



## **OVERVIEW**

The Unified Development Ordinance (UDO) contains quasi-judicial procedures (evidentiary hearings) whereby a property owner may request a Special Use Permit (SUP).

## **SPECIAL USE PERMITS**

Some uses allowed in the Unified Development Ordinance (UDO) may be permitted subject to the approval of a Special Use Permit by the Planning Board. A Technical Review Committee (TRC)-approved, or conditionally approved site plan must accompany a Special Use Permit request. The hearing is a quasi-judicial procedure requiring specific findings of facts for approval or denial. The Planning Board must make the following findings to approve a Special Use Permit:

- The use will not materially endanger the public health or safety if located as proposed and developed according to the plan submitted
- The use meets all required conditions and standards
- The use will not substantially injure the value of adjoining or abutting property
- The use is a public necessity
- The location and character of the use, if developed according to the plan submitted, will be in harmony with the area and in general conformity with the plan for the Community and its environs

## **CONSIDERATION OF REQUESTS**

The decision to approve or deny a request rests with the Guilford County Planning Board. Actions of the Planning Board are final, unless appealed. Appeals are heard by Guilford County Superior Court.

The administration, amendment and enforcement of the Unified Development Ordinance (UDO) and Official Zoning Map are accomplished within the framework of the Guilford County Comprehensive Plan and its supporting documents:

- The County Comprehensive Plan

- Area Plans
- Transportation Plans
- Parks, Recreation and Open Space Plans
- Capital Improvement Plans
- Watershed Management Plans

These documents and the policies they represent are essential in the evaluation of the impact and appropriateness of each request.

## **PROCEDURES**

### Pre-Application Conference

A pre-application conference is required for anyone planning to file an application. This informal meeting allows staff to provide guidance in identifying the most appropriate zoning district for the proposed use and share applicable land use plans. This should be scheduled several weeks prior to the submission deadline. The applicant may request a non-binding advisory review of the sketch site plan by Guilford County staff.

### Discussion with interested parties

It is recommended that the applicant discuss his/her plans with adjoining property owners, neighborhood associations and other interested parties prior to submitting an application. A neighborhood meeting is strongly encouraged prior to application submittal.

Filing for a special use permit requires:

- A completed and signed Application Form
- Application fee, see Special Use Permit Application
- Legal description or map of the property, if applicable
- Public water and sewer approval letter, if applicable
- Proposed Special Use Conditions, if applicable
- A sketch site plan illustrating conditions related to the request. Sketch site plan

These items must be submitted by the submittal deadline date. Failure to submit the required items on time may delay the processing of the application and scheduling of



the evidentiary hearing. It is recommended that applications be hand-delivered to the Planning and Development Department. **Refer to the Planning Board Meeting Schedule which can be found on the GC P&D website.**

#### Notice

Notification of an evidentiary hearing is required under state law. This consists of:

- Notice published on County website at least ten (10) days before the hearing.
- Notice by mail to adjoining and contiguous property owners at least ten (10) days before the hearing.
- Notice by posting of a sign on the subject property at least ten (10) days before the hearing.

Public inquiries often result from the notification process. The applicant may contact staff to inquire about citizen comments prior to the evidentiary hearing.

#### **BEFORE THE MEETING**

##### Staff Report

Staff prepares a report for each case, which includes the staff comments. The draft report is available three or four days prior to the evidentiary hearing, and anyone may request a copy. No staff recommendation is made on Special Use Permits, because the Planning Board will use specific findings of fact in their decision.

##### Withdrawals

A request to withdraw must be made in writing, signed by the applicant and submitted to planning staff. If the withdrawal request is submitted prior to any public notification (usually four days after the submission deadline), a refund can be made and attendance at the meeting is not required. If public notification has already been made, a withdrawal may only be granted by the Planning Board.

Attendance at the meeting is required, and the applicant is not eligible for a refund.

##### Continuances

A continuance of a request may only be granted by the Planning Board. Attendance at the meeting is required. If granted, the Planning Board will set a new date for the evidentiary hearing. The Planning Board may only continue a request for a total of sixty (60) days.

#### **THE MEETING**

**The applicant or his/her representative must be present for the hearing.** Planning Board meetings are generally held on the second Wednesday of each month, in the Guilford County Agricultural Center located at 3309 Burlington Road, Greensboro, NC. A Hearing Notice is mailed to the applicant and adjacent property owners within ten (10) to twenty-five (25) days prior to the hearing notifying them of the exact date, time and place.

##### Meeting Format

At the beginning of each meeting, the Chair of the Planning Board review the meeting and voting procedures. Following an approval of minutes, the Chair calls a case, the staff report is presented, and the evidentiary hearing is opened.

During the evidentiary hearing, the applicant, his/her legal representative, or anyone in favor of the request will have an opportunity to address the Planning Board. Next, anyone in opposition to the request will be given an opportunity to speak.

Maps, photographs, diagrams and other presentation materials may be incorporated into evidentiary hearing presentations. Any materials presented to the Planning Board remain with the case file, so duplicates should be provided. This includes written petitions, which should list the address for each signatory.

##### Outcomes

A simple majority vote on a request constitutes final approval, unless appealed. Requests receiving less than a majority favorable vote, a unfavorable vote to deny, or a tie constitute a denial unless appealed.



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## GUILFORD COUNTY PLANNING AND DEVELOPMENT

## Planning Board Special Use Permit Bulletin

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### Appeals

A decision of the Planning Board may be appealed to the Superior Court by any interested party, including the applicant. The appeal form, available from the Planning Department and appeal fee must be submitted to the Planning Department within 30 days of the Planning Board decision.

*This document is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official interpretation of the Unified Development Ordinance (UDO) in any legal proceeding.*



# GUILFORD COUNTY PLANNING AND DEVELOPMENT

## Planning Board Special Use Permit Application

Date Submitted: \_\_\_\_\_ Fee **\$526.00** Receipt # \_\_\_\_\_ Case Number \_\_\_\_\_  
(includes \$26 recording fee)

**Provide the required information as indicated below.** Pursuant to the Unified Development Ordinance (UDO), this application will not be processed until application fees are paid; the form below is completed and signed; and all required maps, plans and documents have been submitted to the satisfaction of the Enforcement Officer. Additional sheets for tax references and signature blocks are available upon request.

Pursuant to Section 3.5.Q of the Unified Development Ordinance (UDO), the undersigned hereby requests Guilford County to authorize a Special Use Permit for the property described as being located at \_\_\_\_\_  
in \_\_\_\_\_ Township; Being a total of: \_\_\_\_\_ acres. The property is  
in the \_\_\_\_\_ Zoning District. The proposed use(s) is (are) \_\_\_\_\_.

Further referenced by the Guilford County Tax Department as:

Tax Parcel # \_\_\_\_\_ Tax Parcel # \_\_\_\_\_  
Tax Parcel # \_\_\_\_\_ Tax Parcel # \_\_\_\_\_  
Tax Parcel # \_\_\_\_\_ Tax Parcel # \_\_\_\_\_

Additional sheets for tax parcels are available upon request.

**Check One: (Required)**

- The property requested for a Special Use Permit is an entire parcel or parcels as shown on the Guilford County Tax Map.
- The property requested for a Special Use Permit is a portion of a parcel or parcels as shown on the Guilford County Tax Map; a written legal description of the property and/or a map are attached with dimensions and bearings.

**Check One: (Required)**

- Public services (i.e. water and sewer) are not requested or required.
- Public services (i.e. water and sewer) are requested or required; the approval letter is attached.

**Check One: (Required)**

- The applicant is the property owner(s)
- The applicant is an agent representing the property owner(s); the letter of property owner permission is attached.
- The applicant has an option to purchase or lease the property; a copy of the offer to purchase or lease to be submitted if the owner's signature is not provided (financial figures may be deleted).

**Special Use Permit Requirements: (All Required)**

- Site Plan.** A site plan illustrating conditions related to the request and compliance with applicable development standards must be attached for all Special Use Permit requests. Refer to Appendix 2, Map Standards of the Unified Development Ordinance (UDO).
- Special Use Conditions.** Development conditions may be provided, list on following page. Refer to uses as listed in Table 4-3-1 of the Guilford County Development Ordinance. If conditions are not proposed, indicate 'not applicable'.
- Review Factor.** Applicant must demonstrate that the review factors listed in section 3.5.Q.3(g) of the UDO are adequately addressed.



**GUILFORD COUNTY  
PLANNING AND DEVELOPMENT**

**Planning Board  
Special Use Permit  
Application**

Please address the following and be prepared to present as sworn or affirmed testimony and evidence for the scheduled quasi-judicial hearing:

- 1. A written application was submitted and is complete in all respects.
- 2. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted. This conclusion is based on the following:
  
- 3. The use, a \_\_\_\_\_, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. The use meets all required conditions and specifications. This is based on the following:
  
- 4. That the location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and is in general conformity with the plan of development of the Jurisdiction and its environs. This is based on the following:
  
- 5. The use will not substantially injure the value of adjoining or abutting property or the use is a public necessity. This is based on the following:



**GUILFORD COUNTY  
PLANNING AND DEVELOPMENT**

**Planning Board  
Special Use Permit  
Application**

**Development Conditions**

Development of the property shall occur in accordance with the following standards and requirements in addition to those specified in the Unified Development Ordinance (UDO):

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)
- 8)

**A NEIGHBORHOOD MEETING IS STRONGLY ENCOURAGED PRIOR TO SUBMITTAL AND YOU OR SOMEONE REPRESENTING YOU MUST BE PRESENT AT THE EVIDENTIARY HEARING**

**A Special Use Permit Application must be signed by the current property owner(s).**

*I hereby agree to conform to all applicable laws of Guilford County and the State of North Carolina and certify that the information provided is complete and accurate to the best of my knowledge. I acknowledge that by filing this application, representatives from Guilford County Planning and Development may enter the subject property for the purpose of investigation and analysis of this request.*

Respectfully Submitted,

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Phone Number      Email Address

\_\_\_\_\_  
Owner/ Representative/Applicant Signature (if applicable)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Phone Number      Email Address

*Additional sheets for conditions and signatures are available upon request.*

***Required documents must be attached to email after selecting submit.***



# Requesting a Special Use Permit or Variance

## From the Planning Board or Board of Adjustment

### Quasi-judicial Proceedings

Proceedings to consider whether to issue a Variance or Special Use Permit are “quasi-judicial.”

#### Applicants (and any opponents):

- are expected to call witnesses and may cross-examine opposing witnesses
- qualify expert witnesses as subject matter experts (e.g., certified real estate appraiser)
- elicit material and relevant testimony from witnesses to meet their burden of proof as to the specific findings (Findings of Fact) the board is required to make
- should be able to formulate any objections to preserve the issue and the record on appeal in the event the decision is appealed.

**Quasi-judicial** is a term used to describe those proceedings where public administrative officers or bodies are required to hold hearings, hear sworn testimony, weigh evidence, determine the existence of facts, and draw conclusions as a basis for their decisions. Quasi-judicial decisions are subject to appeal to Superior Court.



### Applicant Representation

The information below is intended to assist you with proper representation in quasi-judicial hearings.

Applicant	Authorized to Sign the Application	Authorized to Represent at the Hearing
<b>Individual Property Owners</b>	Property Owner or NC Licensed Attorney	Property owner and/or NC Licensed Attorney
<b>Corporation</b>	Officer <i>or responsible official with authority to sign</i>	Officer and/or NC Licensed Attorney
<b>LLC</b>	Member/Manager <i>or responsible official with authority to sign</i>	Member/Manager and/or NC Licensed Attorney
<b>Partnership</b>	General Partner	General Partner and/or NC Licensed Attorney
<b>Trust / Estate</b>	Qualifying Fiduciary <i>or responsible official with authority to sign</i>	Fiduciary or NC Licensed Attorney

#### Representation

While it is perfectly acceptable for an applicant (or opponent) to represent himself or herself (pro se) in a quasi-judicial proceeding, the North Carolina Bar Association considers it the unauthorized practice of law for a person to appear for another at a quasi-judicial hearing or proceeding, or to otherwise represent another at such a hearing or proceeding.

**While a non-lawyer such as an architect, engineer, landscape architect, planner, or surveyor may not appear in a representative capacity at quasi-judicial proceedings, they may offer testimony.**



#### Guilford County Planning & Development

400 W. Market Street • Independence Center  
Greensboro, NC 27401

#### HOURS:

Monday – Friday  
8:00 AM – 5:00 PM

**PHONE:** 336-641-3334

**FAX:** 336-641-6988

**Planning Board Special Use\*** **\$500**  
per case

**Board of Adjustment Variance\*** **\$400**  
per case

**Appeal of Admin. Decisions** **\$250**  
per case

**\*Plus Recording Fee** **\$26**  
(up to 15 pages) per case

#### Fees



Please note Board will make discretionary decision regarding any refund of Appeal Fee

# Special Use Permit

Applicants seeking a Special Use Permit, (e.g., Adult Day Care Center for 16+ Adults) have the burden of presenting evidence sufficient to allow the approving authority to make the following findings:

1. The proposed use is represented by an “S” in the column for the district in which it is located in the Guilford County Unified Development Ordinance (UDO), ARTICLE 4 – Zoning Districts (See Table 4-3-1 Permitted Use Schedule).
2. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted.
3. That the use meets all required conditions and specifications.
4. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.
5. That the location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the jurisdiction and its environs.

**Applicants (and any opponents) are expected to call witnesses, qualify expert witnesses as subject matter experts (e.g., certified real estate appraiser), and elicit material and relevant testimony from witnesses to meet their burden of proof as to the specific findings (Findings of Fact) the board is required to make.**

**Applicants shall demonstrate that these review factors (see UDO Subsection 3.5.Q) have been adequately addressed:**

- Circulation
- Parking and Loading
- Service Entrances and Areas
- Lighting
- Utilities
- Open Spaces
- Environmental Protection
- Landscaping, Buffering & Screening
- Effect on Nearby Properties

# Variance

Applicants seeking a Variance have the burden of presenting evidence sufficient to allow the approving authority (board) to make the following findings:

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



## Opponents to a Proposed Special Use or Variance

Please note that simply stating during the hearing that the findings for either are not met or stating that you are not in favor of the proposed development **is not** sufficient evidence to affect the approving authority’s final decisions.

- Effective January 1, 2010, North Carolina Session Law 2009-421, Senate Bill 44 provides that lay opinions in a quasi-judicial proceeding may not be used to establish impacts on property value or the impacts of vehicular traffic on public safety.
- Opponents to a proposed Special Use Permit or Variance request are encouraged to cross-examine the applicant and the applicant’s witnesses and should also present expert witness testimony to refute the applicant’s evidence.

### What if the Application is Denied?



Applications that are denied by the Planning Board or Board of Adjustment must abide by the current Ordinance.

Applicants can accept the decision or appeal the decision to Superior Court **within thirty (30) days after the date the Board’s decision is filed** with the appropriate office or official as specified in the development regulation.

### Questions?



Contact a member of the Guilford County Planning & Development staff at 336-641-3334.