

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

Section

| | | |
|-------------|--|------|
| 9.1 | Purpose and Applicability | 9-2 |
| 9.2 | Development Review Process Flow Charts | 9-3 |
| 9.3 | Minor Site Plan Approval | 9-7 |
| 9.4 | Minor Subdivision Approval | 9-8 |
| 9.5 | Major Site Plan Approval | 9-11 |
| 9.6 | Major Subdivision Approval..... | 9-13 |
| 9.7 | Subdivision Procedures..... | 9-17 |
| 9.8 | Conditional Use Permit Procedures | 9-19 |
| 9.9 | Rezoning Procedures | 9-21 |
| 9.10 | Vested Rights Procedures | 9-21 |

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

Section 9.1 Purpose and Applicability

The purpose of this Chapter is to establish an orderly process to develop land within the Town of China Grove. It is also the intent of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

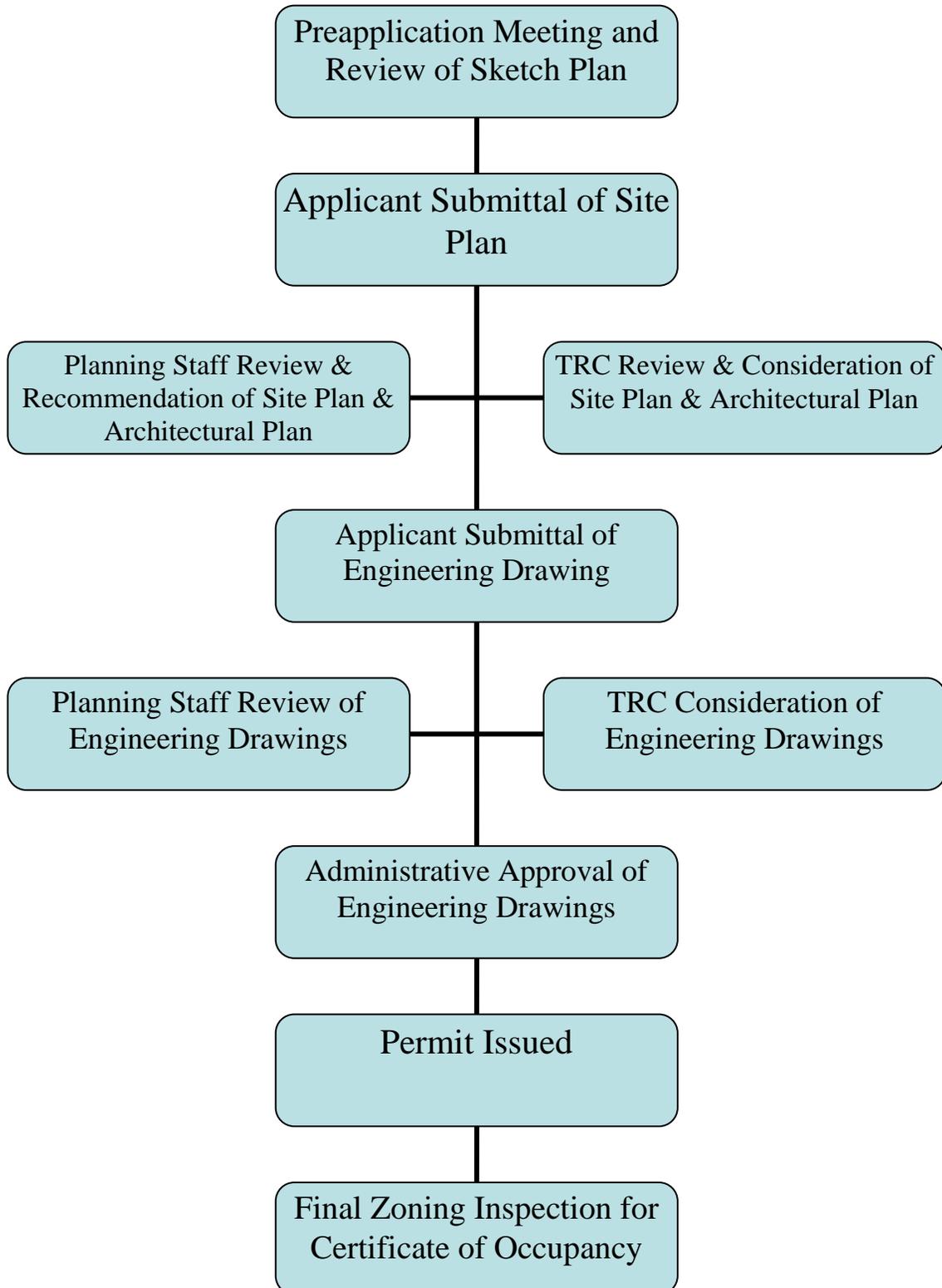
The development review process applies to all new developments within the Town of China Grove except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this chapter shall be applicable to all Minor and Major Subdivisions, Minor and Major Site Plans, Conditional Use Site Plans, and Vested Rights Site Plans. The Zoning Administrator or designee may waive the required development review process only in the following cases when he determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose:

- A. Accessory structures
- B. Any enlargement of a principal building by less than 20 percent of its existing size provided such enlargement will not result in parking or landscaping improvements
- C. A change in principal use where such change would not result in a change in lot coverage, parking, or other site characteristics

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

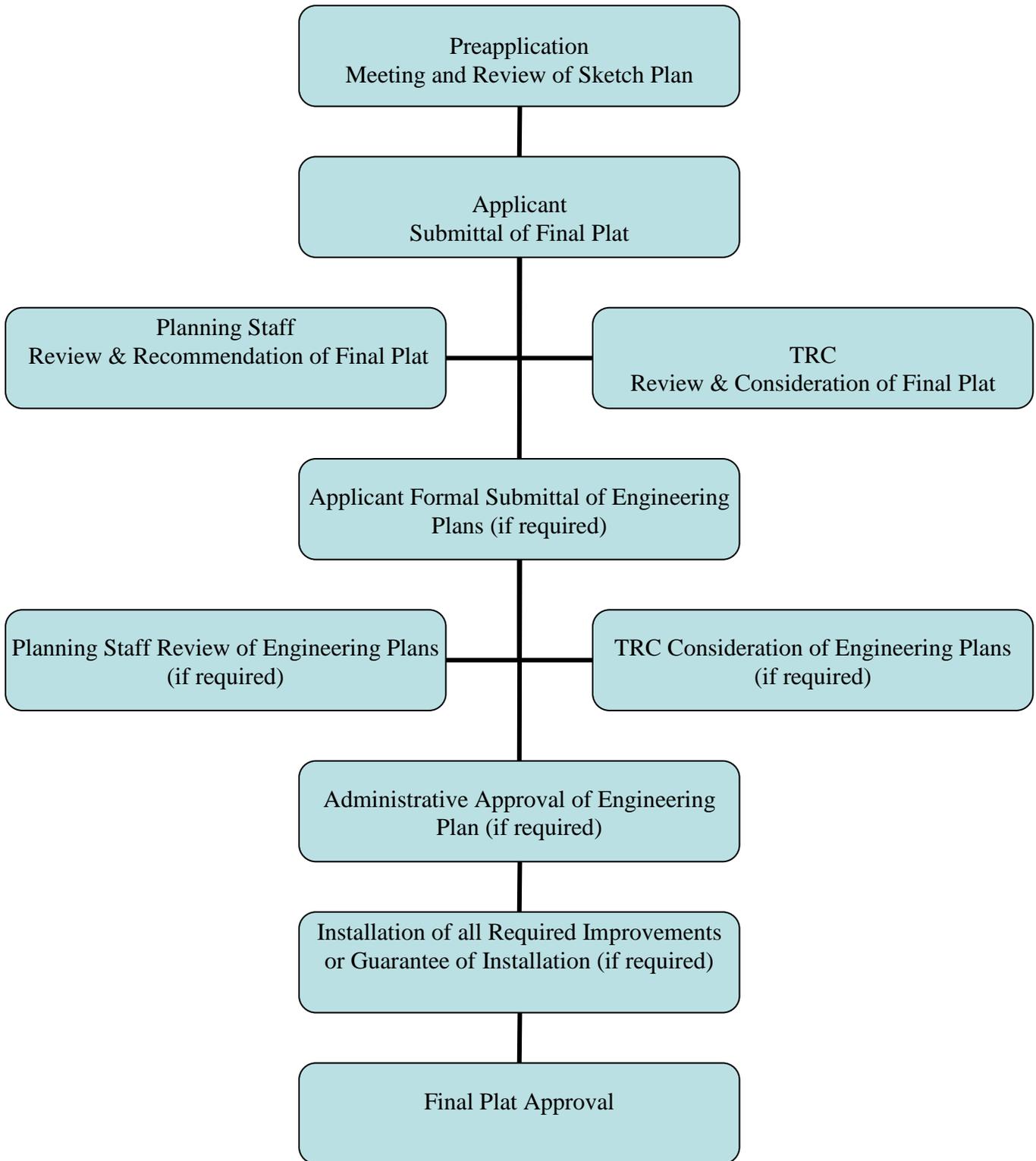
Section 9.2 Development Review Process Flow Charts

9.2.1 Minor Site Plans (See Section 9.3 for details)



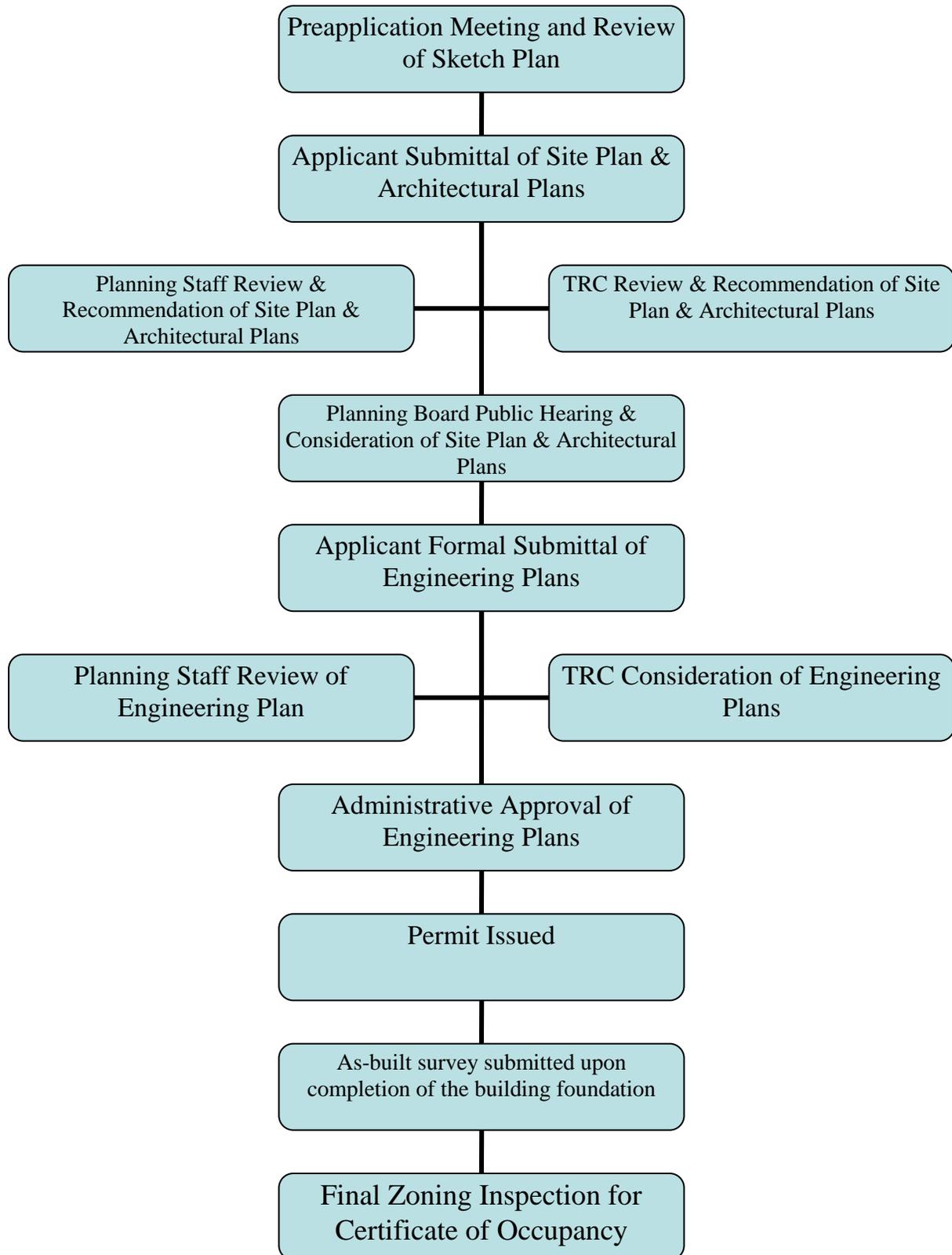
CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.2.2 Minor Subdivision Plans (See Section 9.4 for details)



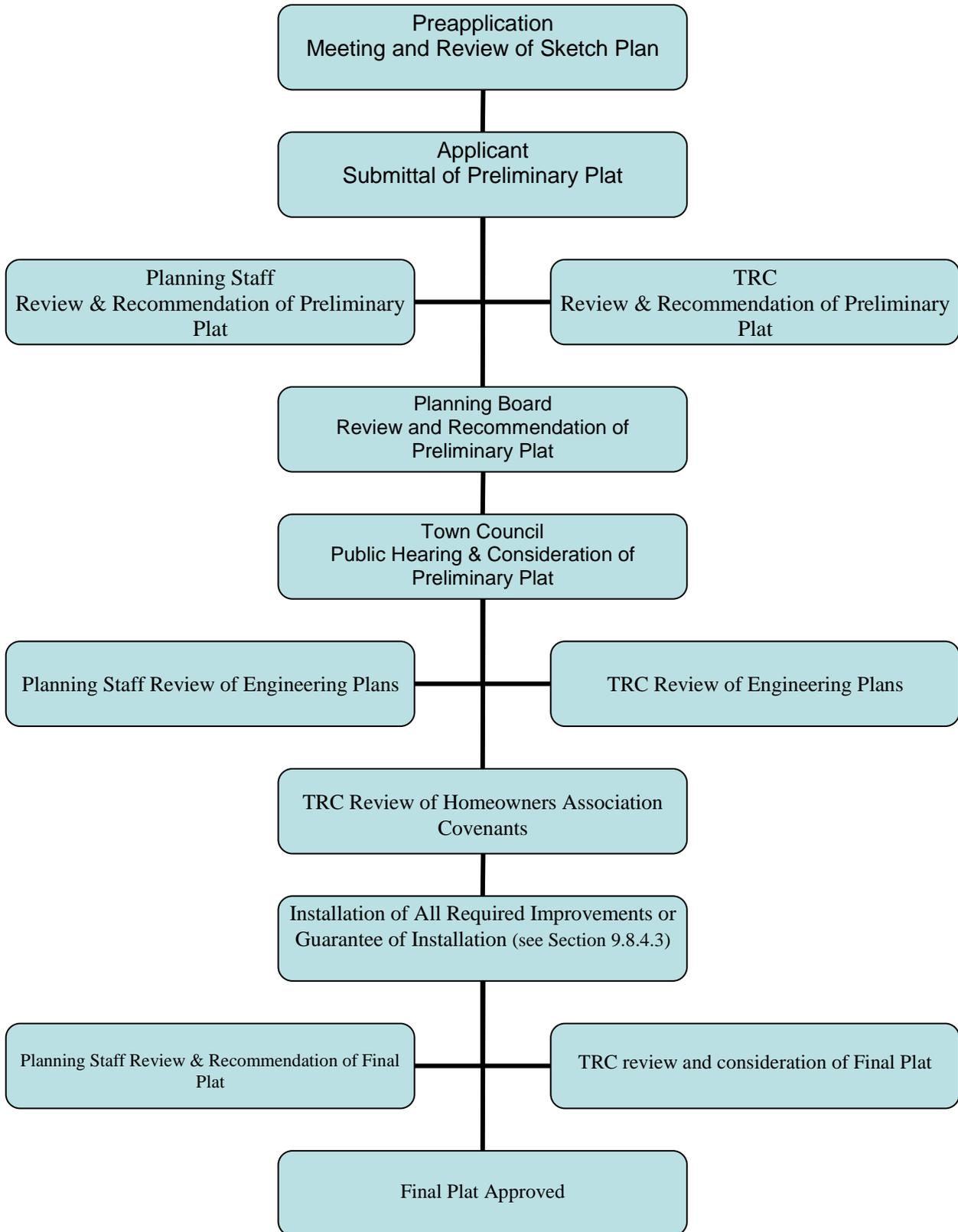
CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.2.3 Major Site Plans (See Section 9.5 for details)



CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.2.4 Major Subdivisions (See Section 9.6 for details)



Section 9.3 Minor Site Plan Approval

9.3.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

9.3.2 Application for Site Plan Review

A site plan meeting the requirements of Section 10.6 and architectural plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

9.3.3 Planning Staff and TRC Site Plan Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be review for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plans to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

Technical Review Committee

Zoning Administrator
Town Manager
Public Works Department
Police Department
Fire Department
Town Engineer
Town Council Member
Planning Board Member

Others

Town Attorney
Parks and Recreation Committee
Utility Providers
Rowan County Health Department
Rowan County Board of Education
Metropolitan Planning Organization
Metropolitan Transit Commission
NCDOT
NC DENR
US Army Corp of Engineers
US Soil Conservation Services

9.3.4 Application for Engineering Drawing Review

The Engineering Drawings shall be drawn to the specification of Section 10.7 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of Plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.3.5 Planning Staff and TRC Engineering Drawing Review

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Drawings to be circulated to the relevant governmental agencies and officials. These included but are not limited to those listed in 9.3.2.

9.3.6 Engineering Drawing Approval

If the Drawings are found to meet all the applicable requirements of this Ordinance, then the Zoning Administrator shall approve the Engineering Drawings.

9.3.7 Permit Issued

If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

9.3.8 Zoning Inspections and Certificates of Occupancy

Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

Section 9.4 Minor Subdivision Approval

9.4.1 Minor Subdivision

A minor subdivision is defined as a subdivision where all the following conditions exist:

- No public right-of-way dedication; and
- The entire tract to be subdivided is ten (10) acres or less in size; and
- The resultant subdivision will produce five (5) or fewer lots.

A preliminary plat shall not be required. Engineering Drawings may be required prior to the approval of a final plat depending on the circumstances of the Subdivision.

9.4.2 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed subdivision. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

9.4.3 Application for Review

The Final Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.4.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plan to the relevant governmental agencies and officials may include, but need not be limited to those listed below.

The reviewing government agencies and officials may include, but need not be limited to the following:

Technical Review Committee

Zoning Administrator (Planning Department)
Town Manager
Public Works Department
Police Department
Fire Department
Town Engineer
Town Council Member
Planning Board Member

Others

Town Attorney
Parks and Recreation Committee
Utilities Providers
Rowan County Health Department
Rowan County Board of Education
Metropolitan Planning Organization
Metropolitan Transit Commission
Metropolitan Transit Commission
NCDOT
NC DENR
US Army Corps of Engineers
US Soil Conservation Services

9.4.5 Engineering Drawing Submittal

If Engineering Drawings are required for approval, the drawings shall be drawn to the specifications of Section 10.7 and shall be submitted and be accompanied by a completed application and payment of a fee as adopted by the Town Council. The plans may be altered by no more than ten percent (10%) of the total subdivision area due to issues discovered during the Engineering Drawing process. If changes to more than ten percent (10%) of the total subdivision area result, a new plat must be submitted and reviewed. Also, the total number of lots or units may be decreased but not increased. The types of plans to be included in a set of Engineering Drawings are as follows:

- Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

9.4.6 Planning Staff and TRC Review

The Zoning Administrator or his designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

9.4.7 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.4.8 Improvement Installation and Guarantees

Upon approval Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein.

- A. **Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council Commissioners, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.
- B. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.
- C. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.

If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:

- That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and
 - That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.
- D. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- E. Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.

9.4.9 Final Plat Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

Section 9.5 Major Site Plan Approval

9.5.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

9.5.2 Application for Review

A Site Plan meeting the requirements of Section 10.6 and Architectural Plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

9.5.3 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plans to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

Technical Review Committee

Zoning Administrator (Planning Department)
Town Manager
Public Works Department
Police Department
Fire Department
Town Engineer
Town Council Member
Planning Board Member

Others

Town Attorney
Parks and Recreation Committee
Utilities Providers
Rowan County Health Department
Rowan County Board of Education
Metropolitan Planning Organization
Metropolitan Transit Commission
Metropolitan Transit Commission
NCDOT
NC DENR
US Army Corps of Engineers
US Soil Conservation Services

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.5.4 Public Hearing by Planning Board

The Planning Board shall conduct a public hearing for approval of Major Site Plans. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the town not less than 10 days or more than 25 days prior to the date established for the Public Hearing.
- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners.

9.5.5 Consideration by the Planning Board:

- A. After the public hearing, the Planning Board shall have up to 60 days to defer, approve, or deny the Plan. Alternatively, the Planning Board may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the plan or deferral of its consideration.
- B. Following denial by the Planning Board, the Applicant may file a new Application and associated fee. Unless the Planning Board explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Planning Board unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Planning Board for reapplication.

9.5.6 Application for Engineering Drawings Review

The Engineering Drawings as outlined in Section 10.7 of this Ordinance shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

9.5.7 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

9.5.8 Engineering Drawing Approved

If the Drawings are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering drawings.

9.5.9 Permit Issued

If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

9.5.10 Zoning Inspections and Certificates of Occupancy

- A. An as-built survey shall be submitted to the Zoning Administrator by the Developer upon completion of the building foundation to ensure that setbacks and building orientation match the approved Site Plan. If the survey shows that the placement of the building is incorrect, then the Zoning Administrator shall issue a Stop-Work Order and all construction shall be halted until the problem is remedied.
- B. Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

Section 9.6 Major Subdivision Approval

9.6.1 Major Subdivisions

A major subdivision is defined as a subdivision where any one or more of the following conditions exist:

- Dedication of public right-of-way or other public tracts; or,
- The entire tract to be subdivided is greater than ten (10) acres; or,
- The resultant subdivision will produce more than five (5) lots.

9.6.2 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

9.6.3 Application for Preliminary Plat Review

- A. A Preliminary Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.
- B. If a rezoning is a part of the request, a statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area must also be included
- C. If a Conditional Use District Rezoning is a part of the request, a statement regarding the reasonableness of the request must also be included.

9.6.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require that the Plan be circulated to the relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but need not be limited to those listed below:

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

Technical Review Committee

Zoning Administrator (Planning Department)
Town Manager
Public Works Department
Police Department
Fire Department
Town Engineer
Town Council Member
Planning Board Member

Others

Town Attorney
Parks and Recreation Committee
Utilities Providers
Rowan County Health Department
Rowan County Board of Education
Metropolitan Planning Organization
Metropolitan Transit Commission
Metropolitan Transit Commission
NCDOT
NC DENR
US Army Corps of Engineers
US Soil Conservation Services

9.6.5 Review and Recommendation by the Planning Board

- A. Following a complete review by the Planning Staff and TRC, the Zoning Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.
- B. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Council.
- C. For rezoning requests, the Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- D. For Conditional Use District Rezoning requests, the Planning Board shall include with its recommendation a written statement regarding the reasonableness of the request.

9.6.6 Public Hearing by the Town Council

Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a public hearing. For Conditional Use Permits, Conditional Use District Rezonings, and Vested Rights requests, quasi-judicial public hearings shall be held. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezonings (map amendments) noted in (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A).
- C. For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

9.6.7 Consideration by the Town Council

- A. After the public hearing, the Town Council shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Council may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.

- B. Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for reapplication.

9.6.8 Time Frame of Approval of Preliminary Plat

Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said two (2) year period, preliminary plat approval shall become void. A new preliminary plat shall be required to be submitted and such plat shall be in conformity with all current and applicable standards this Ordinance. Notwithstanding, the developer may submit a request to the Zoning Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the Zoning Administrator prior to the original plat expiration date. No more than one (1) such extension may be granted by the Zoning Administrator per subdivision. The developer may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

9.6.9 Application for Engineering Drawings Review

The Engineering Drawings shall be drawn to the specifications in Section 10.4 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan or Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

9.6.10 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

9.6.11 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.6.12 Homeowners Association Covenants Review

Prior to approval of any final plat for a major subdivision, the TRC shall review the covenants of the Homeowners Association to ensure compliance with Town requirements.

9.6.13 Improvement Installation and Guarantees

Upon approval of the Preliminary Plat and Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Preliminary Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein.

- A. **Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council Commissioners, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.
- B. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.
- C. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.

If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:

- That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and
 - That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.
- D. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.

- E. Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.

9.6.14 Application of Final Plat Review

The Final Plat shall be drawn to the specifications in Section 10.5 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council.

9.6.15 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Final Plat to the Technical Review Committee. The Plat will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.6.3.

9.6.16 Final Plat Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

Section 9.7 Subdivision Procedures

9.7.1 School Site Reservation

If the Town Council and the Rowan-Salisbury School System have jointly determined the specific location and size of any school sites to be reserved, Planning Staff shall immediately notify the Board of Education in writing whenever a sketch plan or for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

9.7.2 Plat Approval General Procedures

After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded unless it has first been submitted to the Zoning Administrator and approved by the proper body as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Zoning Administrator. Such shall not be required of any subdivision of land which, by definition herein, is exempt from the terms of this Ordinance.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the jurisdiction of this Ordinance that has not been first approved in accordance with these provisions.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

9.7.3 Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the jurisdiction of the Town of China Grove.

9.7.4 Issuance of Zoning Permits and Conveyance of Subdivision Lots

No zoning permit shall be issued by the Town of China Grove for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds Office and where applicable, an improvements permit has been issued by the Rowan County Health Department.

After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town Council, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by NCGS 14-4. Civil penalties may be issued in accordance with Chapter 13.

9.7.5 Subdivision Exceptions

This section shall be applicable to all subdivisions, except those located in a Water Supply Watershed. The Planning Board may authorize exceptions for Subdivisions from any portion of this Ordinance when, in its opinion, undue hardship may result from their strict compliance. In granting an exception, the Planning Board shall hold a quasi-judicial public hearing and make the findings required herein, taking into account the nature of the proposed Subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed Subdivision and the probable effect of the proposed Subdivision upon traffic conditions in the vicinity. No relief shall be granted unless it is found:

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- B. That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and
- C. That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and
- D. That the granting of the relief will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which said property is situated.

Every decision of the Planning Board pertaining to the granting of Subdivision exceptions shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision or recommendation of the TRC or Town Council is filed in the Office of the Subdivision Administrator, or after a written

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator at the time of the Planning Board's hearing of the case, whichever is later.

Section 9.8 Conditional Use Permit Procedures

9.8.1 Purpose and Applicability

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a conditional basis subject to the issuance of a Conditional Use Permit by the Town Council. The purpose of having such uses being "conditional" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as Conditional in the Permitted Uses Table of Section 3.14 shall be subject the requirements and review process of in this Section.

9.8.2 Approval Process

Conditional Use Permits shall follow the Town Council Approval process. An application shall be filed with the Zoning Administrator and shall be accompanied by a site specific plan meeting the requirements of a Major Site Plan. A complete application and site plan shall come before the Planning Board for review and recommendation. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other appropriate conditions. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. Following Planning Board review and recommendation, the Town Council shall hold a quasi-judicial public hearing and consider the application in accordance with the findings-of-fact in Section 9.10.3 below.

9.8.3 Conditions, Evidence, & Findings-of-Fact

In approving an application for a Conditional Use Permit, the Town Council may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.

The Town Council shall issue a Conditional Use Permit if it has evaluated an application and determined that:

- A. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted land use plans and other plans for physical development of the China Grove area as adopted by the Town Council.

9.8.4 Effect of Approval & Expiration of Approval

If an application for a Conditional Use Permit is approved by the Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the Conditional Use Permit or develop any other use listed as a "permitted use" for the general zoning district in which it is located. Any Conditional Use Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town Council.

Unless the Town Council issues a Conditional Use Permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a one (1) year period from date of issuance of the conditional use permit. In addition, if the project for which a Conditional Use Permit was issued is not complete and a valid building permit is not in place at the end of said twelve month period, the Zoning Administrator shall notify the applicant of either such finding, and within 60 days of said notification, the Planning Board shall make a recommendation concerning the rescission of the conditional use permit to the Town Council. The Town Council, after having conducted a public hearing to consider the rescission, may then rescind the Conditional Use Permit, or extend the life of the Conditional Use Permit for a specified period of time.

9.8.5 Alterations to Site & Amendments to Conditional Use Permit

Minor changes may be made with the approval of the Zoning Administrator on a one-time basis only. Further changes to the development may only be made by the Town Council by amending the Conditional Use Permit. Any request to materially change the Conditional Use Permit once it has been issued shall be reviewed in entirety through the Town Council approval process. Minor changes are those that:

- will not alter the basic relationship of the proposed development to adjacent property, and
- will not increase the gross floor area of any non-residential use by the smaller of 10 percent or ten 10,000 square feet, and
- will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet

9.8.6 Reapplication Following Denial

If a request for Conditional Use Permit is denied by the Town Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12 month period from the date of the most recent denial by the Town Council. This waiting period shall not be applicable where the application for a Conditional Use Permit is substantially different from the original application. The term "substantially different" as herein applied shall mean:

- The proposed principal use is different than the use contained in the original application; or
- The gross floor area of the proposed development is 50 percent or more smaller than contained in the original application.

Section 9.9 Rezoning Procedures

Rezoning (zoning map amendments) shall follow the approval process in Chapter 13.

9.9.1 Standard Rezonings

For Standard Rezonings, a site specific plan is not required. Approval of a Standard Rezoning shall result in an official amendment to the Town of China Grove Zoning Map. Any development of the property shall be reviewed and approved in accordance with the appropriate procedure depending on the type of development proposed.

9.9.2 Conditional Use District Rezonings

For Conditional Use District Rezonings, a site specific plan meeting the requirements for a Major Site Plan or Major Subdivision is required. Approval of a Conditional Use Rezoning shall result in official amendment to the Town of China Grove Zoning map.

Section 9.10 Vested Rights Procedures

Pursuant to NCGS 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific plan. To apply for vested right, a landowner shall first submit to the Zoning Administrator a site specific plan. The plan shall be submitted in accordance with the requirements for a Major Site Plan or Major Subdivision.

9.10.1 Approval Criteria

- A. In approving an application for vested rights of a site specific plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his vested right as a condition of developmental approval.

- B. The Town Council may approve the site specific plan if it has evaluated an application and determined that:
 - 1. The use meets all required specifications of the Zoning Ordinance, and
 - 2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Town Council shall be adequate to meet this requirement.
 - 3. If the site specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 9.12.2 (A).

- C. The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings shall rest entirely with the landowner.

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- D. If the use or development for which the site specific development plan is submitted is a conditional use, the Town Council may approve the site specific development plan contemporaneously with the approval of the Conditional Use Permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.

9.10.2 Effect of Approval

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

CHAPTER 9: DEVELOPMENT REVIEW PROCESS

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

9.10.3 Revocation or Expiration of a Vested Right

- A. The vested right resulting from the approval of a site specific plan may be revoked by the Town Council. In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Council.
- B. A building permit issued by the Rowan County Building Inspector pursuant to NCGS 160A-417 may not be revoked because of the running of time on a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.
- C. The establishment of a vested right on a piece of property for a site specific plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.