



Town of Atlantic Beach Planning & Inspections Department

125 West Fort Macon Road * Atlantic Beach * NC * 28512

Case Number: _____

CONDITIONAL USE PERMIT APPLICATION

A Conditional Use Permit application will follow the development review process as outlined in Article 14 of the Unified Development Ordinance, adopted on August 24, 2009.

Date of Application: _____
Applicant's Name: _____
Applicant's Address: _____
Applicant's Telephone: _____
Applicant's E-mail: _____

Owner's Name: _____
Owner's Address: _____
Owner's Telephone: _____

Conditional Use Address: _____
Name of Proposed Project: _____
PIN Number: _____
Deed Book and Page: _____

If the building is pre-existing, lot size, setbacks and current impervious coverage may remain unless the building is being renovated beyond 50% of the value of the structure as listed with the Carteret County Health Department. Renovations exceeding 50% of the building's value require conformance with all zoning regulations.

New or Pre-Existing: _____
Zoning District: _____
Flood Zone: _____
Minimum Lot Size: _____
Corner Lot: _____
Setbacks: _____
Proposed Use: _____

The Technical Review Committee will use the following answers to guide the evaluation of your proposed project:

Is the proposed use listed as Conditional in Article 5 of the UDO? YES NO NA
Does lighting meet criteria set forth in Section 9.17? YES NO NA
Does the proposed use meet parking rules outlined in Section 9.6? YES NO NA
For new construction, are landscaping rules in Article 10 met? YES NO NA
Does the proposed use meet extra conditions listed in Article 6? YES NO NA
Does the proposed use meet the requirements of Section 7.2 Fences? YES NO NA
Does the proposed use meet the requirements of Section 7.3 Waste? YES NO NA
Does the proposed use meet the requirements of 2.26 Stormwater? YES NO NA

Continued on next page.

Required Attachments:

- ▶ Provide a detailed description of the proposed use and label it “Attachment A, Description of Proposed Use”
- ▶ Explain in detail how conditions in article 6 will be met and label it “Attachment B, Article 6 Conditions”
- ▶ Attach proof of Health Department approval as “Attachment C”
- ▶ Attach a sketch plan or other site plan required by the UDO and label it “Attachment D”
- ▶ Attach any other applicable permits at the end of the application packet.

I certify that the information provided in this Conditional Use Permit Application is true and accurate and if approved will be in conformance with the Town of Atlantic Beach Unified Development Ordinance and any additional conditions imposed by the Town of Atlantic Beach Board of Adjustment. I acknowledge that failure to adhere to any of these conditions may result in the revocation of the Conditional Use Permit and any associated privilege license.

Applicant (Owner or Agent)

Date

Amount Paid: _____

Date Paid

FOR STAFF USE:

- TRC Members:** (Outlined in Section 3.5)
- Planning Department _____
 - Town Manager _____
 - Council Member _____
 - Building Inspector _____
 - Public Works _____
 - Fire Department _____
 - Police Department _____
 - Planning Board Member _____
 - OTHER _____
 - OTHER _____
 - OTHER _____

- Pre-Application meeting date: _____
- Date approved by TRC: _____
- Date approved by Planning Board: _____
- Date of Decision by BOA: _____

**TOWN OF ATLANTIC BEACH
PLANNING AND INSPECTIONS
125 WEST FORT MACON ROAD, ATLANTIC BEACH, NC 28512
(252) 726-4456**

Dear Conditional Use Permit Applicant,

We appreciate your interest in development in the Town of Atlantic Beach. Many of our uses are considered to be conditional and have additional regulations. This process was designed in order to protect the character of the Town and properties adjacent to and nearby your proposed project. In an area with historically small lots and businesses neighboring residential areas, we make every effort possible to facilitate quality and sustainable development. New procedures have been implemented to clarify schedules, time-lines and requirements for the development process. We feel these procedures are the most efficient way for staff, our appointed decision making boards and the applicant, to reach a quality end result.

A Conditional Use Permit Application must be submitted 30 days prior to the Planning Board meeting you wish for it to be heard at. This is to allow adequate time to organize the TRC and have materials available for the Planning Board to review. It is a good idea to schedule a pre-application meeting one month before you wish to submit the proposed project. Please be advised, a project may need to be amended after the initial Planning Board review, and resubmitted to the Planning Board before being scheduled for a BOA hearing. All fees must be paid when the application is submitted. For the most current fee schedule, please consult Town Hall or www.atlanticbeach-nc.com. A current schedule of meetings is posted here as well.

Once the Planning Board has made a recommendation on the application, it will be placed on the Board of Adjustment Schedule. There are important procedures outlined in the state statutes that must be followed in order to facilitate this process. Under normal circumstances, once a recommendation is made by the Planning Board, it will be eligible for the second BOA meeting thereafter. Section 14.3 on Conditional Use Permit procedures has been attached for your review. Please familiarize yourself with the guidelines in this document.

Best Regards,

The Town of Atlantic Beach Planning Department

IMPORTANT NOTES:

- ▶ Please note if the CUP is granted, signage will require independent permits. Article 11 of the Unified Development Ordinance outlines sign regulations.
- ▶ Please note, if the CUP is granted, applicable zoning and building permits will be required.
- ▶ A Conditional Use Permit may be revoked at any time if the conditions set forth by the Town of Atlantic Beach Board of Adjustment are not met.
- ▶ The Planning Department will summarize all comments from The TRC, which will be entered into the evidence reviewed by the Planning Board and the Board of Adjustment during their review processes.
- ▶ The Planning Department will attach all pertinent ordinances for the Planning Board and Board of Adjustment to review.
- ▶ The Planning Department will attach a check-list of all conditions the BOA must evaluate.
- ▶ The Planning Department will attach a list of applicable adjacent properties and proof of proper notification.
- ▶ Planning Department will attach proof of sign posting.

SECTION 14.3 CONDITIONAL USE PERMIT PROCEDURES

14.3.1 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, this Ordinance allows some uses to be allowed in these districts on a conditional basis subject to issuance of a conditional use permit by the Board of Adjustment. The purpose of having the 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 and would meet other criteria as set forth in this section.

14.3.2 Application Process/Completeness

The deadline for which a conditional use permit application shall be filed with the UDO Administrator is the first business day of the month. In the course of evaluating the proposed conditional use, the Planning Board or Board of Adjustment may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Board of Adjustment or Planning Board.

No application shall be deemed complete unless it contains or is accompanied by all items listed in Section 15.4(A) and as may be required by Section 15.4(B) and a fee, in accordance with a fee schedule approved by the Town Council for the submittal of conditional use permit applications (see Section 2.14). Once complete, the UDO Administrator shall notify the town that a public hearing shall be scheduled.

14.3.3 Public Notice

- (A) Conditional use permit cases are quasi-judicial, and all witnesses are to be sworn in.
- (B) Prior to the Board of Adjustment making a decision on a conditional use permit, a public hearing held by the Board of Adjustment shall be conducted. The Planning Board is responsible for preparing reports on conditional use permit applications for the Board of Adjustment. These reports will be presented by a Planning Board member during a Conditional Use Permit public hearing, and this testimony shall be recorded as evidence. A quorum of the Board of Adjustment is required for this public hearing. Notice of the public hearing shall be as follows:
 - (1) **A notice shall be published in a newspaper having general circulation in the town once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing.**
 - (2) **At least one notice shall be conspicuously posted on the subject property at least ten days prior to the public hearing. The notice shall state the Case**

number and contact number for the town. The notice shall be removed only after the public hearing has been held.

- (3) A notice of the public hearing shall be sent by first class mail by the UDO Administrator to all adjoining property owners and property owners within 500' of the subject property, at least ten days, but not more than 25 days, prior to the public hearing.**

14.3.4 Planning Board Review and Recommendation

- (A) Once the application has been accepted, the Planning Board shall review the conditional use application. Except as provided in Section 14.3.2, the Planning Board shall review the application at their next scheduled meeting, as long as it is received at least 25 days in advance of the meeting.
- (B) 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 conditions the Planning Board may find appropriate. The 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.
- (C) The Planning Board shall forward its recommendation to the Board of Adjustment within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Board of Adjustment without a recommendation from the Planning Board.

14.3.5 Board of Adjustment Action

- (A) Once the recommendation of the Planning Board has been made, or the 45-day period elapses without a recommendation, the Board of Adjustment shall hold a public hearing to consider the application at its next regularly scheduled meeting.
- (B) In approving an application for a conditional use permit, the Board of Adjustment 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 Board of Adjustment. 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.
- (C) Imposed conditions shall be for the purpose of promoting health, safety, morals, or the general welfare of the community.
- (D) The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which subsections 14.3.5(E) below require.
- (E) The Board of Adjustment shall issue a conditional use permit if it has evaluated an application through a quasi-judicial process and determined that:

- (1) The proposed use will have either a minimal effect or positive effect on the public health or safety;
- (2) The use meets all required conditions and specifications;
- (3) The proposed use will have no material adverse effect on the value of adjoining or abutting properties unless the use is a public necessity; and
- (4) The proposed use is in harmony with the Town Land Use Plan and/or other plans adopted by the Town Council.

14.3.6 Effect of Approval

If an application for a conditional use permit is approved by the Board of Adjustment, 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.

14.3.7 Binding Effect

- (A) Any conditional use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Board of Adjustment. However, minor changes may be made with the approval of the UDO Administrator on a one-time basis only in the detail of the approved application which:
 - (1) Will not alter the basic relationship of the proposed development to adjacent property;
 - (2) Will not increase the gross floor area of any non-residential use by the smaller of 20% or 2,500 square feet;
 - (3) Will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five feet.
- (B) Further changes to the development may only be made by the Board of Adjustment in accordance with Section 14.3.8.
- (C) For example, if a conditional use permit is issued for a building having a gross floor area of 6,000 square feet, under this provision the property owner could, subject to approval of the UDO Administrator, construct a building with a gross floor area of up to 7,200 square feet.

14.3.8 Certificate of Occupancy

No certificate of occupancy for a use listed as a conditional use shall be issued for any building or land use on a piece of property which has received a conditional use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the conditional use permit approved by the Board of Adjustment. In the event that only a segment of a proposed development has been approved, the certificate of occupancy may be issued only for that portion of the development constructed or used as approved.

14.3.9 Twelve-Month Limitation on Re-Application

If a request for conditional use permit is denied by the Board of Adjustment, 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 Board of Adjustment. This waiting period shall not be applicable where the application for a conditional use permit is substantially different (see Appendix A for definition) from the original application.

14.3.10 Change in Conditional Use Permit

Any request to materially change the conditional use permit once it has been issued must first be reviewed and approved in accordance with Section 14.3.4.

14.3.11 Implementation of Conditional Use Permit (CUP)

Unless the Board of Adjustment 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 36-month period from the date of issuance of the conditional use permit. In addition, if the project for which the CUP was issued is not complete and a valid building permit is not in place at the end of the 36-month period, the UDO Administrator shall notify the applicant of this finding and, within 60 days of the notification, the Planning Board shall make a recommendation concerning the revision of the conditional use permit to the Board of Adjustment. The Board of Adjustment, after having conducted a public hearing to consider the revision, may then rescind the conditional use permit or extend the life of the conditional use permit for a specified period of time. Due notice of the public hearing shall be given as prescribed in Section 14.3.3.

Section 3.27

Any decision made by the Board of Adjustment regarding an appeal, variance, or conditional use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy. In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusion, as well as supporting reasons or facts, whenever this Ordinance requires the same as a prerequisite to taking action.