STAFF REPORT

CASE:	**ZC13-2,**
REQUEST:	**AMEND THE CONDITIONAL ZONING APPLICATION PROCEDURES**
APPLICANT:	**TOWN OF MINT HILL**

EXECUTIVE SUMMARY:

As presented at the January 10, 2013 Developer Workshop, Chris Isaacs with the Isaacs Group, recommended an amendment to the UDO pertaining to the application procedures for Conditional Zoning. On January 24, 2013, at the request of the Board, staff gave a presentation detailing the current application process compared to the amended process as suggested by Mr. Isaacs. The Board directed staff to pursue the text amendment.

See attachments

- Flowcharts
- Draft Text Amendment

MEETING DATES:

Public Hearing	Thursday, February 14, 2013
Planning Board	Monday, February 18, 2013
Board of Commissioners	Thursday, March 14, 2013

PUBLIC NOTIFICATION:

Public Hearing Newspaper Advertisement #1	Sunday, February 3, 2013
Public Hearing Newspaper Advertisement #2	Sunday, February 10, 2013

STAFF CONTACT:

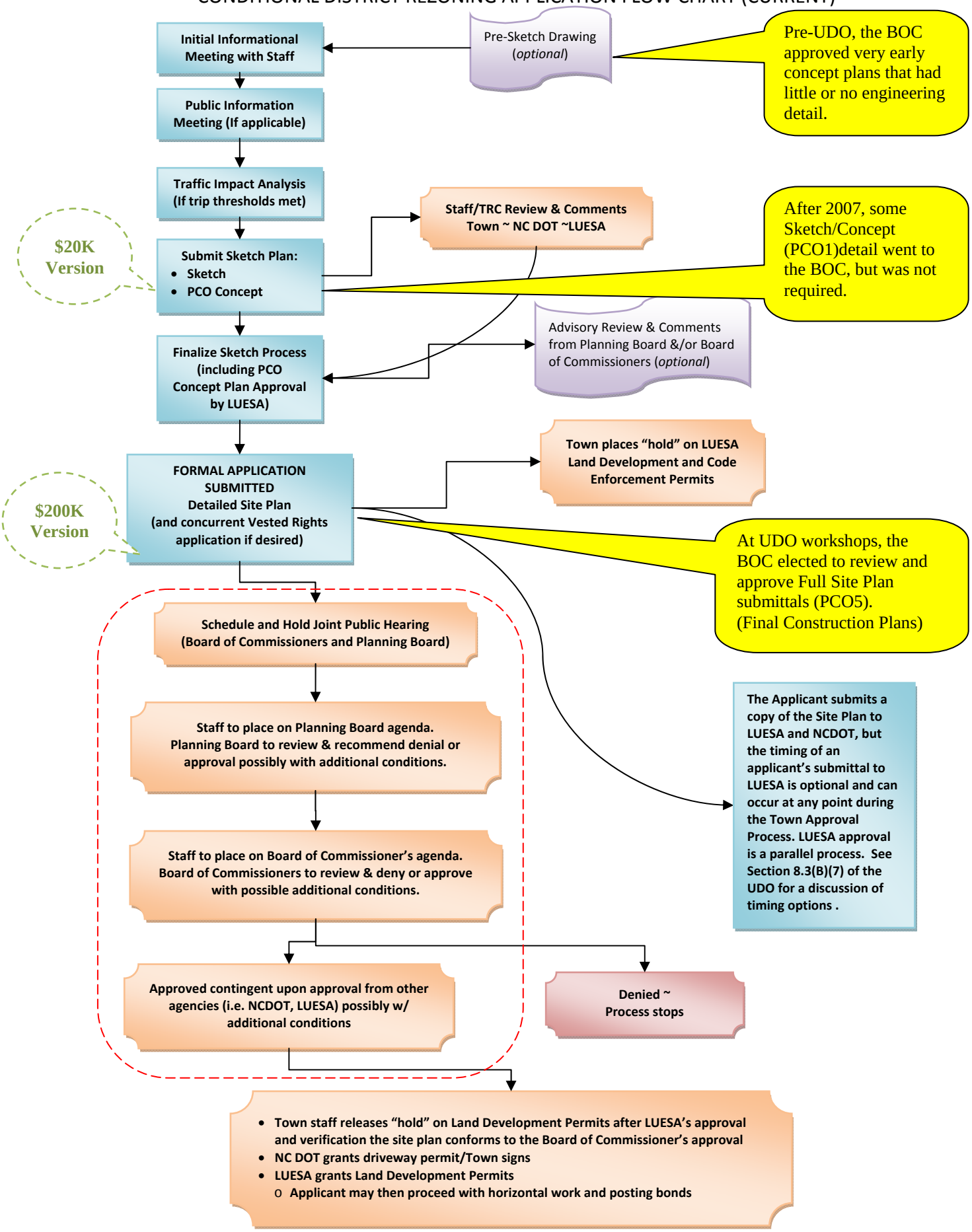
Planning Staff
704-545-9726

Planning Board Transmittal

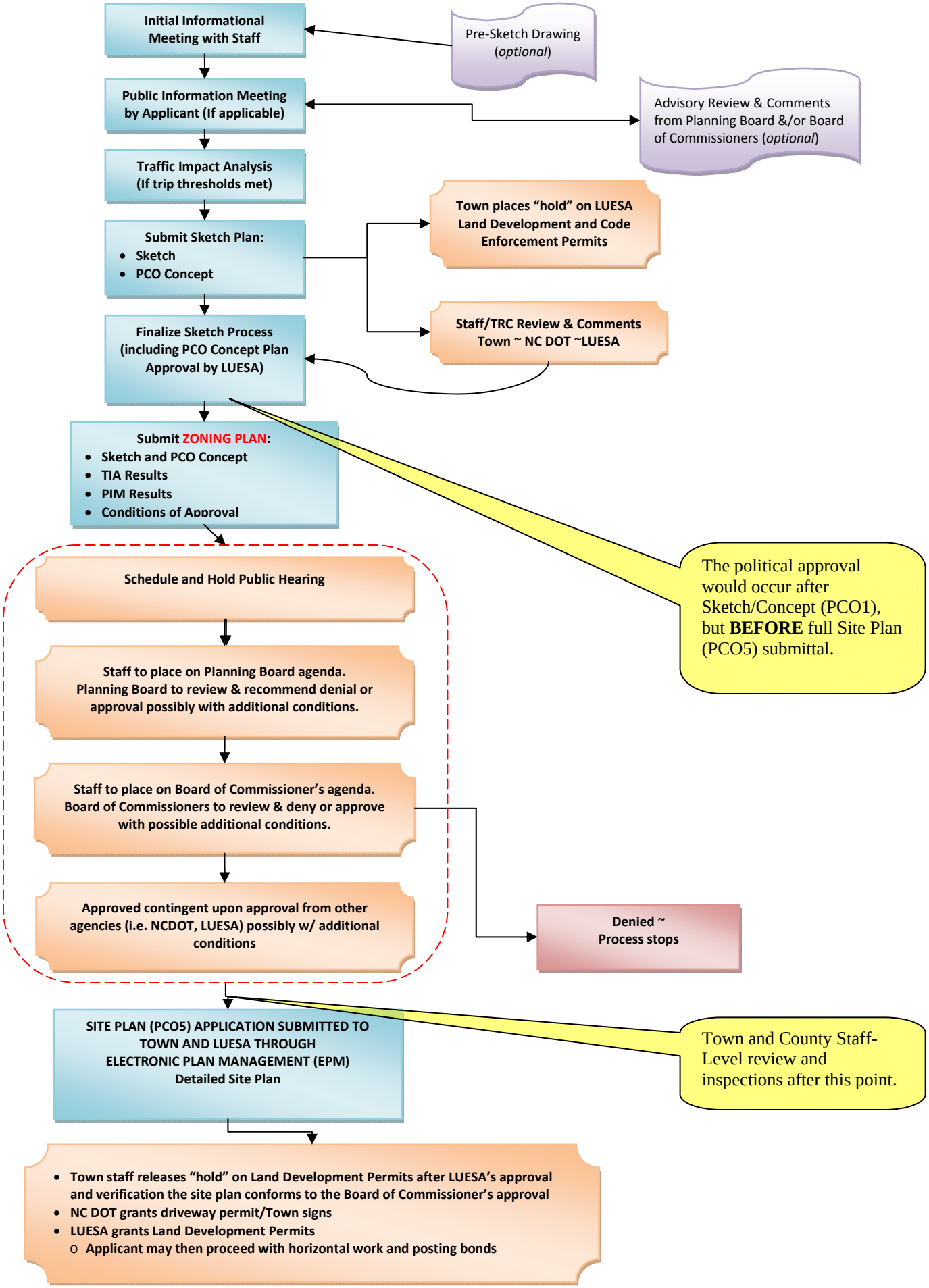
CASE:	ZC13-2, TEXT AMENDMENT (ARTICLE 8 APPLICATION PROCEDURES)
MEETING DATE:	JANUARY 28, 2013
MEMBERS PRESENT:	TONY LONG ROY FIELDING MARY MCMAHAN ROGER HENDRIX RICHARD NEWTON
RECOMMENDATION:	FAVORABLE

Mr. Hendrix made a motion to recommend approval of Rezoning Change #ZC13-2, filed by the Town of Mint Hill, requesting a Text Amendment to Article 8 of the Unified Development Ordinance to modify the application procedures for conditional zoning to the Board of Commissioners as presented with the amendment to the Conditional Zoning Application Procedures. The motion was seconded by Mr. Fielding and unanimously agreed to by the Board.

CONDITIONAL DISTRICT REZONING APPLICATION FLOW CHART (CURRENT)



CONDITIONAL DISTRICT REZONING AT ZONING PLAN



Section 8.1 - Roles and Responsibilities of Boards, Professional Staff and Other Agencies and Committees

The following persons and entities shall have roles in administering the provisions of this Ordinance:

1. Board of Commissioners.
2. Planning Board.
3. Board of Adjustment.
4. Town Staff, and contracted service providers (including Mecklenburg County's Land Use and Environmental Services Agency ("LUESA"), which includes the Stormwater Administrator and other staff).
5. Technical Review Committee.

A. *Town Board of Commissioners.* The Board of Commissioners has the powers and duties as set forth in applicable laws and ordinances. The Board of Commissioners' primary roles in implementing this UDO are to consider and adopt land use plan(s) and area plan(s), to consider and approve (or not approve) proposed amendments to the text of this UDO and to consider and approve (or not approve) proposed changes to the Zoning Map, including requests for Conditional District rezoning approval. Additionally, the Board of Commissioners shall consider appeals from the Mint Hill Planning Board's decision(s) regarding Site Plan approval(s) for Major Subdivision(s).

B. *Planning Board.*

1. *Appointment and Terms of Planning Board Members.*

   a. There shall be and is hereby created a Planning Board for the Town of Mint Hill consisting of seven (7) members. Five (5) members shall reside within the Mint Hill town limits and shall be appointed by the Mint Hill Board of Commissioners. Two (2) members shall reside within the extraterritorial planning jurisdiction ("ETJ") and shall be appointed by the Mecklenburg County Board of Commissioners. Said ETJ member shall have the same rights, privileges and duties, including the ability to vote, as other members.

   b. Each member shall serve a two-year term, which shall run from July 1. The terms of the members shall be staggered so that initially three (3) members shall be appointed

for a term commencing on July 1 of an even-numbered year and four (4) members shall be appointed for a term commencing on July 1 of an odd-numbered year.

c.

Members may be reappointed for additional successive terms without limitation and, to the degree possible, are expected to complete their term unless a respective successor has been appointed.

d.

Any appointment to fill an unexpired term shall terminate at the time the said term expires except that members appointed to fill an unexpired term may be reappointed to a full term.

e.

All members may participate in and vote on all issues before the board, regardless of whether the issue affects property within the Town or within the ETJ.

2.

Powers and Duties of Planning Board. The Mint Hill Planning Board shall perform the following duties and have the following responsibilities:

a.

Make studies of the Town and surrounding areas, or portions thereof, and determine objectives to be sought in the development of the study area.

b.

Prepare and make recommendations to the Board of Commissioners regarding plans for achieving such objectives.

c.

Develop and recommend policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.

d.

Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans.

e.

Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct.

f.

Perform such other duties as are granted to the Planning Board by ordinance and perform any related duties that the Board of Commissioners may direct.

g.

Review and approve Site Plans (Preliminary Plats) for Major Subdivisions.

h.

Make recommendations on Conditional District rezoning applications (Zoning Plans).

The Planning Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

C.

Board of Adjustment.

1.

Appointment and Terms of Board of Adjustment.

a.

There shall be and is hereby established a Board of Adjustment for the Town of Mint Hill consisting of seven (7) regular members and two (2) alternates. Five (5) of the regular members shall reside within the Mint Hill town limits and shall be appointed by the Mint Hill Board of Commissioners. Two (2) of the regular members shall reside within the ETJ. The Mint Hill Board of Commissioners makes recommendations for appointment of possible ETJ members and the Mecklenburg County Board of Commissioners makes the appointment. One of the alternates shall reside within the Mint Hill town limits and one of the alternates shall reside within the ETJ with both being appointed accordingly.

b.

Each member shall serve for a three-year term, which shall run from January 1. The terms of the members shall be staggered so that initially three (3) members shall be appointed for a term of three (3) years, two (2) members for a term of two (2) years and two (2) members for a term of one year. The two (2) alternate members shall be appointed for a term of three (3) years.

c.

All members may be reappointed for additional successive terms without limitation and, to the degree possible, are expected to complete their term unless a respective successor has been appointed.

d.

Any appointment to fill an unexpired term shall terminate at the time the term expires, except that members appointed to fill an unexpired term may be reappointed to a full term. Alternate members may attend all meetings of the Board of Adjustment but shall serve, participate and vote only in the absence or conflict of interest of one of the seven (7) regular members. During such absence, any alternate member may replace any absent regular member. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

e.

The regular and alternate member from the ETJ shall have the same rights, privileges and duties, including the ability to vote, as other members.

2.

Powers and Duties of the Board of Adjustment. The Board of Adjustment shall have all the powers and duties as authorized by the General Statutes of North Carolina, including the power to issue subpoenas pursuant to G.S. 160A-388(g) and in the manner provided for in this UDO and the adopted rules of procedure. Such powers and duties shall include, but not be restricted to, the following:

a.

Hearing and deciding upon appeals of decisions of the Administrator, as set forth in Article 9

b.

Hearing and deciding upon requests for variances from the provisions of this Ordinance, as set forth in Article 9

c.

Hearing and deciding interpretations of the Official Zoning Map as set forth in Article 9

The Board of Adjustment may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

D.

Town Staff (Administrator).

1.

Administration. The provisions of this Ordinance shall be administered and enforced by Unified Development Ordinance Administrator ("Administrator") and any other Town staff designated by the Town Manager for the administration of this Ordinance. The Administrator shall be the Planning Director for the Town unless otherwise designated by the Board of Commissioners. The Administrator may correct typographical errors, numerical reference errors, spelling errors and errors in section or page numbering and may make other nonsubstantive editorial changes to the text of this Ordinance without formal adoption by the Board of Commissioners, provided that the changes necessary to correct such errors do not change the meaning of the Ordinance.

Delegation of Authority. Any act authorized by this Ordinance to be carried out by the Administrator may be carried out by his or her designee, including contracted service providers such as LUESA.

2.

Mecklenburg County. Mecklenburg County's Land Use and Environmental Services Agency (LUESA) may act as the Town's agent for specific review and approval functions pursuant to an inter-local agreement with the Town under this Ordinance. When acting as the Town's agent, LUESA shall have the same approval and enforcement authority as the Town or the Administrator under this Ordinance. For example, as of the date of the adoption of this Ordinance, LUESA is authorized to provide the following services and/or fulfill the following obligations, including, but not limited to:

a.

Engineering review of Sketch Plans, Zoning Plans, Site Plans, Preliminary Subdivision Plats, Traffic Impact Studies and review and acceptance of Bonds.

b.

Code Enforcement review of all plans, drawings and/or schematics and final work for: building, mechanical, electrical, plumbing, fire safety and additional trades as may be authorized by the Town.

c.

Subject to prior Town approval, LUESA may issue the following permits, including, but not limited to: Land Development Permits, Building Permits, Sign Permits, and Change of Use Permits.

E.

Technical Review Committee.

1.

In connection with its review of Sketch Plans, Zoning Plans and Site Plans, the staff may elect to convene a~~The~~ Technical Review Committee ("TRC") to assist in such reviews either in a formal meeting or informally communicating with individual members of a TRC.~~shall review Sketch Plans and Site Plans based on the standards set forth in this Ordinance.~~ The TRC operates in an advisory capacity and has no decision making authority. The TRC will assist staff as requested to make~~s~~ recommendations that:

a.

identify where an application is not in compliance with this Ordinance and/or other legal requirements; and

b.

bring an application into compliance with this Ordinance and/or other legal requirements; and/or

c.

fall outside the scope of the requirements of this Ordinance and/or other legal requirements, but which nevertheless may enhance a proposed development project.

2.

The TRC may be comprised of representatives from the following departments (to be appointed by the Town Manager or the agency department head as necessary):

a.

Town of Mint Hill Planning Department;

b.

Town of Mint Hill Public Works Department;

c.

LUESA;

d.

NCDOT;

e.~~.~~ Others as reasonably determined by the Town staff.

3.

~~Such persons shall serve on the TRC at the pleasure of the Town Manager or their respective agency head, provided, however, that the TRC shall at all times consist of at least one person from each such agency listed above.~~

4.

The TRC may~~shall~~ review all Sketch Plans, Zoning Plans and Site Plans (including~~,~~ and Preliminary Plats). Some ~~Site Plans~~ plans may be required to be re-reviewed by the TRC after a public hearing, if a public hearing is required for a particular type of application.

(Ord. No. 598, 4-14-2011)

State law reference— *Planning board, G.S. 160A-361; board of adjustment, G.S. 160A-388.*

Section 8.2 - Overview of Available Approvals/Permits; Types of Plans and Procedural Steps; Fees; UDO Admin Manual; Other Legal Requirements

A.

Approvals/Permits. As an overview, the following approvals and permits are contemplated by this UDO:

1.

Subdivision Approval. Except for the statutory exemptions identified in Subsection 8.4(B) (Activities that Constitute a Subdivision), any subdivision of land requires approval of an appropriate subdivision plat. Subdivisions are classified as "Major" and "Minor" with Minor Subdivisions having a simplified review and approval process. The Planning Board reviews and approves Site Plans (Preliminary Plats) for Major Subdivisions and the Administrator approves Final Plats for all subdivisions. Procedures are summarized inSection 8.4

2.

Amendments to Text and Zoning Map. Changes to the text of this UDO or any changes (rezonings) of the zoning map must be approved by the Board of Commissioners. These are legislative procedures and are summarized in Section 8.5.1.

3.

Conditional District Rezoning Approval. One special type of zoning text and map amendment is a Conditional District Rezoning Approval whereby a specific site plan and written conditions are reviewed and approved by the Board of Commissioners (referred to herein as the Zoning Plan). As provided in the Table of Permissible Uses (Section 5.2), some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or the entire community that cannot be predetermined and controlled by general district standards and thus are only permitted with a Conditional District rezoning approval. Additionally, there may be instances where a general zoning district designation is clearly inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance and applicable land plans. Both of

these circumstances are reasonably addressed through a Conditional District rezoning process. Conditional District rezoning is a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify or waive specific conditions or standards and is summarized in Section 8.5.2.

4.

Nonresidential By-Right Development Approval. Commercial use and development is by-right in certain districts (e.g., DO-A and DO-B). Often, there are special design requirements for commercial developments requiring submission and approval of a Site Plan. Procedures are summarized in Section 8.6

5.

Land Development Permits (Such as Grading, Sedimentation and Erosion Control, Post-Construction Ordinance and Related Stormwater Permits and Driveway Permits). Other permits may be issued to confirm compliance with aspects of this UDO or other applicable legal requirements. For example, most "horizontal" work (e.g., grading, sedimentation and erosion control, roads, stormwater and utilities) requires associated permits (generally "Land Development Permits"). This is an administrative procedure and involves confirmation that applicable UDO and other legal requirements are satisfied. Additionally, issuance of the required Land Development Permits requires confirmation that other related prerequisite approvals (such as a Zoning ~~Site~~ Plan approval by the Board of Commissioners for a Conditional District rezoning or Site Plan approval by the Planning Board in connection with a Major Subdivision approval) have occurred or permits (such as a driveway permit from NCDOT) have been issued. As of the date of the adoption of this UDO, Mecklenburg County LUESA staff handles review, issuance, approval and final inspection for all Land Development Permits. The Town will place an administrative hold on issuance of Land Development Permits within the LUESA system pending prerequisite Town approvals. Procedures and requirements for Land Development Permits are summarized in Subsection 8.3(B)(7) (and see also Article 6, Section 6.6 [SWIM Buffers], Article 6, Section 6.7 [Soil Erosion and Sedimentation Control], and Article 6, Section 6.8 [Post-Construction Ordinance]).

6.

Miscellaneous Permits. Various other permits are required in certain circumstances. For example, Temporary Permits for certain temporary uses and Sign Permits are required. Detailed procedures for such miscellaneous permits are summarized in Section 8.7

7.

Building Permit. Generally, all "vertical" construction work requires a building permit ("Building Permit"). This is an administrative procedure and involves confirmation that applicable UDO and other legal requirements (e.g., State Building Code) are satisfied. As of the date of the adoption of this UDO, Mecklenburg County LUESA staff handles review and approval of the Building Permit. Detailed procedures for Building Permits are summarized in Subsection 8.3(B)(8).

8.

Final Inspections. After completion of construction, various inspections and final approvals are obtained. For example, upon completion of all ground work as permitted by various Land Development Permits, LUESA inspects and reviews the final as-built drawings. As another example, all buildings require a Certificate of Occupancy before commencement of use. Issuance of a Certificate of Occupancy is an administrative procedure that involves confirmation that applicable UDO, State building codes and other applicable legal requirements are satisfied. LUESA issues the Certificate of Occupancy. Often bonds are required as a condition to confirm completion of certain construction-related items (e.g., streets) (see Article 6, Section 6.10, Guarantees and Performance Bonds). Detailed procedures are summarized in Subsection8.3(B)(9).

Each of the above referenced approvals has its own respective application and approval processes, fees, substantive requirements for approval and expiration time frames.

B.

Types of Submittals. In connection with the above referenced approvals, there are four (4) ~~three (3)~~ different "site plan" submittals that may occur:

Pre-Sketch Drawing. The Pre-Sketch Drawing is an informal submittal containing very basic information about the existing features of the property and the Applicant's idea for the proposed development project. The Charlotte-Mecklenburg Polaris GIS Mapping System on the internet is recommended as an excellent, user-friendly tool for quickly identifying existing features of a subject property and printing a topographical representation of the subject property. The Administrator will work with an Applicant to identify the map layers on the topographical representation most useful for the initial Pre-Sketch Drawing. An Applicant may either use a printed Polaris map (or a map from any other GIS mapping system) of the subject property or a survey of the property as the underlying base document ("Base Document") for the Pre-Sketch Drawing submittal. The Applicant shall overlay any proposed modifications over the Base Document in order to provide a visual depiction of the proposed development project. This is a very high-level, concept drawing and the overlay may be hand drawn, drawn by a computer program, or depicted in any manner the Applicant chooses. In addition, a Pre-Sketch Drawing submittal shall contain the following minimum information:

Address and Tax Parcel ID of the proposed development, if not already provided on the Base Document;

Statement of Intent. Applicant shall provide a paragraph statement describing, in detail, the nature and intended use of the proposed development;

Date. The date of the initial submission of the Pre-Sketch Drawing (and subsequent dates if and when a Pre-Sketch Drawing is revised and resubmitted);

General Soils Map. Soil types and boundaries from the Soil Conservation Service (SCS) maps for Mecklenburg County;

Tract boundaries and total acreage in tract, if not already provided on the Base Document; and

Town limit lines and property lines of the subject property, if not already provided on the Base Document.

Sketch Plan. The Sketch Plan is a formal submittal subject to review and comment by the Administrator and the TRC. The Sketch Plan shall include all the information required for an Applicant's Post-Construction Ordinance ("PCO") Concept Plan submission (see Article 6, Section 6.8) ~~in addition to detailed site and engineering information for a proposed development project~~. Sketch Plans are typically submitted to the Administrator concurrently with the submission of a PCO Concept Plan to the Stormwater Administrator. At a minimum, the Sketch Plan shall include the following information:

PCO Concept Plan Requirements:

a. The boundary/property lines of the property being developed as well as the location of property lines which intersect the boundaries of the property being subdivided or developed;

b. Water courses (including all perennial and intermittent streams) and flow paths on the land to be subdivided or developed;

c. Location of existing and proposed conveyance systems and concentrated flows such as grass channels, swales and storm drains as well as the location of ponds;

d. Impervious area calculations;

e. The location, names and rights-of-way of any existing street(s) on or within three hundred (300) feet of the land to be subdivided or developed;

f. Contour map at two-foot intervals extending one hundred (100) feet beyond the property boundary;

g. Wetland limits (with a copy of appropriate Federal and State permits). If permits have not been obtained, permit applications are to be submitted. Verification to be submitted with Preliminary Plans;

h. Rough finished grades and the location of any building restriction flood lines;

i. The location of proposed streets (include street cross-sections), buildings, parking areas and other impervious surfaces as well as the location of parks or other open spaces;

j. Zoning information for the proposed project site and adjacent properties;

k. The location and width of required stream and/or lake buffers;

l.

Preliminary selection and location of proposed structural stormwater controls to be installed for compliance with the appropriate Post-Construction Stormwater Ordinance;

m.

Location of undisturbed open space as required by the Ordinance;

n.

The scale of the plan, which shall not be smaller than one hundred (100) feet to the inch, the north point and the date; and

o.

A small scale vicinity map.

Site Analysis Required:

a.

Existing use of land (i.e., single-family, farm or vacant);

b.

Boundaries and description of existing vegetation;

c.

Existing drainage pattern, including the area up to three hundred (300) feet from perimeter of property;

d.

Soil types (if applicable, identify areas suitable for septic field location);

e.

Slope analysis (identification of moderate and steep slopes; e.g., ten (10) percent to twenty-five (25) percent and greater than twenty-five (25) percent);

f.

Existing utility right-of-way (overhead power lines, sewer easements, etc.);

g.

Location and description of environmentally sensitive features or natural resource areas that provide opportunities or constraints for development; and

h.

Existing creek and buffer condition.

Additional Site and Development Specific Information Required:

a.

Proposed limits of clearing and grading;

b.

Description of proposed creek crossings (i.e., method for crossing, materials, permits required to cross);

c.

All proposed and existing landscaping which will remain, including street trees;

d.

Earthen berm detail (i.e., location, height);

e.

Common/Public Open Space (provide acreage and planned improvements);

f.

Required front, rear, side yard setbacks and dimensional lot requirements;

g.

Proposed utility information (public water, sewer, well, septic or community well);

h.

Right-of-way cross section(s), (existing and proposed) and include the cross section identified in the Comprehensive Transportation Plan;

i.

Preliminary architectural renderings with depictions of elevations exposed to the public street, if applicable;

j.

Pedestrian connectivity plan (existing and proposed infrastructure to accommodate pedestrians) and identify pedestrian routes to schools, common areas, commercial areas or proposed greenways, etc.;

k.

Range in lot sizes; and

l.

Cul-de-sac usage requires a description that justifies its use (i.e., to prevent crossing creek, wetland etc.).

Additional Requirements for Proposed Downtown (DO-A/DO-B) Developments:

a.

Detail of Mint Hill's Streetscape Theme (e.g., pedestrian lights, paver bands, street trees, etc.);

b.

Detailed four-sided architectural elevations - clearly mark elevation exposed to the public street and include a materials list;

c.

Existing frontage line if proposing a new building adjacent to an existing building(s);

d.

Specify curb radii for all streets requiring a sidewalk;

e.

Cross section of proposed building(s) as viewed from the public street; and

f.

Show existing parking areas adjacent to the site.

The Administrator may require more information for a Sketch Plan submittal as indicated in the UDO Admin Manual (which may be updated in the Administrator's discretion) and which may include an Environmental Impact Statement. The Administrator may also waive ~~certain~~ requirements or specific elements of a Sketch Plan where a PCO Concept Plan is not required or where the Administrator determines that submission of specific elements of a Sketch Plan serves no useful purpose.

Zoning Plan. The Zoning Plan is the formal site plan submitted to the Board of Commissioners in connection with a Conditional District Rezoning. A Zoning Plan contains (a) all information required for a Sketch Plan, (b) planned streetscape (e.g., pedestrian lights, paver bands, street trees, etc.), (c) detailed four-sided architectural elevations i(with elevation exposed to the pubic street clearly marked and a materials list included, and (d) applicable zoning conditions proposed by the applicant. Additionally, a Zoning Plan must be consistent with any applicable PCO Concept Plan and incorporate recommendations of any applicable TIA. The Zoning Plan shall also indicate response to any issues raised in any applicable PIM.

Consistent with the Administrator's authority regarding Sketch Plans, the Administrator may require more information for a Zoning Plan submittal as indicated in the UDO Admin Manual (which may be updated in the Administrator's discretion) and which may include an Environmental Impact Statement. The Administrator may also waive requirements or specific elements of a Zoning Plan where a PCO Concept Plan is not required or where the Administrator determines that submission of specific elements of a Sketch Plan serves no useful purpose.

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Site Plan. The Site Plan (and in the case of a subdivision application, a Preliminary Plat) is a formal application submittal containing very detailed information, including engineering and construction level drawings. The Site Plan contains all the information necessary to obtain approvals for Land Development Permits. A Site Plan submittal shall conform to the PCO Concept Plan and Sketch Plan, if applicable, which was previously approved by the Stormwater Administrator for the proposed development project. The Site Plan shall be prepared as follows:

Site Plans, or any portion thereof, shall be prepared by an engineer, architect, landscape architect or land surveyor authorized by the State of North Carolina to practice as such;

Site Plans shall be prepared to a legible scale (preferably a scale of one inch equals fifty feet (1" = 50') or larger);

Site Plans may be prepared in one or more sheets to show clearly the information required by this Ordinance and to facilitate the review and approval of the Site Plan;

All horizontal dimensions shown on the Site Plan shall be in feet; decimal fractions of a foot to the closest one-hundredth of a foot (0.00); and all bearings in degrees, minutes and seconds;

Every Site Plan shall show the name and address of the Applicant (identified as property owner or developer), the north arrow and reference, the date, the scale of the drawing and the number

of sheets. In addition, it shall reserve a blank space three (3) inches wide by five (5) inches long for the use of the approving authority;

The Applicant shall submit as many copies to the Town as required in the UDO Admin Manual.

The Site Plan is a detailed graphic representation, containing all the information required on the LUESA Land Development Site Plan Checklist, any additional information deemed necessary by the Administrator, any additional limitations or restrictions the Applicant may wish to propose, as well as the following information:

a. All trees planned for preservation in accordance with Sketch Plan TRC comments;

b. Landscape Table shall include species, height/size at time of planting and spacing;

c. All required landscaping, including street trees, clearly indicated in the appropriate location - all characters/symbols used to identify species and/or type shall include a legend for reference;

d. Earthen berm location, height and slope information; staff may request cross sections of proposed berms if deemed applicable (standards and details of all proposed berms will be evaluated on a site-by-site basis);

e. Common/Public open space, including acreage, labeled, noting plans for improvements to open space areas;

f. Proposed location, height and type of outdoor lighting;

g. A parking table. The components of the parking table shall include:

i. number of proposed spaces;

ii. dimension of spaces;

iii. number of compact spaces;

iv. loading spaces (not loading areas);

v. total impervious area of the parking and related driveways; and

vi. calculation of parking in accordance with Article 6, Section 6.3, of this UDO.

h.

i. All loading areas and screening detail(s);

j. Pavement type for approach driveway and parking areas;

k. Architectural renderings (North, South, East and West elevations); reference elevation exposed to public street and include cross sections of proposed buildings as viewed from public right-of-way;

l. A description of the method of water and sewage disposal, with evidence of the approval of such sewage disposal system by Mecklenburg County Health Department. Soil suitability verification from a specialist is required;

m. Location of proposed hand rails;

n. All computations necessary to verify compliance with Section 6.1.1 (Dimensional Requirements) of this UDO;

o. Location of all infrastructure improvements including existing and future rights-of-way as indicated in the Comprehensive Transportation Plan;

p. Proposed dumpster location and screening detail; and

q. Existing pedestrian infrastructure (i.e. sidewalks, trails) within three hundred (300) feet of the site and identify proposed pedestrian infrastructure.

The Administrator may require more information for a Site Plan submittal as indicated in the UDO Administrative Manual, which may be updated in the Administrator's discretion. The Administrator may also waive certain requirements or specific elements of a Site Plan where the Administrator determines submission of specific elements of a Site Plan serves no useful purpose.

In connection with subdivisions, there is also a Final Plat recorded at the Mecklenburg County Register of Deeds which does not contain the engineering detail of the above referenced plans, but is recorded only after completion of infrastructure work or the provision of assurances of such works (e.g., bonding), contemplated by the approved Site Plan (Preliminary Plat).

Overview of Procedures. As an overview, some or all of the following procedural steps are involved in connection with the various approvals contemplated by this Ordinance:

~~*Preapplication Procedures*~~

1. Pre-Sketch Drawing (Mandatory for Major Subdivision, Conditional District Rezoning, Nonresidential By-Right Development).

2.

Initial Information Meeting with Staff (Mandatory for Major Subdivision, Conditional District Rezoning and Nonresidential By-Right Development).

3.

Public Information Meeting (Mandatory for any Conditional District rezoning application for a nonresidential proposed use abutting a residentially zoned district and any proposed development project meeting the traffic thresholds requiring a Traffic Impact Analysis).

4.

Traffic Impact Analysis (Mandatory if thresholds for traffic are met for Major Subdivisions, Conditional District Rezoning Applications and Nonresidential By-Right Developments).

5. PCO Concept Plan (Mandatory when required by Article 6)

~~5~~6.

Sketch Plan (Mandatory for Major and Minor Subdivisions, Conditional District Rezoning Applications, Nonresidential By-Right Developments and whenever a PCO Concept Plan is required).

~~6~~7.

Initial Staff and TRC Review (Every Sketch Plan).

~~8~~7.

Informal Advisory Review by Planning Board and/or Board of Commissioners (Optional for All Applications).

~~*Formal Application Procedures*~~

~~1~~8.

~~Formal Application and~~ Zoning Plan and/or Site Plan Submittal, if applicable (Mandatory, Zoning Plan required for Conditional District Rezoning; Site Plan required for Major Subdivisions~~, Conditional District Rezoning~~ and Nonresidential By-Right Development).

~~2~~9.

Formal Staff and TRC Review (Mandatory for All Applications).

~~3~~10.

Public Hearing (Mandatory for Conditional District Rezoning, General Rezonings/Map Amendments and Text Amendments).

~~4~~11.

Planning Board Review and Decision (Review and final decision for Major Subdivisions; Review and Recommendation for all Conditional District Rezonings and General Rezonings/Map Amendments and Text Amendments).

~~5~~12.

Board of Commissioners Decision (Conditional District Rezoning and General Rezonings/Map Amendments and Text Amendments).

~~6~~13.

Issuance of Land Development Permits (and other applicable permits) (Mandatory for All Applications with a Site Plan).

~~7~~14.

Building Permit Application and Issuance (Mandatory for All Applications with any building work occurring).

15~~8~~.

Final Inspection, including subdivision Final Plat; Certificates of Occupancy; Bonding as necessary for each (Mandatory for All Applications).

Detailed requirements for each of these procedural steps are summarized throughout this Ordinance, including Section 8.3.

C.

Fees. The Town of Mint Hill Board of Commissioners shall adopt a Schedule of Fees for application and approval processing as specified in this Ordinance.

D. *Formal Applications; Process and Steps.*

1.

Application.

a.

Who May Submit Applications. Applications for any required approvals or permits will be accepted only from persons having the legal authority to take action in accordance with the permit or the approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendors). If an Applicant is not the property owner, the owner shall either sign the application or provide notice to the Administrator as to the identity of the agent with authority to submit the application.

b.

Applications to be Complete.

(i)

An application must be complete before it will be accepted for review and action. For any of the various Land Development Permits (and, Major Subdivision applications, and Nonresidential By-Right Developments), an application requires a formal Site Plan be submitted in accordance with the requirements of Subsection 8.2(B)(3) and this Section.

(ii)

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Subject to Subsection (iii), an application is complete when the Administrator determines: 1) the applicable fee(s) to the Town (and County) have been paid; and 2) the application contains all the information necessary for the approving or permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all the requirements of this Ordinance.

(iii)

The Administrator may develop and include in the UDO Admin Manual application forms, instructional sheets, checklists or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

(iv)

The Applicant shall submit as many copies of the application and plans to the Town as required in UDO Admin Manual. In addition, the Applicant shall provide the requisite number of copies to other outside agencies, which may include but not be limited to, Mecklenburg County LUESA, NCDOT, or NCDENR. These agencies may have separate fee schedules, and the Applicant shall be responsible for payment of all fees to those agencies in order to have the application processed in a timely manner. Town fees may be waived for any application submitted by any official or agency acting on behalf of the Town of Mint Hill, Mecklenburg County, the State of North Carolina or a governmental agency.

(v)

The Administrator has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical or where the information serves no useful purpose.

2.

Staff Consultation After Application Submitted.

a.

Upon receipt of a formal application, the Administrator shall review the application and confer with the Applicant to ensure that he/she understands the Town staff's interpretation of the applicable requirements of this Ordinance, that he/she has submitted all information intended to be submitted, and that the application represents precisely and completely what is proposed to be done on the property.

b.

If the application is for an approval of a Conditional District rezoning (Zoning Plan), Major Subdivision Site Plan approval, General Rezoning/Map Amendment or Text Amendment, the Administrator shall place the application on the agenda of the

appropriate boards when the Administrator has determined the application is complete.

~~D~~E.

UDO Administrative Manual. The Administrator may create a UDO Administrative Manual (the "UDO Admin Manual") which includes application forms, instructional sheets, checklists, tables and flowcharts to assist applicants in understanding application requirements and the form and type of information to be submitted. The UDO Admin Manual may be amended by the Administrator. The UDO Admin Manual is a supplement to the Ordinance only and in the event of a conflict, the provisions of the Ordinance shall govern and control any application.

~~E~~F.

Other Legal Requirements. Depending on the scope of the proposed development project, an Applicant may need to obtain other legally required approvals and/or permits (e.g., a Driveway Permit issued by NCDOT). Such additional permits or approvals, issued by other agencies, are each subject to their own respective application processes, substantive requirements, fees, expiration timeframes, appeals and variance processes. It is the responsibility of every Applicant to obtain whatever additional approvals or permits may be required for the proposed development project.

G~~F~~.

Summary Table. The UDO Admin Manual contains a Summary Table that summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of this Ordinance.

(Ord. No. 598, 4-14-2011)

Section 8.3 - Procedural Requirements

As provided in Section 8.2 above, certain procedural steps are involved in connection with the various approvals contemplated by this Ordinance. Additional information regarding and requirements for these various procedural steps are as follows. [Note: all of these procedural steps may not be applicable to every application or approval that is contemplated by this UDO. See, for example, Sections 8.4-8.7.].~~The following procedural steps are involved in connection with the various approvals contemplated by this Ordinance as indicated for each type of application.:~~

A.

~~*Preapplication Process and Steps.*~~

1.

Pre-Sketch Drawing (Mandatory for Major Subdivision, Conditional District Rezoning, Nonresidential By-Right Development) An Applicant shall prepare a Pre-Sketch Drawing in compliance with Subsection 8.2(B)(1) to facilitate review and comment at an Initial Information Meeting with staff and/or a Public Information Meeting.

2.

Initial Information Meeting with Staff (Mandatory for Major Subdivisions, Conditional District Rezoning Applications and Nonresidential By-Right Developments). For all Major Subdivision, Conditional District rezoning and Nonresidential By-Right Development proposals, prior to submitting a Sketch Plan, the Applicant shall meet with the Mint Hill Planning Staff to discuss any questions, concerns and/or unique issues with the proposed development project in order to insure that the Applicant fully understands the review and approval process, submittal requirements, applicable deadlines, fees and overall expectations for the project and application submittal process.

3.

Public Information Meeting ("PIM") (Mandatory for any Conditional District Rezoning application for a nonresidential proposed use abutting a residentially zoned district and any proposed development project that meets the traffic thresholds requiring a Traffic Impact Analysis). In connection with all requests for any Conditional District Rezoning application for a nonresidential proposed use abutting a residentially zoned district and any proposed development project that meets the traffic thresholds requiring a Traffic Impact Analysis, the Applicant shall hold a PIM. The purpose of the PIM is to provide a framework for creating a shared vision with community involvement. The PIM is designed to facilitate communication between an Applicant and adjacent and surrounding property owners and to alert Town planning staff and the Town Planning Board and Board of Commissioners to additional potential issues and concerns with the proposed development project.

a.

In connection with the preparation of the Sketch Plan and prior to making a formal application, the Applicant shall meet with the adjacent and surrounding neighbors and property owners to advise them of the nature and scope of the development proposal. The PIM shall be scheduled and conducted by the Applicant in accordance with the following requirements:

(i)

The Applicant shall develop and provide to Town planning staff an agenda, schedule, location and list of participants (such as landscape architects, engineers, etc.) to answer questions from citizens and service providers for the PIM. The Town may post the PIM information on its website. Town planning staff may attend the PIM but is not required to do so.

(ii)

It is recommended that the PIM last two (2) to three (3) hours, depending on the nature of the proposed development project and its location. A minimum of one hour should be scheduled during normal business hours to allow service providers and other public agencies (such as public works officials, NCDOT, NCDENR, etc) to participate as needed.

(iii)

Notice of the PIM shall, at a minimum, be given as follows:

(a)

Publication. The Applicant shall be responsible to pay for and publish notice by sending such notice to a newspaper having general circulation in the Town not less than ten (10) days nor more than twenty-five (25) days prior to the date of the PIM. The Applicant shall provide proof of the newspaper notice.

(b)

Mailing. A notice shall be sent by first class mail by the Town on behalf of the Applicant to the most recent owners, as identified in the Charlotte-Mecklenburg Polaris GIS System, of all properties that lie within two hundred (200) feet as measured from the exterior boundaries of the proposed development project site. The Town shall provide or create mailing labels that depict the names and addresses of the owners of all properties within the requisite two hundred (200) foot boundary area. The Applicant shall also provide the Town with as many copies as needed of the notification, which shall contain information regarding the PIM time and location, as well as a general description of the proposed development project. The Applicant shall pay the Town the requisite fee for mailing the notification under the then-currently-adopted fee schedule for such mailings. The Town shall then mail the notice not less than fourteen (14) days prior to the date of the PIM.

(c)

Posting. A PIM notification sign shall be posted by the Town in a conspicuous place at the property not less than ten (10) days prior to the PIM. The sign shall indicate date, time and location(s) of the PIM. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the PIM.

(iv)

The Applicant will keep detailed notes of comments, issues, questions and concerns raised or received during the PIM and will provide a copy of such to planning staff after the PIM.

(v)

In the event the Applicant would like to request an informal advisory review and comments from the Planning Board and/or Board of Commissioners pursuant to the next section ~~and prior to submitting a formal detailed Site Plan application,~~ following the PIM, the Applicant shall have the opportunity

to incorporate changes to the Sketch Plan to take into account information and comments received.

4.

Traffic Impact Analysis (Mandatory if Thresholds for Traffic are Met for Major Subdivisions, Conditional District Rezoning Applications and Nonresidential By-Right Developments). All applicants for Major Subdivision, Conditional District rezoning applications and Nonresidential By-Right Development approvals shall obtain and submit a Traffic Impact Assessment only when either peak hour trips from the proposed development project are estimated to exceed two hundred (200) or the total daily trip volume from the proposed development project is estimated to exceed two thousand (2,000). If either of those thresholds is estimated to be met, a Traffic Impact Analysis prepared by a licensed engineer shall be required.

The traffic impact assessment shall include at a minimum:

a.

Existing traffic conditions within the study area boundary;

b.

Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak and average annual daily traffic levels;

c.

The distribution of existing and proposed trips through the street network;

d.

Analyses of the capacities of intersections located within the study area boundary;

e.

Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and

f.

Other information reasonably requested by the Administrator that is reasonably related to the traffic impact of a proposed development.

Note: NCDOT has separate guidelines for when a TIA is required. When NCDOT requires a TIA, a single TIA, meeting both NCDOT's requirements and the requirements of this Ordinance may be prepared and submitted.

5. PCO Concept Plan. See Article 6.

~~5~~6.

Sketch Plan (Mandatory for Major and Minor Subdivisions, Conditional District Rezoning Applications, Nonresidential By-Right Developments, and Whenever a PCO Concept Plan is Required). All applicants for Major and Minor Subdivisions, Conditional District rezoning and Nonresidential By-Right Development approvals (and any other applications that require submission of a PCO Concept Plan) shall submit a Sketch Plan meeting the requirements set forth in Subsection 8.2(B)(2). Applicants shall submit as many copies of the Sketch Plan as

required in the UDO Admin Manual, which may be updated from time to time in the Administrator's discretion. The Sketch Plan is typically submitted to the Administrator concurrently with submission of the PCO Concept Plan (see Article 6, Section 6.8) to the Stormwater Administrator and may be one and the same submittal. In the event a PCO Concept Plan is not required for a proposed development project, the Applicant shall nevertheless submit a Sketch Plan as required by this Section and the requirements of Subsection 8.2(B)(2). The Administrator may require more information for a Sketch Plan submittal as indicated in the UDO Admin Manual, which may be updated in the Administrator's discretion. The Administrator may also waive certain requirements or specific elements of a Sketch Plan where a PCO Concept Plan is not required or where the Administrator determines that submission of specific elements of a Sketch Plan serves no useful purpose. Review of a Sketch Plan is advisory; no approval or permit is issued, and such review does not create any vested rights to develop.

~~6~~7.

Initial Staff and TRC Review (Mandatory for All Sketch Plans).

a.

The Town staff and TRC shall review the Sketch Plan and the TIA to identify issues with the proposed development project and determine compliance with the requirements of this Ordinance. The Town staff will provide detailed comments to the Applicant regarding issues identified and recommend any needed changes to the Sketch Plan to bring it into compliance with the requirements of this Ordinance and/or other applicable legal requirements.

b.

In accordance with Article 6, Section 6.8, if a PCO Concept Plan is required for a proposed development project, the Stormwater Administrator will review it to determine its compliance with this Ordinance and the Post-Construction Ordinance. The Stormwater Administrator will either approve or disapprove the PCO Concept Plan. In the event of disapproval, the Stormwater Administrator will provide detailed comments to the Applicant regarding issues identified and recommended changes to the PCO Concept Plan to bring it into compliance. In such case, the Applicant shall be required to resubmit a compliant PCO Concept Plan for approval by the Stormwater Administrator before ~~a~~ a Zoning Plan or Site Plan application will be formally considered by a Town board.

c.

When the PCO Concept Plan is approved and the Applicant is therefore ready to move forward in the application process, the Applicant may incorporate the TRC's proposed recommendations, changes and comments to the Sketch Plan as necessary when preparing the formal Zoning Plan or Site Plan application so as to ensure compliance with all provisions of this Ordinance.

~~7~~8.

Informal Advisory Review by Planning Board and/or Board of Commissioners (Optional). Depending upon 1) the scope of the proposed development project, 2) the nature and extent of the TRC comments, 3) the nature and extent of the PIM comments, and 4) the financial investment required to develop a detailed Zoning Plan or Site Plan for formal application, an Applicant may request an informal advisory review and initial comments from the Planning Board and/or the Board of Commissioners in accordance with the following. This review is advisory and nonbinding and confers no vesting or other rights. This optional step is intended to facilitate communication and information sharing between the Applicant and Planning Board and/or Board of Commissioners.

a.

Informal Advisory Review by Planning Board (Optional).

(i)

When an Applicant requests an informal advisory review by the Planning Board, Town Planning staff shall prepare a report ("staff report") addressing the proposed development project's: 1) compliance with this Ordinance and other applicable codes and ordinances, 2) the TRC's recommended changes and/or conditions, and 3) either a narrative summary or copy of the PIM comments as provided by the Applicant under the previous Section.

(ii)

If there are more than ten (10) business days until the next regularly scheduled meeting of the Planning Board, Town staff shall schedule and include the item on the agenda for the next regularly scheduled meeting of the Planning Board after the Applicant's request; if there are less than ten (10) business days, it shall be scheduled for the subsequent month's meeting after the Applicant's request.

(iii)

The Mint Hill Planning Board shall review the Sketch Plan submittal, the staff report, and the comments of the Applicant and his or her architect or engineer or other agent. After the review and examination, the Mint Hill Planning Board shall provide comments to the Applicant and advise the Applicant about how to improve the proposed development project.

b.

Informal Advisory Review by Board of Commissioners (Optional).

(i)

An informal advisory review before the Mint Hill Planning Board is not a prerequisite to any informal advisory review from the Mint Hill Board of Commissioners but is generally advised.

(ii)

When an Applicant requests an informal advisory review by the Board of Commissioners, Town Planning staff shall prepare a staff report addressing

the proposed development project's: 1) compliance with this Ordinance and other applicable codes and ordinances, 2) the TRC's recommended changes and/or conditions, 3) either a narrative summary or copy of the PIM comments as provided by the Applicant under the previous Section and 4) if applicable, the Planning Board's recommended changes and/or conditions of approval.

(iii)

If there are more than ten (10) business days until the next regularly scheduled meeting of the Board of Commissioners, Town staff shall schedule and include the item on the agenda for the next regularly scheduled meeting of the Board of Commissioners after the Applicant's request; if there are less than ten (10) business days, it shall be scheduled for the subsequent month's meeting after the Applicant's request.

(iv)

The Mint Hill Board of Commissioners shall review the Sketch Plan submittal, staff report and comments of the Applicant and his/her architect or engineer or other agent. After review and examination, the Mint Hill Board of Commissioners shall provide comments to the Applicant and advise the Applicant about how to improve the proposed development project.

~~B.~~

~~*Formal Application Process and Steps.*~~

~~1.~~

~~*Application.*~~

~~a.~~

~~*Who May Submit Applications.* Applications for any required approvals or permits will be accepted only from persons having the legal authority to take action in accordance with the permit or the approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendors). If an Applicant is not the property owner, the owner shall either sign the application or provide notice to the Administrator as to the identity of the agent with authority to submit the application.~~

~~b.~~

~~*Applications to be Complete.*~~

~~(i)~~

~~An application must be complete before it will be accepted for review and action. For any of the various Land Development Permits (and Conditional~~

District rezoning approvals, Major Subdivision applications, and Nonresidential By-Right Developments), an application requires a formal Site Plan be submitted in accordance with the requirements of Subsection 8.2(B)(3) and this Section.

(ii)

Subject to Subsection (iii), an application is complete when the Administrator determines: 1) the applicable fee(s) to the Town (and County) have been paid; and 2) the application contains all the information necessary for the approving or permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all the requirements of this Ordinance.

(iii)

The Administrator may develop and include in the UDO Admin Manual application forms, instructional sheets, checklists or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

(iv)

The Applicant shall submit as many copies of the application and Site Plan to the Town as required in UDO Admin Manual. In addition, the Applicant shall provide the requisite number of copies to other outside agencies, which may include but not be limited to, Mecklenburg County LUESA, NCDOT, or NCDENR. These agencies may have separate fee schedules, and the Applicant shall be responsible for payment of all fees to those agencies in order to have the application processed in a timely manner. Town fees may be waived for any application submitted by any official or agency acting on behalf of the Town of Mint Hill, Mecklenburg County, the State of North Carolina or a governmental agency.

(v)

The Administrator has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical or where the information serves no useful purpose.

2.

Staff Consultation After Application Submitted.

a.

Upon receipt of a formal application, the Administrator shall review the application and confer with the Applicant to ensure that he/she understands the Town staff's interpretation of the applicable requirements of this Ordinance, that he/she has submitted all information intended to be submitted, and that the application represents precisely and completely what is proposed to be done on the property.

b.

If the application is for an approval of a Conditional District rezoning, Major Subdivision Site Plan approval, General Rezoning/Map Amendment or Text Amendment, the Administrator shall place the application on the agenda of the appropriate boards when the Administrator has determined the application is complete.

9. Zoning Plan and/or Site Plan Submittal (Zoning Plan required for Conditional District Rezoning; Site Plan required for Major Subdivisions, Conditional District Rezoning (after an approval of Zoning Plan by Town Board), and Nonresidential By-Right Development). All applicants for Conditional District rezoning shall submit a Zoning Plan meeting the requirements set forth in subsection 8.2.(B).(3) All applicants for Major and Minor Subdivisions, Conditional District rezoning and Nonresidential By-Right Development approvals shall submit a Site Plan meeting the requirements set forth in Subsection 8.2(B)(4).

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310.

Formal Staff and TRC Review After Application Submitted. In connection with all applications requiring Zoning Plan or Site Plan approval (i.e., Conditional Rezoning Applications, Major Subdivisions and Nonresidential By-Right Developments), Town staff and TRC shall review the Zoning Plan and/or Site Plan and the TIA to identify issues with the proposed development and determine compliance with the requirements of this Ordinance. Town staff will provide detailed comments to the applicable reviewing board regarding issues identified and recommend any needed changes or conditions to the Zoning Plan or Site Plan to bring it into compliance with the requirements of this Ordinance and/or other applicable legal requirements. If Town staff or TRC proposes a finding or conclusion that the application fails to comply with the requirements of this Ordinance, it shall identify the requirement in question and specifically set forth supporting reasons for the proposed findings or conclusions in the report to the applicable board.

411.

Public Hearing. Public hearings shall be conducted when required by State law and in accordance with any applicable state law requirements. Notice of such public hearings shall comply with all notice requirements as mandated by State law. Town staff may elect to provide notice of public hearings in a more extensive manner than the minimum standards required by State law, but such additional notice shall be as a courtesy only, and providing or failing to provide any notice(s) in addition to the minimum State law requirements shall not give any rights or remedies to any person. Detailed public hearing requirements can be found in Section 8.5.1, Subsections (E) and (F) and Subsections 9.1(D) and (E) for Variances.

512.

Planning Board Review and Decision or Recommendation. Subject to Subsection 8.3(B)(7), the Planning Board shall review and decide or make recommendation as appropriate on matters before it in accordance with other provisions of this Ordinance and applicable laws.

613.

Board of Commissioners Review and Decision. Subject to Subsection 8.3(B)(7), the Board of Commissioners shall review and decide matters before it in accordance with other provisions of this Ordinance and applicable laws.

~~7~~14.

Issuance of Land Development Permits (and Other Applicable Permits). Town staff (and/or Mecklenburg County LUESA staff and the Stormwater Administrator) shall review applications for various Land Development Permits (including Stormwater permits), and upon compliance with applicable Ordinance provisions and other applicable legal requirements, issue the applicable permit(s). The Town will place an administrative hold on issuance of Land Development Permits within the LUESA system pending prerequisite Town approvals (e.g., Planning Board approval of Site Plans for Major Subdivisions, Board of Commissioners approval of ~~Site Plans~~Zoning Plans for Conditional District rezonings, Administrator approval of Site Plans for Nonresidential By-Right Developments, etc). From a timing perspective, Town Board or Administrator approval occurs in a parallel process and generally concurrently with LUESA and Stormwater Administrator approval of Site Plans. It should be noted, however, that the approval processes are not dependent upon or determinant of one another. For example, LUESA may require an Applicant to further modify certain engineering-level or other details of a Site Plan to bring it into compliance with this Ordinance and other applicable legal requirements (e.g., engineering standards and State building codes) despite the fact that the applicable Town Board (or Administrator) has already approved the Site Plan. Alternatively, LUESA may have already approved a Site Plan, but during Town review, the applicable Town Board (or Administrator) requests a change that necessitates a modification to the engineering-level or other details of a Site Plan, which then requires LUESA review and reapproval to the final Site Plan. Typically the applicable Town Board (or Administrator) will approve an application contingent upon 1) LUESA approval of the engineering and construction level drawings and 2) final staff review of LUESA-approved plans to ensure no material deviation exists between the Board-approved Site Plan and that approved by LUESA. In the event no material deviation exists, the Town Board (or Administrator) approval shall become effective. In the event staff identifies any material deviation between the Site Plan approved by the Town Board and that approved by LUESA, the Applicant shall be required to resubmit the LUESA-approved Site Plan to the Board for its final approval. Once the final Site Plan has been approved by the applicable reviewing Board, the Administrator will release the administrative hold on the Land Development Permits in the LUESA system to allow the Applicant to commence with horizontal work on the site under the properly-issued Land Development Permits.

~~8~~15.

Building Permit.

a.

Before commencing the construction or erection of any building or structure or part thereof, or before making any structural alterations or additions to any building or structure, a Building Permit shall be obtained. The Administrator shall not approve the application for a Building Permit unless the plans, specifications and intended use of the building or structure all conform to all the applicable provisions of this Ordinance.

b.

A Building Permit shall be issued only for that phase of a development that has been approved by the Town under this Ordinance.

c.

In addition to all other applicable provisions of this Ordinance, all applications for a Building Permit shall be accompanied by construction drawings in compliance with an approved Site Plan and applicable submittal requirements, legibly drawn to scale and fully dimensioned, showing all existing and proposed structures and all other applicable information, including, but not limited to, off-street parking, landscaping and screening. A copy of the construction drawing shall be retained in LUESA files.

d.

Any Building Permit shall become invalid unless the work authorized by such permit shall have been started within six (6) months of the date it was issued, or in the event the work authorized by such permit shall have been abandoned or substantially suspended for a period of one year as reasonably determined by the Administrator.

e.

Building Permits issued in conformance with the North Carolina Building Codes and the Unified Development Ordinance of the Town of Mint Hill, prior to the date of adoption of this Ordinance, shall be valid only if the work authorized by such permit has commenced within a six-month period from the date of issuance. If the work has not been started, the permit shall be void, and a new permit consistent with all the provisions of this Ordinance shall be required.

f.

When a mobile home or trailer is used, as provided for in Subsections 6.9.6(1) and (2), permits for the mobile homes or trailers shall be obtained at such time as the permits are obtained for the structure to be erected on the lot or parcel of land upon which the mobile home or trailer is located.

9.

Final Inspections and Approvals. Upon completion of work authorized by various Land Development Permits and/or a Building Permit, a final field inspection shall be conducted to confirm all applicable requirements have been satisfied.

a.

Land Development Permits. For all Land Development Permits, final "as-built" drawings are approved as evidence of compliance.

b.

Building Permits/Certificates of Occupancy. For all Building Permits, a Certificate of Occupancy is issued as evidence of compliance.

(i)

No existing building, structure or land, shall be changed in use, nor shall any new structure or unoccupied land be occupied, until such time as a Certificate of Occupancy has been issued.

(ii)

No Certificate of Occupancy shall be issued until such time as the use of structures and land complies fully with all applicable provisions of this Ordinance, with the Land Development Permits issued, the Building Permit issued and with all plans approved. The Town has the authority to place an administrative hold on all Certificates of Occupancy in the LUESA system prior to their issuance; furthermore, the Town shall not release the administrative hold to allow a Certificate of Occupancy to be issued unless the final, as-built development complies with all the requirements of this Ordinance and the approvals, applicable Land Development Permits and Building Permits issued hereunder.

(iii)

The use of land for agricultural purposes shall be excluded from the requirements of this Section.

(iv)

No Certificate of Occupancy for any use shall be issued unless the building or structure is constructed or used, or the land is developed or used, in conformity with an approved site plan or an approved amendment of such plan. In the event only a segment of a proposed development project had been approved, the Certificate of Occupancy shall be issued only for that portion of the development so approved.

(v)

Pursuant to the requirements of Article 6, Section 6.10 (Guarantees and Performance Bonds), Certificates of Occupancy may be issued where sufficient performance guarantees and/or bonds are in place.

(Ord. No. 598, 4-14-2011)

Section 8.5 - Procedures and Approval Requirements Specific to Text and Rezoning Amendments (Including Conditional District Rezoning Amendments)

8.5.1

Amendments to Ordinance and Official Zoning Map (General Amendments - Other Than Conditional District Rezoning Applications)

A.

Authority. Upon compliance with the provisions of this part, the Board of Commissioners shall have the authority to amend the text of this Ordinance or the Official Zoning Map.

8.5.1A

General Procedures.

A.

Amendments in General. Amendments to the text of this Ordinance or to the Official Zoning Map may be made in accordance with the provisions of this Article, or in the case of nonsubstantive editorial changes, may be made by the Administrator as described in Subsection 8.1(D)(1) of this Ordinance.

B.

Initiation of a Text or Zoning Map Amendment and Submittal Requirements.

1.

The text of this Ordinance or the Official Zoning Map may be amended, supplemented, changed, modified or repealed in the following manner, (in addition to the specific requirements set forth for petition submission contained in this Ordinance as well as the UDO Admin Manual).

2.

The Planning Board or the Board of Commissioners of the Town of Mint Hill, may, of its own motion, institute an application for a change in the text or a change in the Official Zoning Map. Whenever a request to amend this Ordinance is initiated by the Board of Commissioners or the Planning Board, the Town attorney, in consultation with the Administrator, shall draft an appropriate ordinance and present that ordinance to the Board of Commissioners so a date for a public hearing may be set. There shall be no fee required for any zoning text or map change application instituted by the Town of Mint Hill, Mecklenburg County, the State of North Carolina or any other governmental agency.

3.

The owner of property, or one having interest in the property with the written consent of the owner, may institute an application for a change in the Official Zoning Map. In addition, any citizen may institute an application for a change in the text of this Ordinance. In either case, such petition for a change shall comply with the following procedures:

a.

An application for a zoning text or map change shall be made in duplicate on a form provided by the Town of Mint Hill and accompanied by the applicable filing fee. Such application shall be submitted to the Administrator for consideration by the Planning Board and Board of Commissioners.

b.

An application signed by the current property owner for a change in the zoning map shall be accompanied by two (2) copies of a map which shows the subject property. In the event the map, coupled with other required information hereinafter required (such as lot and block number), shall not, in the opinion of the Administrator adequately reflect the acreage, dimensions, scale to which it is drawn, proximate landmarks (such as street intersections, railroads or other features easily identifiable on the ground), or other features which shall be necessary for the Planning Board and the Board of Commissioners to properly consider the petition given the purposes of the changes proposed in the petition, the Administrator may require that the Applicant provide a current survey, drawn by a North Carolina registered land surveyor, with the application.

c.

An application for a change in the zoning text shall contain a reference to the specific article, section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change and the reasons therefore.

C.

Protest Petitions to Zoning District Changes.

1.

A written petition of protest may be filed with reference to any proposed changes in the zoning text or map. Such petitions shall comply with the requirements of G.S. 160A-385 and 160A-386, where applicable. Such petition shall be filed using a form provided by the Administrator and shall be both complete and submitted within the timeframe specified by G.S. 160A-386 in order to be considered by the Board of Commissioners.

2.

All petitions of protest against a zoning map change shall include the name, address and lot description of the property of each of the signers, a map, drawn to scale, showing the location of the property requesting said change and the properties of all signers of the protest petition with the name of the owners indicated on the map. For the purposes of this Section, a map may be provided unless, in the opinion of the Administrator, the information provided thereon for purposes of evaluating the particular petition of protest is insufficient.

D.

Notification Requirements. Prior to any public hearing of the Board of Commissioners for zoning text or map changes, the Town shall mail, post and advertise notification of said public hearing in accordance with applicable state law provisions (see G.S. 160A-384) as the same may be changed. The Applicant shall pay for all mailed and published notices pursuant to the then-applicable fee schedule.

E.

Public Hearing.

1.

Prior to any change to the text of this Ordinance or any map change, a public hearing chaired by the Town Mayor, or his or her designee, shall be held by the Board of Commissioners of the Town of Mint Hill. Members shall be recused from voting on an amendment when required by applicable state statute.

2.

The Administrator shall schedule the public hearing within a maximum of 60 days following the receipt of complete application.

3.

After the meeting has been called to order by the Town Mayor, or his or her designee, Town planning staff shall read the petition for a change in the zoning text or map, and state whether or not a qualified protest petition has been filed.

4.

The Administrator shall provide a statement analyzing the reasonableness of the proposed rezoning and conformity with any officially adopted plans.

5.

The Applicant, or his representative, shall present his case, and any Planning Board or Board of Commissioners member, or in the Mayor's discretion, any person attending the hearing, may question the Applicant.

6.

Persons in favor of the petition for change in the zoning text or map shall also be heard and any Planning Board or Board of Commissioners member or in the Mayor's discretion, any person attending the hearing, may question the person favoring the petition.

7.

Persons not favoring the petition for a change in the zoning text or map shall also be heard and any Planning Board or Board of Commissioners member or in the Mayor's discretion, any person attending the hearing, may question the person not favoring the petition.

F.

Board Action on Public Hearing.

1.

After the public hearing has been declared closed, if the Planning Board has not previously made a recommendation, the Planning Board shall have thirty (30) days to make a recommendation on the petition. If a recommendation is not made during the allotted time period, the application shall be forwarded to the Board of Commissioners without a recommendation. Any such Planning Board recommendation shall be accompanied by statements that address: (i) whether the proposed map amendment is consistent with any comprehensive plan that has been adopted by the Board of Commissioners and any other officially adopted plan that is applicable, and (ii) other matters that the Planning Board deems appropriate, and (iii) why it considers the action taken to be reasonable and in the public interest. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan and any other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

With reference to a petition to amend the Official Zoning Map, the Planning Board shall recommend to the Board of Commissioners as follows:

a.

Grant the amendment as requested; or

b.

Grant the amendment with a reduction of the area requested; or

c.

Grant the amendment to a more restricted district or districts; or

d.

Grant the amendment with a combination of Subsections (ii) and (iii) herein; or

e.

Recommend that the petition be denied.

With reference to a petition to amend the text of this Ordinance, the Planning Board shall recommend to the Board of Commissioners as follows:

a.

Adoption of the amendment as written; or

b.

Adoption of the amendment as revised by the Planning Board; or

c.

Rejection of the amendment.

2.

The Administrator shall transmit the Planning Board recommendation, in writing, to the Board of Commissioners.

3.

The Board of Commissioners, after receiving the recommendation, or, if the thirty (30) day Planning Board review period has expired and no recommendation has been made, shall make a decision on the matter. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board. Prior to adopting or rejecting any zoning map or text amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with the comprehensive plan and any other officially adopted plan(s) and explaining why the Board of Commissioners considers the action taken to be reasonable and in the public interest.

4.

The Board of Commissioners' decision whether to amend the Official Zoning Map or the text of this Ordinance shall be made in compliance with the applicable methods provided in Board Action on Public Hearing Subsection (F)(1).

5.

When a qualified protest petition has been filed, an amendment shall not become effective except by a favorable vote of three-fourths (¾) of all the members of the Board of Commissioners. For the purposes of this Subsection, vacant positions on the Board of Commissioners and members who are excused from voting shall not be considered "members" for calculation of the requisite supermajority.

6.

The procedures for repealing this Ordinance shall be the same as those for adopting or amending this Ordinance.

G.

Petition Withdrawal. An Applicant who has submitted a complete application for a zoning map amendment may withdraw that application prior to a final decision being rendered by the Board of Commissioners. The Administrator shall return the Applicant's filing fee only when the application is withdrawn by letter received by the Administrator prior to ordering the publication of the notice of public hearing in the newspaper having general circulation in the area.

H.

Amendments to Official Zoning Map.

1.

The Administrator shall update the Official Zoning Map as soon as possible after amendments to it, including insertion of appropriate Conditional District rezoning designations, such as O-A(CD), are adopted by the Board of Commissioners. Upon entering any such amendments to the map, the Administrator shall change the date of the map to indicate its latest revision. New prints of the updated Official Zoning Map may then be issued in hard copy or electronic form.

2.

No unauthorized person may alter or modify the Official Zoning Map.

3.

The Planning Department shall keep copies of superseded prints of the Official Zoning Map for historical reference.

8.5.1B

Approval Requirements.

A.

In deciding whether to adopt a proposed amendment to this Ordinance, the Planning Board and Board of Commissioners may take into consideration to the extent relevant to the application:

1.

Any identified relevant adopted land use plans for the area including, but not limited to, comprehensive plans, small area plans, neighborhood plans, corridor and transportation plans, pedestrian plans and other land-use policy documents;

2.

Whether the proposed reclassification is consistent with the overall character of existing development in the immediate vicinity of the subject property;

3.

The adequacy of public facilities and services intended to serve the subject property, including, but not limited to, roadways, transit service, parks and recreational facilities, police and fire protection, hospitals and medical services, schools, stormwater drainage systems, water supplies and wastewater and refuse disposal; and

4.

Whether the proposed reclassification will adversely affect a known archaeological, environmental, historical or cultural resource.

5.

Whether any proposed text amendment advances, supports and is consistent with adopted land use plans for the area including, but not limited to, comprehensive plans, small area plans, neighborhood plans, corridor and transportation plans, pedestrian plans and other relevant land-use policy documents.

B.

When considering a petition to reclassify property to a general district, the reviewing board shall not evaluate the petition based on any proposal for the specific use of the property or design of the site. In addition, the reviewing board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

8.5.2

Amendments to Official Zoning Map (Conditional District Rezoning).

A.

Conditional District Rezoning Overview. A Conditional District allows particular uses to be established only in accordance with certain predetermined Ordinance standards and with additional, varied, modified or waived conditions pertaining to each individual development

project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or the entire community that cannot be predetermined and controlled by general district standards. Such uses are identified in the Table of Principal Permitted Uses in Section 5.2 as uses permitted in accordance with this Conditional District rezoning process. Moreover, there are instances where a general zoning district designation is inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance and applicable land plans. Conditional Districts, herein established, are intended to accommodate such situations. This voluntary procedure is intended for firm development proposals and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time.

B.

Parallel Conditional Districts. Possible conditional districts include the following parallel Conditional Districts:

Conditional District

R (CD)
O-A (CD)
B-G (CD)
B-D (CD)
B-P (CD)
I-G (CD)
I (CD)
DO-A (CD)
DO-B (CD)

Additionally, the PUD-CD District is a Conditional District which does not have a parallel general district (see Section 7.2.31).

8.5.2A

General Procedures for Approval of Conditional Districts.

A.

Permitted Uses and Development Requirements. Potential uses which may be requested for a Conditional District shall be restricted to only those uses permitted in the corresponding general zoning district as designated in this Ordinance. Uses permitted in Conditional Districts shall be subject to all applicable development standards and requirements for that use listed in the corresponding general zoning districts as set forth elsewhere in this Ordinance and any particular requirements or restrictions approved and made a part of the Conditional District rezoning by the Board of Commissioners. Notwithstanding the foregoing, upon request of an Applicant, the Board of Commissioners may waive or vary a specific development standard or requirement if the Board of Commissioners find that such waiver or variance is not contrary to the public interest and not inconsistent with the intent and purposes of this Ordinance.

B.

Approval Process. The approval process for a Conditional District rezoning is as follows:

1. *Pre-Sketch Drawing (Mandatory).* An Applicant for a Conditional District rezoning approval shall submit a Pre-Sketch Drawing in accordance with Subsection 8.3(A)(1) and the requirements of Subsection 8.2(B)(1).

2. *Initial Information Meeting with Staff (Mandatory).* All applicants for a Conditional District rezoning approval shall have an initial information meeting with the Administrator in accordance with Subsection 8.3(A)(2).

3. *Public Information Meeting (Mandatory for any Conditional District rezoning application for a nonresidential proposed use abutting a residentially zoned district and any proposed development project which meets the traffic thresholds requiring a Traffic Impact Analysis).* Where either of the applicable thresholds are met, the Applicant for a Conditional District rezoning approval shall conduct a PIM in accordance with Subsection 8.3(A)(3) and submit and utilize the information gathered at the PIM when and as required in Article 8

4. *Traffic Impact Analysis (Mandatory if thresholds for traffic are met for Conditional District Rezoning applications).* All Applicants for a Conditional District rezoning approval shall prepare and submit a TIA to the Administrator if the applicable daily or peak hour trips threshold requirements are satisfied in accordance with Subsection 8.3(A)(4).

5. PCO Concept Plan. (Mandatory if required by Article 6) All Applicants for a Conditional rezoning approval shall prepare and submit and submit a PCO Concept Plan if a PCO Concept Plan is required for submission to the Stormwater Administrator (see Article 6, Section 6.8). Approval of a PCO Concept Plan, if applicable, is a pre-requisite to continuing with the Conditional District Rezoning Process.

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6. *Sketch Plan (Mandatory).* All applicants seeking a Conditional District rezoning approval shall prepare and submit a Sketch Plan to the Administrator in accordance with Subsection 8.3(A)(5) and the requirements of Subsection 8.2(B)(2). Note: A PCO Concept Plan is typically required for submission to the Stormwater Administrator at this time (see Article 6, Section 6.8).

6. *Initial Staff and TRC Review (Mandatory).* In connection while applications for a Conditional District rezoning approval, the Town staff and TRC shall review the Sketch Plan and TIA (if applicable) in accordance with Subsection 8.3(A)(6) above. Note: The

Stormwater Administrator usually reviews the PCO Concept Plan at this time (see Subsection 8.3(A)(6) and Article 6, Section 6.8).

7.

Informal Advisory Review by Planning Board and/or Board of Commissioners (Optional). In connection with all applications for Conditional District rezoning approvals, an Applicant may request an informal advisory review and initial comments from the Planning Board and/or the Board of Commissioners in accordance with Subsection 8.3(A)(7).

8.

Formal Application and Zoning ~~Site~~ Plan Submittal for Conditional District Rezoning (Mandatory). After the Applicant has completed each of the applicable mandatory preapplication steps above, the Applicant may then submit the requisite number of hard copies of the completed application form meeting the requirements set forth in Subsections 8.2(B)(3), 8.3(B)(1) and the UDO Admin Manual in addition to any additional limitations or restrictions the Applicant may wish to propose for establishment of a Conditional District. ~~At the same time, the Applicant for a Conditional District rezoning approval shall submit an application for the required Land Development Permits.~~

9.

Formal Staff and TRC Review (Mandatory). The Administrator and the TRC shall review the Zoning ~~Site~~ Plan in accordance with Subsection 8.3(B)(3) to determine compliance with the requirements of this Ordinance. The Administrator shall make a written recommendation to the Planning Board and Board of Commissioners for Conditional District rezoning applications.

10.

Public Hearing, Planning Board Recommendation, and Town Board Decision (Mandatory).

a.

The Conditional District rezoning approval decision is a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a Conditional District rezoning, the Town shall follow all of the procedures set forth for General Zoning and Text Amendments (Section 8.5.1A, Subsections (C) (Protest Petitions to Zoning District Changes), (D) (Notification Requirements), (E) (Public Hearing), (F) (Board Action on Public Hearing), (G) (Petition Withdrawal) and with regard to Subsection 8.5.1A(F) (Board Action on Public Hearing), the CD application shall be considered and treated as a zoning map amendment in accordance with Subsection 8.5.1A(F)(1).

b.

The Board of Commissioners may not vote to rezone property to a Conditional District during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Board of Commissioners holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new Board of Commissioners taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new Board of Commissioners takes office.

8.5.2B

Approval Requirements for Conditional District Rezoning Applications.

A.

Approval Requirements for Conditional District Rezonings.

1.

Conditional District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans and other land-use policy documents.

2.

Conditions to Approval of Conditional District Rezoning. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions be attached to approval of the petition in addition to the predetermined conditions as set forth in this Ordinance. The Board of Commissioners shall also consider attaching conditions proposed by the Applicant. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to Town ordinances and an officially adopted comprehensive or other plan(s) and those that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the Town, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer or other public

utilities necessary to serve the proposed development project. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board and the petitioner may be incorporated into the petition.

3.

Effect of Approval. If an application is approved, the Conditional District thus established and all conditions attached thereto shall be binding upon the property, regardless of any change in ownership. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. All additional conditions or requirements are enforceable in the same manner and to the same extent as any other applicable requirement of this Ordinance. Any subsequent change in use within the Conditional District not included in the original petition or application shall require submittal of a new application for a Conditional District rezoning, as specified in these procedures.

If an application is approved, the petitioner shall comply with all requirements for obtaining any applicable Land Development Permits, a Building Permit and Certificate of Occupancy. Only those uses and structures indicated in the approved petition and CD ~~site~~ Zoning Pplan shall be allowed on the subject property.

8.5.2C

Expiration of Conditional District Rezoning Approvals. The intent of the Conditional District rezoning is to provide a procedure for specific development proposals and as such, it is intended that all property rezoned be in accordance with firm plans to develop. Therefore, two (2) years from the date of approval (or any time thereafter within the Planning Board's discretion unless otherwise mandated by state law), the Planning Board shall examine progress made to develop in accordance with approved plans. If it is determined that active efforts to so develop are neither proceeding nor have been completed, it shall be the responsibility of the property owner or his designated representative to justify to the Planning Board any delay in development. If the Planning Board finds such delay is unjustified or that the intent of the rezoning procedure as stated in Subsection 7.2.15(A) (Purpose section describing Nonresidential Uses in Residential Zoning Districts) has been violated, it shall forward a report of its findings to the Board of Commissioners, which may recommend that proceedings to rezone the subject property to its former designation be initiated.

8.5.2D

Amendment Procedures for Approved Conditional Districts.

A.

Changes to an Approved Zoning~~Site~~ Plan. Except as provided in Subsection (B) below (Administrative Amendment Process), changes to an approved Conditional District or to the conditions attached to it shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this Article.

B.

Administrative Amendment Process.

1.

Application for an Administrative Amendment. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the planning staff detailing the requested change. Upon request, the Applicant must provide any additional information requested. Accompanying the letter shall be the applicable fee for administrative review.

2.

Authority to Approve an Administrative Amendment. The Administrator shall have the delegated authority to approve an administrative amendment change to an approved Conditional District Zoning ~~Site~~ Plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the Zoning ~~Site~~ Plan or its conditions and that the change does not have a significant impact on abutting properties. Significant changes to an approved Zoning~~Site~~ Plan that cannot be considered through an administrative amendment include the following:

a.

Increasing the number of buildings.

b.

Increasing the number of dwelling units more than five (5) units or ten (10) percent of the total approved, whichever is less.

c.

Adding driveways to thoroughfares.

d.

Reducing parking spaces below the minimum standards.

e.

Reducing the area or intensity of landscaped or screening buffers or yards.

f.

Reducing required open space.

g.

Changing owner occupied units to rental if noted on the Zoning Plan~~site plan~~.

h.

Increasing the size and/or footprint of buildings.

i.

Increasing the total number of subdivided lots.

3.

The Administrator shall always have the discretion to decline to exercise the delegated authority either because the Administrator is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Board consideration is deemed more appropriate under the circumstances. If the Administrator declines to exercise this authority, the Applicant must file a rezoning

petition for Conditional District and seek approval in accordance with the procedures of Section 8.5.2A (General Procedures for Approval of Conditional Districts) and Section 8.5.2B (Approval Requirements for Conditional District Rezoning Applications).

8.5.3

Planned Unit Development—Conditional Districts. Applications for Planned Unit Development-Conditional Districts ("PUD-CD") shall meet the pre-set conditions set forth in Section 7.2.31 and procedurally shall be reviewed and treated like a Conditional District amendment under this Article.

(Ord. No. 598, 4-14-2011; Ord. No. 611, 4-12-2012)

State law reference— *Zoning amendments, G.S. 160A-384, 160A-385.*

Section 8.8 - Vested Rights in Certain Circumstances

A.

Purpose. The purpose of this subsection is to implement the provisions of G.S. 160A-385.1 pursuant to which a statutory vested right is established upon application for and approval of a "site-specific development plan" as defined in Section 2.4

B.

Establishment of a Vested Right.

1.

A vested right shall be deemed established upon the valid approval, or conditional approval, by the Board of Commissioners, of a site-specific development plan, following notice and public hearing.

2.

The Board of Commissioners may approve a site-specific development plan upon such terms and conditions as may be necessary to protect the public health, safety and welfare.

3.

Notwithstanding Subsections 8.8(B)(1) and (2), approval of a site-specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

4.

A site-specific development plan shall be deemed approved upon the effective date of the Board of Commissioners' action or ordinance related thereto.

5.

The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, housing and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with these regulations.

6.

A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

C.

Approval Procedures and Approval Authority.

1.

Except as otherwise provided in this Section, an application for site-specific development plan approval shall be processed in accordance with procedures established by this Ordinance and shall be considered by the Board of Commissioners for the specific type of land use permit or approval for which application is made.

2.

Notwithstanding the provisions of Subsection 8.8(C)(1), if the authority to issue a particular land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Board of Commissioners, in order to obtain a vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners following notice and a public hearing as provided in G.S. 160A-364. Thus, by way of example, an applicant requesting approval of a Zoning ~~Site~~ Plan as part of a Conditional District rezoning application may request a vested right pursuant to this subsection as part of its Conditional District rezoning application and such request shall be considered by the Board of Commissioners concurrently with its consideration of the Conditional District rezoning application. As a further example, in connection with a Site Plan being considered by the Planning Board in connection with a residential development (or the Administrator in connection with a commercial by-right development in the downtown overlay district), the applicant requesting a vested right pursuant to this subsection will, subsequent to any approval by the Planning Board (or the Administrator, if applicable), need to make a separate application for a vested right pursuant to this subsection.

3.

In order for a vested right to be established upon approval of a site-specific development plan, the applicant as defined

in Section 2.4 must indicate at the time of application, on a form to be provided by the town, that a vested right is being sought.

4. Each map, plat, site plan or other document evidencing a site-specific development plan shall contain the following notation: "Approval of this plan establishes a vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the vested right shall be valid until _____/_____/_____ (date)."

5. Following approval or conditional approval of a site-specific development plan, nothing in this Section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

6. Nothing in this Section shall prohibit the revocation or the original approval or other remedies for failure to comply with applicable terms and conditions of the approval of this ordinance.

D. *Duration.*

1. A right which has been vested as provided for in this Section shall remain vested for a period of two (2) to five (5) years as determined by the Board of Commissioners. Modifications or amendments to an approved development plan do not extend the period of vesting unless specifically so provided by the Board of Commissioners when it approves the modification or amendment.

2. Any amendments, modifications, supplements, repeal or other changes to these regulations and restrictions or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either (a) a building permit has been issued pursuant to G.S. 160A-417 prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. 160A-418 and the building permit

has not been revoked pursuant to G.S. 160A-422, or (b) a vested right has been established pursuant to Subsections 8.8(B) and (C) and such vested right remains valid and unexpired pursuant to those subsections. A permit issued pursuant to G.S. 160A-417 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Subsections 8.8(B) and (C) is outstanding. If after commencement of work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Subsections 8.8(B) and (C).

3. Upon issuance of a building permit under Subsections 8.8(B) and (C), the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this Section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

E. *Termination.* A right that has been vested as provided for in these regulations shall terminate:

1. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
2. With the written consent of the affected landowner;
3. Upon findings by the Board of Commissioners, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific development plan;
4. Upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner,

including, but not limited to, all fees paid in consideration of financing and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the Board of Commissioners, together with interest thereon at the legal rate until paid; compensation shall not include any diminution in the value of the property which is caused by such action;

5. Upon findings by the Board of Commissioners, by ordinance after notice and a public hearing, that the landowner or his/her representative intentionally supplied inaccurate information or made material misrepresentations which made a different in the approval by the approval authority of the site-specific development plan; or

6. Upon the enactment or promulgation of a state or federal law or regulations that precludes development as contemplated in the site-specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a public hearing.

F. *Voluntary Annexation.* A petition for annexation filed with the town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1 or G.S. 153A-344.1. A statement that declares that no vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a vested right has been established, shall be binding on the landowner and any such vested right shall be terminated.

G. *Limitations.* Nothing in this Section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.

H. *Repealer.* In the event that G.S. 160A-385.1 is repealed, this Section 8.8, "Vested Rights in Certain Circumstances," shall be deemed repealed and the provisions hereof no longer effective.

Selected Definitions to be Modified as Part of CD Zoning text amendment

Pre-Sketch Drawing	An informal submittal meeting the requirements of Subsection 8.2(B)(1) containing very basic information about the existing features of a property typically using the Charlotte-Mecklenburg Polaris GIS Mapping System and which depicts the Applicant's idea for the proposed development project. See Subsection8.2(B)(1).
Site Plan	The Site Plan (and in the case of a subdivision application, a Preliminary Plat) is a formal application submittal meeting the requirements of Subsection 8.2(B)(4~~3~~), ~~and containing~~typically containing very detailed information, including engineering and construction level drawings. See Subsection 8.2(B)(3).
Site Specific Development Plan	A plan of land development submitted to the Town for the purposes of obtaining any zoning or land use permits or approvals in accordance with the terms and conditions set forth elsewhere in this UDO (e.g., a "Zoning Plan" as defined herein ~~the equivalent of~~ a or a "Site Plan" as defined herein). Neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.
Sketch Plan	The Sketch Plan is a pre-approval ~~formal~~ submittal meeting the requirements of Subsection 8.2(B)(2), typically containing information comparable in detail to a Concept Plan (PCO-1) required by Article VI hereof but typically will not include construction level drawings ~~and is subject to review and comment by the Administrator and the TRC. See Subsection 8.2(B)(2).~~
Zoning Plan	The Zoning Plan is a formal application submittal meeting the requirements of Subsection 8.2(B)(3) that is submitted to Board of Commissioners in connection with a request for a Conditional District Rezoning. A Zoning Plan contains (a) all information required for a Sketch Plan, (b) planned streetscape (e.g., pedestrian lights, paver bands, street trees, etc.), (c) detailed four-sided architectural elevations i(with elevation exposed to the pubic street clearly marked and a materials list included, and (d) applicable zoning conditions proposed by the applicant. Additionally, a Zoning Plan must be consistent with any applicable PCO Concept Plan and incorporate recommendations of any applicable TIA. The Zoning Plan shall also indicate response to any issues raised in any applicable PIM.

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