

Special Use Permit

Special Use Meetings:

PRIOR TO BEGINNING THE APPLICATION PROCESS, please contact the Planning and Inspections Department to set up a meeting with the Planning staff to discuss your proposal.

First Tuesday of the month – Application must be turned in to the Planning and Inspections Department and the fee paid not later than 5:00 p.m.

Second Tuesday of the month – 10:00 a.m. – Technical Review Committee (TRC) meets in the City Hall Board Room to review the application and make recommendations regarding it to the Planning staff. The applicant or a representative must attend to present the application.

Last Wednesday of the month - 5:30 p.m. – Board of Adjustment meets in the City Hall Board Room to consider approval of the application. The applicant must attend to present the case in front of the Board.

PLEASE NOTE: A complete application package consists of the permit application, a narrative explaining the application (i.e. how you will be using the property for your proposal), a set of mailing labels for every property that abuts the property on which your proposed use will be located (including across any streets, railroads, creeks, etc.), a survey or site plan that meets the requirements listed in the permit, and the application fee.

§ 153.12 SPECIAL USE PERMIT REGULATIONS.

(A) **Applicability.** Permission may be granted by the Board of Adjustment for the establishment of uses listed as special uses on the Table of Permitted Uses in Chapter 154.

(B) **Submission.** Two copies of the special use permit application shall be filed with the Zoning Administrator seven calendar days prior to the Technical Review Committee (TRC) meeting at which the special use permit request will be reviewed.

(C) **Concurrent rezoning.** If a rezoning is to be requested in connection with the request for a special use permit, complete applications for both processes must be filed concurrently with the Zoning Administrator. The rezoning request will proceed first through the appropriate rezoning process, pursuant to Chapter 160, with final approval by the Board of Commissioners (BOC). Upon BOC approval, the application for a special use permit will proceed through its normal approval process, pursuant to this chapter.

(D) **Application.** Applications for special use permits shall include a site plan as specified in § 153.10(F).

(E) **Review and approval.** The review process for a special use permit request shall include:

(1) Planning and Inspections Department and Technical Review Committee review; and

(2) Evidentiary hearing held by, and subsequent action by, the Board of Adjustment in accordance with the provisions of this chapter.

(F) **Recommendations.**

(1) The Planning and Inspections Department and Technical Review Committee (TRC) shall:

(a) Review the application for details, where applicable, of the site, situation, existing and proposed structures, architectural plans, neighboring land and water uses, proposed parking areas, driveway locations, highway access, traffic generation and circulation potential, drainage, waste disposal, water supply systems and the effects of the proposed use, structure, operation and potential changes in water quality, shoreland cover, natural beauty and wildlife habitat;

(b) Consider recommending conditions that may be placed in the granting of special use permit by the BOA. These conditions may include landscaping, architectural design, type of construction, construction commencement and proposed completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, performance standards, street dedication, certified survey maps, flood-proofing, ground cover, sedimentation control from the project construction, terraces, stream bank protection, planting of buffer screens, operational control, hours of operation, number of employees, improved traffic circulation, deed restrictions, highway access restrictions, yard sizes or additional parking; and

(c) Check for compliance of the requested special use with all other relevant provisions of the UDO, such as lot dimensional requirements, building heights, parking and loading standards.

(2) When presented to the Board of Adjustment at the evidentiary hearing, the application for a special use permit shall be accompanied by a report setting forth the Planning and Inspections Department's proposed findings concerning the application's compliance with § 153.10(F) and the other requirements of the UDO, as well as any staff recommendations for additional requirements to be imposed by the Board of Adjustment.

(3) If the Zoning Administrator proposes a finding or conclusion that the application fails to comply with § 153.10(F) or any other requirement of the UDO, the Zoning Administrator shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(G) Evidentiary hearing requirements and procedures.

(1) A special use permit shall not be approved until an evidentiary hearing following quasi-judicial procedures has been held by the Board of Adjustment (BOA) in accordance with the provisions of this section. The purpose of the evidentiary hearing is to gather facts, not to solicit citizen opinion. Consequently, the hearing procedures differ from those a legislative hearing. In an evidentiary hearing, testimony may be provided only by sworn witnesses and written findings of fact and conclusions of law are required.

(2) The Zoning Administrator shall provide due notice of any evidentiary hearing following the procedures in §159.08.

(3) At the conclusion of the evidentiary hearing, the BOA may proceed to vote on the permit request or take any other action consistent with its usual rules of procedure. Division (H) below delineates specific actions that the BOA must take on requests for special use permits.

(4) The BOA is not required to take final action on a special use permit request within any specific period of time, but it should proceed as expeditiously as practical on permit requests since inordinate delays can result in the applicant incurring unnecessary costs.

(5) Subject to division (G)(6) below, the BOA shall approve the requested special use permit unless it concludes, based upon the information submitted at the hearing, that:

(a) The requested special use permit is not within its jurisdiction according to the Table of Permitted Uses in Chapter 154;

(b) The application is incomplete; or

(c) If completed as proposed in the application, the development will not comply with one or more requirements of the UDO, including the standards of the zoning district in which it will be located.

(6) Even if the BOA finds that the application complies with all other provisions of the UDO, it may still deny the special use permit request if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (a) Will materially endanger the public health or safety;
- (b) Will constitute a nuisance or hazards;
- (c) Will substantially injure the value of adjoining or abutting property;
- (d) Will not be in harmony with the area in which it is to be located; or

(e) Will not be in general conformity with the land use plan or other plans and policies officially adopted by the Board of Commissioners.

(H) Action.

(1) Following the evidentiary hearing, the Board of Adjustment (BOA) may proceed to vote on the permit request or take any other action consistent with its usual rules of procedure. The BOA, in considering special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe quasi-judicial procedures, including requiring a simple majority vote to issue a special use permit. For purposes of this section, vacant positions on the BOA and members who have been disqualified from voting on a quasi-judicial matter shall not be considered “members of the Board” for calculation of the requisite majority.

(2) In considering whether to approve an application for a special use permit, the BOA shall proceed according to the following format.

(a) The BOA shall consider whether the application is complete. If the BOA concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. A motion to this effect, concurred in by a simple majority vote of the BOA, shall constitute the BOA’s finding on this issue. If a motion to this effect is not made and concurred in by a simple majority vote, this shall be taken as an affirmative finding by the BOA that the application is complete.

(b) The BOA shall consider whether the application complies with all of the applicable requirements of the UDO. If a motion to this effect passes by the necessary majority vote, the BOA need not make further findings concerning those requirements.

(c) If such a motion fails to receive the necessary majority vote or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of the UDO. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application. If the BOA concludes that the application fails to meet one or more of the requirements of the UDO, the application shall be denied.

(d) If the BOA concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in § 153.13(A). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

(e) Decisions by the BOA on special use permit requests shall be filed in the Office of the Planning and Inspections Department. A copy of the BOA's decision shall be provided, by first class mail, to the applicant as well as to any parties that have requested a written copy of the BOA's decision.

(f) Decisions of the BOA regarding special use permit requests shall be subject to review by the Superior Court of Craven County by proceedings in the nature of certiorari (see Chapter 162).

(3) Pursuant to the requirements of G.S. § 160D-109, a member of the Board of Adjustment shall not participate in or vote on any quasi judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. 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.

(4) All approved special use permits shall be recorded with the Craven County Register of Deeds and indexed under the record owner's name as grantor. Nothing authorized by the permit may be done until the record owner of the property provides documentation that indicates that the permit has been recorded.

(I) Reconsideration of action.

(1) Whenever the Board of Adjustment disapproves a special use permit application, on any basis other than the failure of the applicant to submit a complete application, that action may not be reconsidered by the BOA at a later time unless the applicant clearly demonstrates that:

(a) Circumstances affecting the property that is the subject of the application have substantially changed; or

(b) New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Zoning Administrator within the time period for an appeal to superior court (see Chapter 162). However, such a request does not extend the 30-day period within which an appeal must be taken.

(2) The BOA may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

(3) The BOA shall, by a majority vote, make the determination as to whether or not an amended application meets the criteria delineated in division (I)(1) above for a rehearing or qualifies as a new application pursuant to division (I)(2) above.

(Ord. passed 7-25-2011)

§ 153.13 ADDITIONAL REQUIREMENTS ON SPECIAL USE PERMITS.

(A) Permission may be granted by the Board of Adjustment (BOA) for the establishment of special uses provided that the BOA finds that the special use:

- (1) Will not endanger the public health or safety;
- (2) Will not adversely impact the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located;
- (4) Will not be affected adversely by the existing uses;

(5) Will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, vehicular movement, noise or fume generation, or type of physical activity;

(6) Will meet all minimum UDO regulations and standards of the zoning district in which it will be located; and

(7) Will be in conformity with the land development plan, thoroughfare plan or other plan officially adopted by the Board of Commissioners.

(B) Subject to division (C) below, in approving a special use request, the BOA may impose or require the additional restrictions and standards in addition to those specified in the UDO as will ensure that the development in its proposed location will meet the findings listed in division (A) above.

(C) However, the BOA may not attach additional conditions that modify or alter the specific requirements set forth in the UDO unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(D) Conditions and safeguards imposed shall not include requirements for which the City does not have authority under State statute to regulate. Conditions imposed must be agreed to in writing by the applicant.

(E) All additional conditions or requirements shall be specified in the letter of approval issued to the applicant by the Zoning Administrator.

(F) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of the UDO.

(G) A vote may be taken on application conditions or requirements before consideration of whether the special use request should be denied for any of the reasons set forth in § 153.12(G)(8) and (9).
(Ord. passed 7-25-2011)

§ 153.14 SPECIFIC REQUIREMENTS FOR SOME SPECIAL USES.

Chapter 155 lists specific requirements for some uses requiring special use permits. These special use requirements are in addition to those listed in §§ 153.12 and 153.13.
(Ord. passed 7-25-2011)

§ 153.15 AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT UNDER ZONING AND SPECIAL USE PERMITS.

(A) In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of the UDO before commencing the intended use of the property or occupying any buildings, the Zoning Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of the UDO are concerned) if the permit recipient provides an adequately secured performance bond valued at 110% of the total cost of required improvements, or other security satisfactory to the Zoning Administrator, to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months). The proposed performance bond and security shall be reviewed and approved by the city, however, prior to the Zoning Administrator authorizing the intended use or occupancy.

(B) When the Zoning Administrator imposes additional requirements upon the zoning permit recipient, or the BOA imposes additional requirements upon the special use permit recipient, in accordance with § 153.13 or when

the developer proposes in the plans submitted to install amenities beyond those required by the UDO, the Zoning Administrator or BOA (as applicable to the specific permit) may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

- (1) A performance bond and security satisfactory to the city is furnished;
- (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made; or
- (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Chapter 162.
(Ord. passed 7-25-2011)



City of Havelock

Planning and Inspections Department

PO Box 368 1 Governmental Ave.

Havelock, NC 28532

(252) 444-6433 Email: permits@havelocknc.us

OFFICIAL USE ONLY

Received By: _____

Date: _____

Application #: _____

Fee Paid: _____

BOA Approval: _____

Special Use Permit Application

****This application must be filled out completely****

Applicant ✓: ☐ **Property Owner** ☐ **Corporation** ☐ **Engineer/Architect** ☐ **Surveyor/Planner**

Property Owner Information

Owner Name:

Last

First

Phone Number/Email

Address:

Street Address

City

State

Zip Code

Corporation Information

Corporation:

Full Name:

Last

First

Phone Number/Email

Address:

Street Address

City

State

Zip Code

Engineer/Architect Information

Company:

Full Name:

Last

First

Phone Number/Email

Address:

Street Address

City

State

Zip Code

Land Surveyor/Land Planner Information

Company:

Full Name:

Last

First

Phone Number/Email

Address:

Street Address

City

State

Zip

Project Information

Address of Proposal:

Tax Parcel ID #: _____

Deed Book Page: _____

Description of Project:

Land Clearing Required: ☐ Yes ☐ No If yes, the amount of land disturbed: _____

Existing Structures on Site:

Existing Structures in Compliance with Zoning Ordinance: ☐ Yes ☐ No

If No, please explain:

Proposed Structures on Site:

# of Required Parking Spaces: _____	# of Parking Spaces Provided: _____	% of Lot Covered by Impervious Surface: _____
Acreage: _____	Flood Zone: _____	Elevation of Site: _____

The undersigned applicant does hereby request a Special Use Permit to allow the following land use as listed in the Havelock Code of Ordinances, Chapter 155 TABLE 155-8:

Applicant Signature: _____ **Date:** _____

Owner/Agent Signature: _____ **Date:** _____

****NOTE: Only ORIGINAL signatures will be accepted. NO photocopies or facsimiles****

Further submittal information is on the following pages

FOR OFFICE USE ONLY					
Utilities:	Water/Sewer:	Public	Private	- Health Dept Permit # _____	
Zoning District: _____	Requires Flood Zone Certificate: YES NO		Zone: _____	Panel: _____	FIRM Index Date: _____
APZ: Yes No	Zone: _____	Noise Contour: _____	Sound Attenuation* Req'd: Yes No NLR: _____		
*Based on standards set forth in §154.07					
Building Official Approval: _____				Date: _____	
Approved by Planning/Zoning Official: _____				Date: _____	

Special Use Permit Applicant Submittal Checklist

X	Applicant	Staff	X
	Complete application submitted		
	Paid application fee per current City Fee Schedule		
	Application submitted at least seven (7) days prior to the next Technical Review Committee (TRC) meeting		
	Written narrative of the use/site plan		
	Names/mailling addresses of opposite and abutting property owners		
	One (1) set of mailing labels for all adjoining property owners		
	Ten (10) complete site plans		
	One (1) 11" x 17" site plan		
	One (1) digital site plan		
Site Plans Must Include The Following Items			
	Format		
	Prepared by a professional engineer or professional land surveyor		
	Drawn at a scale of 1" = 60' or larger		
	Size is at least 18" x 24"		
	Multiple sheets are collated and stapled		
	Property lines distinctly and accurately represented, all bearings and distances shown, with the ratio of precision in accordance with the Standards of Practice for land surveying as adopted by the North Carolina Board of Examiners for Engineers and Surveyors		
	Elevation and benchmarks referenced to National Geodetic Vertical Datum (NGVD)		
	Title Block		
	Name, address and telephone number of the land owner(s)		
	Name, address and telephone number of the developer		
	Name, address, telephone number and signature of the person/firm preparing the plan		
	North arrow and location map showing the project area in relation to major and minor streets, natural features, existing city limit lines and other obvious references		
	Date of original preparation and/or revision(s)—clearly identifying revisions		
	Number of sheets		
	Scale denoted both graphically and numerically utilizing engineering scale only		
	Add owner's certification: I (We) hereby certify that I am (we are) the owner(s) of the property shown and described here on and that I (we) hereby approve this development plan. I (we) further certify that all exterior improvements, including but not limited to paving and landscaping, as shown on the site plan will be maintained in accordance with this plan and the City of Havelock Code of Ordinances. _____		
	Owner(s) Signature		
	If the site is outside the city limits, indicate if a petition for annexation is required to be submitted to the City		
	The following in tabular form:		
	Total area in site		
	Current zoning		
	Subdivision name; block and lot number; tax map number; parcel number and street address; if applicable		
	Acreage in common area(s), if applicable		
	Acreage in recreation area(s) and the like, if applicable		
	Total number of units/bedrooms, if applicable		
	Gross floor area		
	Building lot coverage (existing and proposed)		
	Building height in feet and stories		
	Total number of parking spaces (required and provided)		
	Total number of handicapped parking spaces (required and provided)		
	Total sq. ft. of impervious area (existing and proposed)		
	Indicate the proposed linear footage of roads		
	Indicate the proposed linear footage of water lines		
	Indicate the proposed linear footage of sewer lines		

	Existing Natural Features	
	Topographic survey showing mean sea level elevations at one-foot (1') intervals	
	Location of lakes, marshes, wetlands, wooded areas and other natural features	
	Indicate streams/ditches subject to Neuse buffer rules	
	Location, name, direction of flow, centerline elevations and cross-sections of water courses	
	Existing Manmade Features	
	Boundary survey and easements	
	Location and exterior dimensions of existing structures including signs on the site	
	Name, location and widths of all public and private streets, rights-of-way and/or easements	
	Location and distances separating all driveways and intersections on or adjacent to, or across a street from, the site	
	Location of railroads, bridges, culverts, storm drains and ditches	
	Zoning information (for project site and adjacent parcels)	
	Show floodway zone and flood fringe zone, indicating base flood elevations for all lots adjoining such zones	
	Location of FEMA floodway and flood hazard limits (for projects sites located within Zone AE)	
	Indicate whether the site is located within a Noise Overlay (AICUZ) area or within the Accident Potential Zone for Cherry Point Marine Air Corps Station	
	Proposed Site Development	
	Provide and label the required building setbacks	
	Location, first floor elevation and height of structures	
	Location and size of parking spaces and sidewalks	
	Parking details indicated on plans to include, parking spaces sizes (width and length), details of separation lines i.e. type of paint, width, angle, etc.) and aisle width between parking stalls	
	Location and widths of roads and driveways, including interconnectivity access drives with adjoining sites	
	Show vision clearance triangles at street intersections	
	Location, arrangement and dimension of all truck-unloading docks, ramps and spaces	
	Location of refuse areas and screening detail	
	Location and dimensions of proposed signs, fences, walls, docks, ramps, pools, patios, mechanical equipment and impervious areas	
	Location of the closest fire hydrant	
	Location of disturbed area for construction purposes	
	Location of outdoor storage or display areas	
	Location and size of all public utility lines (water, sanitary sewer, storm sewer and gas) within all adjacent rights-of way and easements	
	Location and size of water taps denoting the size of lines	
	Location of water meters	
	Location and type of backflow protection provided	
	Location of electrical service connections, meters, transformer base and poles. Adjacent overhead electric lines shall be denoted as to type: transmission; distribution; service drop	
	Storm water drainage plan to include site surface drainage, pipe sizes with direction of flow, yard drains, catch basins, curb inlets, detention ponds, ditches, and topographic features	
	Additional Requirements (if applicable)	
	A traffic impact analysis	
	Nitrogen control plan	
	Storm water drainage plan	
	Landscaping plan	
	Copies of any interconnectivity easements or agreements	
	Color rendering of the building elevation detailing building materials and colors—Shopping centers and commercial uses exceeding 30,000 sq. ft. are subject to this requirement	

DISCLOSURE: By signing below, I am acknowledging that I have included **ALL** applicable information required on the plan in order to be considered "Complete and ready for review." If it is discovered that required information is not included on the plans or I have not provided some required information, I understand that the above referenced project may be deemed "Not ready for review" and may require additional staff time or may be rejected. Additionally, I understand that the City of Havelock reserves the right to request any additional information as necessary.

Owner/Agent Signature: _____ **Date:** _____



**Havelock Planning & Inspections Department
Special Use Permit
Abutting Property Owners List**

List must include abutting property owners including property owners across the street, railroad, or other transportation corridor. Please also include mailing labels for the applicant/owner and all abutting property owners.

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____

Owner: _____ Address: _____
