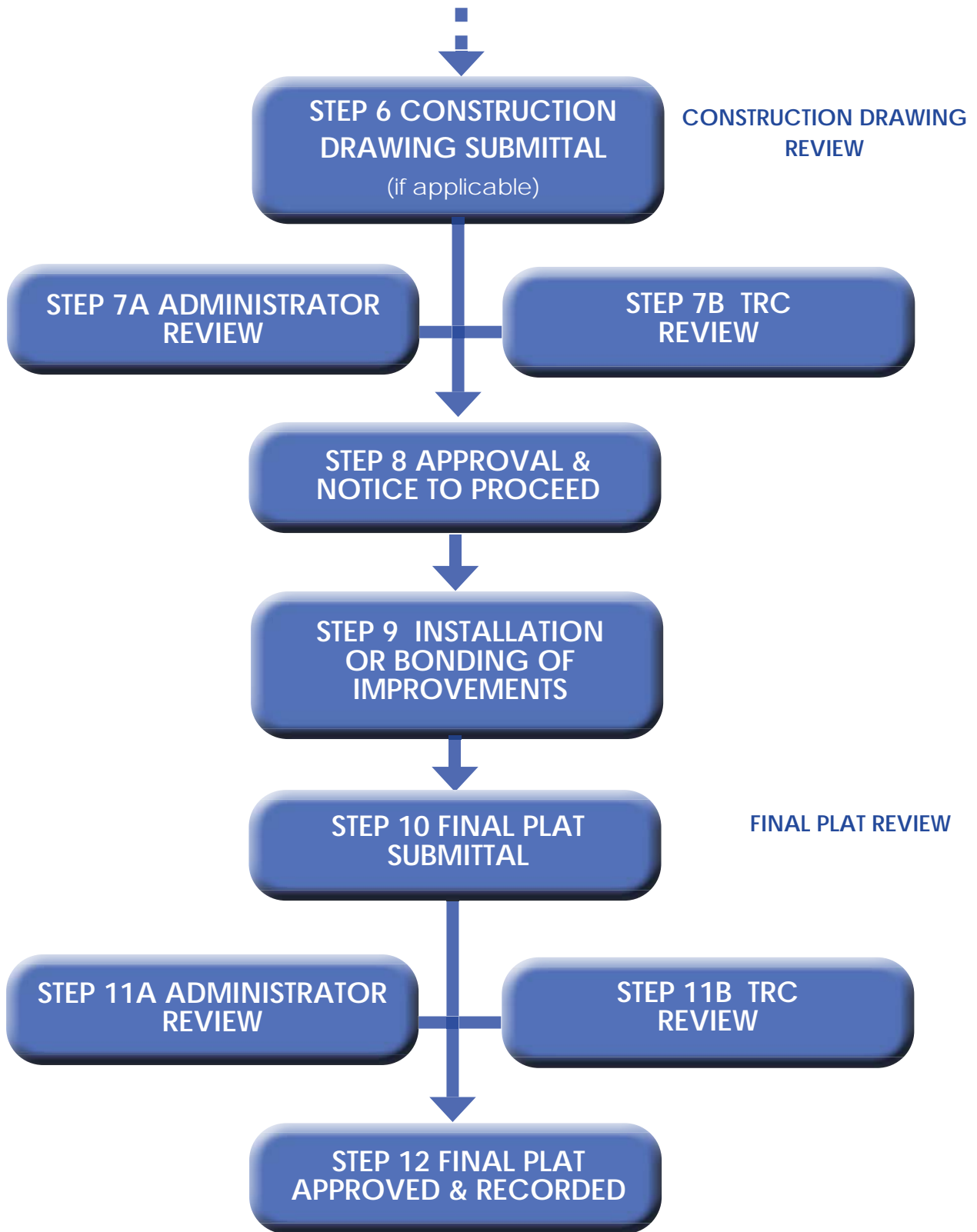
- Conventional Subdivisions
- Farmhouse Group Subdivision
- Large-Lot Subdivision
- Conservation Subdivision
- Urban Cottage Subdivision
- Non-Residential or Mixed-Use Subdivision



**3.3.6 SUBDIVISION PROCEDURES**

Subdivision Preliminary Plats shall be approved by the Town Council, while Construction Drawings, and Final Plats shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages. The abbreviated Minor Subdivision plat review process only includes steps 1 and 10-12.





**STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN**

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Preliminary Plat, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 200 feet (1:200) with the following information:
1. The name, address, and phone number of the property owner and name of the proposed subdivision;
  2. A vicinity map, including a north arrow, and showing the location of the proposed subdivision in relation to neighboring tracts, existing and/or platted subdivisions, roads, floodplains, wetlands and waterways;
  3. The boundaries and total acreage of the tract and the portion of the tract to be subdivided;
  4. The existing and proposed uses of land within the proposed subdivision and the existing uses of land adjoining it with any proposed use of floodplains or wetlands whatsoever in or adjacent to the proposed subdivision clearly set forth and accompanied by a statement to the effect that no infringement on such areas will result;
  5. The proposed development access, street layout with approximate pavement and right-of-way width, and designation of streets as public or private;
  6. The zoning classification of the tract and of adjacent properties;
  7. The lot layout, size of lots, and building envelopes showing zoning district setbacks on the lot and in table format;
  8. The streets and property lines of adjacent developed or platted properties;

9. Sketch of location of any proposed drainage or stormwater detention facilities; and
  10. Additional information required for Conservation Subdivisions is located in Section [5.2.5](#).
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 15 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.
- D. One (1) hard copy and one (1) digital copy of the Sketch Plan shall be retained on file by the Administrator, and one (1) digital or hard copy shall be returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

## **STEP 2. APPLICATION AND PRELIMINARY PLAT SUBMITTAL**

- A. The applicant shall submit the application, the applicable review fee, and the Preliminary Plat, prepared by a Registered Land Surveyor currently licensed and registered by the North Carolina State Board for Professional Engineers and Land Surveyors. The Preliminary Plat shall be submitted to the Administrator at least 60 calendar days prior to the meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Preliminary Plat shall be at a scale of not less than one (1) inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines. As an option, Construction Drawings may also be submitted to be reviewed concurrently (steps 6-8). The Preliminary Plat shall provide the following information:
1. Title Block: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plat preparation, location of development (township, county and state), name and seal of registered land surveyor preparing the plat.
  2. Vicinity Map and North Arrow: A vicinity map showing the location of the development in relation to the surrounding area.
  3. Existing Features Plan: A separate map drawn at the same scale as the Preliminary Plat showing the existing topography with contour intervals of no greater than (5) feet, existing groundcover, any wetlands or streams, an accurate mapping of all soil classifications

found on the site and general depths thereof, and a statement in regard to the locations of any special flood hazard areas.

4. Site Data: Acreage in total tract, smallest lot size, total number of lots, and linear feet of streets.
5. Zoning and Town Limits: Indicate both on and adjacent to the land to be subdivided the location of Town limits (if applicable), zoning of property and location of zoning lines if property is located in more than one (1) zone.
6. Tract Boundaries: Exact boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
7. Property Lines and Information: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being subdivided.
8. Topographic Lines: Topographic contour lines at five (5) foot intervals.
9. Natural Features/Critical and Sensitive Areas: Streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries (if applicable), wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25%, an accurate mapping of all soil classifications found on the site and general depths thereof, the proximity to Voluntary Agricultural Districts and significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
10. Existing Physical Features: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being subdivided.
11. Proposed Lot Layout: All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines (if applicable), proposed use of land if other than single family residences, and proposed septic tank and drainfield locations for each lot (if applicable);

12. Street Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and street profiles.
13. Street Maintenance: Statement whether streets are private or are to be turned over for maintenance to NCDOT.
14. Water and Sewer: Provision of public water and wastewater disposal shall be indicated (if applicable). Location of nearest existing and proposed water and sewer line sizes (if applicable) and types and statements regarding how property will be served with water, sewer, and fire protection.
15. Well and Septic: Well, septic tank, drainfield, repair area location for each lot (if applicable) shall be shown. Where individual septic tanks are the proposed method for wastewater treatment, the subdivider shall submit a report evaluating the suitability of the site for septic tank drainfields. The report shall be based of the physical characteristics of the site. The applicant shall conduct at least two (2) soil core borings for every one (1) acre of land in the tract to be subdivided and the borings shall be an average of at least four (4) feet in depth. Each boring shall be assigned a separate number and the report shall present the findings of each boring, the subdivider shall show the location of each boring (by number assigned) on the sketch plan. The report shall include the description of soils in accordance with: North Carolina Administrative Code, Title 10, Department of Human Resources, Chapter 10, Health Services; Environmental Health, Subchapter 10A, Sanitation and the U. S. Department of Agriculture Handbook Number 18, Soil Survey Manual. The report shall also include a description of soil color, using the Munsell Soil Color Charts, Published Munsell Color, and Macbeth Division of Kollmorgen Corporation. The report shall further draw conclusions as to the suitability of the number and type of septic systems proposed as derived from the testing, color and type of soil for each sample of soil taken. The report shall be prepared by a qualified soil scientist and the qualifications and references of the soil scientist shall be documented in the report. Lots to be served by public water shall not be subject to the well site area requirements and lots to be served by public sewer shall not be subject to the septic tank drainfield designation requirements. Written evidence of approval of the proposed lots by the Union County Health Department for septic tanks shall be acceptable in lieu of the soils test requirement, but all other requirements of this subsection regarding the use of septic tanks must still be met in order for further consideration to take place of any such proposed subdivision.

16. Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, buffers, reserved open space or recreational facilities as required by Section [5.3.4](#) (indicate whether public or private), along with deed restrictions or covenants for the maintenance of such.
17. Phasing: All phase lines shall be shown on the Preliminary Plat. If a subdivision that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire subdivision (such as a swimming pool or tennis courts in a residential subdivision) then, as part of his/her application for subdivision approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one (1) or more phases of the entire subdivision. Once a schedule of improvements has been approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.
18. Approval of Subdivision Name and Street Names: A letter from Union County E-911 Addressing shall be provided showing approval of the subdivision name and street names.
19. Approval Certificate: The Preliminary Plat shall include the following certificates to be signed after approval:

**Preliminary Plat Approval Certificate**

I hereby certify that the preliminary plat shown hereon has been found to comply with the regulations of the Town of Mineral Springs Development Ordinance and has been approved by the Mineral Springs Town Council on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Mayor, Town of Mineral Springs, NC

- B. The following submittal requirements may be altered by the Administrator as applicable.
  1. Four (4) full-size paper copies for initial review and two (2) copies for revisions; and
  2. One (1) digital copy in PDF format for initial review and revisions.

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

- A. The Administrator and the Technical Review Committee shall review the Preliminary Plat in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order forward to the Planning Board.
  
- B. The Technical Review Committee shall provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

**STEP 4. PLANNING BOARD REVIEW AND RECOMMENDATION OF PRELIMINARY PLAT**

- A. If a Preliminary Plat is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall forward the plat to the Planning Board. The Administrator shall submit a written report with review comments, including comments of the Technical Review Committee on the proposed subdivision to the Planning Board at least five (5) days in advance of its meeting. Said written report shall include a recommendation to the Planning Board to either approve, or conditionally approve, pending satisfaction of certain conditions to meet specific requirements of this Ordinance, or disapprove the proposed subdivision Preliminary Plat.
  
- B. The Planning Board shall review the plat for compliance with this Ordinance and for consistency with any adopted plans. If the plat complies with all regulations and plans then the Planning Board shall recommend approval. If there are any deficiencies, then the Planning Board shall include conditions for compliance in its recommendation to the Town Council. The Planning Board’s recommendation shall occur within 30 calendar days of is first consideration of the plat or next regularly scheduled meeting, which ever occurs later. If the Planning Board does not make a written recommendation within the time set forth herein for its consideration of the plat, the subdivider may apply directly to the Town Council for approval or disapproval.

**STEP 5. TOWN COUNCIL REVIEW AND APPROVAL OF PRELIMINARY PLAT**

- A. After the applicant has revised the plat to meet any conditions recommended by the Planning Board, the Town Council shall review the Preliminary Plat. In doing so, the Town Council shall take into consideration any recommendations for conditions made by the Planning Board. If the Preliminary Plat is found to meet all of the applicable regulations of this Ordinance and any applicable state or federal regulations, then the Preliminary Plat shall be approved.



- B. One (1) hard copy and one (1) digital copy of the approved Preliminary Plat and associated construction drawings shall be retained on file by the Administrator.

#### **STEP 6. CONSTRUCTION DRAWING SUBMITTAL**

A. If the proposed subdivision involves the grading of more than one (1) acre at a time, the installation of roads, or the installation of public (water and/or sewer) or private community well and septic facilities (not including well and septic on individual lots), then Construction Drawings shall be submitted for review. The applicant shall submit the Construction Drawings and applicable review fee prepared by a surveyor or professional engineer licensed and registered to practice in North Carolina. As an option, construction drawings may also be submitted to be reviewed concurrently with the Preliminary Plat (steps 2-5). The Construction Drawings shall provide the following information meeting the landscaping and infrastructure requirements of Sections [5.4](#) and [5.6](#):

1. Approved Preliminary Plat or Preliminary Plat currently under review.
2. Utility Plan: Plan showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems. A typical trench section shall be shown. Letters of approval for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies shall be provided.
3. Stormwater System Plan: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.
4. Grading and Soil and Erosion Control Plan: A Soil and Erosion Control Plan approved by NCDEQ.
5. Roadway Plan and Driveway Permits: Plans and profiles meeting the infrastructure requirements set forth in with accompanying approvals by NCDOT.
6. Landscaping Plan: Plan showing calculations of minimum landscaping required and minimum landscaping provided, identifying the species, number, and location of each plant.

7. Lighting Plan: Photometric plan showing the location, footcandles, height, and design of any proposed lighting.

8. Approval Certificates:

- **Construction Drawings Approval Certificate**

I hereby certify that the construction drawings shown hereon have been found to comply with the regulations of the Town of Mineral Springs Development Ordinance.

\_\_\_\_\_    \_\_\_\_\_  
 Development Ordinance Administrator    Date

- **Certificate of NCDOT Approval**

Department of Transportation - Division of Highways  
 Proposed subdivision road construction standards design certification.

Approved \_\_\_\_\_    \_\_\_\_\_  
     District Engineer    Date

**STEP 7A AND B. ADMINISTRATOR / TRC REVIEW OF CONSTRUCTION DRAWINGS**

A. The Administrator and the Technical Review Committee shall review the Construction Drawings in accordance with the approved Preliminary Plat, any conditions of approval applied to the Preliminary Plat by the Town Council, and all requirements of this Ordinance and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected.

B. The Technical Review Committee shall provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

**STEP 8. APPROVAL AND NOTICE TO PROCEED**

If all requirements of this Ordinance have been met and all TRC comments satisfactorily addressed, then the Administrator and NCDOT District Engineer shall sign the approval certifications. The Administrator shall then issue, in writing, a notice to proceed with the installation of improvements for the subdivision.

**STEP 9. IMPROVEMENTS INSTALLED AND INSPECTED OR GUARANTEED**

- A. Following Construction Drawing approval, the developer may proceed with the installation of improvements as shown on the approved Construction Drawings , and as set forth in Section [5.4](#) Landscaping Standards and [5.6](#) Infrastructure Standards. The installation of improvements and Final Plat shall constitute only that portion of the Preliminary Plat which the subdivider proposes to record and develop at that time; nevertheless such portion shall conform to all requirements of this Ordinance as if the entire subdivision were developed.
- B. Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, NCDOT, and utility provider, the installation of said improvements. The Town Engineer, NCDOT, NCDEQ, and/or utility provider (as applicable) shall inspect the improvements to ensure compliance with applicable standards prior to approval of the Final Plat. Underground utilities shall be inspected by the utility provider and/or NCDEQ before they are covered. The final coat of asphalt shall not be installed until a minimum of 75% of the homes within the subdivision are constructed.
- C. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town Council may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plat and Construction Drawings for that portion of the subdivision to be shown on the Final Plat within one (1) year of Final Plat approval. Once the security required herein is provided, the Final Plat may be approved by the Administrator, if all other requirements of this Ordinance are met. The Administrator shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements. The developer shall provide one (1) of the following guarantees in lieu of installation, in accordance with NCGS 160D-804 (g).
1. Surety Performance Bond(s): The subdivider shall obtain a performance bond(s) from a surety bonding company licensed to do business in North Carolina. The bond(s) shall be payable to the Town of Mineral Springs and shall be made in or total an amount equal to 1.25 times the entire cost, as estimated by the subdivider, verified by the Town Engineer (or Office of the District Engineer, State of North Carolina Department of Transportation, Division of Highways, for street improvements) and thereafter accepted by the Town Council, for the installation of all required improvements. The duration of the bond(s) shall be for not more than two (2) years, or until such time

as the improvements are accepted by the Town Council or otherwise dedicated, whichever is less. Any expenses associated with cost verifications incurred by the Town shall be borne entirely by the subdivider.

2. Cash or Equivalent Surety: The subdivider shall deposit cash, an irrevocable letter of credit from a bank doing business in North Carolina where deposits are insured by the Federal Deposit Insurance Corporation (FDIC), or Savings and Loan doing business in the State of North Carolina, where deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC), or certified check drawn in favor of the Town of Mineral Springs with the Town Clerk before any work commences. The use of any instrument other than cash shall be subject to the approval of the Town Council. The amount of deposit or letter of credit shall be equal to 1.25 times the cost as estimated by the subdivider, verified by the Town Engineer, for the installation of all required improvements.

Interest derived on any such cash or equivalent security deposit(s) shall inure to the provisional credit of the subdivider, and shall be delivered to him upon completion, acceptance and dedication of all required improvements, less any reasonable administrative expenses.

- D. Upon default, meaning the failure on the part of the subdivider to complete the required improvements within two (2) years as spelled out in the performance bond, then the surety, shall, if requested by the Town Council, pay all or any portion of the bond to the Town of Mineral Springs up to the amount needed to complete the improvements based on an updated engineering estimate. Upon payment, the Town Council, at its sole discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements, or restore the property to its pre-development state to the maximum extent feasible. The Town Council shall return to the subdivider, or guarantor in the event the guarantor is called upon to pay for improvements, any funds not so spent, less any reasonable administrative expenses. Any cash or equivalent surety held by the Town may be used likewise, in event of default.
- E. The Town Council may release a portion of any surety posted as the improvements are completed and recommended for approval by the Administrator. Within 30 calendar days after receiving the Administrator's recommendation, the Town Council shall approve or disapprove said improvements. When the Town Council approves said improvements, it

shall immediately release such amount of surety posted, as it deems appropriate; provided however, the balance remaining as surety shall continue to equal one and one-half (1.5) times the estimated cost of the remaining improvements, as verified by the Town Engineer. Whenever a surety bond or letter of credit has been submitted, the Administrator shall notify the subdivider at least 90 calendar days prior to the time said guarantee is about to expire. If the subdivider does not extend or replace said guarantee within 60 calendar days of said notification, the Administrator shall, through the Town Attorney, and after notifying the Town Clerk, begin proceedings for calling upon the guarantee. Any extension or replacement shall be in the same amount as the guarantee being extended or replaced unless a portion of the improvements have been completed and a reduction in amount is appropriate as provided for in this Section. The period within which required improvements must be completed shall not in any event exceed two (2) years from the date of Preliminary or Final Plat approval, or the Town shall begin the process of calling upon the guarantee as specified herein. If the subdivider indicates that the Final Plat will be completed in sections as herein provided, he may post such guarantee separately but before the time each respective section is submitted and considered for Final Plat approval.

#### **STEP 10. FINAL PLAT SUBMITTAL**

- A. Following completion or guarantee of improvements, the subdivider may submit the applicable application, fee, and the Final Plat(s). The proposed Final Plat shall conform substantially to the Preliminary Plat and Construction Drawings, as approved.
- B. Final Plats shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. Final Plats shall conform to the provisions for plats, developments and mapping requirements set forth in NCGS 47-30 and the Manual of Practice for Land Surveying in North Carolina. Final Plats shall be of a size suitable for recording with the Union County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet (1"=200'). Maps may be placed on more than one (1) sheet with appropriate match lines.
- C. Final Plats shall include the following information:
  - 1. Title Block: Subdivision name, scale denoted graphically and numerically, date of plat preparation and township, county and state in which the subdivision is located and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).

2. Vicinity Map and North Arrow: A vicinity map showing the location of the development in relation to the surrounding area.
3. Tract Boundaries: The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of intersecting boundary lines and adjoining lands.
4. Adjoining Property Owners: The names and deed references of owners of adjoining properties and adjoining developments of record (proposed or under review).
5. Zoning and Town Limits: Indicate both on and adjacent to the land to be subdivided the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.
6. Setbacks and Building Envelopes: Provide the minimum building setbacks in both table format and on the lot.
7. Location of Improvements: All visible and apparent existing structures, streets, utilities, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
8. Surveying Data: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
9. Monuments: The accurate locations and descriptions of all monument, markers and control points.
10. Lot Numbers: The lots numbered consecutively throughout the entire subdivision or portion to be recorded.
11. Streets: Street names, right-of-way lines and percents grade of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.

12. Utility and Drainage easements: Locations of water, sanitary sewer and storm drainage easements.

13. Right-of-Way: The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths and areas to be dedicated to public use with the purpose of each stated.

14. Flood Information: The location of the floodway and flood fringe boundaries, if applicable.

15. Open Space: The location of dedicated open space with a note that the land shall not be developed for any purposes other than the designated open space type.

16. Forms of Final Certifications: The following certificates shall be shown on the original and all copies of the Final Plat:

• **Certificate of Approval of Subdivision Final Plat**

This subdivision plat has been found to comply with the provisions of the Mineral Springs Subdivision Ordinance and is approved this date for recording in the Union County Office of the Register of Deeds. The plat shall be recorded within 30 calendar days of this date.

\_\_\_\_\_ Date  
Administrator

• **Certificate of Ownership and Dedication**

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Mineral Springs and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

\_\_\_\_\_ Date  
Owner

- **Certificate of Survey and Accuracy in Accordance With the Standards and Practice for Land Surveying in North Carolina:**

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The Certificate shall include a statement on error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated of the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, Union County

I, \_\_\_\_\_ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1:\_\_\_\_\_, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my original signature, registration number and seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Registered Land Surveyor

Official Seal

\_\_\_\_\_  
Registration Number

I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Officer

Official Seal



• **Certificate of Subdivision Type**

It is the duty of the surveyor to certify to one of the following on the face of the plat:

1. That the survey creates a subdivision of land within the area of Mineral Springs that is regulated by the Mineral Springs Development Ordinance, that regulates the subdivision of parcels of land; or
2. That the survey is of an existing parcel or parcels of land; or
3. That the survey is of another category, such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or
4. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his/her professional ability as to the provisions contained in (1) through (3) above.

• **Review Officer Certificate**

State of North Carolina, County of Union

I, \_\_\_\_\_, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

---

Review Officer \_\_\_\_\_ Date \_\_\_\_\_

• **Register of Deeds Certificate**

State of North Carolina, County of Union

This instrument was presented for registration and recorded in Map Book \_\_\_\_\_,

Page \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ (a.m./p.m.)

\_\_\_\_\_ By \_\_\_\_\_

Register of Deeds \_\_\_\_\_ Deputy

• **Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements (if applicable)**

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to NC Department of Transportation and/or Town of Mineral Springs specifications and standards in the Mineral Springs Development Ordinance, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Mineral Springs have been given and received.

---

Town Engineer \_\_\_\_\_ Registration Number \_\_\_\_\_ Date \_\_\_\_\_ Official Seal \_\_\_\_\_

- **NCDOT Construction Standards Certificate** (if applicable)

I hereby certify that the streets on this plat designated as public are or will be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance into the state highway system.

or

I hereby certify that the streets on this plat designated as private do not satisfy the minimum right-of-way and construction standards established by the Board of Transportation and will not be accepted into the state highway system.

---

District Engineer

Date

- **Special Flood Hazard Area Note** (Word to represent situation)

Note: (Part of) this property (does/does not) lie in a Special Flood Hazard Area  
Reference: Floodway Panel # \_\_\_\_\_ Date: \_\_\_\_\_ (of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat and comply with the Flood Damage Prevention Regulations of Section [5.3.3](#))

- **Voluntary Agricultural Proximity Statement**

The following statement shall be placed on all subdivision plats that include lots that are within one-half (1/2) aerial mile of a Voluntary Agricultural District:

“These parcels are located within one-half (1/2) mile of property that is presently used for agricultural purposes. Normal agricultural operations may conflict with residential land use. NC Law (General Statutes Section 106-701) provides some protection for existing agricultural operations against nuisance laws.”

D. The following submittal requirements may be altered by the Administrator as applicable.

1. Four (4) full-size paper copies for initial review and two (2) for revisions; and
2. One (1) digital copy in PDF format for initial review and revisions

#### **STEP 11A AND B. ADMINISTRATOR / TRC REVIEW OF FINAL PLAT**

- A. The Administrator and the Technical Review Committee shall review the Final Plat in accordance with the approved Preliminary Plat and Construction Drawings, requirements of this Ordinance, and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order to approve.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer prior to Final Plat approval.

#### **STEP 12. FINAL PLAT APPROVED AND RECORDED**

- A. If the Final Plat is found to meet all of the applicable regulations of this Ordinance, then the subdivider shall provide the Final Plat printed on mylar suitable for recording at the Union County Register of Deeds. The Administrator shall ensure that all applicable certificates are signed (except the Review Officer and Register of Deeds certificates) and approve the Plat for recordation at the Union County Register of Deeds.
- B. Following approval, the applicant shall obtain Union County Review Officer approval and record the Plat at the Union County Register of Deeds within 30 days of the date of approval. Otherwise, said plat shall be void and may be subjected to the entire review process. Once recorded, a mylar copy of the recorded plat shall be provided to the Town for its records.
- C. Following recordation of the Plat, the appropriate Zoning Permit process in Section [3.2](#) shall be followed for any construction or establishment of uses on individual lots.

### 3.3.7 NO SUBDIVISION OR IMPROVEMENTS WITHOUT PLAT APPROVAL

- A. The Union County Review Officer or Union County Register of Deeds, pursuant to NCGS 160D-803 and NCGS 47-30.2, shall not certify or record a plat of a subdivision of land lying within the jurisdiction of this Ordinance that has not been approved in accordance with the provisions contained herein; nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions or intent of this Ordinance. Without approval, the filing or recording of a subdivision plat shall be null and void.
- B. No person may subdivide land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide land unless and until a Final Plat of the subdivision has been approved and recorded in the Union County Register of Deeds.
- C. No grading or physical improvements to land to be subdivided may be commenced except in accordance with and pursuant to the approved Preliminary Plat and Construction Drawings.
- D. No zoning permit, building permit or certificate of occupancy shall be issued for any lot which was created by subdivision after the effective date of this Ordinance without having first been approved in accordance with this Ordinance and recorded at the Union County Register of Deeds Office and, where applicable, an Improvements Permit has been issued by the Union County Health Department.
- E. A Final Plat must be recorded before final sale or lease of lots can occur. However, the developer, upon approval of a Preliminary Plat and Construction Drawings, may enter into contracts to sell or lease the lots shown on the approved Preliminary Plat, provided that the contract does all of the following:
  - 1. Incorporates as an attachment a copy of the approved Preliminary Plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded Final Plat prior to closing and conveyance;
  - 2. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the Preliminary and Final Plats are possible, and that the contract or lease may be terminated without breach by

the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved Preliminary Plat;

3. Provides that if the approved and recorded Final Plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 5 days after the delivery of a copy of the final approved and recorded plat; and
  4. Provides that if the approved and recorded Final Plat differs in any material respect from the approved Preliminary Plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.
- F. The provisions of this Section shall not prohibit any owner or agent from entering into contracts to sell or lease land with reference to an approved Preliminary Plat for which a Final Plat has not been approved or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the Final Plat has been properly approved under the Subdivision Ordinance and recorded with the Register of Deeds.

### 3.3.9 PRELIMINARY PLAT VALIDITY

- A. The approval of a Preliminary Plat shall be effective for two (2) years from the date of approval. By the end of that time period, a Final Plat shall have been approved and recorded. Any plat or portion thereof not receiving final approval within the time period set forth herein shall be null and void except under the following conditions:
1. The subdivision is built in sections or phases, and was approved as part of the Preliminary Plat;
  2. The period between the approval date of the Preliminary Plat and the approval date of

the Final Plat for the first phase does not exceed two (2) years; and

3. The period between the approval date of the Final Plat of the first phase and the approval date(s) of the Final Plat(s) of any subsequent phase(s) does not exceed the time limits specified in the phasing schedule of the Preliminary Plat.

B. This shall not apply to developments which have received approval for extended vested rights or development agreements in accordance with Section [1.8](#).

C. The Town Council may, upon expiration of a Preliminary Plat, re-approve the expired Preliminary Plat or portions thereof, as long as the subdivision design and conditions of approval are in compliance with this Ordinance, and any other applicable Town ordinances and/or plans in effect at the time of application for re-approval, and changes to the original design or conditions of approval are considered minor.

D. The applicant shall submit an amended application for review as an original application if substantial amendments or modifications are proposed after Preliminary Plat approval. This shall not apply to minor modifications. A change may be considered a minor modification if it does not involve any of the following:

1. Any substantive change in a condition of approval;
2. An increase in the number of building lots proposed;
3. Any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;
4. Any substantial change in pedestrian and/or vehicular access or circulation including road classification;
5. Any change in the provision of services such as water supply and wastewater disposal; and/or
6. Any substantial change in the location of utilities or other easements.

### 3.3.10 DEDICATION AND MAINTENANCE OF IMPROVEMENTS

No street shall be maintained by the Town, nor shall any street dedication be accepted for ownership and maintenance in any subdivision by virtue of enactment of this Ordinance. Pursuant to NCGS 160D-806, approval of a plat required under this Ordinance shall not be deemed to constitute or effect acceptance by the Town or NCDOT of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be by separate action.

### 3.3.11 RE-PLATTING PROCEDURES

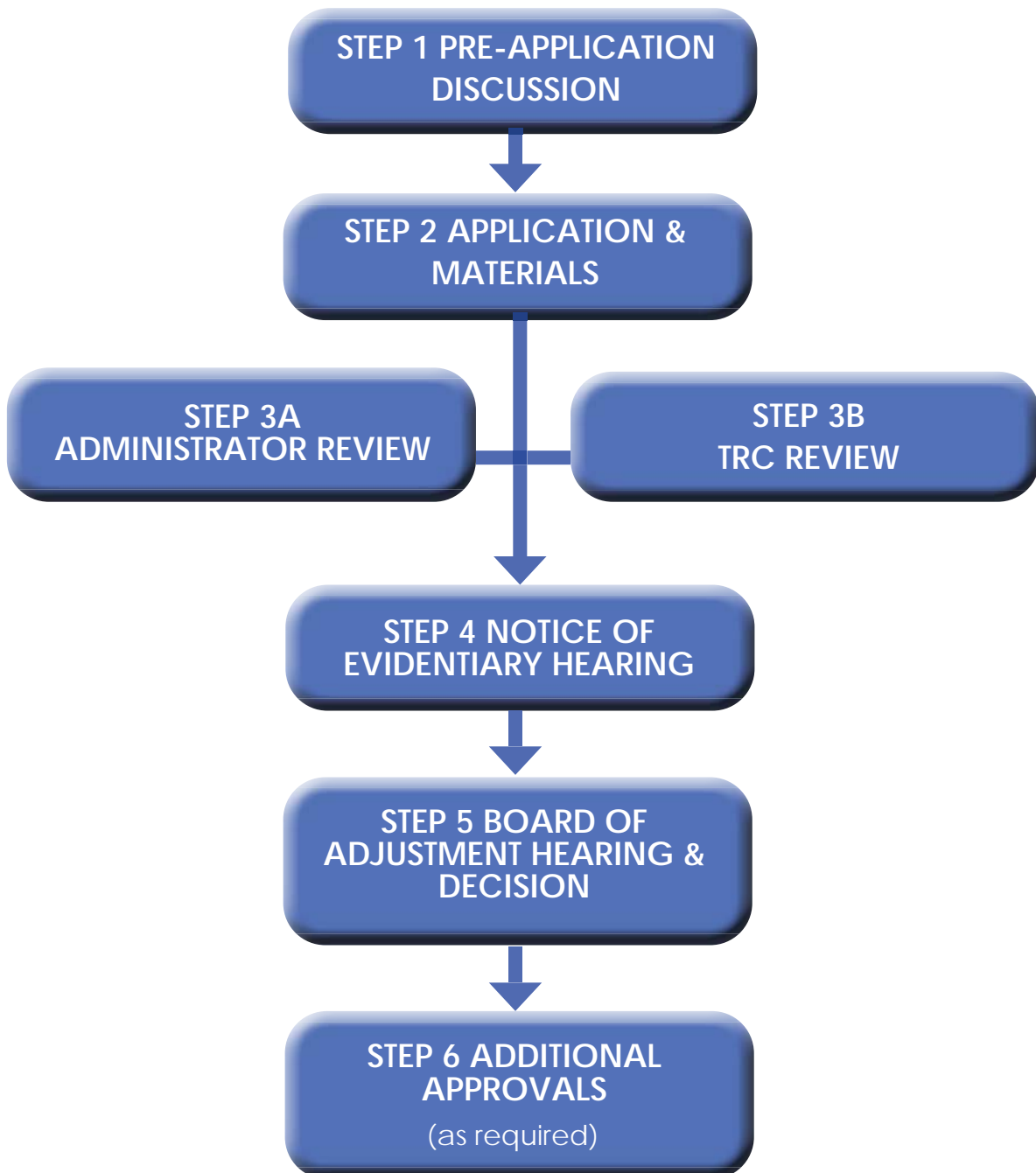
For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- A. No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
- B. Drainage, easements or rights-of-way shall not be changed;
- C. Street alignment and block sizes shall not be changed;
- D. The rear portion of lots shall not be subdivided from the front part;
- E. The character of the area shall be maintained; and
- F. Minor changes in routing of electric, natural gas, and telephone service do not require an additional review of the plat.

### 3.4 SPECIAL USE PERMITS

#### 3.4.1 SPECIAL USE PERMIT PROCEDURES

Pursuant to NCGS 160D-705(c), the Board of Adjustment, shall hear and decide requests for Special Use Permits for uses indicated in the Permitted Uses Table in Section [4.3.3](#) and as otherwise set forth in this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.





**STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR**

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

**STEP 2. APPLICATION AND SITE PLAN SUBMITTAL**

- A. The applicant shall submit the Special Use Permit application, fee, and associated site plan (if applicable) a minimum of 60 days prior to the Board of Adjustment meeting at which the request is to be heard. A site plan meeting the requirements of Section [3.2.5](#) shall be submitted for any Special Use for which new construction or expansion of greater 20% building area or parking area is proposed.
- B. The following submittal requirements may be altered by the Administrator as applicable:
1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
  2. One (1) digital copy in PDF format or comparable format

**STEP 3A AND B. ADMINISTRATOR / TRC REVIEW**

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

**STEP 4. NOTICE OF EVIDENTIARY HEARING**

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406 Notice of Special Use Permit hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that

same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**STEP 5. BOARD OF ADJUSTMENT EVIDENTIARY HEARING AND DECISION**

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
  
- B. The applicant has the burden of producing competent material and substantial evidence, tending to establish the existence of the facts and conditions which the appropriate section of this Ordinance requires for the issuance of a Special Use Permit, and rezoning, where requested and/or applicable.
  
- C. The Board of Adjustment shall grant a Special Use Permit upon affirmative findings made for each of the following:
  - 1. That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
  
  - 2. That the use meets all required conditions and specifications;
  
  - 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
  
  - 4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.
  
- D. In granting a Special Use Permit, the Board of Adjustment may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Special Use Permit, otherwise the Permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Board, as provided for in this Section. In addition to the conditions specifically imposed in this Ordinance and such further conditions as the Board may deem reasonable and appropriate, Special Uses shall

comply with all other regulations for the zoning district in which they are located.

- E. The concurring vote of a simple majority of the Board of Adjustment shall be necessary to grant a Special Use Permit. For the purposes of this subsection, 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 the place of such members.
- F. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board of Adjustment to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Board of Adjustment's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Board and signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

- I. The Board of Adjustment Chairperson or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any quasi-judicial matter coming before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board, willfully testifies falsely is guilty of a Class 1 misdemeanor.
- J. If the Board of Adjustment denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Any appeal shall be taken from the action in granting or denying a Special Use Permit through the Union County Superior Court within 30 days of the decision.

**STEP 6: ADDITIONAL APPROVALS (AS REQUIRED)**

Following the approval of a Special Use Permit by the Board of Adjustment, the applicant may need to obtain additional approvals which may include subdivision, Zoning Permit, and/or Building Permit approval before work may begin.

**3.4.2 EFFECT OF APPROVAL**

- A. Any Special Use Permit so authorized shall be likewise binding to the property included in such permit unless subsequently changed or amended by the Board of Adjustment.
- B. Any request to materially change a Special Use Permit shall follow the entire approval process as followed for the initial approval, subject to the same considerations as provided for in Section [3.4.1](#).
- C. Minor modifications in the detail of the approved plan may be made upon submittal to and the subsequent approval of the Administrator as long as the changes will not:
  - 1. Alter the basic relationship of the proposed development to adjacent property;
  - 2. Alter the uses permitted or increase the density of development;
  - 3. Decrease the off-street parking ratio; and/or
  - 4. Reduce the yards provided at the boundary of the site.

The Administrator shall take action on such requests for minor modifications within 14 days,

unless additional information is requested. A written decision shall be provided to applicant, and, if positive, a copy shall be forwarded to the Union County Register of Deeds. Any applicant may appeal a negative decision of the Administrator to the Board of Adjustment, which shall determine if an amendment to the Special Use Permit is required in order to allow the proposed minor modifications to be made to the approved plan.

- D. No certificate of compliance shall be issued for any building or land use on a piece of property which has received a Special Use Permit unless the building or structure is constructed, or used, or the land is developed or used in conformity with the Special Use Permit as approved by the Board of Adjustment. In the event that only a segment of a proposed development has been approved, the Certificate of Compliance shall be issued only for that portion of the development as approved.

#### **3.4.3 ONE YEAR LIMITATION FOLLOWING DENIAL**

If a Special Use Permit request is denied by the Board of Adjustment, a similar application for a Special Use Permit for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of most recent determination by the Board.

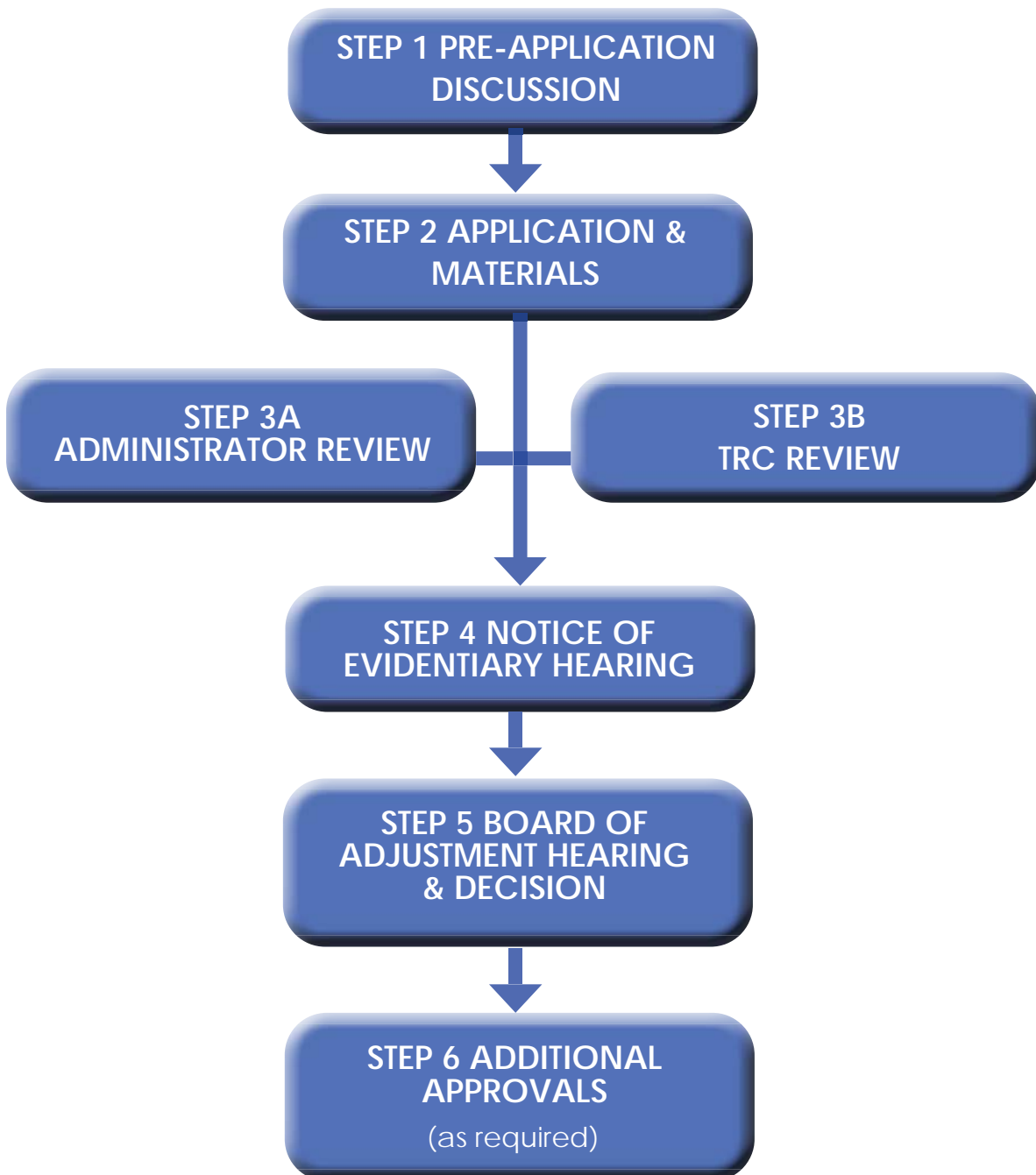
#### **3.4.4 IMPLEMENTATION OF SPECIAL USE PERMIT**

Implementation of an activity authorized by a Special Use Permit shall begin within 12 months after the date of approval, unless otherwise specified by the Board of Adjustment. Failure to implement the Special Use within the time period specified shall require a reapplication for the permit. Implementation, at a minimum, means that substantial progress has been made on the project, or conditions beyond his or her control has prevented the start of implementation.

### 3.5 VARIANCES

#### 3.5.1 VARIANCE PROCEDURES

Pursuant to NCGS 160D-705, the Board of Adjustment may authorize Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR**

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

**STEP 2. APPLICANT SUBMITS APPLICATION AND SITE PLAN SUBMITTAL**

- A. The applicant shall submit the Variance application, fee, and the Site Plan. For single-family and two-family residential uses and their accessory structures, the plot plan requirements of Section [3.2.4](#) shall be met. For non-residential and multi-family residential, the site plan requirements of Section [3.2.5](#) shall be met. The application should address the findings-of-fact outlined in Step 5.
- B. Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of this Ordinance are followed shall also be provided.
- C. The following submittal requirements may be altered by the Administrator as applicable:
  - 1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
  - 2. One (1) digital copy in PDF format or comparable format

**STEP 3A AND B. ADMINISTRATOR / TRC REVIEW**

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

**STEP 4. NOTICE OF EVIDENTIARY HEARING**

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406 Notice of Board of Adjustment hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to

the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**STEP 5. BOARD OF ADJUSTMENT PUBLIC HEARING AND DECISION**

A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. When unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, 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. 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, except as necessary to make reasonable accommodation under the Federal Fair Housing Act for disabled residents;
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

B. No Variance may be granted for uses not permitted in the zoning district in which the property is located.

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



- D. The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. For the purposes of this subsection, 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 the place of such members.
- E. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- F. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Board and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- G. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- H. 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 of Adjustment, willfully testifies falsely is guilty of a Class 1 misdemeanor.

**STEP 6: ADDITIONAL APPROVALS (AS REQUIRED)**

Following the approval of a Variance by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Subdivision, Zoning Permit, and/or Building Permit approval before work may begin. Any order of the Board of Adjustment in granting a variance shall expire, if a Zoning Permit, or Certificate of Compliance for such use (if a zoning permit is not required) has not been obtained within one (1) year from the date of the decision.

**3.5.2 REHEARING AND DENIAL**

- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.
  
- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

## 3.6 APPEALS

### 3.6.1 GENERAL PROVISIONS

The Board of Adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of the Development Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

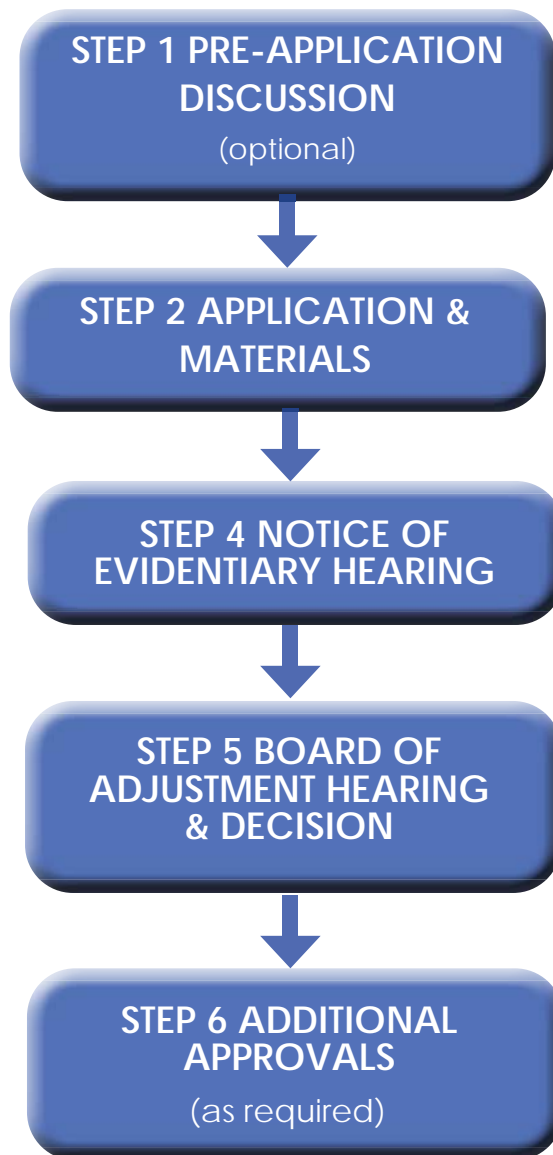
- A. Any person who has standing under NCGS 160D-1402 (c) or the Town, may appeal a decision to the Board of Adjustment.
- B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.
- C. The written notice shall be delivered by personal delivery, electronic mail, or first-class mail.
- D. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. It shall be conclusively 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 six (6) inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- E. 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 Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

### 3.6.2 APPEAL PROCEDURES

Pursuant to NCGS 160D-405, the Board of Adjustment shall hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR (OPTIONAL)**

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is recommended. The Administrator shall review the request and discuss it with the applicant. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

**STEP 2. APPLICATION SUBMITTAL**

The applicant shall submit the application, fee and any other information pertinent to the appeal request.

**STEP 3. NOTICE OF EVIDENTIARY HEARING**

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Appeal has filed. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

**STEP 4. BOARD OF ADJUSTMENT EVIDENTIARY HEARING AND DECISION**

- A. The official who made the decision being appealed shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- B. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- C. The official who made the decision 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 hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make

any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

- D. When hearing an appeal pursuant to NCGS 160D-947 (e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in NCGS 160D-1402 (k).
- E. A simple majority of the members of the Board of Adjustment shall be required to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. The Board of Adjustment shall hear and decide the appeal within a reasonable time.
- F. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Orders shall be approved by the Board of Adjustment (typically at the following meeting) and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.

H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

**STEP 5: ADDITIONAL APPROVALS (AS REQUIRED)**

Following any reversal of a decision by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

**3.6.3 REHEARING AND DENIAL**

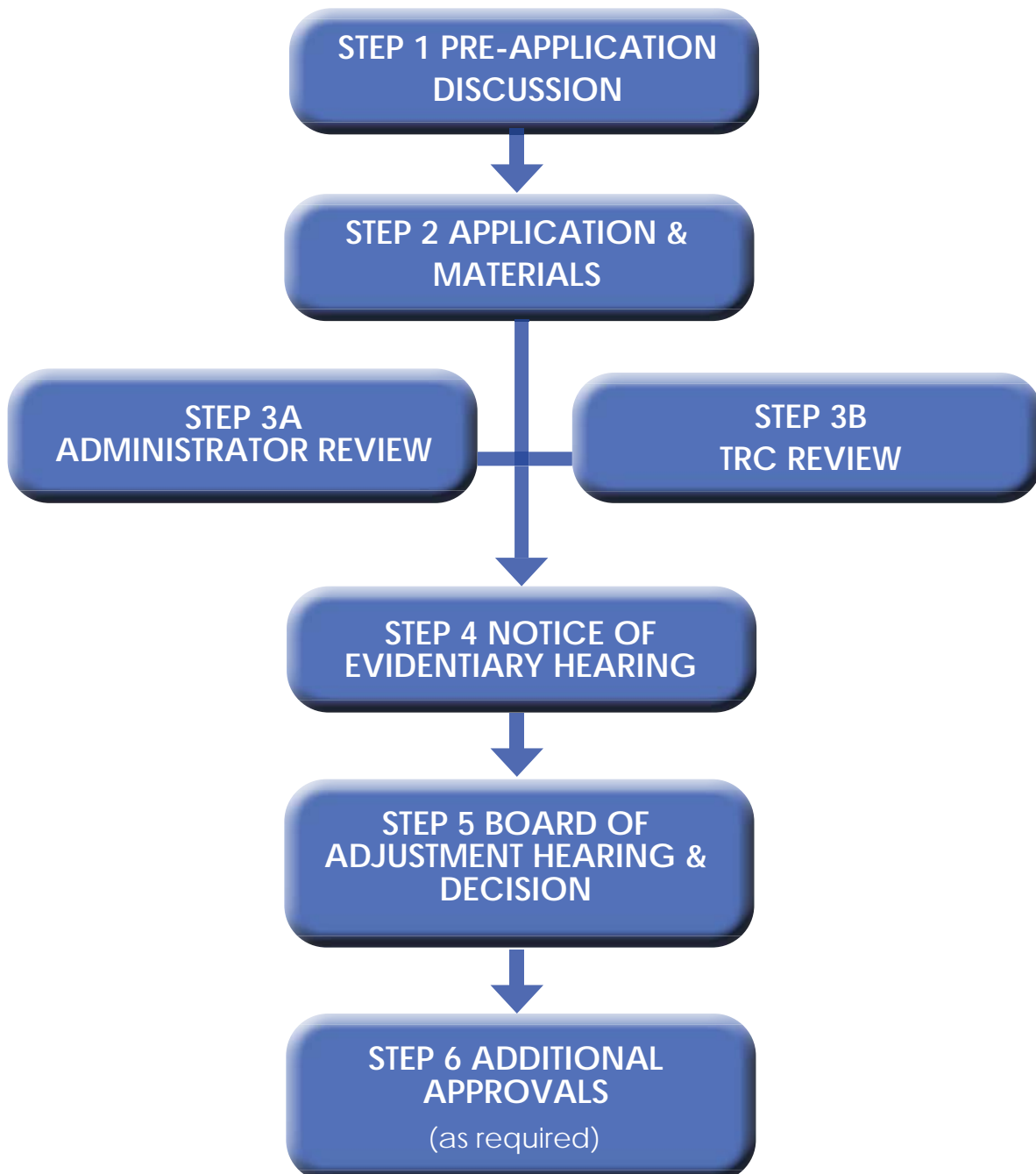
- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.
  
- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.



### 3.7 CERTIFICATE OF NONCONFORMITY ADJUSTMENT

#### 3.7.1 CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURES

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in Article 8. Certificates shall be issued in accordance with quasi-judicial proceedings prescribed in NCGS 160D-406. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION**

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

**STEP 2. APPLICATION AND SITE PLAN (IF APPLICABLE) SUBMITTAL**

- A. The applicant shall submit the Certificate of Nonconformity Adjustment application, fee, and the Site Plan. If the Certificate of Nonconformity Adjustment involves new construction or expansion, a site plan shall be provided with the application. For single-family and two-family residential uses and their accessory structures, the plot plan requirements of Section [3.2.4](#) shall be met. For non-residential and multi-family residential, the site plan requirements of Section [3.2.5](#) shall be met.
- B. Any other information pertinent to provide substantial, material, and competent evidence of the need for nonconformity adjustment.
- C. The following submittal requirements may be altered by the Administrator, as applicable:
  - 1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
  - 2. One (1) digital copy in PDF format or comparable format.

**STEP 3. NOTICE OF EVIDENTIARY HEARING**

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Certificate of Nonconformity Adjustment is requested. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the public hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

**STEP 4. BOARD OF ADJUSTMENT PUBLIC HEARING AND DECISION**

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. The Board of Adjustment shall make the following findings-of-fact in granting a Certificate of Nonconformity Adjustment:
1. The request will not increase the intensity of an existing nonconforming use by substantially increasing noise, traffic, or other measurable physical effects.
  2. The Certificate of Nonconformity Adjustment is necessary to continue the use of the property in the same manner that it has been used in the past.
  3. The nonconforming situation is being presented in a way that does not detract from the aesthetics of the surrounding area.
  4. The requested Certificate of Nonconformity Adjustment is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.
- B. A simple majority of the members of the Board of Adjustment shall be required to grant a Certificate of Nonconformity Adjustment. For the purposes of this subsection, 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 the place of such members.
- C. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.

- D. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Orders shall be approved by the Board of Adjustment (typically at the following meeting) and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- E. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS [160D-1402-160D-4-6](#) (formerly 160A-393). A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

**STEP 5: ADDITIONAL APPROVALS (AS REQUIRED)**

Following the approval of a Certificate of Nonconformity Adjustment by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before work may begin.

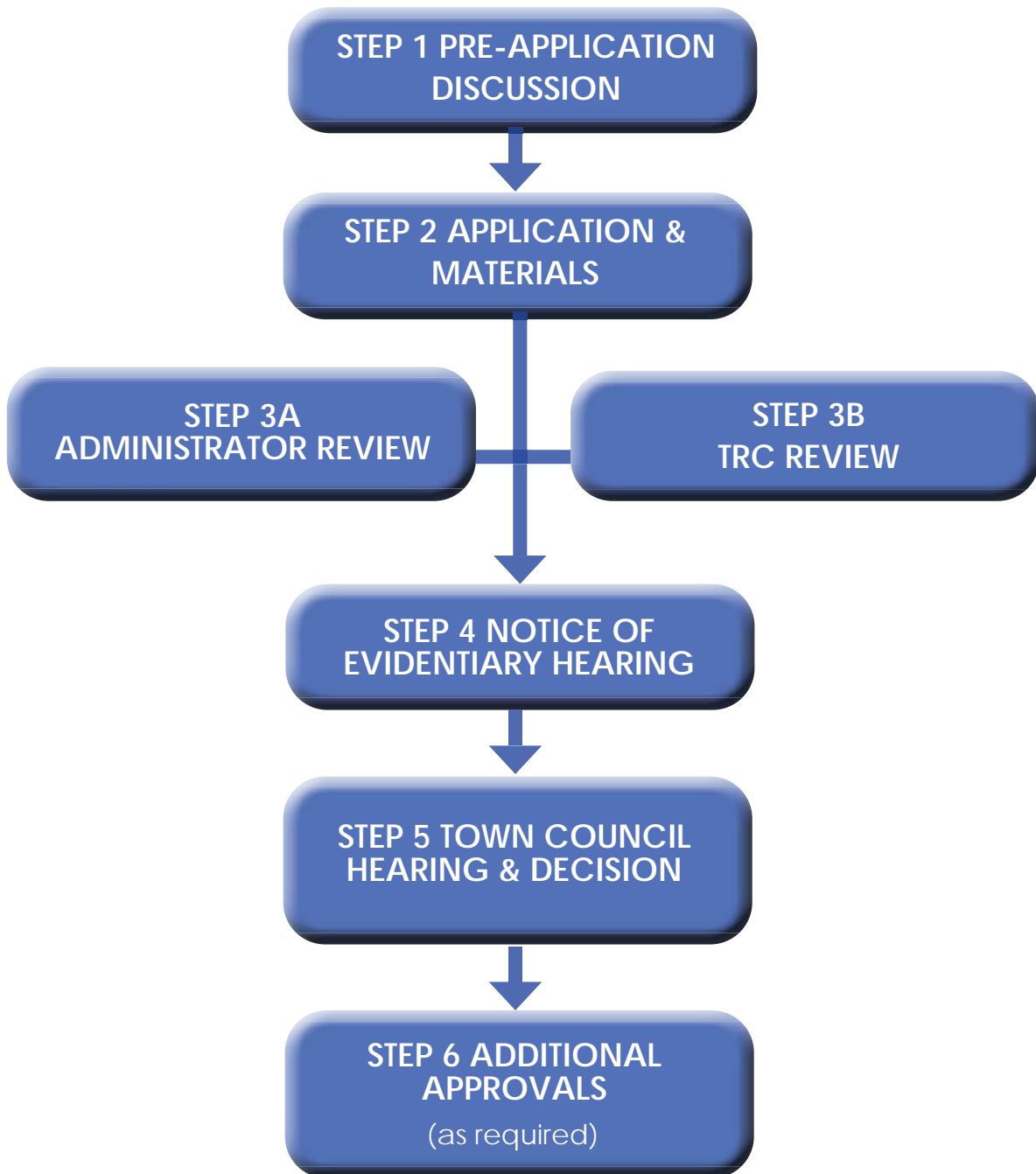
**3.7.2 REHEARING AND DENIAL**

- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.
- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

### 3.8 ALTERNATIVE DESIGN PROPOSAL

#### 3.8.1 ALTERNATIVE DESIGN PROPOSAL PROCEDURES

Pursuant to NCGS 160D-406, the Town Council, acting as a Board of Adjustment, shall hear and decide requests for Alternative Design Proposals that differ from the requirements of Article 5 or 6 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION**

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

**STEP 2. APPLICATION AND DESIGN PROPOSAL SUBMITTAL**

The applicant shall submit the application, fee and any other information pertinent to the alternative design proposal including a Site Plan in accordance with Section [3.2.5](#) (Step 2) or Subdivision Preliminary Plat in accordance with Section [3.3.6](#) (Step 2), whichever is applicable.

**STEP 3A AND B. ADMINISTRATOR / TRC REVIEW**

- A. The Administrator and the Technical Review Committee shall review the Site Plan or building elevations in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
  
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

**STEP 4. NOTICE OF EVIDENTIARY HEARING**

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of Alternative Design Proposal hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**STEP 5. TOWN COUNCIL PUBLIC HEARING AND DECISION**

- A. The Town Council shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- B. The applicant has the burden of producing competent material and substantial evidence, tending to establish the existence of the facts and conditions which the appropriate section of this Ordinance requires for the issuance of a Special Use Permit, and rezoning, where requested and/or applicable.
- C. In considering the Alternative Design Proposal, the Town Council shall take into account the following criteria:
  - 1. The proposed project represents a design in site and/or architecture which will result in a development that is equivalent to or superior to that achievable under the applicable regulations;
  - 2. The proposed project will be compatible with surrounding development in materials, scale, massing, and site layout;
  - 3. The proposed project is consistent with the intent of this Ordinance and substantially meets the requirements herein; and
  - 4. The proposed project is consistent with adopted plans and policies of the Town.
- D. In approving an Alternative Design Proposal, the Council may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.
- E. The concurring vote of a simple majority of the Council shall be necessary to approve an Alternative Design Proposal. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Council for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- F. The Council shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Town Council, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Town Council in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Town Council are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Town Council's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Town Council and signed by the Mayor or other duly authorized member of the Council. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Council or such other office or official as the ordinance specifies. The decision of the Council shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- I. The Mayor or any member acting as chair and the clerk to the Council are authorized to administer oaths to witnesses in any quasi-judicial matter coming before the Town Council. Any person who, while under oath during a proceeding before the Town Council, willfully testifies falsely is guilty of a Class 1 misdemeanor.
- J. If the Town Council denies the Alternative Design Proposal, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Any appeal shall be



taken from the action in granting or denying a Special Use Permit through the Union County Superior Court within 30 days of the decision.

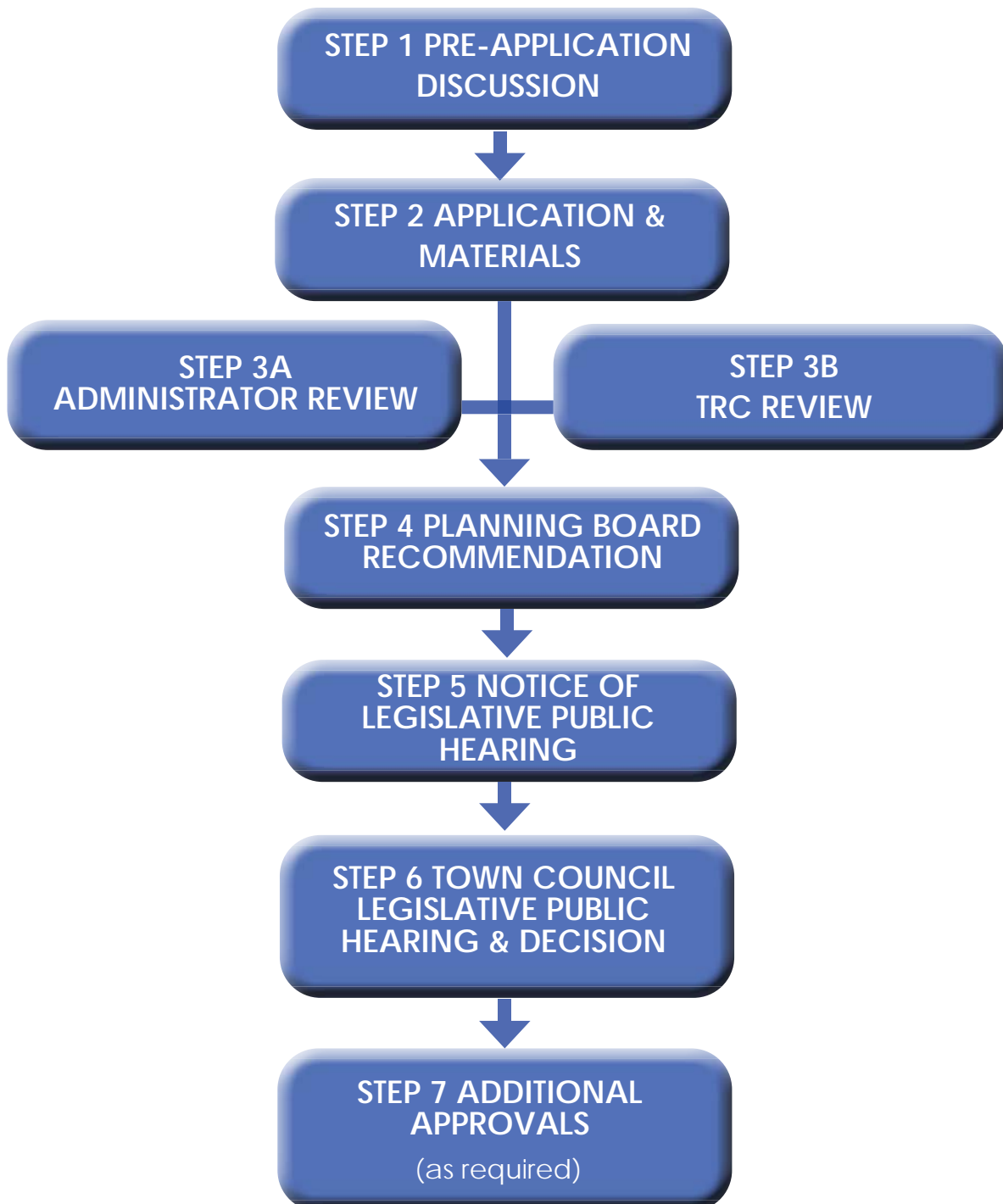
**STEP 5. ADDITIONAL APPROVALS (AS REQUIRED)**

Following the approval of an Alternative Design by the Town Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

### 3.9 MAP AMENDMENTS (REZONINGS)

#### 3.9.1 MAP AMENDMENT PROCEDURES

The Town Council may amend the Official Zoning Map in accordance with this section and NCGS Chapter 160D, Article 6. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR**

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed map amendment is required. The Administrator shall review the request and discuss it with the applicant.
  
- B. For Conditional Zoning district requests, a sketch plan shall also be provided by the applicant for the discussion. At a minimum, the plan shall provide the information required for a sketch plan in accordance with Section [3.2.5](#) Site Plan (Step 1) or Section [3.3.6](#) Subdivision (Step 1), whichever is applicable.

**STEP 2. APPLICATION SUBMITTAL**

- A. Applications to amend the Zoning Map may be initiated by Town Council, the Planning Board, or Town Staff. Except for a government-initiated zoning map amendment, when an application is filed by a property or resides in the area of jurisdiction of this Ordinance or the agent of such person and not filed by the landowner or authorized agent, then actual notice shall be provided to the landowner subject to NCGS 160D-602 (d). No reduction in zoning district intensity shall be initiated by any person other than the landowner or authorized agent, except for government-initiated amendments. Conditional Zoning district requests may only be initiated by the property owner or agent of legal or equitable interest in the subject property.
  
- B. For a reclassification of property proposed by any person or entity other than the Town, an application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made on a form provided by the Administrator. All expenses incurred by the Town for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken. Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Town Council) shall accompany each such application. There shall be no fee for applications initiated by any Town of Mineral Springs governmental agency. For the purpose of this Section, land traversed, and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- C. The applicant shall submit the application, fee and any other information pertinent to the proposed map amendment. All applications for map amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's adopted plans and how it is reasonable and in the public interest.
- D. Requests for Conditional Zoning districts shall include a site specific plan that, at a minimum, provides the information required for a sketch plan in accordance with Section [3.2.5](#) (Step 1) or Subdivision Preliminary Plat in accordance with Section [3.2.6](#) (Step 1), whichever is applicable.
- E. The Administrator shall ensure that the application submittal contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.
- F. Specific development proposals may not be considered by staff, the Planning Board, or the Town Council, unless the request is submitted as Conditional Zoning district.

#### **STEP 3A/3B. ADMINISTRATOR / TRC REVIEW**

- A. The Administrator and Technical Review Committee shall review the proposed map amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all Technical Review Committee comments in the report.
- B. The Technical Review Committee shall review the proposed map amendment and provide comments on how the rezoning will affect utilities, roads, and other infrastructure or services.

#### **STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION**

- A. Prior to the Planning Board meeting at which a Conditional Zoning district map amendment is going to be reviewed, notice shall be provided via first class mail to all adjacent property owners and a sign shall be posted on the property a minimum of 10 days prior to the meeting.
- B. By simple majority vote, 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. Subject to NCGS 160D-604(d), the Planning Board shall advise the Town Council by making one of the following recommendations regarding the amendment's consistency with adopted plans to the Town Council:

1. A statement recommending approval of the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
  2. A statement recommending denial of 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; or
  3. A statement recommending approval of the zoning amendment that is inconsistent with the plan and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (an additional request or application for amendment to the Comprehensive Plan is not required);
    - An explanation of the change in conditions the governing board took into account in amending the zoning to meet the development needs of the community; and
    - Why the action was reasonable and in the public interest.
- C. In addition to recommending approval or denial the amendment as requested, in order to maintain consistency with adopted Plans, the Planning Board may also recommend a reduction of the area requested for rezoning or recommend approval of a less intensive zoning district. For the purposes of this Section, Zoning District intensity is listed in order from most least intense to most intense: AR, RR, RA-40, R-20, RA-20, CZ MU, TC, NB, GB, and LI.
- D. Specific conditions applicable to a Conditional Zoning District may be recommended by the Planning Board. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- E. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.
- F. The Planning Board's written recommendation shall be forwarded to the Town Council.

#### **STEP 5. NOTICE OF LEGISLATIVE PUBLIC HEARING**

In accordance with NCGS 160D-602, the following notices shall be provided prior to the hearing. The Administrator or Town Clerk shall certify that the requirements of subsections have been met. The Town shall charge the petitioner a separate fee to cover notification costs incurred.

- A. A notice shall be published in at least one (1) newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than 10 calendar days nor more than 25 calendar days prior to the date established for the hearing. In computing such time the date of publication is not to be included but the date of the hearing shall be included.
- B. A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than 10 calendar days nor more than 25 calendar days before the date established for the public hearing.
- C. A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested parties.
- D. At least ten (10) calendar days prior to the hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent property owners that lie within 200 feet as measured in all directions from the exterior boundaries of the property(ies) proposed for rezoning. In the case of large-scale rezonings (more than 50 properties owned by a total of at least 50 different property owners), the Town may elect to publish notice of hearing per Subsection A, provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which publishes the notice.

Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

- E. For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time and location of the hearing. The notice shall be written by the Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Administrator prior to the hearing. This requirement shall not apply if a map amendment is initiated by the Town.

#### **STEP 6. TOWN COUNCIL LEGISLATIVE PUBLIC HEARING AND DECISION**

- A. The Town Council shall take action on map amendments after a hearing has been held. Subject to NCGS 160D-605, by a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:
1. A statement approving the amendment and describing whether the action is consistent with an adopted comprehensive plan and explaining why the Council considers the action taken to be reasonable and in the public interest;
  2. A statement denying the amendment and describing its inconsistency with an adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest; or
  3. A statement approving the zoning amendment and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (An additional request or application for amendment to the Comprehensive Plan is not required);
    - An explanation of the change in conditions the Town Council took into account in amending the Zoning Map to meet the development needs of the community; and
    - Why the action was reasonable and in the public interest.
- B. In addition to approving or denying the amendment as requested, in order to maintain consistency with adopted Plans, the Town Council may also approve a reduction of the

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

area requested for rezoning or approve a less intensive zoning district. For the purposes of this Section Zoning District intensity is listed in order from most least intense to most intense: AR, RR, RA-40, R-20, RA-20, CZ MU, TC, NB, HB, and LI

- C. Specific conditions applicable to a Conditional Zoning district may be proposed by the applicant or the Town, but only those conditions mutually approved by the Town and the applicant may be incorporated into the approval. Conditions and site-specific standards imposed in a Conditional Zoning district shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site. None of these conditions shall be less restrictive than any requirements for the corresponding general zoning district, unless an Alternative Design Proposal is being considered simultaneously in accordance with Section [3.8](#).
- D. A letter shall be sent via first class mail to the applicant and/or affected property owner stating the decision of the Town Council, including any conditions of approval in the case of Conditional Zoning Districts. The Administrator shall update the Official Zoning Map to reflect the map amendment.
- E. If a petition for a Conditional Zoning (CZ) district is approved, the development and use of the property shall be governed by the Ordinance requirements applicable to the district classification, the approved site plan, and any additional approved conditions, all of which shall constitute the regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a CZ district, the subject property shall be identified on the zoning map by the appropriate district designation preceded by the letters CZ. Any approved CZ district shall be recorded by the Town in the Union County Register of Deeds within 30 days of Town Council approval.
- F. No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from the date of final determination of denial by the Town Council.



**STEP 7. ADDITIONAL APPROVALS (AS REQUIRED)**

- A. Following the approval of a map amendment by the Town Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.
- B. If no Zoning Permit has been issued or Preliminary Plat has been approved within two (2) years of the date of approval, or a Zoning Permit or Building Permit has expired for an approved Conditional Zoning District, then the Town Council may vote to rescind the Conditional Zoning District after having held a hearing. The zoning district shall revert to the district in place prior to the approval of the Conditional Zoning district.

**3.9.2 CONDITIONAL ZONING DISTRICT PROCEDURES**

- A. In addition to the procedures of this Section, Conditional Zoning districts shall meet the requirements of Section [4.2](#).
- B. Requests for Conditional Zoning districts shall include a site specific plan that, at a minimum, provides the information required for a sketch plan in accordance with Section [3.2.5](#) (Step 1) or Subdivision Preliminary Plat in accordance with Section [3.3.6](#) (Step 2), whichever is applicable.
- C. Prior to the Planning Board meeting at which a Conditional Zoning district is going to be reviewed, notice shall be provided via first class mail to all adjacent property owners and a sign shall be posted on the property a minimum of 10 days prior to the meeting.
- D. In accordance with NCGS 160D-703 (b), specific conditions may be proposed by the petitioner or the Town, but only those conditions mutually approved and agreed upon in writing may be incorporated into the zoning regulations.
- E. Once a Conditional Zoning district has been approved, the Administrator shall have the authority to allow for minor modifications from the approved site plan when, in the Zoning Administrator's opinion, such deviation (1) would not materially impact any adjacent or nearby properties, (2) is not in conflict with the spirit and intent of this Ordinance; ~~and~~ (3) would uphold the public's general interest and well-being, and (4) would not modify the permitted uses, land use intensities, or residential densities. Any modifications that are deemed by the Administrator not to be "minor" shall require the submittal of a new conditional zoning application and following the map amendment process.

### 3.10 TEXT AMENDMENTS

#### 3.10.1 TEXT AMENDMENT PROCEDURES

The Town Council may amend the text of this Development Ordinance in accordance with this Section and NCGS Chapter 160D, Article 6. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION**

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

**STEP 2. APPLICATION & PROPOSED TEXT SUBMITTAL**

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

**STEP 3. ADMINISTRATOR REVIEW**

The Administrator shall review the proposed text amendment and prepare a staff report with an assessment of how the amendment relates to the Comprehensive Plan.

**STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION**

- A. By simple majority vote, 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 governing board. Subject to NCGS 160D-604(d), the Planning Board shall advise the Town Council by making one of the following recommendations

regarding the amendment's consistency with adopted plans to the Town Council.

1. A statement recommending approval of the amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
  2. A statement recommending denial of the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
  3. A statement recommending approval of the amendment that is inconsistent with the plan and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (An additional request or application for amendment to the Comprehensive Plan is not required);
    - An explanation of the change in conditions the governing board took into account in amending the text of this Ordinance to meet the development needs of the community; and
    - Why the action was reasonable and in the public interest.
- B. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Board, such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.
- C. The Planning Board's written recommendation shall be forwarded to the Town Council.

#### **STEP 5. NOTICE OF LEGISLATIVE PUBLIC HEARING**

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the hearing.
- B. A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than 10 calendar days nor more than 25 calendar days before the date established for the hearing.

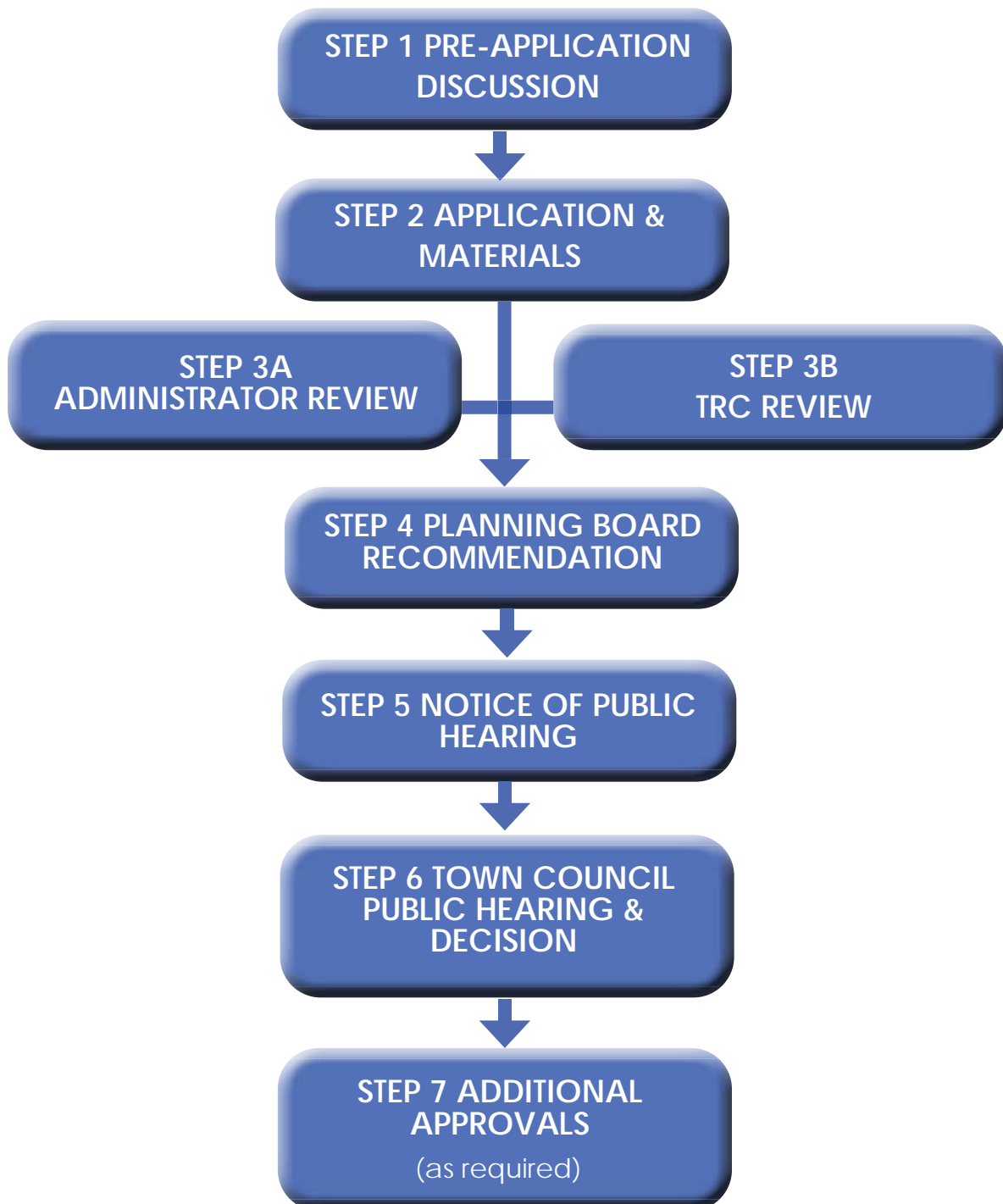
**STEP 6. TOWN BOARD LEGISLATIVE PUBLIC HEARING AND DECISION**

- A. Following a hearing, the Town Council shall take action on text amendments after a hearing has been held. By a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:
1. A statement approving the amendment and describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest;
  2. A statement rejecting the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
  3. A statement approving the zoning amendment and containing at least all of the following:
    - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (an additional request or application for amendment to the Comprehensive Plan shall not be required);
    - An explanation of the change in conditions the Town Council took into account in amending the Development Ordinance to meet the development needs of the community; and
    - Why the action was reasonable and in the public interest.
- B. A letter shall be sent via first class mail to the applicant (unless the amendment was Town initiated) stating the decision of the Town Council. The Administrator shall update the Development Ordinance to reflect the amendment.

### 3.11 EXTENDED VESTED RIGHTS

#### 3.11.1 EXTENDED VESTED RIGHTS PROCEDURES

The Town Council may approve Extended Vested Rights for site-specific vesting plans subject to NCGS 160D-108.1. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



**STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR**

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed Extended Vested Rights proposal is required. The Administrator shall review the request and discuss it with the applicant.
- B. A sketch plan shall also be provided by the applicant for the discussion. At a minimum, the plan shall provide the information required for a sketch plan in accordance with Section [3.2.5](#) Site Plan (Step 1) or Section [3.3.6](#) Subdivision (Step 1), whichever is applicable.

**STEP 2. APPLICATION AND MATERIALS**

To apply for an extended vested right, a landowner shall submit to the Administrator an application, fee, and site-specific vesting plan meeting the requirements for Section [3.2.5](#) Site Plan (Step 2) or Section [3.3.6](#) Subdivision Preliminary Plat (Step 2), whichever is applicable.

**STEP 3A AND B. ADMINISTRATOR / TRC REVIEW**

- A. The Administrator and the Technical Review Committee shall review the site-specific Site Plan or Preliminary Plat in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

**STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION**

- A. Once the Administrator and Technical Review Committee deem the site-specific vesting plan to be complete and meeting all applicable regulations, he or she shall schedule it to be reviewed by the Planning Board at their next regularly scheduled meeting. The Administrator must receive the complete plan at least 10 days prior to the Planning Board's next meeting date to place it on their agenda.
- B. Once the site-specific vesting plan is forwarded, the Planning Board shall review the application and make a recommendation to the Town Council. The Planning Board shall

### ARTICLE 3. REVIEW & APPROVAL PROCEDURES

have up to 30 days from their first meeting date to make such recommendation. Alternatively, the Planning Board may request additional information of the applicant in order to aid them in their review of the application.

- C. If no recommendation is made during said 30-day period (except as herein provided) the application shall forthwith be forwarded to the Town Council without a recommendation.

#### **STEP 5. NOTICE OF PUBLIC HEARING**

Notice of the Town Council public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in Mineral Springs once a week, for two (2) successive weeks, the first notice to be published not less than 10 days nor more than 25 days prior to the date established for the hearing.
- B. At least one (1) notice shall be conspicuously posted on the subject property at least 10 days prior to the public hearing. Such notice shall state the nature of the public hearing and the date, time and location at which it is to be held. The notice shall be removed only after the public hearing has been held.
- C. A notice of the public hearing shall be sent by first class mail by the Administrator to all contiguous property owners at least 10 days prior to the public hearing.

#### **STEP 6. TOWN COUNCIL PUBLIC HEARING AND DECISION**

- A. Once the public hearing has been conducted and concluded, the Town Council shall determine whether or not to approve the site-specific vesting plan and accord the vested right. In approving an application for vested rights of a site-specific vesting plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed.
- B. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his/her vested right as a condition of developmental approval.
- C. The Town Council may approve the site-specific vesting plan if it has evaluated an application and determined that:



1. The use meets all required specifications of the Development Ordinance;
  2. The use will not materially endanger the public health, safety or general welfare, and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site-specific vesting plan by the Town Council shall be adequate to fully satisfy this requirement; and
  3. If the site-specific vesting plan is vested for a period of greater than two (2) years, this decision shall be based on one or more of the following factors preventing the developer from securing all building permits within two (2) years:
    - The sizing and phasing of the development;
    - The level of investment;
    - The need for the development; or
    - Economic cycles or market conditions.
- D. The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.
- E. If the use or development for which the site-specific vesting plan is submitted is a special use, the Town Council may approve the site-specific vesting plan contemporaneously with the approval of the Special Use Permit, in accordance with quasi-judicial procedures. In no case, however, may a site-specific vesting plan be approved for a use or development which requires the issuance of a Special Use Permit without the Special Use Permit having first been issued.

#### **STEP 7. ADDITIONAL APPROVALS (AS REQUIRED)**

Following the approval of Vested Rights by the Town Council, the applicant may need to obtain additional approvals which may include Construction Drawing, Zoning Permit, and/or Building Permit approval before any work may begin.

### 3.11.2 EFFECT OF APPROVAL

- A. A site-specific development plan approved for vested rights shall vest such site plan for a period of two (2) years to five (5) years from the date of approval, or up to seven (7) years for a multi-phased development. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.
- B. A vested right, once established as herein provided, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:
1. The affected landowner provides written consent to the Town of his or her desire to terminate the vested right;
  2. The Town determines, after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan;
  3. Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid;
  4. The Town determines, after having advertised and held a public hearing, that the landowner or his/her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan; or
  5. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site specific development plan. In such case the Town may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

C. Once a vested right is granted to a particular site-specific development plan, nothing in this Section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

### **3.11.3 REVOCATION OR EXPIRATION OF A VESTED RIGHT**

The vested right resulting from the approval of a site-specific development plan may be revoked by the Town Council as provided for in subsection [3.11.2](#). In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Development Ordinances. The vested right shall otherwise expire at the end of the approval period established by the Town Council.

### **3.11.4 REVOCATION OF BUILDING PERMIT**

A building permit issued by the Union County Building Inspector pursuant to NCGS Chapter 160D, Article 11 (formerly 160A-417) may not be revoked because of the passage of time regarding a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

### **3.11.5 AMENDMENTS TO THE DEVELOPMENT ORDINANCE**

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.