

# ARTICLE IX - CLUSTER DEVELOPMENT

## Red Line v. Current Ordinance

### Purpose and Intent:

- A. **PURPOSE AND INTENT:** The purpose of this cluster provision is to encourage the preservation of open space, to promote more efficient use of land in harmony with its natural features and limitations, and to provide for flexibility and variety in residential development within prescribed limits so as to enhance and protect the health, ~~safety~~safety, convenience, and general welfare of the inhabitants of the Town of Sutton. This Article is intended to promote the arrangement of dwellings to enhance privacy for residents; safety for children, pedestrians, and bicyclists; and to enhance aesthetic enjoyment through interrelating open spaces with residential areas, providing views of natural features, and ~~through provision of~~by permitting potential recreational ~~amenity~~amenities.

### ~~A. Special Permit and Requirements:~~

- B. LAND USE DESIGNATIONS:** For the purposes of this Article IX, land use within a cluster subdivision shall fall into one of three designations:

- 1. Residential Lots:** Residential lots shall be the lots designated for one or more residential dwelling units as permitted by this Article IX together with all yards and accessory structures intended to be used solely by the residents of the dwelling units situated on those lots.
- 2. Common Land:** Common Land as used in this Article IX shall consist of the total of any Common Land for Recreation (as defined in Section E.3.), all roads and streets and their respective rights of way, sidewalks parking areas, vehicle access facilities, and utility service areas as well as any of the Perimeter Buffer Land (as defined in Section E.2.) that is not included within Open Space.
- 3. Open Space:** Open Space as used in this Article IX shall remain undeveloped in perpetuity and shall consist of all land not used for Residential Lots or Common Land. Pathways and trails constructed of permeable surface materials for non-motorized recreation may be constructed within the Open Space. The owner of the Open Space may, in its sole discretion, permit the use of snowmobiles on any such trails that the owner determines appropriate.

### **C. SPECIAL EXCEPTION AND REQUIREMENTS:**

- 1. Special Exception** ~~Permit~~ -: A cluster development ~~shall be subject to~~is permitted upon the ~~granting~~issuance of a Special Exception by the Zoning Board of Adjustment and approval of the ~~subdivision plan~~Subdivision Plan (and/or Site Plan if there are residential structures other than detached single family dwelling units or duplexes) by the Planning Board.
  - a. Development Plan:** An applicant shall submit ~~two~~to the Zoning Board of Adjustment three copies of plans for the proposed development ~~to the Zoning Board of Adjustment. Before reaching a decision on an application, one copy of the plans shall be transmitted by, including a~~ Conceptual Cluster Development Plan at a scale of at least 1" equals 100', as well as all

additional documents specified in this Article IX and any other applicable documents required pursuant to the Zoning Ordinance and the Subdivision Regulations.

b. Feasibility for a Cluster:

- 1) In determining whether to grant a Special Exception for a cluster development, the Zoning Board of Adjustment to the Planning Board for review and comment shall determine the feasibility of a cluster development based on an Existing Site Analysis Plan at a scale of at least 1" equals 100' that shall be submitted in conjunction with any application for a Special Exception with respect to a cluster development showing:
  - i A conceptual conventional subdivision plan that demonstrates conceptual conformance with the Zoning Ordinance and the Subdivision Regulations to determine the maximum number of permissible single-residence dwelling units for a cluster subdivision permitted pursuant to this Article IX of the Zoning Ordinance.
  - ii Contours at no greater than 5' intervals for land with 20% or less slopes.
  - iii Contours at no less than 20' intervals for land with slopes greater than 20%.
  - iv Wetlands using, as a minimum, the town's GIS mapping of Wetlands & Town designated hydric soils. (See Town Master Plan)
  - v Aquifer recharge areas as shown on the Town Master Plan.
  - vi Existing structures & land uses of all abutters.
  - vi Existing historic structures, building or sites. (i.e. stone walls, designated historic buildings & places).
- 2) No cluster development shall be approved unless the applicant can demonstrate appropriate and direct access to the cluster development from an existing Class IV or Class V public road of at least 3 rods of right-of-way.
- 3) Notwithstanding any determination by the Zoning Board of Adjustment that the proposed cluster development is feasible, the Planning Board shall make its own determination of whether to approve or deny the application for the proposed cluster development based on the entirety of the submissions required pursuant to the Zoning Ordinance and the Subdivision Regulations, including those set forth herein.

c. Coordination With Other Boards: As part of the special exception process, the applicant may, and is encouraged to, request that a joint meeting of the Planning Board, Zoning Board of Adjustment, and the Conservation Commission be held to discuss the proposed development to obtain the benefit of input from the Planning Board and/or the Conservation Commission and to address during the special exception process any suggestions or concerns the Planning Board and/or the Conservation Commission may have.

d. Issuance of Special Exception: The Zoning Board of Adjustment shall review the plans submission as provided in Article VI. If the applicant satisfies the requirements of the Zoning Board of Adjustment, a Special Exception from the lot area and frontage requirements may be issued.

e. Application to Planning Board: Upon the granting of a Special Exception by the Zoning Board of Adjustment, the applicant shall apply to the Planning Board which shall review the application for conformity with pertinent portions of the subdivision regulations, as modified herein Subdivision Regulations and of the Zoning Ordinance.

## 2. Location and Size Requirements:

a. Where Permitted: A cluster development may be permitted in both ~~the~~ Residential and Rural-Agricultural ~~district~~ districts.

b. Minimum Area or Minimum Number of Dwellings: The total acreage of land included in the cluster development shall be ~~10~~ no less than 10 acres or more in Residential Districts, and no less than 25 acres in Rural Agricultural Districts. Public roads that traverse or separate any lot or lots proposed to be included in a cluster subdivision shall not be deemed to ~~divide~~ affect the total of the acreage included in that cluster subdivision.

~~b.c.~~ Mixed Zones: A cluster development situated in both a Residential and Rural Agricultural District shall be deemed a cluster development in a Rural Agricultural District for all purposes with respect to this purpose Article IX.

## 3. Permitted Uses:

a. Attached and detached single-residence dwelling units. No structure shall contain more than 6 attached dwelling units. ~~Accessory uses and structures such as are allowed in the applicable zoning district. Buildings, structures, and facilities incidental to the use of common land for conservation of land, preservation of natural features, or for recreation open to at least the owners and occupants of the lots in the cluster development.~~

~~a. The cluster development may contain up to 500 square feet, or .2% (two tenths of 1%) of the total floor area of the development, whichever is larger, for retail sales of convenience goods including the sale of food, drugs, gifts and stationery, and for services, including barber shop, beauty shop, and self-service laundromats provided that such uses.~~

~~Are~~

b. Accessory uses and structures allowed in the applicable zoning district.

~~b. Buildings, structures, and facilities located within, and incidental to the residential use.~~

~~c. Are designed to serve the residents of the cluster development and not the community at large.~~

~~d. Have only one indirectly lighted sign not to exceed 2 square feet in area for each commercial use.~~

~~e. Provide off street parking of no more than one space per 200 square feet of gross floor area.~~

~~b.c. Are architecturally compatible with the other structures of Common Land for conservation of land, preservation of natural features, or for recreation and other facilities open to at least the owners and occupants of the residential dwelling units in the cluster development.~~

~~f. Conform to all other pertinent requirements of the Zoning Ordinance affecting commercial uses.~~

#### 4. ~~Common Land~~ **Open Space**;

a. The amount of land Open Space in the common-cluster development shall be the amount saved by reduction in sizes of residential lots; except that at least as follows:

~~g. i) At least 25 % of the acreage of a cluster development in any Residential District shall be common open space, exclusive of land a combination of Open Space and all of the Common Land that has not been set aside for roads and streets and their respective rights-of-way, sidewalks, vehicle access facilities, utility service areas and common parking areas, and~~

ii) At least 50 % of the acreage of a cluster development in any Rural Agricultural District shall be a combination of Open Space and all of the Common Land that has not been set aside for roads and streets and their respective rights of way, sidewalks, vehicle access facilities, utility service areas and common parking areas.

a.b. The configuration, shape, and character of the ~~common land~~ Open Space and Common Land shall conform to the requirements of Section DE of this Ordinance.

~~2.~~ **Number of Lots - Overall Density:**

b.c.: Dwelling units permissible shall be the same number as for a conventional subdivision of the tract. ~~The Planning Board may require the applicant to produce a conventional subdivision~~

~~plan to determine maximum number of permissible lots for an alternative cluster subdivision.~~

## 5. Minimum Lot Size:

- a. There shall be no minimum lot size or frontage requirements specified for structures erected in the cluster development ~~other than~~except as specified in ~~Section B.9~~this Article IX of the Zoning Ordinance or as required to meet the requirement of this Ordinance.
- b. ~~However, no~~No building shall be closer than its height to any other building or to ~~the~~any street ~~or road constructed within the cluster subdivision.~~
- b.c. No building shall be closer than ~~10~~25 feet to a perimeter buffer land strip along the boundary of a cluster development.
- d. Subject to the requirements of this Section C.5 of the Ordinance, more than one residential structure may be constructed on any residential lot within the cluster development.
- e. Nothing in this Section C.5 shall be construed to exempt any of the residential lots in a cluster subdivision from the minimum setbacks specified in the Zoning Ordinance for the Residential and Rural Agricultural Districts, as applicable.

## ~~3.~~ Maximum Height of Structures.

6. The maximum height limit within the zone or the zoning districts in which the cluster is located shall be the maximum height of all structures within the cluster development.

## ~~4.~~ Required Exits.

7. All dwelling-units, whether attached or detached, shall have 2 easily accessible exits: to the outdoors. There shall be no interior space common to 2 or more any dwelling-units.

## 8. Yard and Parking Requirements:

- a. All ~~dwelling-units~~residential buildings shall have ~~an outdoor space of at least 15 feet wide and 25 feet long for a private~~usable back yard or patio, area adjacent to and immediately accessible from the interior of ~~the~~each dwelling-unit ~~with a total width of at least the same width as the building and a depth of at least 35 feet from the rear of the building.~~
- b. There shall be at least 2 off-street parking spaces for each dwelling-unit.

## ~~B.~~ Public Ways.

## D. TRAVEL WAYS.

1. Access to lots: Each residential lot and any Common Land for Recreation, parking areas, vehicle access facilities or utility service areas shall be accessed only by on-site internal roads and there shall be no direct access from those lots and areas to any existing public roads.

## 2. Access to Existing Roads—:

- a. At least one road ~~of~~within a minimum 50-foot-foot right-of-way shall be provided from a cluster development to an existing public road of at least 3 rods of right-of-way.
- e.b. If two or more accesses are provided from a cluster development to an existing public road, then the distance between the public accesses and their other design features shall conform to the design and sight-line standards set forth for State highways in "Policy and Procedures for Driveway and Other Access to the State Highway System," New Hampshire Department of Public Works and Highways, June 1972, or its updates.

## 3. Internal Roads—:

- a. Internal roads ~~may be~~shall be 50 feet wide unless reduced in width by the Planning Board to 40 feet;~~and,~~
  - b. Internal travel ways providing direct access from an internal road to more than one detached single-family Residential Dwelling Unit or to any residential building or buildings containing two or more Residential Dwelling Units shall be 40 feet wide unless reduced in width of traveled routes may be at the sole discretion of the Planning Board to a minimum of 20 feet at a distance of 50 feet from an,
- 1.—Driveways: Driveways shall only be used to provide access from an internal road to a single detached single-family Residential Dwelling Unit. Unless determined by the Planning Board that a longer length will be more protective of the natural features and safety of residential site, driveways shall be no more than 100 feet long from the intersection with an existing public internal road withinto the external boundaries, parking area for that residence, and the actual travel way shall be a minimum of the cluster

4. ~~development~~ 12 feet wide for its entire distance, however, ~~consistent with~~ driveways must be capable of providing access for police, firefighting, snow removal, sanitation, and road maintenance equipment. Internal roads are to be encouraged to Driveway design standards shall conform to those described in the Subdivision Regulations.

**9.5. Protecting Natural Features:** At the discretion of the Planning Board, internal roads and driveways shall be laid out to maximize preservation of natural features, aesthetic views, and privacy for property owners and safety for children, pedestrians and bicyclists.

**10.6. Cul-de-sac Roads--:** In a cluster development, the length of permanent cul-de-sac roads may be permitted by the Planning Board to be longer than specified in the Subdivision Regulations, but shall not be longer than 1,000 feet and ~~may be subject to~~ the Planning Board shall consider the need for one or more turn-~~around~~ arounds between the origin and end points of the cul-de-sac road.

## **7. Dead-end Roads--:**

a. If, in the judgment of the Planning Board, continuation of one principal internal road in a cluster development is necessary to maintain access to an adjacent property that would otherwise be permanently denied the possibility for any other normal means of surface access, and when such continuation is necessary to maintain the possibility for future convenient movement of traffic, effective police, emergency and firefighting access, efficient provision of utilities, and where such continuation is in accord with the Town's Master Plan and/or Official Map, then the Planning Board may require the applicant to design and construct said principal road ~~--~~ or dedicate a right-of-~~way~~ to the boundary of the cluster development to the adjacent property.

a.b. A notation to this effect shall be shown upon the plan, and referenced to each abutting lot, and be included as part of the plan submitted to the Zoning Board of Adjustment and signed by the Planning Board and recorded at the ~~Merrimack County~~ Merrimack County Registry of Deeds. When the Planning Board makes such a decision, it shall be made in light consideration of maintaining the purposes and intent of the cluster development.

~~C. Common Land - Open Space.~~

## **E. COMMON LAND AND OPEN SPACE:**

**11.1. Configuration, Shape, and Character--:** The cluster development shall be adapted to the site ~~so as~~ to preserve and reflect the topography, vegetation, and other natural features of the land.

a. ~~Steep slopes~~ All areas within which there is an elevation change of 20 feet or more and narrow ridge lines the slope is 20% or greater, and all Wetland Buffers shall be left undeveloped and undisturbed. Unique or outstanding natural features shall be retained. Streams, drainage swales, wetlands and ponds shall be preserved. ~~In combination, steep slopes, narrow ridge lines, unique and outstanding land features, streams, drainage swales, wetland and ponds and pond shoreland shall constitute no more space in a cluster than 50 percent of the common open development.~~

b. Within the ~~total common open space~~ cluster development, land determined to be in a flood hazard area ~~determined pursuant to~~ by the National Flood Insurance Program or in wetlands, shall be regarded as non-buildable land, ~~and~~.



~~b.c. No Common Land, including Common Land for Recreation, shall not be used to satisfy minimum common land requirements in a cluster development include steep slopes, wetland buffers, wetlands or designated flood plains.~~

~~a. Any facility or land area open to the general public, and for use of which a charge is made, shall not be considered part of the common open space.~~

d. No more than 10% of any on-site designated aquifer recharge area(s) shall be used for construction or be disturbed.

**12.2. Perimeter Buffer Land** - Around the perimeter of the cluster development there shall be a strip of ~~common~~ open space at least ~~25~~100 feet wide which shall be free of structures except for existing stone or other walls, new walls or fences approved by the Zoning Planning Board of Adjustment; and which shall be ~~retained~~undisturbed or planted as a vegetative screen or buffer, at the discretion of the Planning Board. The total area of the perimeter buffer may be used to satisfy the minimum acreage requirement for Open Space as set forth in Section C.4.a.

**3. Common Land for Recreation**—~~A minimum of 20 percent of the total common open space shall be suitable for active;~~

a. If a Cluster Subdivision Plan includes Common Land For Recreation set aside for outdoor recreation such as a commons, playgrounds, a swimming pool or areas for field sports and shall be set aside for such purposes. Parking, the Common Land For Recreation shall include a total area of not more than the greater of:

i. 20 percent of the total of land designated as individual residential lots, or

ii. 20 percent of the total size of the land used for residential dwelling units and adjacent yards and patios if the residential dwelling units are not situated on individual lots, or

iii. one acre.

b. Roads and streets and their respective rights of way, sidewalks, parking areas, vehicle access facilities, utility service areas, and perimeter buffer strips shall not be considered a part of the common land Common Land for recreation Recreation.

**13.4. Permitted Uses -of Common Land:** In the event the cluster development contains ~~a common open space~~Common Land totaling an area of one acre or more, regardless of the form of ownership of the dwelling units, the following provisions shall apply:

a. In addition to any applicable provisions of RSA 479A:1-20, inclusive, ~~common open space area~~Common Land shall ~~mean a parcel of land or area of water, or combination thereof, be~~ designed and intended for ~~at least~~ the benefit and enjoyment of the residents of the cluster development.

b. Areas devoted to ~~street~~streets, rights-of-way and vehicle parking shall not be considered as ~~common open space~~Open Space or Common Land for Recreation. Utility easements may be included in ~~common open space~~Open Space subject to the provisions of this Ordinance and approved by the Planning Board, excepting that no utility easement shall be permitted on or under ~~common land~~Common Land for ~~active recreation~~Recreation.

c. Common ~~open space areas~~Land for Recreation may be used for amenity or recreational purposes, and if used must be suitably landscaped, except that areas containing natural features worthy of preservation ~~may be kept~~shall remain unimproved—unless the Planning Board determines otherwise.

b.—Common ~~open space areas~~Land for Recreation may contain accessory structures and improvements necessary and appropriate for educational, recreational, cultural or social uses.

~~e.d. Structures on common land may be limited to 15 feet in height.~~ Facilities devoted to such uses may be operated on a membership basis whereby membership is open only to residents of the cluster.

**5. Access -to Common ~~open spaces~~Land for Recreation and Open Space:**

- a. Common Land for Recreation and Open Space shall be distributed so as to provide immediate in a manner that provides access to all residential sections of the cluster development— except that such access shall not be defined as being situated within the perimeter buffer required by Section E.2.
- b. The visibility of ~~common open space~~Open Space is intended to be maximized for residential lots.
- c. Common ~~open space~~Land may provide separate pedestrian/bicyclist access apart from roadways to interconnect all the residential lots and ~~other significant~~Common Land for Recreation portions of the cluster development. ~~Pedestrian/bicyclist pathways shall be at least 8 feet wide.~~
- d. ~~Ownership—Common open space~~Pedestrian/bicyclist pathways shall be constructed of permeable surface materials and shall be at least 8 feet wide.
- e. Open Space in excess of 25 acres (not counting the total area of the Perimeter Buffer Land required pursuant to Section E.2) is to be made accessible to the public with access pathways and parking that does not infringe on the rights of cluster development residents to privacy and safety.
- f. The appropriate number and location of public parking spaces will be determined by the Planning Board with consideration of the size, location and physical features of the Open Space.
- g. At the discretion of the Planning Board, access to parking for public use of the Open Space may be directly from an existing public road separate and apart from any access road to the cluster development.

**6. Common Land and Open Space:**

- a. shall be preserved in perpetuity by restrictive covenant which shall be enforceable by ~~any citizen of Sutton or by the Town of Sutton and such common space shall be owned by~~in its sole discretion.
- b. shall be held, managed, and maintained by the applicant until completion of all improvements, including trails, recreation facilities, roads and other improvements, and/or at least 60% of the Residential Dwelling Units in the cluster have been completed and either leased or sold, whereupon the applicant (or any entity other than an entity as defined in subsections i. ii. iii. or iv. of this Section E.6.b to which the applicant has conveyed its interest in the Open Space or Common Land) shall transfer the ownership, management and maintenance responsibilities to one or a combination of the following: which will ensure that the Open Space and Common Land areas will be held in perpetuity as Open Space and Common Land, respectively:
- c. ~~The developer.~~

~~d. A private non-profit corporation, association or other non-profit legal entity established by the applicant for the benefit and enjoyment of the residents of the cluster development, and over which the residents of the cluster development have control; for example: a condominium agreement or a homeowners' association.~~

~~A~~

~~i. With respect to any Common Land, including Common Land for Recreation, to a Homeowners or Condominium Association or similar form of common ownership set up by the developer and made a part of the deed for each Lot or Dwelling Unit with a Declaration of Covenants to be reviewed and approved by the Planning Board as consistent with the purpose and intent of this Cluster Development Ordinance.~~

~~ii. With respect to the Open Space, to a Conservation Trust or Private Nonprofit Organization such as the Ausbon Sargent Land Preservation Trust, the Society for the Protection of New Hampshire Forests or the Audubon Society; and/or~~

~~iii. By an accepted conveyance to a public body (for example, the Town) which shall maintain some or all the the Open Space for the benefit of the public of Sutton; or~~

~~iv. If not accepted by a Conservation Trust or Private Nonprofit Organization or the Town, the Open Space shall be held in perpetuity by a Homeowners or Condominium Association or similar form of common land as open space for the benefit of the general public; for example: the Town of Sutton ownership set up by the developer and made a part of the deed for each Lot or Dwelling Unit with a Declaration of Covenants to be reviewed and approved by the Planning Board.~~

~~e. A private non-profit organization which has as a purpose the preservation of open space through ownership and control provided however, that the residents of the cluster development have access to the common open space for appropriate recreational and amenity uses; for example: the NH Audubon Society.~~

## 7. Responsibilities of Owner—:

~~a.~~ The owners of the Common Land and/or Open Space shall maintain that land in such a manner as to protect the health, safety, and general welfare of users; to preserve the aesthetic features of the Open Space; and to protect the community from disturbances dangerous to the comfort, peace, health, or safety of the community.

~~D. Other Requirements.~~

b. The Open Space shall remain undisturbed except for the construction of pathways as defined in Section B.3, and shall be maintained in such a manner that it will be acceptable for preservation through conveyance and/or by conservation easement to a Conservation Trust, Private Nonprofit Organization or public body.

## F. OTHER REQUIREMENTS.

1. Performance Bond and Plot Plan—: All pertinent portions of the Subdivision Regulations shall be complied with, including, but not limited to, the filing of a performance bond for improvements and

landscaping, and the filing of the preliminary and final plats.

**14.2. Plot Plan:** In the event that the cluster development is designed in such a fashion that individual structures and the land upon which they are sited could be sold separately, a plot plan shall be drawn up demonstrating a logical method of doing so which would provide the yards and setbacks of structures as required herein, in addition to ~~reasonable driveway~~ access to ~~an internal road or to a 40 foot right-of-way used as a road~~ defined and specified in this Article IX, no portion of which shall lie in a required yard.

**15.3. General Improvements—:** Improvements serving more than one dwelling unit, ~~whether or not regardless if~~ dedication to the Town is intended, shall be constructed to ~~this Ordinance's~~ the Town's then current road specifications, ~~or to Town specifications regardless of whether those standards are found in this Ordinance, the subdivision regulations, or some other regulation adopted by the town.~~ Such improvements include, but are not limited to, streets, sidewalks and storm drainage systems.

**16.4. Electrical and Telephone Lines—:** All electrical and telephone transmission lines shall be located underground except with prior approval of Planning Board.

**5. Community Systems:** Unless the New Hampshire Department of Environmental Services (DES) approves a proposed community water system and/or septic or sewage treatment system, all lots shall meet the state requirements for an approved on-site septic system and potable water supply where the required wellhead protection radius is wholly within the lot.

**6. Water Supply—:**

a. Water supply shall be always provided with a minimum pressure of 40 pounds per square inch ~~at all times~~, with a sustained yield of at least three gallons per minute per dwelling unit.

b. If central water is supplied, hydrants must be installed. If individual wells are used and there is no natural water source available, accessible at all times and reliable for fire protection in the judgment of the Planning Board in consultation with the Town Fire Department, then a fire pond shall be supplied.

~~a.c.~~ The minimum size of the fire pond must be 35,000 gallons in the fall season per each dwelling structure existing and approved to be constructed. For purposes

~~b.d.~~ For purposes of this Ordinance, a dwelling structure shall be defined as: one detached single-family house, or one attached row of dwelling-units with six or less individual dwelling-units, ~~one apartment building with six or less individual dwelling-units.~~

## 7. Sewage Disposal—:

- a. Sewage disposal plans must have been approved by the New Hampshire Department of Environmental Services (DES) Subsurface Systems Bureau.
- b. Such approval notwithstanding, the Planning Board, on the advice of a sanitary system engineer of its own choice, may shall approve or disapprove, or approve with modifications, such plans if it deems such State approved plans insufficient, and may make additional requirements.
- c. In no case will discharge of pollutants into surface water or wetlands be permitted, nor will any system which utilizes mechanical or powered devices be permitted unless a copy of a service contract, prepaid at least 12 months in advance, giving the Town ~~or any citizen thereof~~ the power to call for repairs, or in bond in lieu thereof, shall be submitted to the Planning Board, and after approval such contract or bond shall be renewed annually. ~~It shall be understood that failure to renew, and/or non-repaired failure of such sewage system, shall be grounds for eviction of residents of such cluster development whether owners or tenants, unless and until the system is rendered functional.~~

## 8. Erosion Controls—:

- ~~d.a.~~ The recommendations of the district representative of the Natural Resource Conservation Service (NRCS) shall be complied with, including but not limited to the provision of impoundment basins, i.e. for a fire pond, grass or ground cover, diversions, riprap channels, storm sewers, culverts and other erosion and sediment-control devices during and after construction.

~~E. Exhibits.~~

- b. A written copy of the NRC recommendations shall be provided to the Planning Board prior to any construction

**G. EXHIBITS:**

~~17.1.~~ Exhibits shall include all those required by Section C.1. of this Article IX, by the Subdivision Regulations and by the Zoning Ordinance as applicable; ~~in.~~ In addition, the preliminary and final plats for all proposed structures and improvements shall show:

- a. ~~Number~~The number, type, location, size and conceptual elevations of all buildings;
- b. ~~Number~~The number and type of dwelling units;
- c. ~~Number~~The number, type, location, and size of structures designed for other permitted uses and ~~all~~the elevations thereof;
- d. ~~Location~~The location and number of off-street parking spaces;
- e. ~~Location of common open spaces~~The location of Open Spaces, Common Land; unimproved natural areas; perimeter buffer strips; improved natural areas such as beach of boat launch; ~~common land~~Common Land for ~~active recreation~~Recreation; pedestrian/bicycle pathways;
- f. ~~Existing~~The existing and proposed landscaping and vegetation.

~~18.2.~~ ~~The appropriate agreements shall be presented if~~ ownership is to be of the cooperative--condominium or other similar legal form and/or if there is to be ~~common open space~~a total area of Common Land and Open Space of one acre or more, the appropriate agreements shall be presented. Such legal agreements shall be reviewed by the Town Counsel, who shall determine that the documents are acceptable before a cluster development approval is given.

~~F. Modification – Abandonment.~~

**H. MODIFICATION – ABANDONMENT.**

- a. Plans for a cluster development ~~may~~shall only be modified in accord with the requirements for initial approval. ~~Failure to diligently pursue construction of the cluster development or a portion thereof~~ Any approval under this provision shall be valid for a period ~~exceeding~~of three years ~~shall constitute abandonment of the plan or pertinent portion thereof.~~ If active and shall ~~render all permits issued~~

~~For~~substantial construction is not completed within ~~that portion of~~ ~~the~~ ~~time~~ ~~period~~, the approval shall be deemed void. For the purposes of this Article IX, ~~active and void~~substantial construction shall mean the construction of all access roads as specified in Section D.1 and D.2 such that each such road is completed to the base coat of paving, including all of the following:

- i. installation of all underground utilities in the locations and manner shown on the approved plat and accompanying documentation, including a detailed utilities plan prepared by the relevant electric utility;
- ii. all drainage features and related embankments and ditch lines have been completed and are stable with grass growing; and
- iii. all driveway and internal road accesses are constructed at the locations and manner shown on the approved plat and accompanying documentation with culverts installed, with all embankments seeded and stable and with a paved flare where each driveway and internal road access meets the paved road.