

## ARTICLE VIII

### EXCEPTIONS AND MODIFICATIONS

Section 801. Lots of Record. Where the owner of a lot of official record in any residential district at the time of the adoption of this ordinance or his successor in title does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for the district in which such lots are located.

Section 802. Front Yard for Dwellings. The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or in part within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of 10 feet from the street right-of-way, whichever is greater.

#### Section 803. Wireless Communication Facilities

Wireless communication facilities are allowed in all zoning districts as conditional uses. In the R-20, R-20A, RSF-15, RSF-15A, R-8, R-8A, R-8SF, R-MH, CBD and NB zoning districts, stealth or total concealment technology will be required. Concealment shall be the goal of the applicant and stealth or concealment technology may be required in other zones when deemed appropriate by the Planning Board.

803.1 Conditional Use Permit Required. It shall be unlawful for any person to place, construct or modify any wireless communication facility within the jurisdiction of the Town of Granite Falls without first obtaining a Wireless Communication Facility Conditional Use Permit. Permits shall be regulated as follows:

A. Applications for Conditional Use Permits will be classified and processed in one of the following categories depending on the characteristics of the proposed installation:

1. Installations utilizing existing structures

2. Communications towers
  3. Modifications to approved facilities
- B. A Conditional Use Permit shall become null and void if the permitted facility is not constructed and placed in service within one year of the date of the town's approval provided, however, that the permit may be extended one time for six (6) months upon payment of an additional \$250 fee if the Zoning Administrator determines that substantial construction has commenced before expiration of the initial year.
- C. Nonconforming communication towers in existence on the date of enactment of this Section shall be exempt from the Conditional Use Permit requirements. However, any increase in height of such a nonconforming communication tower shall be subject to the provisions of this section.

803.2 Applicant's Certifications. An application for a Conditional Use Permit for a wireless communication facility shall not be deemed complete until the applicant certifies that:

- A. It has not constructed, maintained, operated or modified any wireless communications facility within the Town of Granite Falls' zoning jurisdiction without the approval of the Town of Granite Falls; and
- B. If it has constructed, maintained, operated or modified any wireless communications facility within the Town of Granite Falls' zoning jurisdiction without the approval of the Town of Granite Falls that it has ceased operating and has removed all above-ground portions of such facilities (not including any part of the foundation); and
- C. The proposed wireless communication facility complies with and at all times will be maintained and operated in accordance with, all applicable FCC rules and regulations with respect to environmental effects of electromagnetic emissions; and
- D. Any communication tower to be constructed as part of the proposed wireless communications facility is not required to be lighted or painted by rules and regulations of the Federal Aviation Administration; and
- E. All improvements constructed, as part of the wireless communication facility shall comply with the Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, Uniform Fire Code, and structural standards of the Electronic Industries Association/Communications Industry Association, where applicable.

- 803.3 FCC License Required. The applicant for a wireless communication facility Conditional Use Permit must currently be licensed by the FCC to provide fixed or mobile wireless communication services or, if the applicant is not such an FCC licensee, must demonstrate that it has binding commitments from one or more FCC licensees to utilize the proposed wireless communication facility. An application for a Conditional Use Permit shall not be deemed complete unless it is accompanied by a copy of each applicant's or tenant's FCC license and, if the applicant is not an FCC licensee, the Zoning Administrator shall verify that the applicant holds executed leases from each FCC licensee proposing to locate wireless facilities at the site. If a copy of an FCC license has previously been supplied to the Zoning Administrator in conjunction with an application for a wireless communication facility, the Applicant may certify that such license remains valid in lieu of submitting an additional copy of such license.
- 803.4 Electromagnetic emissions compliance. Wireless communication facilities shall at all times comply with FCC standards for radio frequency emissions.
- 803.5 Liability insurance. Prior to the issuance of a Conditional Use Permit that applicant shall be required to provide certificates of insurance demonstrating it has a minimum of \$1,000,000 in general liability insurance covering any liability arising out of its construction or operation of the wireless communication facility. The applicant shall be required to maintain such coverage in full force and effect until such time as all above ground portions of the facility (not including any part of the foundation) have been removed and all other conditions of its Maintenance/Removal Agreement have been satisfied.
- 803.6 Public property preference. Applicants shall first consider properties owned by the Town of Granite Falls, or instrumentalities thereof, including State and Federal properties, before considering private properties as locations for wireless communication facilities. The Planning Department will provide an inventory of such properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. If suitable public properties cannot be located, justification shall be provided which clearly explains why the properties are not suitable and what alternatives were considered.
- 803.7 Existing Structures. It is the policy of the Town of Granite Falls to encourage use of existing structures and co-location, therefore these locations shall be considered first. In furtherance of these policy objectives, wireless communication facilities which do not require the placement or construction of a communications tower, increases in tower height, or increases by the antenna apparatus of more than twenty (20) feet, and which otherwise meet the requirements of this Section, shall enjoy a streamlined approval process. For purposes of this Section, existing communication towers or alternative structures requiring an increase of more than twenty (20) feet in height to accommodate a wireless communication facility shall be treated the same as applications for a new or additional communication tower.

- A. Approval process. Applications for Conditional Use Permits for wireless communication facilities which do not require a new or additional communications tower, increases in tower height, or increases in height of alternative structures, may be approved by the Site Review Board without a public hearing. Applications shall be in a form and shall contain such information as required by this Section and, in addition, such other information as the Site Review Board shall deem necessary and appropriate. An application shall not be deemed complete until the application fee and maintenance/removal bond have been received by the Town.
- B. Maintenance/Removal Bond. An applicant for a Conditional Use Permit for a wireless communication facility that does not include a new or additional communications tower, or require an increase in tower height or heights of alternative structures, shall be required to post a \$5,000 cash bond to secure the costs of maintaining the exterior appearance of the facility if the wireless provider fails to continually do so, or removing such facility in the event the applicant shall fail to do so within 90 days of abandonment or cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as all above-ground portions of the facility (not including any part of the foundation) have been removed and all other requirements of its Maintenance/Removal Agreement have been satisfied. Private business users operating a single wireless communication facility at their principal place of business and governmental users are exempt from the maintenance/removal bond.

803.8 Maintenance/Removal Agreement. An application for a Conditional Use Permit shall be accompanied by those portions of an executed copy of a lease requiring the applicant to remove all above-ground portions of wireless communication facilities (not including any part of the foundation) no later than ninety (90) days after cessation of operations. In addition, each applicant for a wireless communication facility Conditional Use Permit shall execute a facility maintenance/removal agreement prior to issuance of the Conditional Use Permit. Said agreement shall bind the applicant and the applicant's successors-in-interest to properly maintain the exterior appearance of and ultimately remove the facility in compliance with the provisions of this Section and any conditions of approval. It shall further bind them to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town for all costs incurred to perform any work required of the applicant by the agreement that the applicant fails to perform. Such costs shall include, but not be limited to, administrative and job supervision costs. It shall also specifically authorize the Town and/or its agents to enter onto the property and undertake said work so long as the Zoning Administrator has first provided the applicant the following written notices at the applicant's last known address:

- A. An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least thirty (30) days to complete the work; and
- B. A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the Town's intent to commence the required work within ten (10) days.

803.9 Abandonment and removal. Abandoned or unused wireless communication facilities shall be removed as follows:

- A. All abandoned or unused wireless communication facilities located above ground (not including any part of the foundation) that are not removed within ninety (90) days of the cessation of operations, the facility may be removed as provided in the applicant's Maintenance/Removal Agreement by the Town and the costs of removal recovered from the applicant's bond or other security.

803.10 Nonconforming uses. Any wireless communication facility in existence on the date of enactment of this Section, which does not comply in all respects with these provisions, shall be deemed a nonconforming use. Such pre-existing facilities may not be increased in height without complying with these provisions. In the event such facility shall be destroyed, or suffer damage in excess of 50% of the tax value of the facility's improvements, such facility shall not be repaired or replaced and shall be removed unless any replacement facility complies in all respects with the provisions of this Section. Except in the case of destruction or damage in excess of 50% of the tax value of the facility's improvements, technological upgrades of electronics and antennas are permitted.

803.11 New Towers Including Additions And Increases. In addition to the general requirements set forth above for wireless communication facilities, applications for Conditional Use Permits for wireless communication facilities requiring a new or additional communication tower, increases in tower height, or increases in height of alternative structures, shall comply with the provisions of this Section. Such applications shall be reviewed and processed in accordance with the following provisions:

- A. Approval process. Applications for communication towers, increases in tower height of more than twenty (20) feet, or increases in height of alternative structures, shall be submitted in writing to the Zoning Administrator and shall contain all information required by this Section as well as any additional information the Zoning Administrator deems necessary and appropriate. A quasi-judicial public hearing shall be required before the Board of Commissioners before any decision to grant or deny an application. Public notice of the application and hearing shall

be in accordance with the notice provisions set forth below. A hearing before the Town of Granite Falls Planning Board will be held first to receive public input and recommendations.

- B. Application fee. Applications shall require payment of a nonrefundable \$2500 fee. This fee may be reduced to \$1000 when applicant is utilizing existing publicly owned structures such as water tanks, school stadium lights and flag poles or is locating within areas which are not zoned residential.
- C. Maintenance and removal bond payable to the Town of Granite Falls. An applicant for a Conditional Use Permit for a wireless communication facility that includes a new or additional communication tower, increases in tower height, or for increases in height of alternative structures, shall be required to post a \$10,000 cash bond, or other security satisfactory to the Town, to secure costs of removing all above ground portions of a wireless communication facility (not including any part of the foundation) in the event the applicant shall fail to do so within ninety (90) days of cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its Maintenance/Removal Agreement have been satisfied. Private business users operating a single wireless communication facility at their principal place of business and governmental users are exempt from the bond requirement.
- D. Public Notice. Notice of an application for a proposed communication tower shall comply with the provisions of N.C.G.S. 153A-323 and 153A-343 as amended.
- E. Notice to adjacent property owners.
- F. Posted notice. A sign advertising the application for a proposed communication tower, and any scheduled public hearings, shall be posted by the Zoning Administrator in a prominent location on or near the parcel containing the proposed communication tower, or on a nearby public road. Such signs shall be posted at least ten (10) days prior to any public hearings.

803.12 Applicant's Burden. The applicant for a communications tower shall bear the burden of demonstrating by substantial evidence that a bona fide need exists for the proposed communication tower and that no reasonable combination of locations, techniques or technologies will obviate the need for, or mitigate the height or visual impact of, the proposed communications tower.

803.13 Electric transmission towers. It is the policy of the Town of Granite Falls to encourage the use of electric transmission towers to deploy wireless infrastructure. In furtherance of that policy objective:

- A. No communications tower shall be approved if an electric transmission tower is located within a one quarter mile radius (1320) feet laterally of the proposed communications tower site and if road access and necessary utilities can be obtained within a one quarter mile radius (1320) feet of the existing electric transmission tower, unless the applicant can demonstrate that sufficient easements or other interests in real property cannot be obtained to accommodate the wireless communication facility, or that the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities, or if the planned equipment would exceed the structural capacity of the existing electrical transmission tower.
- B. Electric transmission towers less than one hundred (100) feet in height may be replaced by pressure-treated wooden or metal electric transmission towers up to one hundred (100) feet in height. Such replacement shall be at the discretion of the electric utility which owns or operates the electric transmission tower, taking into account safety, service disruptions, structural capacity and structure life or duty cycle. For purposes of this Section, such replacement electric transmission tower shall be deemed to be an existing structure.

803.14 Presumption favoring existing structures. A proposal for a new or additional communication tower shall not be approved unless the Town Council finds that the equipment planned for the proposed communication tower cannot be accommodated on existing or approved towers, buildings or alternative structures more than thirty (30) feet in height (after first considering electric transmission towers) within a one quarter mile search radius (1320 feet) of the proposed communication tower site due to one or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented at a reasonable cost.
- C. Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned

equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.

- D. Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing or approved tower, building or other structure.

803.15 Tower Height Limitations. The height of any communication tower shall be limited in accordance with the following provisions:

- A. Protected mountain ridges:
  - 1. Where the tower site is surrounded by a dense mature vegetative canopy within 100 feet of the tower site, the tower shall not extend more than thirty (30) feet higher than the average height of the mature vegetative canopy found within 500 feet of the site.
  - 2. Where no vegetative canopy exists within 100 feet of the tower site, the maximum tower height shall be 60 feet.
- B. Towers not on a protected mountain ridge.
  - 1. Shall not exceed 110 feet.
  - 2. However, where the tower site is surrounded by a dense vegetative canopy within 100 feet of the tower site, the tower may extend thirty (30) feet higher than the average height of the mature vegetative canopy found within 500 feet of the site.

803.16 Tower Spacing. Communication towers shall be located at least 2 miles from other communication towers and no closer than a quarter mile to the perimeter line of an R-20 Zone based upon a survey of surrounding sites using GPS or other methods provided by the applicant. Closer spacing may be recommended/approved by the Board of Adjustment when the applicant can prove the need as set forth in Section 803.18(A)(1-4).

803.17 Reserved.

803.18 Co-location Requirements. To minimize cumulative visual impacts, it is the policy of the Town of Granite Falls to encourage co-location of new wireless communication facilities with existing and planned facilities whenever feasible and aesthetically desirable. All wireless communication towers erected, constructed, or located within the Town of Granite Falls shall comply with the following co-location requirements.

- A. A proposal for a new commercial wireless communication tower shall not

be approved unless the Town Council find that the communications equipment planned for the proposed tower cannot be accommodated on existing or approved towers or alternative structures more than thirty (30) feet in height within one-quarter mile search radius of the proposed location due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved towers, buildings or other structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
  2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed North Carolina professional engineer and the interference cannot be prevented at a reasonable cost;
  3. Existing or approved towers, buildings or other structures within the search radius, or combination thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer, or;
  4. Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing or approved tower, building or other structure.
- B. Except in the case of a communications tower on a protected mountain ridge, any proposed wireless communication tower over sixty (60) feet in height shall be designed structurally, electrically, mechanically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least one additional user. In the case of wireless communication facilities placed on an electric transmission tower, co-location may not be required if the electric utility owning the tower determines that for structural, safety and operational reasons the tower cannot accommodate additional users. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- C. Antennas or antenna arrays employed as part of a wireless communication facility operated by a private business user, governmental user or commercial wireless service provider may not be co-located on a tower or other support structure used by an amateur radio operator.

803.19 Tower and Antenna Design & Appearance Requirements. No Conditional Use Permit shall be approved for a communication tower, increase in tower height, or increase in height of an alternative structure, unless the Town Council finds that the design standards of this section have been met. Proposed or modified towers and antennas shall meet the following design requirements:

- A. Towers and antennas may be required to blend into the surrounding environment. Stealth or concealment technology may be required in areas deemed appropriate.
- B. Guyed towers are prohibited. Commercial wireless communication towers shall be of a monopole design unless Town Council determines that an alternative design would better blend into the surrounding environment.
- C. Use of polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated) and dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna) is encouraged.
- D. Antennas shall be mounted on communication towers so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
  - 1. Compact polarized antennas in a cylindrical unicell arrangement less than 22 inches in diameter mounted atop the tower;
  - 2. Panel antennas flush-mounted against the tower;
  - 3. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
- E. No communication tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, triangular framework, climbing devices (within the first 20 feet), or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically inter-connected with any similar arm or bracket.
- F. All equipment enclosures and other improvements accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed ten (10) feet in height. Ground mounted

equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

- G. To the greatest extent possible, wireless communication facilities shall be designed to survive a natural disaster and wind shear without interruption in operation.
- H. Communication towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The fence may be topped with barbed wire. It is required as a condition of approval that the fencing be screened by appropriate landscaping or other means.

803.20 Fall zones, setbacks and buffers. Communication towers shall conform with each of the following minimum setback requirements:

- A. A fall zone clear of any dwellings on the parcel containing the communication tower (other than equipment enclosures associated with the wireless communication facility) equal to one-half the height of the tower shall be required. Non-residential zones will have a zero fall zone. The minimum setback measured from the property line shall be equal to 100% of the communication tower height.
- B. Buffer. A buffer of a 100-foot radius consisting of the mature trees that comprised the vegetative canopy shall be maintained. In residentially zoned areas where no vegetative canopy exists, a buffer of evergreen trees of a minimum of four (4) feet in height shall be provided and maintained and shall be part of the site development plan.
- C. A communication tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Town Council, to allow the integration of a communication device into an existing or proposed structure such as a church steeple, lighting structures, electric transmission tower, or similar structure.

803.21 Tower Lighting.

- A. No communication tower shall be of a type or height, or placed in a location that the Federal Aviation Administration would require the communication tower to be lighted or painted.
- B. Communication towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lighting unless, in a particular instance, the Town Council requires a communication tower to be lit. The applicant shall be required to certify that the proposed

communication tower is not required to be painted or illuminated by any FAA rule or regulation.

- C. When incorporated into the approved design of a tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the communication tower.
- D. A wireless communication facility may utilize a security light controlled by a motion-detection sensor at or near the entrance to the facility.

803.22 Site Development Plans. A site development plan shall be prepared by a North Carolina registered land surveyor, landscape architect or professional engineer and shall contain the following information:

- A. Provide a tree survey to determine density and average mature vegetative canopy height within a 500-foot radius.
- B. The name, address and telephone number of the applicant and the property owner, tax parcel identification number, scale, north arrow, a copy of the section of the 1:24,000 USGS quadrangle showing the proposed site and latitude and longitude coordinates.
- C. The name, address and telephone number, signature and seal of the professional preparing the site development plan.
- D. All identifiable structures located on the parcel, all private and public roads, highways and underground and overhead utilities.
- E. Surveyed boundary lines of the parcel containing the proposed communication tower construction and its fall zone.
- F. All existing communication towers on the property or any communication tower whose fall zone encroaches onto the property.
- G. Description of adjacent land use and all property owner names, tax parcel numbers and mailing addresses.
- H. The ground elevation of the proposed communication tower's base, all proposed support structures, property corners, and permanent site benchmark.
- I. Site development plan shall be recorded and not subject to subdivision regulations.

Section 804. Planned Development. The purpose of a Planned Development (PD) is to allow diversification in the relationship of residential, office, commercial and/or industrial uses and structures to their sites and to permit a more flexible development of such sites through site specific, unified planning. The application of PD concepts is intended to encourage innovative architectural and site design, efficient use of public facilities and protection of environmentally sensitive areas while ensuring substantial compliance with the intent of the Town of Granite Falls Zoning Ordinance and other provisions related to public health, safety and general welfare. Furthermore it is the purpose of this section to:

- a. Encourage development that enhances the quality of life while protecting the health, safety and general welfare of residents;
- b. Encourage variety in housing opportunities;
- c. Encourage the development of a viable economic base;
- d. Encourage the development of land uses that will complement existing land uses;
- e. Provide guidelines for development of Planned Developments.

In return for greater flexibility in site design requirements, Planned Developments are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above average open space amenities, incorporate creative design in the layout of buildings, open space and circulation, assure compatibility with surrounding land uses and neighborhood character, and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The PD option shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

This form of development may be approved in the districts that allow it as a conditional use, provided:

- 804.1 The design and layout of a PD shall take into account the relationship of the site to the surrounding areas. Additionally, the perimeter of the PD shall be so designed as to minimize any negative impacts on adjacent properties.
- 804.2 Planned Developments may be approved for any use or combination of uses except combinations of residential and industrial uses.
- 804.3 The minimum site area required for planned unit developments shall be determined based upon its use. The following table outlines the area requirements for each type of PD.

PD Type	Minimum Area
Single Family Residential	Two (2) Acres
Multi Family Residential	Three (3) Acres
Single/Multi Family Mixed Residential	Three (3) Acres
Office and/or Commercial	Three (3) Acres
Office/Commercial/Residential Mixed Use	Three (3) Acres
Industrial	Ten (10) Acres
Industrial/Office/Commercial Mixed Use	Ten (10) Acres

804.4 The total parcel of land is under single ownership or control and there is reasonable assurance that the project can be successfully completed and maintained, including care and maintenance of all common open space, recreation space, and other common land area.

804.5 Development of a PD may be phased, in which case all the property anticipated for PD development shall be submitted as part of the PD development plan showing a conceptual depiction of the eventual development through all phases. If phasing is proposed a phasing schedule shall be provided and approved by the Board of Adjustment. This schedule shall be adhered to unless otherwise authorized by the Board of Adjustment. During the phased development of a PD an equal proportion of the overall open space required shall be dedicated and installed or improved by the end of construction of each phase.

804.6 Plats for PDs may be processed concurrently with the PD approval procedures.

804.7 Design Standards and Requirements

- a. If land or structures within a proposed PD are to be sold to more than one person, partnership, firm or corporation, or are to include the dedication of land, then the proposed PD shall be subject to the Town of Granite Falls Subdivision Ordinance.
- b. The Town's right-of-way requirements and street improvement standards, as described in the Town of Granite Falls Subdivision Ordinance, may be waived or modified within a PD.
- c. A PD shall be exempt from the minimum lot size, building height, setback and density requirements of the underlying zoning district, but shall be subject to all other applicable requirements.
- d. The basic density of a PD shall be established on the approved development plan.
- e. The PD shall provide not less than twenty percent (20%) of the gross land area for common open space, or ten percent (10%) exclusive of dedicated rights-

of-way. In residential or residential mixed use PDs required open space may not be part of any proposed or platted single-family residential lots. Required open space may be reduced if safe, convenient access is available to public recreation facilities.

- f. A distance between all structures shall at a minimum comply with any applicable Local, State and/or Federal Standards.
  - g. Off Street parking shall be provided at a ratio of two spaces per dwelling.
  - h. All principal buildings and accessory buildings or uses abutting the property lines of the project must meet the minimum yard requirements and height requirements of the district where the project is located for all yards abutting said property lines.
- 804.8 Procedure for Approval of Planned Developments. Planned Developments shall be approved as Conditional Uses by the Town of Granite Falls Board of Adjustment upon recommendation of the Granite Falls Planning Board and shall be in accordance with the following procedures:
- a. Who May Apply: Any owner, group of owners, or representative of such owners of contiguous property acting jointly may submit an application for a PD.
  - b. Pre-Application Conference: Prior to acceptance of an application for PD approval a pre-application conference between representatives of the Town and the potential applicant is required.
  - c. Application: The applicant(s) shall file an application for a PD approval as Conditional Use Permit. The application shall be accompanied by the following:
    - 1. The application fee as set forth by the Granite Falls Town Council;
    - 2. A vicinity map;
    - 3. Sufficient copies of maps and plans, as determined by the Town Planning Staff, comprising the PD Development Plan.
  - d. PD Development Plan: The PD Development Plan shall indicate or include the following:
    - 1. Written documentation of the following:

- a. Statement of intent, including plans for selling or leasing/renting the property;
  - b. A timetable of development, including a phasing schedule if project will be developed in phases;
  - c. Provision to ensure maintenance of all common areas and open space.
2. Relationship of the property to surrounding areas including identification of adjacent property owners, existing land uses and zoning of both the proposed PD site and adjacent properties.
3. Names, right-of-way widths and pavement dimensions of all streets bounding, traversing or touching upon the proposed site.
4. Location and layout of the proposed landscape design of all common yards, open space and recreational areas.
5. Location and layout of proposed street lighting and street signs.
6. Location and dimensions of all proposed signage.
7. Existing topographical conditions and location of significant geographical features including watercourses. Floodplain and Water Supply Watershed designation should also be included.
8. Location of drainage facilities/basins and other features both existing and proposed.
9. A boundary survey of the entire property.
10. Location, size and height of all structures indicating either the dimensions or the limits within which structures will be constructed.
11. A calculation (%) of all impervious (built upon area) including building footprints, streets, driveways and other impervious surfaces to ensure compliance with the Water Supply Watershed Protection Ordinance.

12. Preliminary subdivision plat if the property is to be subdivided.
  13. Location, arrangement and design of parking facilities and loading areas.
  14. Architectural plans and elevations of typical structures.
- e. Planning Board Consideration: Following consideration the Planning Board shall within sixty (60) days from original receipt of the application recommend to the Board of Adjustment approval or denial of the application and accompanying PD plans or may recommend conditional approval with such conditions as are necessary to ensure conformity to all applicable requirements. If conditions are placed on the approval of the PD a revised plan including the required changes must be submitted to the Board of Adjustment. A PD may be recommended for approval only when it has been determined that:
1. The PD will be compatible with nearby developments and land uses;
  2. Peripheral treatment ensures proper transition between PD uses and nearby developments and land uses;
  3. The development will be consistent with the comprehensive plan and the purposes of the PD section;
  4. The health, safety and welfare of the public have been preserved.
- f. Board of Adjustment Consideration: After receiving Planning Board approval, the applicant shall submit to the Board of Adjustment an adequate number of copies of a detailed Final Development Plan in conformity with the requirements of this ordinance and with any additional requirements specified by the Planning Board. Upon receiving recommendation of approval from the Planning Board the Board of Adjustment, following a public hearing, shall consider the PD request and shall approve, conditionally approve or disapprove the PD request with a period of sixty (60) days, unless an extension is requested by the applicant. If the PD is approved conditionally by the Board of Adjustment the applicant must provide a revised plan including the required changes to the Town Planning Department.
- g. Expiration and Time Limitations: Construction of improvements in a PD shall begin within one (1) year from the date of approval by the Board of Adjustment. An extension of one (1) year for construction to begin may be granted by the Board of Adjustment upon written request by the applicant. If

construction has not commenced within this time frame the PD approval shall be considered null and void. Once construction has commenced the applicant shall have one (1) year in which to complete the required infrastructure, if a phasing schedule was not approved with the PD Development Plan.

- h. Changes and Modifications: The Town Planning Department may approve changes in the development which are minor in nature and are consistent with the approved PD Development Plan. Major changes to the approved PD Development Plan shall be considered as a new application for approval. Major changes include:

1. Change in use;
2. Major realignment of vehicular circulation patterns;
3. Increase in density or relocation of density pattern;
4. Reduction of open space;
5. Change in exterior boundaries except survey adjustments;
6. Increase in number of structures;
7. Increase in structure height.

- i. Zoning Permits and Building Permits: No Zoning or Building Permit shall be issued for the PD or phase, if a phasing schedule was approved, until the required physical infrastructure (streets, sidewalks, water and sewer lines, etc.) has been properly installed and inspected. The applicant/developer shall provide to the Town of Granite Falls Planning Department a construction and inspection report certified by a professional engineer licensed in the State of North Carolina which verifies that the physical infrastructure has been properly installed and inspected. Additionally, the construction and development of all common areas and open space of each PD or phase, if a phasing schedule was approved, shall be completed to coincide with the completion of structures. For example, when twenty-five percent (25%) of the structures are completed, twenty-five percent (25%) of the common areas and open space shall be required to be completed. Furthermore, a Certificate of Occupancy (CO) shall not be issued until and unless such common areas and open space have been completed.

Section 805. Special Use Permit. A permit issued by the Town Council after said Board has held a public hearing. Special Use Permits may be issued within any of the use districts outlined in this Ordinance. For example within an R-20A District an NB-SU permit may be issued for a site-specific development proposal for any use permitted by right within the NB District. The development proposal authorized by a Special Use Permit shall comply with all provisions of the corresponding district. Additional conditions may be attached to any Special Use Permit. Non-compliance with approved conditions would constitute a revocation of the Special Use Permit.

Section 805.1 Purpose of Special Use Permits.

The permitting process allows particular uses to be established, but only in accordance with a specific development project. Uses authorized by special use permits shall be permitted uses in one of the established districts created by this Ordinance. The special use permit approval process is established to address those situations when a particular use may be acceptable in the Town as a whole, but the existing underlying zoning district does not permit for the establishment of such use. No special use permit shall be issued until the owner(s) of the property in question (or his/her authorized agent) requesting the permit has submitted an application for the issuance of a special use permit and the Granite Falls Town Council has approved such application in accordance with the procedures stated herein.

Section 805.2 Plans and Other Information to Accompany Petition.

Every application for a special use permit shall be submitted with a scale drawn site plan and any necessary supporting text shall include the following information:

- A. A boundary survey and vicinity map showing the property's total acreage, zoning classification(s), Watershed designation, general location in relation to major streets, railroads, and/or waterways, date, and north arrow.
- B. All existing easements, reservations, and rights-of-way;
- C. Proposed number and location of all structures, their approximate area, and their approximate exterior dimensions (site plan);
- D. A description of all screening and landscaping required by these regulations and/or proposed by the applicant.
- E. All existing and proposed points of access to public streets;
- F. The owner's names and addresses, property identification numbers and existing land use(s) of all adjoining properties.
- G. Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets
- H. Town Staff submittals shall be exempted from the preceding requirements.

Section 805.3 Additional Information. In the course of evaluating the proposed use, the

Planning Board or Town Council may request additional information from the applicant. A request for such additional information shall stay any further consideration of the application by the Planning Board or Town Council. This information may include (but not be limited to) the following:

1. Storm water drainage plan;

2. Existing and proposed topography at five-foot contour intervals or less;
3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
4. Proposed number, type, and location of signs;
5. A traffic study of the proposed development prepared by a qualified transportation or traffic engineer or planner. The traffic impact study shall include the following information:
  - A. Existing traffic conditions within the study area boundary;
  - B. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak, and average annual traffic levels.
  - C. The distribution of existing and proposed trips through the street network;
  - D. Analysis of the capacities of intersections located within the study area;
  - F. Recommendations for improvements designed to mitigate traffic impacts and to enhance pedestrian access to the development from the public right-of-way; and
  - G. Other pertinent information including, but not limited to, accidents, noise, and impacts on air quality and other natural resources.

805.4 Fees.

No application shall be considered complete unless it contains or is accompanied by all items listed in Section 805.2 and any required items under Section 805.3 and all applicable fee(s) for the submittal of a Special Use Permit application.

Section 805.5 Planning Board Review.

The Planning Board shall have a maximum of forty-five (45) days from the date at which it initially met to review the application to submit its recommendation to the Town Council. If a recommendation is not made during said forty-five (45) day period, the application shall be forwarded to the Town Council.

Section 805.6 Town Council Action.

Once a recommendation has been received from the Planning Board, or the forty-five (45) day Planning Board review period has expired, the Town Council shall schedule a public hearing concerning the application.

Section 805.7 Town Council Decision.

The Town Council may issue the special use permit only after having evaluated an application and having determined that:

- A. The proposed development will not materially endanger the public health or safety if located where proposed and developed according to plan; and
- B. The proposed development meets all required conditions and specifications; and

- C. The proposed development will not substantially injure the value of the adjoining or abutting property unless it is a public necessity; and
- 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 will be in general conformity with the Town of Granite Falls Land Development Plan.

The applicant has the burden of producing competent material and substantial evidence tending to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions listed in this Ordinance, the burden of proof for overcoming such evidence shall rest with the applicant.

In approving a petition for a Special Use Permit, the Town Council may attach fair and reasonable conditions. Any such conditions shall relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and landscaping areas, the timing of development, street and right-of-way improvements, water and sewer improvements; storm water drainage, the provision of open space, and other matters that the Town Council may find appropriate or the applicant may propose. Such conditions to approval of the Special Use Permit may include dedication of rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council.

#### Section 805.8 Effect of Approval.

If an application for a Special Use Permit is approved under this process, the approved Special Use Permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to these regulations. All subsequent development and use of the property shall be in accordance with the standards for the approved Special Use Permit, and all conditions attached to the approval. Following the approval of the application for a Special Use Permit, the subject property shall be identified on the Zoning Map by the appropriate symbol which recognizes that a Special Use Permit has been issued for the subject property.

#### Section 805.9 Alterations to Approval.

Changes to the approved application or to the conditions attached to the approval shall follow the same procedures as initial approval of the Special Use Permit. Any Special Use Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town Council. However, minor changes in the detail of the approved plan which (1) will not alter the basic relationship of the proposed development to adjacent property, and (2) will not alter the uses permitted or increase the density or

intensity of development, and (3) will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site may be made with the approval of the Town Planner on a one time basis only. Such increase in building size may thereby take place provided the increase does not exceed 10% of the existing floor area on the site or 1,000 square feet of gross floor area on the entire site, whichever is less; and provided such building, when expanded, shall lie no closer than fifty (50) feet from any adjoining lot which lies in a residential district.

Section 805.10 Revocation of Approval of Special Use Permit.

It is intended that a Special Use Permit be issued only in light of firm plans to develop the property. Therefore, after the date of approval of the Special Use Permit, the Town Planner shall periodically examine the progress made toward developing the property in accordance with the approved application and any conditions attached to the approval. If the Town Planner determines that a building permit has not been secured within one (1) year (unless a greater time period was listed as one of the conditions contained in the Town Council's approval) following the date of the approval of the Special Use Permit or that a building permit has been secured but has since lapsed, the Town Planner shall notify the applicant of such a finding, and within sixty (60) days of said notification, the Planning Board shall make a recommendation to the Town Council. The Town Council, after having conducted a public hearing, may vote to extend the life of the Special Use Permit or to rescind it.

*(Pages 123 Through 130 Are Reserved For Future Use)*