

**APPLICATION for SPECIAL PERMIT
FOR A CLUSTER SUBDIVISION**

APPLICANT/ Name: _____

CONTACT: Address: _____

Phone Number: _____

E-mail: _____

OWNER: Name: _____

Address: _____

Phone Number: _____

*** If applicant is different than owner(s), a letter of authorization from the owner must accompany this form.**

PROJECT LOCATION: Street Address: _____

Assessors' Map: _____ Lot(s): _____

Zoning District(s): _____ Lot Size: _____

PERMITS/APPROVALS:

Attach any previous or pending decision documentation regarding the site plan to *(such as special permit, variance, finding, etc.)* received from the Planning Board, Zoning Board of Appeals, Conservation Commission, Preservation Commission, and/or Historic District commission.

SUBMITTAL REQUIREMENTS:

- ___ 1 Application fee made payable by check to the Town of Danvers. (\$200.00)
- ___ 1 Completed application and all supporting documentation. *(any previous Board or Commission decision)*
- ___ 1 Completed "Cluster Subdivision Checklist".
- ___ 1 Letter providing owner(s) authorization. *(if the owner is not the applicant)*
- ___ 7 FOLDED and STAPLED copies of all plan and elevation sets.
- ___ 1 Project narrative describing the proposal and listing all requested waivers.
- ___ Electronic PDF format of all plans, elevations, and applicable reports/studies.
(Can be submitted on CD or emailed to dfields@danversma.gov)

Signature of Applicant/Agent: _____

Date: _____

For Department Use Only:
Date Comments Due: _____
Date of Planning Board Hearing: _____

*** Must be submitted 30 days prior to Planning Board hearing.
* Incomplete filings will not be accepted.**

Checklist for Cluster Subdivision

A cluster development shall contain a minimum of two (2) acres of open space.

The number of building lots in the cluster development shall not be greater than the number of buildable lots which the Planning Board finds would be permitted by normal zoning requirements in the district.

In parcels located partly in more than one (1) 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.

The minimum size of each such lot shall be determined on the following basis (*circle one*):

District Minimum Lot Size:

Residence I: 8,000 square feet

Residence II: 12,000 square feet

Residence III: 15,000 square feet

The frontage of each lot on a street within the cluster development shall not be less than thirty (30) feet. Four (4) contiguous lots shall not have less than a total of 300 feet frontage.

For purposes of this section lots separated by open space with frontage of sixty (60) feet or less shall be considered contiguous.

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.

Each lot within the tract shall be so configured as to accommodate within it a circle having a diameter of not less than the following dimensions:

Residence I: 75 feet

Residence II: 85 feet

Residence III: 100 feet

The setback for each such lot shall be at least as follows:

| <u>District</u> | <u>Front Setback</u> | <u>Side Setback</u> | <u>Rear Setback</u> |
|-----------------|----------------------|---------------------|---------------------|
| Residence I | 20 feet | 8 feet | 8 feet |
| Residence II | 25 feet | 10 feet | 15 feet |
| Residence III | 30 feet | 15 feet | 15 feet |

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 Town of Danvers for conservation purposes.

The total area of the open space parcel(s) shall equal or exceed the sum of the areas by which any individual lots are reduced below the minimum lot area normally required by other sections of the Town's zoning by-laws in their districts and shall, in any case comprise at least thirty percent (30%) of the total area of the tract.

At least fifty percent (50%) of the open space shall be preserved by easement or restriction for conservation purposes only.

Construction and use of tennis courts, vegetable gardens or floral gardens or other playing surfaces on not more than fifty percent (50%) of the total open space land shall be permitted.

No more than twenty-five percent (25%) of the required open space shall be wetlands.

Each lot in the tract shall have direct access to one or more portions of the open space, unless the Planning Board finds that due to the topography or other conditions this requirement can be modified and further find that the lack of direct access will be offset by other mitigating factors.

All land areas used to meet the open space requirement shall be so configured as to accommodate within it a circle having a diameter of not less than seventy-five (75) feet.

The open space land area required shall be contained in more than two (2) noncontiguous parcels or, if more than two (2) parcels are to be utilized for this requirement, no parcel shall contain less than 15,000 square feet.

Open space shall be located between the clustered lots and adjacent property in accordance with MGL, Chapter 40A, Section 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.

The covenant must be submitted to the SPGA for review and approval prior to recording.

33.5 Content of Application

In addition to the requirements for a special permit application contained in sections 30.4 and 33.6, 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 Town of Danvers, containing:

The size of the tract in acres.

The number of the proposed building lots and the size of each in square feet.

The proposed location and height of all proposed structures.

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.

The acreage of the proposed permanent open space and location and acreage of any wetlands on the tract as defined by MGL, Chapter 131, Section 40.

A description of the intended uses of the proposed open space and an evaluation of its value to the Town with respect to natural resource preservation, environmental protection, and accessibility by residents of the Town or of the proposed development.

A description of the proposed ownership and maintenance of the proposed open space.

A description of all dwelling units on properties abutting the tract. 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.

A site plan drawn in accordance with the Town of Danvers Subdivision Rules and Regulations.

A "proof plan" to serve as evidence of the number of lots which could be created on the property under a conventional subdivision plan.

Information for Cluster Subdivision

33.6 Procedures for Special Permits for Cluster Development

1. Any person may make application to the Planning Board acting as Special Permit Granting Authority (SPGA) for a special permit excepting the building lots for single family dwellings from specific requirements of the zoning bylaw as specified hereunder, but not any other requirements of the zoning by-law.
2. The application for special permit shall be filed as specified in Paragraph 4 (see below) and section 30.4 of this zoning by-law. The procedures for SPGA review, review by other boards, hearings and findings in that section will apply.
3. Relating to the subdivision control law, Planning Board approval of a special permit shall not substitute for compliance with the subdivision control law, or oblige the Planning Board to approve any related definitive plan for subdivision, or reduce any time periods for Board consideration under the law.
4. The applicant may simultaneously file the application described above with the Preliminary Subdivision Plan as described in the Subdivision Rules and in accordance with MGL, Chapter 41, section 81-S. The application for special permit shall be filed in the following manner: An original and five (5) copies of a completed application together with ten (10) copies of the site plan and six (6) copies of the proof and topographic plans be submitted to the Town Clerk who shall, in turn, give the applicant a dated receipt and, within three (3) days, transmit one (1) copy each to the Board of Health, Conservation Commission, Inspector of Buildings, Manager of Community Development and Planning, Manager of Engineering and the Planning Board.
5. Each of the above agencies and individuals may forward a recommendation to the Planning Board within thirty (30) days, indicating approval, disapproval, or approval with conditions. The reasons for disapproval shall be itemized and explained in writing.
6. In the event no recommendation is received by the Planning Board, such action shall be deemed as approval of the proposal.
7. The Planning Board shall hold a public hearing within sixty-five (65) days of receipt of the application and shall approve or deny the application within thirty (30) days of the close of the public hearing.

33.4.9

The open land, and such other facilities as may be held in common, shall be conveyed as determined by the Planning Board subject to the following guidelines.

- a) To a corporation or trust comprising a homeowners' association whose membership includes the owners or 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 Town of Danvers over such land pursuant to MGL, Chapter 184, sections 31-33, to ensure 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 Town through its Conservation Commission in any proceeding authorized by section 33 of Chapter 184 of the MGL's. 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 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 Essex County Registry of Deeds, Southern District, a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:
 - 1) Mandatory membership in an established homes association as a requirement of ownership of any lot in the tract.
 - 2) 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.
 - 3) 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 the law.

- b) The conservation restriction or easement shall be granted to a non-profit organization, the principal purpose of which is the conservation of open space, or to the Conservation Commission of the Town 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.