

PROPOSED IMPROVEMENTS to the EXISTING CLUSTER DEVELOPMENT ORDINANCE

As the first step in implementing some of the recommendations in the 2021 Master Plan Update the Planning Board has carefully reviewed the existing Cluster Development Ordinance.

The proposed changes are intended to improve our cluster ordinance so that it is consistent with preserving the rural character of Sutton and so that it cannot be used as a way to avoid our conventional Subdivision Regulations. The changes are specifically designed to address the desires of the Town concerning Open Space protection and the careful planning and design of a cluster development.

This review summarizes the most important proposed improvements to the process, the submission requirements and appropriate standards. In addition to the substantive changes outlined below, the proposed revision also proposes changes in the Ordinance relating to organization, wording, grammar and the clarity of the language.

A copy of both the existing and proposed regulations are available for public view on the Town website and at Town Hall. All questions should be directed to the Land Use Coordinator, Peter Stanley

EXISTING ORDINANCE (Section #)

PROPOSED IMPROVEMENTS (Section #)

WHAT CONSTITUTES A CLUSTER DEVELOPMENT?

- Minimum acreage is 10 acres in both the Residential and Rural/Agricultural Districts. (B.2.b)

- Minimum acreage in the Residential District remains 10 acres. (C.2.b.)
- Minimum acreage in the Rural Agricultural District is 25 acres. (C.2.b.)
- If plan covers both districts, the Rural Agricultural minimum is required. (C.2.c.)

-
- Allows commercial uses. (B.3.b. through h.)

-
- No commercial uses allowed.

- Is ambiguous about Common Land which includes roads, sidewalks, and recreation areas versus Open Space for conservation. (D.)

-
- Has separate Rules for Open Space and for Common Land. (B.) and (E.)

- Minimum required Open space is 25%. (B.4.a.)

- In the Residential District the minimum Open Space and undisturbed Common Land remains at 25%. (C.4.a.i.)
- In the Rural Agricultural district at least 50% of the entire parcel must be Open Space and undisturbed Common Land. (C.4.a.ii.)

-
- Requires a minimum amount of land be allocated for “recreation areas” for the exclusive use of the Cluster residents. (D.3.)

-
- Imposes a maximum amount of land that can be used for resident only “recreation areas.” (E.3.)
 - This assures that a substantial portion of a Cluster will be preserved as Open Space.

WHAT ARE THE MINIMUM BUFFERS AND SETBACKS FOR A CLUSTER DEVELOPMENT?

- Requires a 25-foot perimeter buffer between the development and abutting properties and any existing public roads. (D.2.)

-
- Requires a **100-foot** perimeter buffer between the development and abutting properties and any existing public roads. (E.2)

-
- No building shall be closer than 10 feet to the required perimeter buffers. (B.6.b.)

-
- No building shall be closer than **25 feet** to the required perimeter buffers. (C.5.c.)

-
- Is ambiguous on setbacks on setbacks applicable to residential lots within a cluster subdivision.

-
- Requires setbacks specified for the Residential and Rural Agricultural Districts. (C.5.e.)
-

EXISTING ORDINANCE (Section #)

PROPOSED IMPROVEMENTS (Section #)

WHAT ARE THE RULES FOR RESIDENCES?

- | | |
|---|---|
| <ul style="list-style-type: none">• Is unclear if residential apartment buildings with interior hallways are permitted. | <ul style="list-style-type: none">• Access to residential units must be from outside each dwelling unit, not hallways. (C.7.) |
| <ul style="list-style-type: none">• Requires a yard at least 15 feet wide and 25 feet deep for each dwelling unit. (B.9.) | <ul style="list-style-type: none">• Requires a back yard for each dwelling-unit at least the same width as the building and with a depth of at least 35 feet. (C.8.a.) |
| <ul style="list-style-type: none">• Has no specific provisions for the location of residential sewage disposal or protection of individual wells. | <ul style="list-style-type: none">• Septic system and well protection radius shall be wholly within the lot being served unless a community water supply and/or sewage system is granted by the State. (F.5.) |
-

WHAT ARE THE RULES FOR ROADS AND DRIVEWAYS?

- | | |
|---|--|
| <ul style="list-style-type: none">• Only requires that the access to a Cluster development be from a three-rod public road with no other requirements. (C.1.) | <ul style="list-style-type: none">• Requires that a Cluster development have appropriate and direct access from an existing Class IV or Class V public road with at least a three-rod of right-of-way. (C.1.b.2.) (D.1.) |
| <ul style="list-style-type: none">• Allows access to residential lots directly from an existing public road. | <ul style="list-style-type: none">• No direct access to any existing public roads is permitted from a residential lot, Common Land for Recreation, parking areas, etc. (D.1.)• Access must be from on-site internal roads. (D.1.) |
| <ul style="list-style-type: none">• Has no rules regarding internal road right-of-ways (ROW), travel-ways, or driveways. | <ul style="list-style-type: none">• Specifies roads with direct access to a residential building with 2 or more dwelling units shall be at least 40 feet wide unless reduced to a minimum of 20 feet at the sole discretion of the Planning Board. (D.3.b.) |
| <p>Has no rules regarding limitations on driveway lengths or other required design standards.</p> | <ul style="list-style-type: none">• Requires that driveways only be used to provide access from an internal road to a detached single-family dwelling unit. (D.4.)• Driveways may be no more than 100 feet long unless a longer driveway is approved by the Planning Board, and must be a minimum of 12 feet wide. (D.4.) |
| <ul style="list-style-type: none">• Provides no discretion for the Planning Board to specify the layout of internal roads and driveways. (C.2.) | <ul style="list-style-type: none">• Planning Board can exercise its discretion concerning internal roads to maximize protection of natural features, aesthetic views, privacy for property owners, and safety for children, pedestrians and bicyclists. (D.5.) |
-

EXISTING ORDINANCE (Section #)

PROPOSED IMPROVEMENTS (Section #)

WHAT ARE THE RULES DEFINING WHAT IS COMMON LAND AND WHAT IS OPEN SPACE?

- Provides no discretion for the Planning Board to specify the layout of internal roads and driveways. (C.2.)

- Planning Board can exercise its discretion concerning internal roads to maximize protection of natural features, aesthetic views, privacy for property owners, and safety for children, pedestrians and bicyclists. (D.5.)

- Provides that steep slopes, narrow ridge lines, unique land features, streams, drainage swales, wetland and ponds and shoreland be less than 50% of the common open space in a Cluster development. (D.1.a.)

- The 50% limit on these features in any Open Space is removed because it can reduce permanently protected open space.
- The land that constitutes is Open Space is defined. (B.3.)

- No area limitation on construction on any on-site designated aquifer recharge area.

- Mandates a 10% area limitation of any construction on a designated aquifer recharge area. (E.1.d.)

- No distinction is made between Open Space for conservation and mandatory Common Land for Recreation that may contain accessory structures and improvements for use only by cluster residents. (D.)

- Distinguishes between Open Space, which must remain undeveloped and undisturbed, and an option to create Common Land for Recreation, which is limited to a maximum area. (B.)(E.3.)

- Allows cluster resident access to “common open spaces” through the perimeter buffer. (D.5.)

- Prohibits Common Land for Recreation and Open Space access via the perimeter buffer. (E.5.a.)

- No provision for public access to open space regardless of the size of the open space.

- Requires that Open Space in excess of 25 acres be accessible to the public with pathways and parking that do not infringe on the rights of cluster residents to privacy and safety. (E.5.e.)
- Allows the Planning Board to determine the location and number of public parking places. (E.5.f.)
- May allow direct access to parking for public use of the Open Space from an existing public road to the cluster development. (E.5.g.)

EXISTING ORDINANCE (Section #)	PROPOSED IMPROVEMENTS (Section #)
WHO CAN OWN COMMON LAND AND OPEN SPACE?	
<ul style="list-style-type: none"> • Perpetual ownership of the common open space by the developer is permitted. (D.6.a.) • A homeowners' association is permitted to own open space for conservation. (D.6.b.) • There is no distinction between who can own the Common Land for the benefit of cluster residents and who can own open space for conservation. (D.6.) 	<ul style="list-style-type: none"> • Distinguishes between ownership of Common Land and Open Space. (E.6.) • Requires that the developer must transfer ownership of the Common Land and the Open Space once 60% of the dwelling units are completed, leased or sold. (E.6.b.) • Ownership of Common Land and Common Land for Recreation must be transferred to a Homeowners or Condo. Association with covenants approved by the Planning Board. (E.6.b.i) • Ownership of Open Space must first be offered to a Conservation entity, a suitable Private Nonprofit Organization or to a public body such as the Town of Sutton. E.6.b.ii.)(E.6.b.iii.)(E.6.b.iv.)
WHAT IS THE APPLICATION AND APPROVAL PROCESS FOR A CLUSTER DEVELOPMENT?	
<ul style="list-style-type: none"> • A Conceptual Consultation with the Planning Board prior to application for a Special Exception to create a cluster subdivision is permitted, but not required. (Subdivision Regs. V.A.1. and 2.) 	<ul style="list-style-type: none"> • Encourages ZBA non-binding consultation with the Planning Board and the Conservation Commission prior to a decision by the ZBA. (C.1.c.)
<ul style="list-style-type: none"> • There is no requirement that the applicant demonstrate the feasibility of a cluster based on an existing site data analysis. 	<ul style="list-style-type: none"> • Requires the ZBA to determine the feasibility of a cluster based on an Existing Site Analysis Plan as defined in the ordinance. (C.1.b.) • The Planning Board may further review design feasibility even if the ZBA determines that a cluster as proposed is feasible. (C.1.b.3.)
<ul style="list-style-type: none"> • A conceptual conventional subdivision plan may be required by the Planning Board but is not mandated. (B.5.a.) 	<ul style="list-style-type: none"> • The applicant must submit a conceptual conventional subdivision plan to determine the allowed density in the Cluster development. (C.1.b.1.)