

# APPEAL OF PLANNING DIRECTOR'S INTERPRETATION OF THE UDO PROCESS INFORMATION

Town of Apex, NC

Last updated November 2011



**APPEAL SUBMISSION:** Completed application and fee must be submitted before 5:00 p.m. no later than 30 calendar days after the written decision or interpretation of the Planning Director or other official.

**APPEAL FEE:** \$300.00 or half the original fee paid for a development application.

**STAFF CONTACT:** June Cowles, 249-3331 or [june.cowles@apexnc.org](mailto:june.cowles@apexnc.org)

**MEETING DATE:** Second Tuesday of each month.

**GENERAL INFORMATION:** Applicants are strongly encouraged to set up a meeting with staff prior to submittal. The Board of Adjustment conducts a quasi-judicial public hearing process. Only sworn testimony provided at the public hearing may be considered in their decision-making. The Board of Adjustment members cannot be legally contacted by the applicant or applicant's representative prior to the public hearing (e.g. no ex parte communication).

**PURPOSE OF APPEAL:** Any person aggrieved by any decision or interpretation made by the Planning Director or other officials administering the Unified Development

Ordinance (UDO) may appeal such decision to the Board of Adjustment, which shall review the decision or interpretation pursuant to UDO Section 2.3.12 "Appeals".

## Hard Copy Submittal Requirements: Submit to Planning Department

- Two copies (one with original, notarized signatures) of the Appeal Application.
- Appeal Application Fee
- Agent Authorization Form  
A signed affidavit with a certified list of property owners of the land subject to the appeal application and all property owners within 300 feet of the land subject to the application.
- A plot plan or site plan (if applicable).
- Envelopes addressed to certified list of property owners within 300 feet of subject property
  - Addresses must be from a current list obtained from the Wake County Revenue Department
  - Affixed with first class stamps
  - Affixed with the following return address:  
Town of Apex  
Planning Department  
P.O. Box 250  
Apex, NC 27502

**REVIEW FOR SUFFICIENCY:** Planning staff checks application for sufficiency. Incomplete applications will be returned to the applicant for revision (typically within the week the application is submitted). Sufficiently complete applications are forwarded to the Planning Director..

**PUBLIC HEARING NOTIFICATION:** Notification of the public hearing will take place by three different methods. A written notice prepared by the Planning Department for all property owners of the land subject to the appeal application, and all property owners within 300' feet of the land subject to the application. These notices will be postmarked not more than 25 days nor less than 14 days prior to the Board of Adjustment meeting. Two notices will be published on the Town's website no less than 10 days but not more than 25 days prior to the public hearing. A notice will also be posted at the land subject to the application at least 14 days prior to the public hearing.

**PUBLIC HEARING/BOARD OF ADJUSTMENT:** The Board of Adjustment will consider the application, relevant support materials, Staff Report, and public testimony given at the public hearing. After the public hearing the Board of Adjustment will vote to affirm, affirm with modifications, or reverse the contested decision or interpretation, based on the standards in UDO Section 2.3.12(E), *Standards*. The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination on appeal.

**APPEAL APPLICATION INFORMATION**

Submittal Date \_\_\_\_\_  
Application # \_\_\_\_\_

**Appeal Fee:**

**Lesser of \$300.00 or ½ Original Fee** Form of Payment: Check # \_\_\_\_\_ Cash      Credit Card

**Applicant Information**

Applicant Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**Owner Information**

Owner Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**Property Information:**

Address/Location: \_\_\_\_\_  
Property PIN: \_\_\_\_\_  
Acreage: \_\_\_\_\_ Zoning \_\_\_\_\_  
Town Limits:     Inside corporate limits     In ETJ     Outside corporate limits and ETJ

Other contacts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Complete this page if there are multiple owners.  
The owners of the property aggrieved are:

**1.**

_____	_____	_____
Print owner name(s) above	Print address of property	PIN #
_____	_____	_____
Signature of owner(s)	Date	

**2.**

_____	_____	_____
Print owner name(s)	Print address of property	PIN #
_____	_____	_____
Signature of owner(s)	Date	

**3.**

_____	_____	_____
Print owner name(s)	Print address of property	PIN #
_____	_____	_____
Signature of owner(s)	Date	

**4.**

_____	_____	_____
Print owner name(s)	Print address of property	PIN #
_____	_____	_____
Signature of owner(s)	Date	

**5.**

_____	_____	_____
Print owner name(s)	Print address of property	PIN #
_____	_____	_____
Signature of owner(s)	Date	

**TO THE APEX BOARD OF ADJUSTMENT:**

I, \_\_\_\_\_ hereby request the Apex Board of Adjustment consider my APPEAL from the following decision/interpretation of the Planning Director or other official:

\_\_\_\_\_

This decision/interpretation relates to the following provisions of the Unified Development Ordinance (cite the UDO Section numbers): \_\_\_\_\_

\_\_\_\_\_

I believe the decision/interpretation of the Planning Director or other official is erroneous based on the following facts, materials, and evidence provided in support of my appeal (attach documents as necessary): \_\_\_\_\_

\_\_\_\_\_

The decision/interpretation is adverse to my interests because: \_\_\_\_\_

**STANDARDS BY WHICH THE BOARD OF ADJUSTMENT MAKES ITS DECISION:**

Per Section 2.3.12(E) of the Unified Development Ordinance, a decision/interpretation of the Planning Director or other official under the Unified Development Ordinance shall not be reversed or modified unless there is demonstrated evidence that the interpretation/decision is inconsistent with the intent and standards of the Unified Development Ordinance.

**Petitioner or Designated Representative Certification:**

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

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Date

**AGENT AUTHORIZATION FORM**

\_\_\_\_\_ is the owner of the property for which the attached application is being submitted:

\_\_\_\_\_ Appeal

The property is located at: \_\_\_\_\_

The agent for this appeal is: \_\_\_\_\_

Name: \_\_\_\_\_

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

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Signature(s) of Owner(s)

\_\_\_\_\_

Type or print name

\_\_\_\_\_

Type or print name

**\*Owner of record as shown on the latest equalized assessment rolls of Wake County. (An option to purchase does not constitute ownership). If ownership has been recently transferred, a copy of the deed must accompany this authorization.**

**CERTIFIED LIST OF PROPERTY OWNERS**

The certified list of property owners subject to this application and all property owners within 300' of the subject property. Attach another sheet if necessary.

Owner's Names	PIN#
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____
16. _____	_____
17. _____	_____
18. _____	_____
19. _____	_____
20. _____	_____

I, \_\_\_\_\_, certify that this is an accurate listing of all subject property owners and property owners within 300' of the subject property.

Date: \_\_\_\_\_ By: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

Sworn and subscribed before me, \_\_\_\_\_, a Notary Public for the above State and County, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SEAL

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Print Name

My Commission Expires: \_\_\_\_\_