

W

hat are special use permits?

Special use permits are for land uses that are allowed in a particular zoning district, but only if certain specified findings or conditions per the Graham Development Ordinance are met. The decision making process for special use permits is “quasi-judicial” in nature and is subject to demanding procedural rules, including the requirement of a formal evidentiary public hearing.

Where does the special use permit process begin?

A landowner or developer submits a special use permit application to the Planning Department. Once a meeting date is assigned (usually the second Tuesday of the month), public hearing notices are published in the local newspaper two weeks prior to the meeting, the property is posted with a public hearing notice sign and informational letters about the proposal are mailed to adjacent property owners.

Who conducts the hearing for a special use permit?

Requests for special use permits are heard at public hearings of the Graham City Council and the Graham Planning Board.



A Citizen's Guide to the Special Use Permit Process



Planning Department
201 S Main Street, Graham NC 27253
336-570-6705

www.cityofgraham.com



Who can speak at the public hearing for a special use permit?

Typically, only those parties whose legal rights are directly affected are entitled to participate. The person who initiates the application for a special use permit is considered a “party” to the proceedings whose legal rights are directly affected. A person who is directly affected by the decision (such as a neighbor whose property value may be affected) may also participate in the hearing and can be considered a “party” as well. Those offering testimony are placed under oath. This should remind those speaking of the seriousness of the matter and the necessity of presenting factual information, not opinions or speculation. The oath is administered by the city clerk.

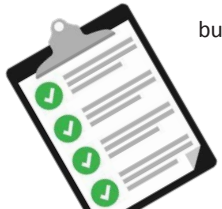
What can be said or presented in favor or against a special use permit?

When addressing the boards during a special use permit hearing, speakers must present sufficient evidence related to the findings as outlined in the Zoning Ordinance. All evidence submitted to the boards must be “substantial, competent, and material” to support the conditions required to approve a special use permit. If someone makes a statement used as evidence to establish a fact, the person making the statement must be present at the hearing to testify. As such, letters, emails, or similar information may not be submitted into the record as evidence unless the authors are present at the meeting. Petitions against or in favor of an application are not considered evidence and are not permitted to be submitted into the record.

How long can I speak at the public hearing?

The time limit is typically five minutes per speaker. There is no limit on the number of speakers,

but the boards may request that all speakers present new information rather than repeat information given by others.



What’s the difference between sufficient evidence and opinion evidence?

Only sufficient evidence can be submitted at special use permit hearings. Sufficient evidence is information that is verifiable and from a source that can be considered an expert. For example, evidence presented to support the finding that neighboring property values will not be “substantially injured” must come from a qualified real estate agent or appraiser about the impacts of a similar project elsewhere in town or presentation of facts that would allow a reasonable person to conclude property values would be reduced.

Opinion evidence (unless offered by a properly qualified expert witness) is generally not allowed and cannot be the basis for critical findings. For example, an opinion not backed by fact, or from a qualified source, that a proposal will substantially injure property values does not rise to the level of sufficient evidence and cannot be considered when making decisions.

What can I expect to happen during the public hearing?

Once the public hearing is opened, town staff will review their report of the proposed request. Next, the applicant will address the boards and present evidence in support of the request. At this time, the boards are permitted to question the applicant to clarify the information presented. Once the applicant is finished, citizens are able to present evidence either in support of, or against, the application. Citizens may question, or cross-examine, the applicant and, vice-versa. However, all questions will be directed at the board, who will then relay them to the other party.

Can I contact a board member and discuss the special use permit?

No. Members of the planning board and city council are not allowed to discuss the case or gather evidence outside of the public hearing. Only facts presented to the full boards at the hearing may be considered. Board members are not permitted to discuss the case with applicants, neighbors, or staff outside of the hearing. However, the public may ask staff questions regarding the case.

What are the specified findings required to meet to issue a special use permit?

The following findings of facts must be made in order to issue a special use permit:

- That all applicable regulations of the zoning district in which the use is proposed are complied with.
- That conditions specific to each use, identified by this Ordinance are complied with.
- That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
- That the location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
- That satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and area, screening, utilities, signs and lighting, and open space.

When will the boards vote on the application?

Once the public hearing is closed, the planning board will vote to recommend approval or denial of the application. Once the planning board takes action, the recommendation and application is then forwarded to the City Council for consideration at their next scheduled meeting (usually the second Tuesday of the month). Anyone can attend either of these meetings.

For further questions, contact the Graham Planning Department at 336-570-60705 or visit www.cityofgraham.com