

Town of Oak Island  
Conditional Use Permit- Application

Purpose of Division:

In accordance with the Town of Oak Island Code of Ordinances, Chapter 18, Article 2 Section 18-221 the purpose of this division is to allow for those uses that have a potential of being incompatible with adjacent land uses. For this reason special consideration shall be given to those uses listed as conditional uses in the zoning districts as listed in Division 4 of the code of ordinances.

The reasons for requiring such special considerations involve, among other things, the size of the area required for the development of a use, the effect such uses have on any adjoining land uses and on the health, safety, and general welfare and development of the community as a whole. Approval of a conditional use does not provide a binding precedent to grant other conditional uses. A conditional use is not transferable from one parcel of land to another.

Submittal Information and Procedure:

The request for a conditional use permit shall be received in the Development Services Department not less than forty five (45) days prior to the date of submittal to the monthly meeting of the Planning Board to which the Conditional Use Permit will be presented. The application must be reviewed by town staff before the application can be placed on the Planning Board Agenda. Please consider that review time before submitting your application.

Supplementary information is considered a required part of the application. Applications will not be considered as accepted for review unless all required information is provided.

A fee in accordance with the Town's adopted fee schedule must accompany the application.

The applicant or their authorized agent is expected to attend all meetings to answer any questions for the Planning Board and Town Council. The absence of the applicant is grounds to warrant a deferral of action by the Planning Board or Town Council.

Following staff review by all departments and placement on the Planning Board Agenda for consideration, the Planning Board shall review the application and make a recommendation to the Town Council. The Planning Board may recommend approval as submitted, approval with conditions, or denial.

The owner of the property under consideration and all property owners within one hundred feet of the property subject to the conditional use application shall be mailed notice of the filing by first class mail not less than seven (7) days prior to the

date of the initial Planning Board review. The Planning Board shall have forty five (45) days from the date of the initial review recommendation to the Town Council within that forty five (45) day period, it shall be deemed to have made a favorable recommendation unless a longer time period is granted by the Town Council.

The Town Council, after receiving a recommendation from the Planning Board shall hold an evidentiary hearing on the conditional use permit request. Notice of the hearing shall be mailed to the applicants not less than seven days prior to the hearing date. The following procedures shall govern the hearing and the decision to grant or deny the permit application.

1. All persons shall be sworn in before presenting evidence to the Town Council
2. All persons shall offer only competent material and substantial evidence. Competency shall be determined by the Town Council in its decision.
3. All persons participating in the hearing shall have an opportunity to cross examine adverse witnesses and to inspect any evidence presented.
4. The applicant shall be allowed the opportunity to offer competent evidence in explanation or rebuttal to objecting participants.
5. Following presentation of all evidence both for and against the application, the Town Council will render its decision and will state its reason for approving or disapproving the application.
6. The Planning Board, in recommending the permit, and Town Council, in granting the permit, must find that all of the four factors listed below exist.
  - a. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved by issuance of the conditional use permit.
  - b. The use meets all required conditions and specifications.
  - c. The use will not substantially injure the value of adjoining property or that the use is a public necessity.
  - 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 is in general conformity with the Land Use Plan.

#### Required Information for submittal for Technical Review Committee

- Four copies of the completed CUP application and guidance document
- Four copies of an accurate map or plat of property
- Four copies of plans and specifications showing methods of how the property owner will comply with conditions for the use as well as other mandatory regulations for the district the property is located in.
- Four copies of the site plans including the following:
  - o Title Box including the project name, applicant name, and address of the property
  - o Names of the owners of record for adjacent properties

- Property lines and dimensions
- The location and names of all adjacent street rights of way
- Location, size, zoning designation, and total area of the property
- Directional feature of all parking spaces, driveways, and curb cuts
- Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks
- All existing easements, reservations, or rights of way
- General location of on site utilities and proposed tie into facilities
- Location of Service facilities such as dumpsters and any planned screening or treatment to those areas
- General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention
- Proposed or required buffering and landscaping
- If applicable the proposed phasing of the project
- Any other information deemed necessary by Development Services
- Four copies of typical building elevation drawings and proposed exterior treatments
- Four copies of a signage plan including sign type, size, and placement on the property and lighting plan.
- Four copies of the justification statements listed as a-d in number six above
- Four copies of a detailed project narrative describing the proposed use, site, and nature of the request
- Four copies of full size plans including State Stormwater Management, Town of Oak Island Stormwater Management Plan (as laid out in Town Ordinance Chapter 18 Section 656), and Division of Water Quality permits.
- Application fee as set by the Town of Oak Island Fee Schedule

Once the Technical Review Committee has reviewed the project and changes as requested by the Committee have been met the applicant will have to supply the following for the Planning Board and Town Council portion of the process.

#### Required Information for submittal of CUP Application

- Twenty-five (25) copies of an accurate Map or plat of property
- Twenty-five (25) copies of the names and addresses of adjacent property owners within 100 ft. Along with a set of addressed (to adjacent property owners), business size, stamped envelopes. Please include the return address of the Town of Oak Island Development Services Department, Attn: Clerk to the Planning Board, 8500 E. Oak Island Dr. Oak Island, NC 28465.
- Twenty-five (25) copies of plans and specifications showing methods of how the property owner will comply with conditions for the use as well as other mandatory regulations for the district the property is located in.
- Twenty-five (25) copies of the site plans including the following:

- Title Box including the project name, applicant name, and address of the property
- Names of the owners of record for adjacent properties
- Property lines and dimensions
- The location and names of all adjacent street rights of way
- Location, size, zoning designation, and total area of the property
- Directional feature of all parking spaces, driveways, and curb cuts
- Accurate depiction of the project to scale with layout of proposed buildings including the length, width, height, placement, and building envelope with required setbacks
- All existing easements, reservations, or rights of way
- General location of on site utilities and proposed tie into facilities
- Location of Service facilities such as dumpsters and any planned screening or treatment to those areas
- General location and type of stormwater facilities including preliminary stormwater report indicating pre and post retention
- Proposed or required buffering and landscaping
- If applicable the proposed phasing of the project
- Any other information deemed necessary by Development Services
- Twenty-five (25) copies of typical building elevation drawings and proposed exterior treatments
- Twenty-five (25) copies of a signage plan including sign type, size, and placement on the property and lighting plan
- Twenty-five (25) copies of the justification statements listed as a-d in number six under the procedure to grant a conditional use permit above
- Twenty-five (25) copies of the application with the appointment of an authorized agent and guidance document.
- Twenty-five (25) copies of a detailed project narrative describing the proposed use, site, and the nature of the request

 **Please Note that an application is not considered complete until all of the information above is provided and complete. Once all information is received the application will be scheduled for Planning Board.**

## Conditional Use Permit Application

Application is hereby made for a Conditional Use Permit to use the property at the address below for the indicated conditional use.

### **Applicant Information (person applying for CUP)**

Name(s): \_\_\_\_\_

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

Phone Numbers: H- (\_\_\_\_) \_\_\_\_ - \_\_\_\_ C- (\_\_\_\_) \_\_\_\_ - \_\_\_\_

W- (\_\_\_\_) \_\_\_\_ - \_\_\_\_

### **Property Owner Information (if different from applicant)**

Name(s): \_\_\_\_\_

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

Phone Numbers: H- (\_\_\_\_) \_\_\_\_ - \_\_\_\_ C- (\_\_\_\_) \_\_\_\_ - \_\_\_\_

W- (\_\_\_\_) \_\_\_\_ - \_\_\_\_

### **Property Information**

Address of Site: \_\_\_\_\_

Tax Parcel Number: \_\_\_\_\_

Lot/Block/Section: \_\_\_\_\_

Proposed Conditional Use: \_\_\_\_\_

Current Zoning District: \_\_\_\_\_ Total Site Area: \_\_\_\_\_

In filing this application for a Conditional Use Permit I/We as the property owner(s) hereby certify that all of the information presented in the application is accurate to the best of my knowledge, information, and belief.

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

\_\_\_\_\_  
Date

If the Property is owned jointly or by a corporation, partnership, or other business entity, please have the principals of such business sign and print their names below.

\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Date

### Appointment of Authorized Agent

I, \_\_\_\_\_, the owner of the property subject to this conditional use application, do hereby appoint \_\_\_\_\_, as my authorized agent regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to represent me in any public meeting regarding this application.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent Signature

\_\_\_\_\_  
Date

#### Addendum to Application for a Conditional Use Permit

I have received, read, and fully understand Chapter 18, Article 2, Division 8, Section 18-223, steps to be taken in a conditional use application other than a unified tract development, Section 18-224, Additional conditions, Section 18-225, Environmental Impact Statement and Section 18-226, Special Provisions for conditional uses as it pertains to my application. I have also read and understand the application for a conditional use permit. The items I did not understand, if any, have been explained to my satisfaction by an employee of the Town of Oak Island Development Services Department.

I understand that application will be reviewed for completeness by town staff prior to consideration by the Planning Board. I further understand that following the Planning Board review and recommendation that a public hearing will be held to receive competent evidence regarding the application; and that a final decision on the application will be made by the Town Council.

I understand that if the Town Council decides not to issue the requested conditional use permit, the North Carolina General Statutes provide that the decisions of the Town Council on conditional use permits are subject to

review by the superior court by proceedings in the nature of appellate review. This means that an appeal to court is not an opportunity for the parties to present additional evidence, but is a review of the record of the hearing procedures in reaching the decision that it did. A petition for judicial review must be filed with the Clerk of Superior Court within thirty days (30) after the decision of the town Council is filed in the office of the Town Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Town Clerk at the time of the hearing of the case, whichever is the later date.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Agent Signature

\_\_\_\_\_  
Date

**CONDITIONAL USE PERMIT APPLICATION GUIDANCE DOCUMENT**

*(Submission of a complete application form, plans, as well as all information in this guidance is the test for completeness of application. No proposal will be considered to have met the deadline for a Planning Board meeting unless the application is complete. Do not leave any line blank. If an item does not apply to the proposal, it must be indicated in the space provided or by attachments. A Technical Review staff meeting will be scheduled as soon as possible following receipt of a complete application. The applicant will be invited to attend the staff review. Additional information may be requested at any time during the review process.)*

PROJECT NAME: \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

Tax Parcel Number(s) \_\_\_\_\_

EXISTING USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

(If Applicable)  
No. of Units: \_\_\_\_\_

No. of Bedrooms: \_\_\_\_\_

OWNERS AND USES WITHIN 100' OF THE PROPERTY: (List here with mailing addresses, show on plans, and discuss in detail in narrative)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the Applicant met with any adjacent property owners in regard to this project?

\_\_\_\_\_

If yes, who \_\_\_\_\_

Does the applicant know of objections from neighbors at this time? \_\_\_\_\_

**INFRASTRUCTURE:**

1. **WATER** Available? \_\_\_\_\_ Size line? \_\_\_\_\_  
(Show on Plan)

Infrastructure Improvements needed? (list here and discuss in narrative)

\_\_\_\_\_

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Proposed by Applicant? (List here, discuss in narrative and show on plan)

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2. **SEWER** Available? \_\_\_\_\_ Line size? \_\_\_\_\_  
(Show on Plan and discuss in narrative)

Existing Allocation? \_\_\_\_\_ gpd New or additional  
request? \_\_\_\_\_ gpd

Infrastructure Improvements needed? (list here and discuss in narrative)

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Infrastructure Proposed by Applicant? (list here, discuss in narrative and show on plan)

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(Discuss in detail in the narrative)  
3. **STREET** paved? \_\_\_\_\_ Design Capacity? \_\_\_\_\_  
(Show existing and proposed on plan)

Most recent traffic count? \_\_\_\_\_ High accident/incident location? \_\_\_\_\_

Estimated traffic flow? (Provide traffic study) \_\_\_\_\_

**Driveway cuts** (Show existing and proposed on plan. Show neighboring driveways on plan)

Improvements needed? (List here and discuss in narrative)

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Proposed by Applicant? (List here, discuss in narrative and show on plan)

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4. **SIDEWALKS** available? \_\_\_\_\_ Needed? \_\_\_\_\_  
(Show existing and proposed on plans)

5. **DRAINAGE**

Does this area regularly experience standing water? \_\_\_\_\_  
(Discuss in detail in the narrative)

Improvements required? (List here and discuss in layman detail in the narrative)

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Proposed by Applicant? (List here and show on plan)

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Is a **Storm Water** retention plan required? \_\_\_\_\_  
(Discuss in the narrative)

Pre and post development flow estimates? Pre \_\_\_\_\_ Post \_\_\_\_\_  
(Discuss in narrative and show on plans)

What method of retention is proposed? \_\_\_\_\_  
(Show on plans, provide details per codes and discuss in layman detail in the narrative)

**SAFETY:**

**6. FIRE/EMS SAFETY**

(Show all items on plans and discuss in detail in the narrative)

Hydrants available? \_\_\_\_\_ Water pressure issues? \_\_\_\_\_  
(Show existing and proposed on plans)

Buildings accessible for emergency vehicles? \_\_\_\_\_

Improvements needed? (List here and discuss in narrative) \_\_\_\_\_

Improvements Proposed by Applicant? (List here, discuss in narrative and show on plans)

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**7. POLICE ISSUES OTHER THAN TRAFFIC**

High call volume from this area? (if yes, explain)

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Will the proposal generate a need for higher level of service? \_\_\_\_\_

Other concerns for safety \_\_\_\_\_

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**8. OTHER:**

- What is the **FLOOD ZONE** designation for this site? (Show line on plat if zones overlap) \_\_\_\_\_

If required, how does applicant propose to address flood ordinance requirements? (i.e. fill material to elevate floor; pile supported structures, open below; pile supported enclosed structures with flood vents, etc. NOTE - 35' height limit can only be exceeded in actual VE portions of lots.)

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- Will the proposal require a permit from the **US Army Corps of Engineers** for disturbance of 404 wetlands? \_\_\_\_\_

If yes, show the wetlands delineation on the site plan.

- Will the proposal require a **CAMA permit**? \_\_\_\_\_ (major/minor/exemption)  
Which TYPE AEC? \_\_\_\_\_ (Show CAMA setback lines on plans)

If yes, has there been a preliminary review of the proposal to determine that a permit can be issued as proposed? \_\_\_\_\_

- Are **BUFFERS** required? \_\_\_\_\_ If yes, why? \_\_\_\_\_

Briefly describe the method proposed by applicant? \_\_\_\_\_  
(Show on Plans and discuss in narrative)

- Is a preliminary **Landscape Plan** included? \_\_\_\_\_ Is there a tree survey showing existing vegetation attached? \_\_\_\_\_

## 9. UNUSUAL SITUATIONS

Please include a discussion of any unusual characteristics of the site or the project. (i.e., underground storage tanks, buried waste site, culverts or old infrastructure, burial grounds etc.)

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If applicable, please add discussion or list any particular aspects of the proposal in which minimum development standards will be exceeded. (i.e., saving trees, more landscape than required, more open space than required, bike access, pedestrian access to ocean, extra parking, retractable storm shutters, flood-proofing etc.)

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## 10. QUALITY OF LIFE

If applicable, feel free to add discussion about any characteristics of the project which you have designed to enhance quality of life in the community.

**11. ANY ADDITIONAL COMMENTS**

Applicant is invited to share any additional commentary or evidence not otherwise covered above.

**QUASI-JUDICIAL HEARINGS**

The applicant is hereby advised that Conditional Use Hearings are quasi-judicial actions on the part of Town Council. ***Ex parte (outside the hearing) discussions about this project with members of Council are not allowed.*** Such communications can result in members having to recuse themselves from the vote or having the validity of the final decision challenged and potentially overturned.

Please certify below:

I, \_\_\_\_\_ have read and understand the statement above and affirm that neither I, nor to the best of my knowledge, any other person, has discussed or will discuss this project on my behalf with any member of the Town Council of Oak Island prior to final hearing.

Date \_\_\_\_\_

(If applicant is unable to affirm the statement above as being true, please list Council members with whom the proposal is known to have been discussed.)

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