

ARTICLE 8 MODIFICATIONS FOR SPECIAL STRUCTURES, PLANNED UNIT DEVELOPMENT, AND CLUSTER DEVELOPMENT

Section 8.01 Height Modifications for Special Structures -As stated in Section 2.08 modifications (departures) from the provisions of this ordinance are not generally contemplated or encouraged but nonetheless permitted in circumstances which involve nonconformance (see Article 9), planned unit development (see Section 8.02), cluster development (see Section 8.03), otherwise unusable substandard lots (see Sections 2.08 and 9.05), and where the requirements for the issuance of a variance are met (see Sections 2.08 and 10.04).

In addition, height modifications which should usually not exceed a fifty (50) percent increase from the otherwise applicable height limitations imposed by this ordinance may be allowed by the Planning Board in the construction of either permitted or accessory structures which are by their nature unique or special structures. Requests pursuant to this section of the ordinance to exceed the height limitations in a particular district need not meet the more difficult requirements for the issuances of a variance but must demonstrate that the proposed height is necessary, reasonable, and will not result in harm to adjacent property owners or the public. Whenever possible, the approval of a request to exceed the height limitations in a particular district should be compensated for by increasing the setback requirements from all lot lines by that distance which maintains the original height to setback relationship. As a general rule, the powers conferred by this section should not be used frequently.

Unique or special structures which are covered by this section include but not limited to:

- architectural projections; spires, belfries, cupolas, domes, flues, chimneys, flagpole, etc.
- public and private utility facilities; water tanks and towers, gas or oil storage tanks, telephone and electric transmission lines and towers, radio or television relay towers, antennas, or aerials, civil defense, police or fire warning systems, etc.
- agriculture structures; barns, silos, windmills, well drilling facilities, etc.
- miscellaneous structures and facilities; rest, picnic or playground facilities, monuments, pollution control equipment, observation towers, experimental or scientific equipment, etc.
- essential public or semi-public buildings; municipal buildings, schools, hospitals, churches, etc

Nothing in this section shall be interpreted as allowing a special structures to be located in any district other than one where it is a permitted primary, conditional or accessory structure.

Section 8.02 Planned Unit Development

Subsection 8.02.01 General - Planned unit developments involving residential, commercial, or industrial activities or combinations of the above activities are permitted by this ordinance. All PUD's are conditional uses--as such they are subject to all of the requirements and approval procedures of Article 4 except that the time provisions of section 4.01 are extended to sixty (60) days. The type and location of a PUD is established by Sections 3.04-3.08 of this ordinance. A PUD may not be undertaken on any parcel of land smaller than ten (10) acres in size which parcel must be owned or under the control of a single developer. A PUD may not increase the overall density of development permitted in the particular district in which it is located and at a minimum it must comply with the substantive provisions of Articles 5,6, and 7. However, all layout, dimensional, and area requirements imposed by this ordinance or the town's regulations may be altered without restriction except height limitations. The latter may be increased only in accordance with the provisions of section 8.01 of this ordinance.

Subsection 8.02.02 Purpose and Intent of PUD's - PUD's are intended:

- to promote flexibility in design and to allow the combination and coordination of land uses, architectural styles, and building types in a harmonious and integrated fashion;
- to preserve to the greatest extent possible the existing landscape features and natural amenity of an area;
- to promote the efficient use of land, a reduction in the size of road and utility systems and thus of development costs;
- to provide for more usable land suitable located recreation facilities and other public and common facilities than would otherwise be provided under conventional development procedures;
- to promote experimentation and diversity in development processes

Subsection 8.02.03 Control of Common Space, Open Area, and Common Facilities - Common space, common facilities and open areas whether owned by the public through dedication and acceptance or retained in private ownership (or both) are essential and major elements of a PUD which are related to effect the long-term value of the individual units in the development. The Planning Board in reviewing a PUD may not accept proposed dedications of common space or open area but shall refer such proposals for public ownership along with its recommendations to the Selectmen. Though formal acceptance of land proposed to be dedicated may be deferred until all project approvals have been obtained, the Selectmen within thirty-one (31) days of such a referral must indicate by a binding vote their intent to accept land proposed to be dedicated or their refusal to accept such land.

Common space and open areas and any common facilities located on such which are retained in private ownership must be held in a manner that legally binds the developer or an owner's association to continuously and permanently have responsibility for operating, maintaining, conserving, improving, and generally caring for these common spaces, open areas, and facilities. A legally enforceable technique for financing these responsibilities must also be created and imposed on the developer and/or subsequent owners or lessees of property within a PUD. The rights and duties of all parties (including the Town of Waterboro) to enforce any and all agreements touching upon these matters shall be established by covenants which if a PUD is approved shall be recorded prior to the sale or lease of any property within a PUD.

A separate covenant enforceable by both the Town of Waterboro and subsequent owners or lessees of property within a PUD, which permanently precludes the subsequent development of any and all land which is denoted in a proposed PUD as common space or open area, shall also be recorded prior to the sale or lease of any property within a PUD except that common facilities designed to be located on such lands and contemplated in the original PUD proposal shall be permitted.

Subsection 8.02.04 Review and Approval - The Planning Board in the context of reviewing PUD proposals and in the interests of efficiency shall simultaneously conduct the subdivision review required by state tit. 30 s4956, and locally adopted subdivision regulations. A PUD authorized by this ordinance and capable of being bound by any substantive subdivision regulations intended to be applied to conventional development activities.

The Planning Board shall approve a proposed PUD if it finds that all of the requirements for a conditional use approval (see Article 4, particularly Section 4.02), are met, if all of the substantive requirements set forth in this section are met, if the outlined purposes for which PUD's are created are substantially met, and if the provisions for dealing with common space, common facilities, and open areas are completely adequate, protecting both present and future interests of the town and subsequent owners or lessees of property within a PUD.

The Planning Board is specifically encouraged to utilize the bonding provisions authorized in Section 12.04 of this ordinance to ensure compliance with plans, specifications, and conditions upon which a PUD approval was sought and obtained.

Section 8.03 Cluster Development - The clustering of residential housing units is permitted by this ordinance. Clustered housing developments are a conditional use in all zoning districts (see Sections 3.04-3.08)--as such they are subject to all of the requirements and approval procedures of Article 4 except that the time provisions of Section 4.01 are extended to sixty (60) days. The clustering of housing units may be undertaken on any size parcel of land which is owned or under the control of a single developer. The overall density of housing permitted in a particular district and at a minimum cluster developments must comply with the substantive provisions of Article 5, 6, and 7 and the height limitations imposed in each district. However, all layout, dimensional, and area requirements imposed by this ordinance or the town's subdivision regulations may be altered without restriction.

Cluster developments though usually more limited in scale and scope than PUD's (see Subsection 8.02.02). All of the provisions for the control of common space, open space, and common facilities in PUD's outlined in Subsection 8.02.03 shall apply to common space, open areas, and common facilities created by clustering development. For purposes of this section, wherever the phrase PUD appears in Subsection 8.02.03 the phrase "cluster development" shall be used instead. Finally, the review and approval procedures and standards designed for PUD's and set forth in Subsection 8.02.04 shall also apply to cluster developments. For purposes of this section, wherever the phrase PUD appears in Subsection 8.02.04 the phrase "cluster development" shall be used instead .