

SECTION 10

CLUSTER DEVELOPMENT

10.1 Purpose

The purpose of cluster development is to provide for residential development which:

1. Results in the permanent preservation of open space which is of use and value to the City and which would not normally be preserved under development undertaken according to other sections of the ordinance.
2. Encourages creative site planning which is sensitive to the natural characteristics of the land.
3. Provides for economical development, efficient provision of public services and minimizes road and driveway construction and paving.
4. Promotes aesthetics and other amenities.
5. Uses less land per dwelling unit than permitted under normal zoning requirements.

10.2 Procedures

1. Any person who submits to the Planning Board, for approval under the Subdivision Control Law, a plan of land in one or more residential districts, may make application to the City Council for a special permit excepting the building lots for dwelling units shown on such plan in said districts from specific dimensional requirements of the zoning ordinance as specified hereunder, but not any other requirements of the zoning ordinance.
2. The applicant shall simultaneously file the application for special permit described above, with the Preliminary Subdivision Plan as described in the Subdivision Rules and in accordance with G.L., Chapter 41, Section 81-S, or, at the applicant's option, the application may be filed with the definitive plan as described in the Subdivision Rules and Regulations.
3. The application for special permit shall be filed as specified in Section 11 of this ordinance. The procedures for special permit granting authority review, review by other boards, hearings and findings in that section will apply.
4. Relating to the subdivision control law, City Council approval of a special permit shall not substitute for compliance with the subdivision control law, nor oblige the Planning

Board to approve any related definitive plan for subdivision, nor reduce any time periods for Board consideration under the law.

10.3 Content of the Application

In addition to the requirements for a special permit application contained in Section 11 of this ordinance, the application for a permit for cluster development shall include narrative descriptions as follows, and plans prepared in accordance with the subdivision rules and regulations of the City of Woburn, containing:

1. The size of the tract-in acres.
2. The number of the proposed dwelling units and the net living area of each in square feet.
3. The proposed location and height of all proposed structures.
4. Topographic plan, including a clear and accurate disclosure of the grades of the existing terrain. Large trees, ledge outcrops, natural water courses, and existing buildings together with fences and walls, shall be shown. Approximate proposed grades shall also be shown.
5. The acreage of the proposed permanent open space and location and acreage of any wetlands on the tract as defined by M.G.L., Chapter 131, Section 40.
6. A description of the intended uses of the proposed open space, and an evaluation of its value to the City with respect to natural resource preservation, environmental protection, and accessibility by residents of the City or of the proposed development.
7. A description of the proposed ownership and maintenance of the proposed open space.
8. A description of all dwelling units on properties abutting the tract.
9. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.

10.4 General Requirements

1. The minimum acreage of a cluster development shall be 5 acres.
1. Except when utilizing the provisions of Section 10.4.3 below, the number of dwelling units in the cluster development shall be equal to the number of building lots which the Planning Board finds, in its review of the proposed subdivision of the tract under its

Subdivision Rules and Regulations, would be permitted by normal zoning requirements in the district. Wetlands, water bodies, and land prohibited from development by reason of legally enforceable restrictions, easements or covenants shall be excluded from the calculation of permissible building lots.

3. The applicant may apply for inclusion of additional units in the cluster development, not to exceed an increase of fifteen (15) percent over the number of units established under Section 10.4.2, when an amenity such as the following is offered to the community: public access to open land for passive recreation; granting of land to City of Woburn for conservation purposes; public availability of recreational and/or daycare facilities; a matching of extra market rate units with an equal number of units to be available at construction cost to the City of Woburn Housing Authority; variation of cost or size of dwelling to permit purchase by broader market; planning to include units especially suited to elders, etc.

Approval for the additional units shall be based upon the conditions set forth in Section 10.6.8.

4. In parcels located partly in more than one district, no more than the total number of lots which would be permitted by normal zoning requirements in the combined districts and complying with Subdivision Rules and Regulations shall be permitted.
5. The frontage of each lot on a street within the cluster development shall not be less than 30 feet.
6. Any lot with frontage on a street not within the cluster development shall meet the frontage requirement of the district in which the lot is located.
7. No dwelling shall exceed two and one half stories nor be greater than thirty-five feet in height.
8. No dwelling shall be located less than twenty-five feet from a boundary of the cluster development.
9. Each unit shall have separate entries and off street parking or garage.
10. Minimum lot size shall be 10,000 (ten thousand) square feet. (added 06/21/88) .

10.5 Requirements for Open Space

1. All land shown on a plan for which a special permit is granted under this section which is not included in building lots, streets or easements shall be established by conservation restriction or conservation easement as open space for conservation

and/or recreation purposes, or by conveyance to the City of Woburn for conservation purposes.

2. The total area of the open space parcel(s) shall comprise at least 30% of the total area of the tract.
3. At least eighty (80%) percent of the open space shall be preserved by easement or restriction for conservation purposes only.
4. Construction and use of vegetable gardens or floral gardens on not more than twenty percent (20%) of the total open space land shall be permitted.
5. Each dwelling in the tract shall have direct access to one or more portions of the open space, unless the Special Permit Granting Authority finds that, due to topography or other conditions, this requirement can be modified, and further finds that the lack of direct access will be offset by other mitigating-factors.
6. All land areas used to meet the open space requirement shall be so configured as to accommodate within a circle having a diameter of not less than seventy-five (75) feet.
7. The open space land area required shall be contained in no more than two (2) non-contiguous parcels or, if more than two (2) parcels are to be utilized for this requirement, no parcel shall contain less than fifteen thousand square feet (15,000 sq. ft.)
8. The open land, and such other facilities as may be held in common shall be conveyed, as determined by the Special Permit Granting Authority, subject to the following guidelines:

In general, valuable natural resource land such as wetlands not suitable for any public use, or suitable for extensive public recreational use, should be conveyed to the City or to a trust; whereas land which will be principally used by the residents of the cluster should be conveyed to a homes association. Conveyance shall be to one of the following:

1. To a corporation or trust comprising a home owner's association whose membership includes the owners of all lots or units contained in the tract. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and shall grant a conservation restriction to the City of Woburn over such land pursuant to M.G.L. Chapter 184, s. 31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the City through its Conservation Commission in any proceeding authorized by s.33 of Ch. 184 of M.G.L. In addition, the be responsible for the maintenance of the

common land and any other facilities to be held in common until such time as the homes association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Middlesex County Registry of Deeds, a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

- I) Mandatory membership in an established homes association, as a requirement of ownership of any lot in the tract;
- II) Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association or the owner of any lot;
- III) Provision which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the open land will not terminate by operation of law.

2. The conservation restriction or easement shall be granted to a nonprofit organization, the principal purpose of which is the conservation of open space, and to the Conservation Commission for park or open space use, with a trust clause insuring that it be maintained as open space. Both the non-profit organization and the Conservation Commission shall, under the terms of the restriction or easement, have concurrent powers of enforcement.

9. Some interim protection of open land must be provided by recorded covenant of the landowner, where a large cluster will be developed in phases.

10. The covenant must be submitted to the Special Permit Granting Authority for review and approval prior to recording.

10.6 Conditions

No special permit for a cluster development shall be issued unless the requirements enumerated in this section, and other sections of this ordinance, are met, and the special permit granting authority finds:

1. Preservation of the open space will be beneficial to the City and/or the residents of the tract, by virtue of the creation of usable open space for passive recreation, preservation of scenic areas or views, preservation of natural resources, contribution to a network of open space as part of an overall City Conservation Plan, or other.

2. The cluster development will result in a development superior to the proposed conventional subdivision of the tract, from the standpoint of location of units, topography of the site, efficient provision of public services, and reduction in the amount of roadway and driveway construction.
3. The cluster development will have no more adverse impact on nearby developed neighborhoods, by virtue of increased traffic, impairment of privacy and views, than would conventional subdivision of the tract.
4. The cluster development will have no adverse impact on the quality or supply of groundwater.
5. Proper arrangements have been made for access to the open space by residents of the tract, emergency vehicles of the City, and, if the open space is to be held by the City, by the public.
6. The conservation easement or conservation restriction shall be acceptable as to both content and form. At the minimum, the instrument must comply with the provision of M.G.L. Ch. 184, Sect. 31-33, or Internal Revenue Code Section 170 (h) as may be amended.
7. Suitable arrangements for management and maintenance of the open space have been made.
8. Where application has been made for the inclusion of additional units in exchange for provision of an amenity as provided in Section 10.4.3, the amenity to be provided is sufficiently beneficial to the City of Woburn, and the additional units are appropriate to the neighborhood.
