

Union County Special Use Permit Process as of June 24, 2022

For more information, contact the Planning Department at 704-283-3565

This document shows the process for unincorporated Union County and the Town of Hemby Bridge

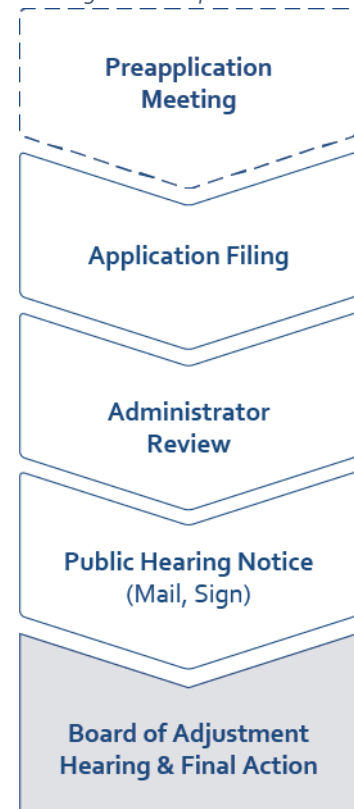
Section 80.110 Special Use Permits

A special use permit is an approved requested of the Board of Adjustment to allow a use within a zoning district. The process is described below.

80.110-A Applicability

1. The table of allowed uses ([Table 25-1](#)) identifies certain “special uses” that are allowed only if reviewed and approved in accordance with the special use procedures of this section. Special uses are generally those that have widely varying operating characteristics or potential land use impacts that require additional review to ensure that they will comply with all applicable ordinance regulations and approval criteria.
2. The procedures of this section require that the board of adjustment hear factual evidence presented to it at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the board of adjustment decides whether or not it can reach each of the conclusions required (See [§80.110-H](#)) to approve the special use.

Figure 80-1: Special Uses



80.110-B Authority to File

Applications for approval of a special use may be filed only by subject property owner or the subject property owner’s authorized agent.

80.110-C Pre-application Meeting

A pre-application meeting is required before filing an application for approval of a special use. (See [§80.010-D2](#) for additional information on pre-application meetings).

80.110-D Application Filing

Complete applications for special use approval must be filed with the administrator.

80.110-E Administrator Review

1. Following receipt of a complete special use application, the administrator must cause a review and analysis of the application to be conducted by qualified representatives and other agencies or officials, as appropriate in light of the proposal and its likely impacts. Following this review, the administrator must forward the application and any analysis to the board of adjustment and all individuals required to be notified of the public hearing pursuant to [§80.110-E2](#).
2. The board of adjustment must enter the review and analysis required by this subsection into evidence during the board of adjustment's evidentiary (amended 7/1/2021) hearing. The analysis must be made available for examination by all interested parties, and the administrator and other officials who conducted the review are subject to cross-examination regarding their analysis.

80.110-F Notice of Evidentiary Hearing (amended 7/1/2021)

(see [§80.010-F](#) for additional information on required notices)

1. At least 10 days before and no more than 25 days before the date of the evidentiary (amended 7/1/2021) hearing, notice must be mailed to the applicant, the subject property owner, all owners of property that abut the subject property or are located on the opposite side of the street from the subject property and all persons who have submitted to the administrator a written request to receive notification. If the owner of the subject property also owns the property abutting the subject the property or across the street from the subject property, the required mail notification radius must be extended to include the nearest properties owned by individuals or entities who are not owners of the subject property.
2. In addition to mailed notice, notice (signs) must be posted prominently at least 10 days before and no more than 25 days before the required evidentiary (amended 7/1/2021) hearing.

80.110-G Board of Adjustment Hearing and Final Action

1. The board of adjustment must review an application for special use approval in an evidentiary (amended 7/1/2021) hearing.
2. The evidentiary (amended 7/1/2021) hearing must be conducted in accordance with the procedures of this section and provisions of [Section 85.030](#).
3. After completion of the evidentiary (amended 7/1/2021) hearing, the board of adjustment must take action to approve, approve with conditions or deny the special use application.
4. The applicant bears the burden of presenting sufficient evidence in support of the application to allow the board of adjustment, after weighing such evidence against that presented in opposition to the application, to make findings of fact that reasonably support each of the required conclusions. If that burden is met, the board of adjustment

must approve the application. If that burden is not met, the board of adjustment must deny the application, provided that if the board of adjustment determines that specific minor changes or additions to, or restrictions on, the proposed development are necessary and sufficient to overcome impediments to its reaching the required conclusions, it may approve the application subject to reasonable conditions requiring such changes or additions or imposing such restrictions, as such conditions are consented to in writing by the special use permit applicant or owner and allowed as set forth in NCGS 160D-705. (amended 7/1/2021)

5. A motion to approve the application must state the required conclusions and include findings of fact on which the conclusions are based, plus any proposed conditions of approval. A simple majority vote of the board of adjustment is required to pass such a motion. If motion to approve the application fails, the application is deemed denied, and those members voting against the motion must state which of the required conclusions they could not reach as well as findings of fact on which their inability to reach the conclusions is based.
6. A motion to deny the application must state which of the required conclusions cannot be reached and include findings of fact on which the inability to reach the conclusions is based. An affirmative vote of a simple majority of board of adjustment members present is necessary to pass a motion for denial of the application.

80.110-H Findings and Conclusions Required for Approval

The board of adjustment may not approve an application for a special use permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the evidentiary (amended 7/1/2021) hearing. "Considerations" listed below some of the required conclusions suggest some primary concerns pertinent to reaching the respective conclusion, but these considerations are not intended to be all-inclusive.

1. The proposed use and development comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use.
2. The proposed development will not materially endanger the public health or safety.
Considerations:
 - a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, sight lines at street intersections and curb cuts;
 - b. Provision of services and utilities, including sewer, water, electrical, garbage collections and fire protection;
 - c. Soil erosion and sedimentation; and
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

3. The proposed development will not substantially injure the value of abutting property, or is a public necessity. Considerations:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved; and
 - b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the county as a whole as to justify it regardless of its impact on the value of abutting property.
4. The proposed development will be in harmony with the area in which it is located. Considerations:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved or mitigated.
5. The proposed development will be in general conformity with the comprehensive plan.

80.110-I Notice of Quasi-Judicial Decision (amended 7/1/2021)

1. The board's quasi-judicial (amended 7/1/2021) decision must be signed by the chair or other authorized board member. The quasi-judicial (amended 7/1/2021) decision becomes effective on the date it is filed with the clerk of the board of adjustment.
2. The clerk of the board of adjustment must send the notice of decision to the applicant, the property owner and all individuals who have filed a written request with the clerk of the board of adjustment before the effective date of the decision. If the application is denied, the notice must state the board of adjustment's reasons for its quasi-judicial (amended 7/1/2021) decision. This required notice may delivered by personal service, electronic mail or first-class mail. In the absence of evidence to the contrary, notice given by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service. (amended 7/1/2021)

80.110-J Scope and Effect of Approval

1. *Transferability*

Approved special use applications run with the land and are not affected by changes of tenancy, ownership, or management. Similarly, all conditions associated with an approved special use are perpetually binding upon the subject property and apply regardless of changes in ownership or tenancy, unless approved in accordance with [§80.110-K](#).
2. *Recording*

The subject property owner must record the legal description and written authorization for the special use and any plans, exhibits and conditions in the office of the register of

deeds. No building permits or other permits or approvals may be issued by the county until the property owner provides a signed written acknowledgment of recording.

3. *Violations*

Any violation of a condition attached to an approved special use is a violation of this ordinance and is subject to the same penalties and enforcement procedures as any other ordinance violation.

4. *Appeals*

Any such quasi-judicial (amended 7/1/2021) by the board of adjustment is subject to review by the superior court by an action in the nature of certiorari pursuant to NCGS 160D-1402 (amended 7/1/2021). A petition for review must be filed within 30 days of the effective date of the quasi-judicial (amended 7/1/2021) decision or the date that written notice of the decision is provided pursuant to §80.110-12, whichever date is later.

80.110-K Amendments and Modifications

Amendments to approved special uses may be approved in accordance with the following requirements. The special use amendment procedures may not be used to vary or modify the standards or requirements of this ordinance.

1. *Minor Amendments*

- a. The administrator is authorized to approve the following minor amendments to approved special uses:
 - (1) Any amendments expressly authorized as minor amendments at the time of special use approval; and
 - (2) changes to the development site or to structures necessitated by engineering, architectural or physical limitations of the site that could not have been foreseen at the time the special use permit was approved and that are not otherwise classified as major amendments pursuant to §80.050-H2.
- b. Applications for minor amendments to approved special uses must be filed in a form established by the administrator. If no action is taken on the minor amendment application within 20 days of filing of a complete application, the minor amendment is deemed denied.

2. *Major Amendments*

- a. All of the following constitute major amendments to approved special uses:
 - (1) An increase in overall building coverage by more than 1%;
 - (2) An increase in building height by more than 1% or 1 foot, whichever is less;
 - (3) A change in density of overall development permitted, or an increase in the number of residential units allowed; (amended 7/1/2021)
 - (4) An overall reduction in the amount of common open space or landscaping;

- (5) A reduction in off-street parking by more than 10% or one space, whichever results in a greater reduction;
 - (6) A change in the vehicle circulation pattern that would increase points of access, change access to another street or increase projected traffic volumes;
 - (7) Any combination of 2 or more minor amendments that were not expressly authorized by the approved special use permit; **(amended 7/1/2021)**
 - (8) Any modification of a condition of approval imposed at the time of approval of the special use application; and **(amended 7/1/2021)**
 - (9) A change in uses permitted. **(amended 7/1/2021)**
- b. Major amendments to an approved special use must be processed as a new special use application, including all requirements for fees, notices and public hearings.



UNION COUNTY BOARD OF ADJUSTMENT

SPECIAL USE PERMIT APPLICATION

Union County Planning Dept.
500 North Main Street
Suite 70
Monroe, NC 28112

T. 704.283.3565

www.unioncountync.gov

APPLICATION FOR SPECIAL USE PERMIT

Date Filed: _____

Petition No.: _____

Application Deadline _____

Fee: _____

Applicant Information

Name

Address

City

State

Zip Code

Email

Phone Number

Relationship to Owner

Owner Information

Name

Address

City

State

Zip Code

Property Information

Address

Occupant / Use

Zoning

PIN Number

Applicability

1. The table of allowed uses (Table 25-1) identifies certain “special uses” that are allowed only if reviewed and approved in accordance with the special use procedures of Section 80.110. Special uses are generally those that have widely varying operating characteristics or potential land use impacts that require additional review to ensure that they will comply with all applicable ordinance regulations and approval criteria.
2. The procedures of this section require that the board of adjustment hear factual evidence presented to it at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the board of adjustment decides whether or not it can reach each of the conclusions required (See §80.110-H) to approve the special use.

Special Use Applied For: _____

Section Number: _____

Findings of Fact:

The Board of Adjustment may not approve an application for a special use permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the public hearing.

(The Following conclusions shall be filled out by the applicant on the space provided below)

- 1. The proposed use and development comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use.**

- 2. The proposed development will not materially endanger the public health or safety.**

- 3. The proposed development will not substantially injure the value of abutting property, or is a public necessity.**

- 4. The proposed development will be in harmony with the area in which it is located.**

- 5. The proposed development will be in general conformity with the comprehensive plan.**

I certify that all of the information presented by me in this application, including attachments, is accurate to the best of my knowledge, information and belief.

Print owner / applicant name

Print representative name

Signature of owner / applicant

Signature of representative

Date

Date

Important Application Information

Required for Complete:

1. Application
2. Application Fee
3. Tax map of subject property from Union County GIS.
4. List of adjoining property owners – names and address as listed by the Union County Tax Office.
5. Evidence from licensed appraiser and have he/she present for testimony.
6. Site plan (if there are supplemental requirements are listed in the Union County Development Ordinance for a specific use.)

Optional:

1. Site Plan (for applications that do not have supplemental requirements)
2. Building elevations
3. Other supporting documentation

NO REQUEST FOR A SPECIAL USE PERMIT WILL BE CONSIDERED COMPLETE AND PROCESSED UNTIL ALL SECTIONS OF THE APPLICATION HAVE RESPONSES, ALL DOCUMENTS AND EXHIBITS ARE ATTACHED, AND THE PROPERTY OWNER HAS SIGNED THE APPLICATION FORM.

IN THE SITUATION THAT THE PROPERTY OWNER IS NOT AN INDIVIDUAL, PLEASE INCLUDE DOCUMENTATION THAT APPLICANT IS AN AUTHORIZED REPRESENTATIVE.

IF THE PROPERTY OWNER IS NOT THE APPLICANT APPEARING TO SPEAK BEFORE THE BOARD OF ADJUSTMENT, SUCH AS LESSEE, PLEASE PROVIDE EXPLANATION OF RELATIONSHIP TO APPLICANT/REPRESENTATIVE. PRESENTING REPRESENTATIVE'S WRITTEN AUTHORITY TO APPEAR SHALL BE VERIFIED BEFORE THE APPLICATION IS CONSIDERED COMPLETE.

ATTACHED FOR APPLICANS INFORMATION IS **APPENDIX A - Section 80.110 Special Uses – Union County Development Ordinance**

Appendix A

Section 80.110 Special Uses – Union County Development Ordinance

80.110-A Applicability *Figure 80-6: Special Uses*

Article 80 | Review and Approval Procedures Section 80.110 | Special Uses Effective October 6, 2014, page 80-26
Amendments through 05.18.2015

1. The table of allowed uses ([Table 25-1](#)) identifies certain “special uses” that are allowed only if reviewed and approved in accordance with the special use procedures of this section. Special uses are generally those that have widely varying operating characteristics or potential land use impacts that require additional review to ensure that they will comply with all applicable ordinance regulations and approval criteria.
2. The procedures of this section require that the board of adjustment hear factual evidence presented to it at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the board of adjustment decides whether or not it can reach each of the conclusions required (See [§80.110-H](#)) to approve the special use.

80.110-B Authority to File

Applications for approval of a special use may be filed only by subject property owner or the subject property owner’s authorized agent.

80.110-C Pre-application Meeting

A pre-application meeting is required before filing an application for approval of a special use. (See [§80.010 D2](#) for additional information on pre-application meetings).

80.110-D Application Filing

Complete applications for special use approval must be filed with the administrator.



80.110-E Administrator Review

1. Following receipt of a complete special use application, the administrator must cause a review and analysis of the application to be conducted by qualified representatives and other agencies or officials, as appropriate in light of the proposal and its likely impacts. Following this review, the administrator must forward the application and any analysis to the board of adjustment and all individuals required to be notified of the public hearing pursuant to §80.110-E2.
2. The board of adjustment must enter the review and analysis required by this subsection into evidence during the board of adjustment's public hearing. The analysis must be made available for examination by all interested parties, and the administrator and other officials who conducted the review are subject to cross-examination regarding their analysis.

80.110-F Notice of Public Hearing

(see §80.010-F for additional information on required notices)

- a. At least 10 days before and no more than 25 days before the date of the public hearing, notice must be mailed to the applicant, the subject property owner, all owners of property that abut the subject property or are located on the opposite Article 80 | Review and Approval Procedures Section 80.110 | Special Uses

Effective October 6, 2014 page 80-27 Amendments through 05.18.2015 side of the street from the subject property and all persons who have submitted to the administrator a written request to receive notification. If the owner of the subject property also owns the property abutting the subject the property or across the street from the subject property, the required mail notification radius must be extended to include the nearest properties owned by individuals or entities who are not owners of the subject property.
- b. In addition to mailed notice, notice (signs) must be posted prominently at least 10 days before and no more than 25 days before the required public hearing.

80.110-G Board of Adjustment Hearing and Final Action

1. The board of adjustment must review and application for special use approval in a public hearing.
2. The public hearing must be conducted in accordance with the procedures of this section and provisions of [Section 85.030](#).
3. After completion of the public hearing, the board of adjustment must take action to approve, approve with conditions or deny the special use application.
4. The applicant bears the burden of presenting sufficient evidence in support of the application to allow the board of adjustment, after weighing such evidence against that presented in opposition to the application, to make findings of fact that reasonably support each of the required conclusions. If that burden is met, the board of adjustment must approve the application. If that burden is not met, the board of adjustment must deny the application, provided that if the board of adjustment determines that specific minor changes or additions to, or restrictions on, the proposed development are necessary and sufficient to overcome impediments to its reaching the required conclusions, it may approve the application subject to reasonable conditions requiring such changes or additions or imposing such restrictions.

5. A motion to approve the application must state the required conclusions and include findings of fact on which the conclusions are based, plus any proposed conditions of approval. A simple majority vote of the board of adjustment is required to pass such a motion. If motion to approve the application fails, the application is deemed denied, and those members voting against the motion must state which of the required conclusions they could not reach as well as findings of fact on which their inability to reach the conclusions is based.
6. A motion to deny the application must state which of the required conclusions cannot be reached and include findings of fact on which the inability to reach the conclusions is based. An affirmative vote of a simple majority of board of adjustment members present is necessary to pass a motion for denial of the application.

80.110-H Findings and Conclusions Required for Approval

The board of adjustment may not approve an application for a special use permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the public hearing. "Considerations" listed below some of the required conclusions suggest some primary concerns pertinent to reaching the respective conclusion, but these considerations are not intended to be all-inclusive. Article 80 | Review and Approval Procedures Section 80.110 | Special Uses Effective October 6, 2014 page 80-28 Amendments through 05.18.2015

1. The proposed use and development comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use.
2. The proposed development will not materially endanger the public health or safety. Considerations:
 - a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, sight lines at street intersections and curb cuts;
 - b. Provision of services and utilities, including sewer, water, electrical, garbage collections and fire protection;
 - c. Soil erosion and sedimentation; and
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
3. The proposed development will not substantially injure the value of abutting property, or is a public necessity. Considerations:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved; and
 - b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the county as a whole as to justify it regardless of its impact on the value of abutting property.

4. The proposed development will be in harmony with the area in which it is located. Considerations:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved or mitigated.
5. The proposed development will be in general conformity with the comprehensive plan.

80.110-I Notice of Decision

1. The board's decision must be signed by the chair or other authorized board member. The decision becomes effective on the date it is filed with the clerk of the board of adjustment.
2. The clerk of the board of adjustment must send the notice of decision to the applicant, the property owner and all individuals who have filed a written request with the clerk of the board of adjustment before the effective date of the decision. If the application is denied, the notice must state the board of adjustment's reasons for its decision. This required notice may delivered by personal service, electronic mail or first-class mail. When first-class mail is used, 3 days must be added to time required for filing any subsequent appeal to the courts. Article 80 | Review and Approval Procedures Section 80.110 | Special Uses

Effective October 6, 2014 page 80-29 Amendments through 05.18.2015

80.110-J Scope and Effect of Approval

1. Transferability

Approved special use applications run with the land and are not affected by changes of tenancy, ownership, or management. Similarly, all conditions associated with an approved special use are perpetually binding upon the subject property and apply regardless of changes in ownership or tenancy, unless approved in accordance with [§80.110-K](#).

2. Recording

The subject property owner must record the legal description and written authorization for the special use and any plans, exhibits and conditions in the office of the register of deeds. No building permits or other permits or approvals may be issued by the county until the property owner provides a signed written acknowledgment of recording.

3. Violations

Any violation of a condition attached to an approved special use is a violation of this ordinance and is subject to the same penalties and enforcement procedures as any other ordinance violation.

4. Appeals

Any decision by the board of adjustment is subject to review by the superior court by an action in the nature of certiorari pursuant to NCGS 160A-393. A petition for review must be filed within 30 days of the effective date of the decision or the date that written notice of the decision is provided pursuant to [§80.110-l2](#), whichever date is later.

80.110-K Amendments and Modifications

Amendments to approved special uses may be approved in accordance with the following requirements. The special use amendment procedures may not be used to vary or modify the standards or requirements of this ordinance.

1. Minor Amendments

- a. The administrator is authorized to approve the following minor amendments to approved special uses:
 - (1) Any amendments expressly authorized as minor amendments at the time of special use approval; and
 - (2) changes to the development site or to structures necessitated by engineering, architectural or physical limitations of the site that could not have been foreseen at the time the special use permit was approved and that are not otherwise classified as major amendments pursuant to §80.050-H2.
- b. Applications for minor amendments to approved special uses must be filed in a form established by the administrator. If no action is taken on the minor amendment application within 20 days of filing of a complete application, the minor amendment is deemed denied.

2. Major Amendments

- a. All of the following constitute major amendments to approved special uses:
 - (1) An increase in overall building coverage by more than 1%;
 - (2) An increase in building height by more than 1% or 1 foot, whichever is less; Article 80 | Review and Approval Procedures Section 80.110 | Special Uses Effective October 6, 2014, page 80-30 Amendments through 05.18.2015
 - (3) An increase in residential density or the number of residential units allowed;
 - (4) An overall reduction in the amount of common open space or landscaping;
 - (5) A reduction in off-street parking by more than 10% or one space, whichever results in a greater reduction;
 - (6) A change in the vehicle circulation pattern that would increase points of access, change access to another street or increase projected traffic volumes;
 - (7) Any combination of 2 or more minor amendments that were not expressly authorized by the approved conditional zoning district map amendment; and
- (8) Any modification of a condition of approval imposed at the time of approval of the special use application.