SECTION 9. RESIDENTIAL CLUSTER DEVELOPMENT

9.1 Purpose

In order to encourage the conservation of significant open space and the efficient use of land in harmony with its natural features, Residential Cluster Development allows, by special permit from the Planning Board, a pattern of land development alternate to the standard subdivision permitted in the residential districts. In order to encourage the grant of land for affordable housing purposes, the Residential Cluster Development includes Optional Special Provisions for Affordable Housing by special permit from the Board.

9.2 Standards

9.2.1 *Minimum Tract Size.* Residential Cluster Development shall be permitted upon a single tract, in one ownership with definite boundaries ascertainable from a recorded deed or recorded plan, which has an area of not less than five (5) times the minimum lot area of the zoning district within which it is situated (Residence C: Fifty thousand (50,000) square feet; Residence B: One hundred thousand (100,000) square feet; Residence A: Two hundred thousand (200,000) square feet; Residence AA: Four hundred thousand (400,000) square feet). Existing public and private ways need not constitute boundaries of the tract but the area within such ways shall not be counted in determining tract size.

9.2.2 *Number of Lots.* The number of lots permitted within any Residential Cluster Development shall be determined by the Planning Board to assure compliance with the purposes of this Section, and shall not exceed the basic density. The basic density of a Residential Cluster Development shall be the number of lots upon which a single family dwelling could be constructed in the residential district in which the Residential Cluster Development is located without regard to the Residential Cluster Development, and without waivers of the design standards set forth in the Subdivision Rules and Regulations of the Planning Board.

9.2.3 *Dimensional Regulations.* Except as provided in this Subsection, all dimensions shall comply with the provisions of Section 6, Table III, Dimensional Regulations. However, to protect the surrounding neighborhood, the Planning Board may require that buildings within the development be set back from some or all of the boundaries of the original development tract. The required setback from such boundaries shall be no more than fifty (50) feet.

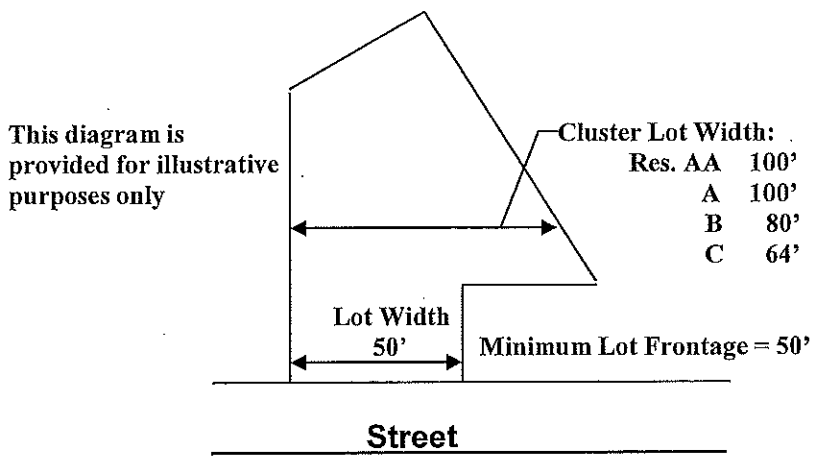
9.2.3.1 Minimum lot area:

Residence AA	30,000 Sq. Ft.
Residence A	15,000 Sq. Ft.
Residence B	10,000 Sq. Ft.
Residence C	7,500 Sq. Ft.

9.2.3.2 *Minimum lot frontage:* Each lot shall have a minimum frontage of fifty (50) feet.

9.2.3.3 *Minimum lot width:* Each lot shall have a lot width of not less than fifty (50) feet and the nearest point on the front wall of the dwelling shall be set back on its lot at least to a point where the lot width is a minimum of one hundred (100) feet in the Residence AA and A districts, eighty (80) feet in the Residence B district, and sixty-four (64) feet in the Residence C district.

9.2.3.4



Cluster Subdivision

9.2.4 *Open Space.* The area of the open space shall equal at least fifty (50) percent of the total area of the Residential Cluster Development tract. At least 50% of the area of required open space shall be upland (land that is not within the Flood Plain Conservancy District or freshwater wetlands as defined under the Town's Wetlands Bylaw and the Wetlands Protection Act).

9.2.4.1 The open space shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the Residential Cluster Development. In determining whether the intent of this section has been satisfied, the Planning Board shall consider the extent to which land having one or more of the following characteristics is included in the proposed open space:

(a) Land abutting the Concord, Assabet or Sudbury Rivers, their tributaries, Elm Brook, or ponds of significant public interest, which enhance or protect wetlands or flood plain, or which provide public access to the water body, or which enhance or provide significant scenic vistas or views, or which provide water-related recreational opportunities;

(b) Land which currently is in agricultural use or land which is suitable in size, location and soil characteristics for agricultural use;

(c) Land which provides a significant wildlife habitat or which is a unique natural area;

(d) Land which provides recharge to Concord's current or future municipal wells and highly favored aquifer areas;

(e) Land which is to be developed for active recreational use including playing fields, boat launching areas, playgrounds, and neighborhood parks;

(f) Land which preserves existing trail networks or land on which new trails will be developed as part of the cluster for integration into an existing trail network;

(g) Land which enhances scenic roadside views;

(h) Land providing desirable public access to existing Town or State recreational or conservation land.

9.2.4.2 Provision shall be made so that the open space shall be readily accessible to the owners and occupants of the lots in the Residential Cluster Development, and owned by:

(a) a membership corporation, trust or association whose members are all the owners and occupants of the lots;

(b) by the Town; or

(c) otherwise as the Planning Board may direct.

9.2.4.3 In all cases, a perpetual restriction of the type described in G.L. c. 184, sec. 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 open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, 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 open space, as the Planning Board may deem appropriate.

9.2.5 *Limitation of Subdivision.* No lot shown on a plan for which a permit is granted under this Section may be further subdivided, and a notation to this effect shall be shown on the plan.

9.3 Procedure for Approval

9.3.1 *Application.* Any person who desires a special permit for a Residential Cluster Development shall submit an application in writing in such form as the Planning Board may require which shall include the following:

9.3.1.1 Plans meeting to the extent applicable the requirements set forth for a definitive plan in the Subdivision Rules and Regulations.

9.3.1.2 Proposed deed restrictions; and

9.3.1.3 Such additional information as the Planning Board may require.

9.3.2 *Natural Resources Commission Report and Recommendations.* The Natural Resources Commission shall review the proposed Residential Cluster Development plans and shall submit in writing to the Planning Board its report and recommendations upon the degree to

which the Residential Cluster Development and proposed open space enhances the protection of environmental qualities including at least:

9.3.2.1 An evaluation and opinion upon the degree to which the development itself impinges upon critical environmental areas.

9.3.2.2 An evaluation and opinion upon the degree to which the common open space protects critical environmental areas and provides a valuable outdoor recreation resource.

9.3.2.3 An evaluation and opinion upon the degree to which any land intended to be conveyed to, or restricted for the benefit of, the Town:

(a) Enhances the protection of critical environmental areas, unique natural features, scenic vistas or potential or existing farmland; or

(b) Provides a valuable addition to the open space resources of the Town.

9.3.3 *Special Permit.* A special permit shall be granted under this Section only if the Planning Board finds:

9.3.3.1 The plan submitted is in harmony with the general purpose and intent of this Section;

9.3.3.2 The proposed Residential Cluster Development is designed in such a manner to ensure a suitable development for the neighborhood, adequate buffers for adjoining tracts, and suitable open space;

9.3.3.3 The plan submitted conforms with the standards for minimum tract size, number of lots, lot dimensions, frontage, and open space area and characteristics as set forth herein; and

9.3.3.4 The Residential Cluster Development is designed in such a manner to make it sufficiently advantageous to the Town to depart from the requirements of this Bylaw otherwise applicable to the residential district(s) in which it is located.

9.3.4 *Conditions.* If a special permit is granted, the Planning Board shall impose as a condition that the open space shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restrictive covenant or, if there is no covenant, prior to the Building Inspector's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, or otherwise as the Planning Board may direct.

9.4 Optional Special Provisions for Affordable Housing by the Board

9.4.1 *Approval by the Board.* Where the proposed Residential Cluster Development provides for the granting of land for affordable housing purposes, the Residential Cluster

Development special permit shall be granted by the Board and the Board may authorize limited exceptions to the number of lots permitted and the open space requirements.

9.4.2 *Exceptions for Granting of Land for Affordable Housing Purposes.* The Board may increase the basic density permitted within a Residential Cluster Development and may reduce the required open space area provided that a lot or lots within the development be donated to the Town for affordable housing purposes. For each lot so donated, the Board may increase the basic density by two (2) lots and may reduce the required open space area. In no case shall the total number of lots be increased by more than forty (40) percent, and in no case shall the open space area be reduced to less than forty (40) percent of the area of the development tract.

9.4.3 *Procedure for Approval of Optional Special Provisions by the Board.*

9.4.3.1 *Application.* Any person who desires a special permit for a Residential Cluster Development with Optional Special Provisions for Affordable Housing shall submit an application in writing in such form as the Board may require.

9.4.3.2 *Planning Board Report and Recommendations.* The Planning Board shall review the proposed Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations upon the technical quality of the proposed development, and at least the following:

(a) General descriptions of the natural terrain of the cluster tract and surrounding areas, and of the neighborhood in which the tract is situated.

(b) A review of the proposed development, including the design and use of the open space and of pedestrian and vehicular circulation.

(c) An evaluation and opinion upon the degree to which any land intended to be conveyed to, or restricted as open space for the benefit of the Town: provides or will in the future provide an addition to areas of open space between developed sections of the Town; makes available land desirable for other public use; and conforms to the Town's long-range land use plan.

(d) An evaluation and opinion upon the degree to which any land intended to be conveyed to the Town for affordable housing conforms to the Town's housing objectives and policy.

(e) Its opinion as to whether the proposed tract size, site design, development layout, number and location of lots constitute a suitable development for the neighborhood within which it is located.

(f) A statement that the developer's plans comply with the design standards of the Subdivision Rules and Regulations of the Planning Board, or wherever such plans do not comply, a statement of the respects in which they do not so comply.

(g) Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions, or requirements to be imposed as a condition of granting the special permit.

9.4.3.3 Natural Resources Commission Report and Recommendations. The Natural Resources Commission shall review the Residential Cluster Development plans and shall submit in writing to the Board its report and recommendations as provided in Section 9.3.2 above.

9.4.3.4 Special Permit by Board for Optional Provisions for Affordable Housing. A special permit shall be issued under this Section for a Residential Cluster Development with Optional Provisions for Affordable Housing only if the Board shall find the development conforms with Section 9.3.3 and also finds the proposed Residential Cluster Development provides significant public benefits through the granting of land for affordable housing purposes.

9.4.3.5 Conditions. If a special permit is granted, the Board shall impose as conditions thereof the following:

(a) The open space shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of the type described above, prior to the Planning Board's release of any lots from the subdivision restrictive covenant or, if there is no covenant, prior to the Building Inspector's issuance of the building permit for any lot. A petitioner shall provide satisfactory assurance of said conveyance and recording in the forms of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct;

(b) All lots to be conveyed to the Town for affordable housing purposes shall be conveyed, free of any mortgage interest or security interest prior to the Planning Board's release of any lots from the subdivision restrictive covenant, or if there is no covenant, prior to the Building Inspector's issuance of a building permit for any lot. The petitioner shall provide satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp, or otherwise as the Board may direct.

9.5 Amendments Without Public Hearing

Following the granting of a special permit under this Section, by either the Planning Board or the Board, the Planning Board may, upon application and for good cause shown, without public hearing, amend the plan solely to make changes in lot lines shown on the plan provided, however, that no such amendment shall:

9.5.1 Grant any reduction in the size or change in location of the open space as provided in the permit;

9.5.2 Grant any change in the layout of the ways as provided in the permit;

9.5.3 Increase the number of lots as provided in the permit; or

9.5.4 Decrease the dimensional requirements of any lot below the minima permitted by this Bylaw.