

H. Cluster Housing

In order to permit maximum flexibility for developing land for single family housing, and to encourage the preservation of open space and promote the more efficient use of the land in harmony with its natural features, tracts of land consisting of eight (8) acres or more in the following districts; R 80, R 40 and RR 40, shall be made available for cluster housing subject to the requirements of this Section.

To afford the Town of Mattapoisett ample assurance that such developments will enhance the amenities of the neighborhoods in which they occur, and the Town as a whole, Cluster Housing may be constructed by filing a cluster subdivision plan under the subdivision control law, M.G.L., Ch. 41, Sec. 81k-81GG with the Planning Board as hereinafter defined.

1. Statement of Purpose

Cluster residential housing shall be designed to achieve the following goals:

- a. To encourage the more efficient use of land in harmony with its natural features;
- b. To encourage creativity in the design of developments through a carefully controlled process;
- c. To encourage a less sprawling form of development, a shorter network of streets and utilities, more economical development of land with less consumption of open space;
- d. To preserve permanently, natural topography and wooded areas within developed areas, and to preserve usable open space and recreation facilities close to home;
- e. To provide an efficient procedure to ensure appropriate high quality design and site planning to enhance the neighborhoods in which they occur and the Town as a whole;
- f. To promote diverse housing at a variety of costs, and in particular housing types that meets the needs of the Town's aging population.
- g. To support alternative residential development that has a positive impact on the community and incorporates unique public benefits.

h. To ensure that alternative residential development is compatible with surrounding land uses and that the impacts on public services will not exceed conventional residential development.

2. Filing of Application

Each application for a cluster subdivision shall be filed with the Planning Board in accordance with the provisions of Section VII.B.2, with a copy filed forthwith with the Town Clerk. The application for a cluster subdivision shall be accompanied by a preliminary plan showing the dimensions and area of lots as they might be established under conventional zoning. Submissions shall be governed by the Planning Board's Rules and Regulations for the Subdivision of Land, by the zoning requirements for cluster subdivision contained in this by-law and by such other regulations governing cluster development as may be adopted and amended from time to time.

A pre-application meeting with the Planning Board prior to formal submission of the application is recommended.

3. Contents of Applications

Said application and plan shall be prepared in accordance with the of the Rules and Regulations of the Planning Board Governing the Subdivision of Land and shall include:

- a. The number of dwellings which could be constructed under this By-Law by means of a conventional subdivision plan, considering the whole tract, exclusive of waterbodies and land prohibited from development by legally enforceable restrictions, easements, or covenants and excluding areas not suitable for development such as wetlands or steep slopes.
- b. An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100 year flood plain or velocity zone, trees over eight (8) inches diameter and such other natural features as the Planning Board may request.
- c. 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.
- d. Evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value, relationship to Mattapoisett Growth Management and Land Use Plan, Mattapoisett Open Space and Recreation Plan as they are from time to time adopted, and accessibility by residents of the Town and of the cluster.

e. Location, bulk and height of all proposed buildings with design characteristics such as: building material, architectural style, scale and massing relative to abutting structures, interior layouts, streets, site and building landscaping.

f. Such additional information as may be required to enable the Planning Board to make the findings required under this section

4. Review by other Boards

The review of a cluster subdivision shall follow the requirements as identified in Chapter III, Procedure submission and approval of plans, of the Mattapoissett Subdivision Rules and Regulations.

5. Public Hearing

The Planning Board shall hold a public hearing under this section in conformity with the provisions of G.L. c.41, Section 81K-81GG.

6. Uses and Density

a. Uses - The permitted uses in the Cluster Housing may include single family homes on separate lots and open space subject to the restrictions of Section H.15.

b. Density - The base number of units shall be determined by showing on a preliminary subdivision plan the total number of lots that could be obtained from the tract by utilizing a conventional subdivision plan in accordance with the Rules and Regulations of the Planning Board Governing the Subdivision of Land. Wetlands, as defined under the Wetlands Protection Act, water bodies, and any land otherwise prohibited from development by local By-Law or regulation shall not be included in the overall area when calculating density. The burden of proof shall be upon the applicant in determining the allowable number of units. Where the site proposed for Cluster Housing includes more than one (1) ownership and/or lies in more than one (1) district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable density total without respect to allowable sub-totals by district or ownership areas.

c. Density Bonus - A Cluster subdivision can increase the base density of the development up to a maximum density bonus of 25%, if the following objectives/requirements are met:

- i. Two (2) additional units for each acre of open space land preserved that exceeds the 40% minimum.
- ii. One (1) additional unit for each affordable unit.

An additional Density Bonus of (10%) may be requested through a special permit application with the Planning Board .

iii. The land area to be preserved as open space is of exceptional resource value, because of special habitat, fragile terrain, scenic importance, historic or agricultural value, critical public recreational need, or other distinguishing quality, or the open space area exceeds 50% of the total property, or the development provides a significant public benefit in the form of public infrastructure or special facility provision including, but not limited to: improvements as may be identified in Mattapoisett's Growth Management and Land Use Plan and/or Capital Improvement Plan, bikeways, walking trails, sidewalks, playgrounds, playfields, other active public recreation facilities, and sewer or water line extensions that service more than the proposed development.

iv. The Planning Board finds that the additional density will not be a burden on public facilities;

v. The Planning Board finds, after consultation with the Board of Health, that the additional density will not threaten the quality of ground or surface waters; and

7. Dimensional Requirement

a. The total area of the tract to be developed shall not be less than eight (8) acres.

b. The following minimum dimensional regulations shall apply in lieu of those identified in Section VI:

Minimum lot area 15,000 sq. ft.

Minimum lot frontage 100 ft.*

Minimum front yard setback 25 ft.

Minimum side and rear yard setback 10 ft.

Maximum lot coverage 25%

Maximum building height 35 ft.

(FN *)A lot with frontage on tidal water or the non-tidal portions of the Mattapoisett River shall have a minimum shore frontage of 150 feet measured in a straight line between the point of the intersection of the side lot lines with the shore at normal high water elevation.

c. The minimum width of common open space shall be thirty (30) feet.

8. Lots

- a. Each building lot shall contain a site which, subject to the approval of the Board of Health, may be suitable for an on-site septic disposal system, or will be served by a public sewer. The requirement for an on-site system may be waived where the Board of Health approves a variance for a clustered leeching field serving more than one (1) home;
- b. Each lot shall be of a size and shape as shall provide a building site which shall be in harmony with the natural terrain and other features of the site.
- c. The front, side and rear yards of each lot shall be shown on the plan by dashed lines indicating the area within which a building may be built.
- d. Wherever possible, new lots in a cluster development shall front on newly created streets serving the cluster rather than the existing street system from which the cluster takes its access. A development which shows all lots clustered on an existing Town street and with all of the interior land dedicated to open space, generally will not be approved unless unusual conditions of the land apply.

9. Design Standards

- a. The housing shall provide for an effective and unified treatment of the development possibilities of the project site making appropriate provision for the preservation of natural features and amenities of the site and the surrounding areas wherever possible.
- b. The housing shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site wherever possible.
- c. All housing shall be arranged so as to preserve visual and audible privacy between adjacent houses wherever possible.

10. Landscape Design Standards

- a. Whenever possible, existing trees and vegetation shall be preserved and integrated into the landscape design plan.
- b. Whenever possible, the existing terrain shall be preserved and earth moving shall be kept to a minimum.

c. Suitable indigenous shrubs and other plant material may be used for screening. Lands used for buffers may be maintained as common open space or as private open space subject to a deed restriction.

d. Wherever possible existing trees and vegetation along the Town's existing street system shall be preserved with the only intrusions being the rights-of-way for new streets.

e. Negative visual impacts of the development, if any, shall be adequately screened from adjacent properties and nearby streets by landscaping and other site plan techniques.

11. Circulation System

There shall be an adequate, safe and convenient arrangement of roadways and driveways. Wherever possible, access driveways to individual lots shall be off the interior street system rather than the existing major roadway system of the Town.

12. Common Open Space

a. Provision shall be made so that at least forty (40) percent of the land area shall be open space and that the open space shall include all land not dedicated to roads or lots. The open space is intended to provide an open natural area for the active and passive recreation use and visual enjoyment of the occupants of the residential development, and in some cases, for residents of the adjacent neighborhood and the public generally. Of this open space, at least 60% must be useable -upland area with well drained soils that is suitable for recreational use.

b. Areas which are considered by the Planning Board as marginal or unsuitable for building, such as floodplains, wetlands, water areas, steep slopes, highly erodible or poorly drained soils, areas of very shallow bedrock, or of very high water table shall not be counted towards the common open space.

c. To the maximum extent possible, the open space provided shall be consistent with the open space and trails system proposals of the Mattapoissett Growth Management and Land Use Plan and the Mattapoissett Open Space and Recreation Plan as they are from time to time adopted.

d. Open space may be utilized as natural courses for disposal for storm drainage on the sites, but can not be used to meet the above requirement for useable land area. No conditions are allowed which are likely to cause erosion or flooding of

any structures.

e. Such open space may be in one (1) or more parcels of a size and shape appropriate for its intended use as determined by the Planning Board.

f. The common open space shall increase visual amenities for residents of the development and residents of the adjacent neighborhoods.

g. The common open space should be readily accessible to those it is designed to serve, whether the residents of the cluster development or the general public.

13. Ownership of Common Open Space

The open space, and such other facilities as may be held in common, shall be conveyed in one (1) of the following manners, and determined by the Planning Board:

a. Land to be used by Residents of the Cluster Housing to a corporation or trust comprising a Homeowners Association whose membership includes the owners of all lots contained in the tract. The developer shall include in the deed to the owners of individual lots, beneficial rights in said open space, and shall grant a conservation restriction to the Town of Mattapoisett over such land pursuant to G.L. c.184, s.31 - 33, to insure that such land be kept in an open and natural state and not built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town in any proceeding authorized by G.L. c.184, s.33. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the Homeowners Association assumes such 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 Plymouth County Registry of Deeds a Declaration of Covenants and restrictions which shall, at a minimum, provide for the following:

1) mandatory membership in an established Homeowners Association as a requirement of ownership of any lot in the tract;

2) provision for maintenance assessments of all lots in order that the open space is maintained in a condition suitable for the uses approved by the Homeowners Association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the Homeowners Association or the owner of any lot;

3) provision which, so far as possible under existing law, will ensure that the restrictions placed on the use of land will not terminate by operation of law.

b. Land to be Made Accessible to the General Public to a non-profit organization such as the Mattapoisett Land Trust, the principal purpose of which is the conservation of open space, the developer or charity shall grant a conservation restriction as set out above. If the non-profit organization ceases to exist as a legal entity, all lands conveyed under this section shall revert to the Town of Mattapoisett.

or

To the Town of Mattapoisett for park or open space use, subject to acceptance by the Town for management by an agency of the Town, with covenants insuring that it be maintained as open space.

14. Use of Open Space

Subject to the provisions of Section H.14, the open space may be used for recreational purposes including walking and riding trails, golf courses, tennis courts, gardens and swimming pools. The Planning Board may permit open space owned by a Homeowners Association to be used for individual septic systems, or community (cluster) septic systems if it, and the Board of Health, are convinced that proper safeguards exist for proper management of a communally owned system. Land area used for septic systems can not be used to meet the above requirement for useable land area.

In all cases, a perpetual restriction of the type described in G.L. c.184, s.31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the common open space shall be retained in perpetuity for one or more of the following uses: conservation, recreation, open space or park. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the common open space as the Planning Board may deem appropriate.

15. Further Conditions

No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a note to this effect shall be shown on the plan.

Subsequent to granting the permit, the Planning Board may permit minor adjustments of lot lines within the cluster, that do not result in the creation of additional lots. However, any change in overall density, street layout, or open space layout will require further hearings.

a. No Certificate of Occupancy shall be issued by the Building Inspector until he has certified to the Planning Board that the roadway, drainage and premises have been built in accordance with the plan approved by the Planning Board hereunder.

b. The Planning Board may impose other conditions, safeguards, limitation on time and use, as it deems reasonable to achieve the stated purposes of this section.