

Town of
NORTH ATTLEBOROUGH, MASSACHUSETTS



PLANNING BOARD

**Rules and Regulations Governing Special
Permits for a Cluster Residential Development
Granted by the Planning Board as the Special
Permit Granting Authority.**

PUBLIC HEARING OCTOBER 29, 1987

Effective November 10, 1987

Amended February 18, 1988, November 29, 1990, June 27, 1991,
August 19, 1993, July 29, 1999, and March 8, 2001

TABLE OF CONTENTS

| Section | Page |
|---|-------------|
| 1. Authorization | 1 |
| 2. Application Process | 1 |
| 3. Performance Guarantee | 8 |
| 4. Design and Construction Standards | 8 |
| 5. Administration | 8 |
| 6. Effective Date | 9 |

FORMS

- FORM C-1 Preapplication for a Cluster Residential Development
- FORM C Application for a Cluster Residential Development
- FORM I Covenant - Conditional Approval Contract (Cluster)

RULES AND REGULATIONS GOVERNING SPECIAL PERMITS FOR A CLUSTER RESIDENTIAL DEVELOPMENT GRANTED BY THE PLANNING BOARD AS THE SPECIAL PERMIT GRANTING AUTHORITY

(Adopted under Section 9 of Chapter 40A, M.G.L., and Section VI.I of the North Attleborough Zoning By-Laws)

1. Authorization

- a. Under the special permit granting authority vested in the Planning Board of the Town of North Attleborough by Section VI.I of the Zoning By-Laws of the Town of North Attleborough and by Chapter 40A, Section 9 of the General Laws of Massachusetts, said Board hereby adopts these Rules and Regulations governing the granting of a Special Permit for a Cluster Residential Development in conjunction with Section VIII.I.8 of the Zoning By-Laws of the Town of North Attleborough.

2. Application Process

- a. All preapplications and applications for a Special Permit for a Cluster Residential Development submitted to the Planning Board shall be accompanied either by a properly executed Form C-1, for a preapplication review, or Form C, for an application, with accompanying materials as put forth in these Regulations.
- b. A Cluster Residential Development Intensity Schedule shall be submitted with the Preapplication or Application, in accordance with Section VI.I.7 of the North Attleborough Zoning By-Laws.

The number of permitted dwelling units within a Cluster Residential Development shall be calculated as follows:

$$\text{Number of permitted dwelling units} = \left[\left(\begin{array}{c} \text{Total} \\ \text{tract} \\ \text{area} \end{array} - \begin{array}{c} \text{Protected} \\ \text{wet} \\ \text{area} \end{array} \right) \times .8 \right] \div \begin{array}{c} \text{Minimum} \\ \text{gross} \\ \text{lot area} \end{array}$$

The total minimum clustered lot area shall be calculated as follows:

For single and two family dwellings:

$$\text{Total minimum clustered lot area} = \begin{array}{c} \text{Number of} \\ \text{permitted} \\ \text{dwelling units} \end{array} \times \begin{array}{c} \text{Minimum clustered} \\ \text{lot area per} \\ \text{dwelling unit} \end{array}$$

For multi family dwellings:

$$\text{Total minimum clustered lot area} = \text{Number of permitted dwelling units} \times \left(\text{Minimum clustered lot area per dwelling unit} + \text{square footage per bedroom} \right)$$

c. Preapplication for a Cluster Residential Development

In order to prevent costly changes in final detailed engineering drawings and to expedite the Planning Board's review of the proposed cluster residential development, it is strongly encouraged, but not required, that the applicant submit a Preapplication for a Cluster Residential Development plan to the Planning Board for review. Two completed copies of a Form C-1 shall be filed with the Planning Board and one with the Town Clerk, and three copies of the plan shall be filed with the Planning Board accompanied by an initial fee of \$100.00, which may be credited toward the application fee for a cluster residential development which is required in Section 2.d of this regulation. The preapplication shall be for review purposes only, and shall not constitute an application for a special permit under this section. Such a preapplication for a Cluster Residential Development plan shall include at least the following:

- (1) Plan drawn on 24" x 36" sheet at scale of 1" = 40'.
- (2) Locus at 1" = 1,000'.
- (3) Legend and title "Preapplication for Cluster Residential Development."
- (4) Designer, engineer or surveyor.
- (5) Proposed system of drainage.
- (6) Proposed utility system.
- (7) Approximate boundary lines, areas and dimensions of proposed lots with the site.
- (8) Topography at 10' contour intervals.
- (9) Cluster name.
- (10) Exterior boundaries of the site.
- (11) True north point.
- (12) Scales.
- (13) Names and addresses of record owner and applicant.
- (14) Existing and proposed lines of private ways, lots, rights-of-way, easements, and any open space or common areas within the site.

- (15) Purpose of easements indicated.
- (16) Names and plan location of all abutters indicating limits of contiguous boundaries and those owners of land separated from the site only by a street.
- (17) Locations, names and present widths of streets bounding, approaching, or within reasonable proximity of the site.
- (18) Location of natural waterways, indicating direction of flow, and all waterbodies or areas classified as wetlands.
- (19) Major site features, such as existing stone walks, fences, buildings, large trees, rock ridges, rock outcroppings, swamps, historic features, and wooded areas.
- (20) Location of and number of proposed dwelling units.

Within 45 days of the submittal of a Preapplication for a Cluster Residential Development to both the Planning Board and Town Clerk, the Planning Board shall report in writing its findings and recommendations to the person or entity submitting the plan, filed in duplicate with the Town Clerk.

d. Application for a Cluster Residential Development

An application for a Cluster Residential Development plan shall consist of a completed application form (Form C) and a site plan for the proposed cluster residential development, which shall be submitted to the Planning Board, as the Special Permit Granting Authority (SPGA), for approval as a special permit. Two completed copies of a Form C shall be filed with the Planning Board and one with the Town Clerk, and six copies of the plan shall be filed with the Planning Board. A fee of \$200.00 plus \$2.00 per linear foot of roadway/access driveway proposed to be within the cluster residential development, and a fee to cover the cost of mailing notices, which shall consist of the rate, at the time of filing of mailing a certified letter, return receipt requested, multiplied by the number of names listed on the certified abutters list plus the name(s) of the applicant(s) plus the cost of six additional first class letters, to be paid at the time of the plan submission, shall be filed with the Board, with additional costs billed as incurred to cover the cost of advertising and notices which shall be paid at the time of the public hearing by the applicant directly to the newspaper in which the hearing notice was published, as well as a certified list of abutters and abutters to abutters within 300' of the exterior boundaries of the proposed cluster residential development.

If the hiring of any consultant is deemed necessary by the Planning Board to analyze any submitted plan, the cost shall be agreed to, and levied on the applicant. Said applicant shall pay for those costs, as determined by the Planning Board, in full, at the time of plan submittal, via certified check. Any excess charges **NOT** used shall be refunded. If additional monies are necessary, they shall be forwarded to the Planning Board as required, prior to plan approval.

1. When reviewing an application for a special permit for a cluster residential development under Section 9 of Chapter 40A of the General Laws, or for the inspection of construction within an approved cluster residential development the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed cluster residential development or because of a cluster residential development's potential impacts. The Planning Board can require that the Applicant pay a "review fee" consisting of the reasonable costs initially estimated to be incurred by the Planning Board and actually incurred over the initial estimate for the employment of outside consultants engaged by the Planning Board to assist in the review of an application for a cluster residential development. In all cases of the inspection of construction within an approved cluster residential development, the Planning Board shall require that the applicant pay an "inspection fee" consisting of the reasonable costs initially estimated to be incurred by the Planning Board and actually incurred over the initial estimate for the employment of outside consultants engaged by the Planning Board to perform said inspection services.

2. In hiring outside consultants, the Planning Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Planning Board in analyzing a cluster residential development to ensure compliance with the Zoning Act, the Planning Board's rules and regulations, and other applicable laws or by-laws.

3. Funds received by the Planning Board pursuant to this section shall be deposited with the Town Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific cluster residential development(s) for which a review fee has been collected from the Applicant. Failure of an Applicant to pay in full the total review fee shall be grounds for denial of the application for a cluster residential development or denial of the release of the bond held on the cluster residential development in the case of inspection services.

4. Review fees and/or inspection fees may only be spent for services rendered in connection with the specific application for a cluster residential development from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Planning Board's review of a cluster residential development and the expiration of any applicable appeal period after its decision is filed with the Town Clerk, any excess amount in the account, including interest, attributable to a specific cluster residential development, shall be repaid to the Applicant or the Applicant's successor in interest, if approved in writing by the Applicant. A final report of said account shall be made available to the Applicant or the Applicant's successor in interest within 30 days after the expiration of the applicable appeal period from the filed decision. For the purpose of this regulation, any person or entity claiming to be an Applicant's successor in interest shall provide the Planning Board with documentation establishing such succession in interest if there is no writing from the Applicant. In the case of fees for inspection services, this paragraph shall apply to activities prior to the final release of any bond or other security held on the cluster residential development.

5. Any Applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen within thirty (30) days of the consultant's hiring by the Planning Board. The grounds for such a written appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following its receipt of the written appeal, the selection made by the Planning Board shall stand.

The following shall be included on the site plan submitted with the application for a Cluster Residential Development:

- (1) Stamp of Massachusetts registered professional engineer or land surveyor who prepared the plan.
- (2) Plan drawn on 24" x 36" sheet at scale at 1" = 40'. (Multiple sheets require an index sheet.)
- (3) Locus at 1" = 1,000'.
- (4) Name of the development.
- (5) Exterior boundaries of the site.
- (6) True north point.
- (7) Scales.
- (8) Names and addresses of record owner and applicant.
- (9) Registry book and page where property is recorded.
- (10) Assessor's plat and lot.
- (11) Existing and proposed lines of private ways, lots, rights-of-way, easements, and any open space or common areas within the site.
- (12) Purpose of easements indicated.
- (13) Names and plan location of all abutters indicating limits of contiguous boundaries and those owners of land separated from the site only by a street.
- (14) Location, names, and present widths of streets bounding, approaching, or within reasonable proximity of the site.

- (15) Location of natural waterways, indicating direction of flow, and all waterbodies or areas classified as wetlands.
- (16) Major site features, such as existing stone walks, fences, buildings, large trees, rock ridges, rock outcroppings, swamps, historic features, and wooded areas.
- (17) Zoning district and proposed use.
- (18) Landscape design of the lot including:
 - a) Dimensions of sidewalks
 - b) Fences
 - c) Walls
 - d) Planting areas
 - e) Delineation of a vegetative clearance line
- (19) Location of existing and proposed structures, including:
 - a) Dimensions
 - b) Total area
 - c) Number of stories
 - d) Ground elevation at building corners
 - e) Number of units including type of building (single, two or multi family)
- (20) Dimensions of parking spaces
- (21) Dimensions of entrance and exit drives
- (22) A Cluster Residential Density Schedule, to include the following:
 - a) Total area subject to protection under the Wetlands Protection Act
 - b) Maximum number of dwelling units
 - c) Minimum clustered lot area
 - d) Minimum gross lot area
 - e) Total open space
 - f) Number of dwelling units and number of bedrooms per unit.
- (23) Sufficient data including lengths, bearings, radii, tangent distances, and central angles to determine the exact location, direction, and length of every street and way line, lot line, and boundary line, and to establish these lines on the ground.
- (24) Location of all permanent monuments and benchmarks identified as to whether existing or proposed, including all curbs and granite bounds.
- (25) Boundary lines, areas in square feet, and dimensions of all proposed lots within the site with all lots designated numerically and in sequence.

- (26) Suitable space to record the action of the Planning Board and signatures of the members of the Board on each sheet.
- (27) Existing and proposed topography, with 2-foot contour intervals.
- (28) Existing and proposed profiles of the centerline of proposed streets at a horizontal scale of 1" = 40' and a vertical scale of 1" = 4' on Town datum; including:
 - a) Location of any intersecting public or private ways.
 - b) Location and size of existing and proposed storm drains, water mains, sewers and their appurtenances, and other underground utilities to be placed in the right-of-way of private or public ways.
- (29) Proposed layout of storm drainage, water supply and sewage disposal systems.
- (30) Design and computations for determining the required sizes of the storm drainage and sewer system.
- (31) Drainage plans including (but not limited to):
 - a) Catchbasins
 - b) Pipes
 - c) Paved waterways
 - d) Drywells
 - e) Riprap
 - f) Retention and detention storage areas.
- (32) Proposed lighting
- (33) Location of signs

The information required in this Section **2.d.** shall also be submitted on a Windows compatible 3.5" floppy disk or CD in DXF (drawing exchange file) format. All digital data shall conform to the following guidelines:

The coordinate system shall be Massachusetts State Plane coordinates using the new North American Datum of 1983 (NAD83) and the newer North American Vertical Datum of 1988 (NAVD). Plan submittals shall be "tied into" real world State Plane coordinates using the datums specified above. To demonstrate this tie down, all features shall be stored in Massachusetts State Plane Coordinate System and the plan location and coordinate values of at least two known points in the established North Attleborough grid system shall be included in the submitted DXF files. A list and description of the data layers contained in the DXF files shall be submitted on the disk or CD containing the DXF files in an accepted spreadsheet or database format.

Within sixty-five days after the filing of an application for a Special Permit for a Cluster Residential Development and accompanying plans with the Planning Board and the Town Clerk, the Planning Board shall hold a public hearing on the application. The Planning Board shall act

on the application within ninety days following the public hearing. In its decision, the Planning Board may impose conditions which are deemed necessary to ensure the health and safety of residents. The Planning Board's decision on the Special Permit shall be filed with the Town Clerk and the Registry of Deeds in accordance with the Massachusetts General Laws, Chapter 40A, Section 11.

3. Performance Guarantee

In order to assure that improvements to the Cluster Residential Development are fulfilled, the Planning Board shall require that all improvements as specified on the Cluster Residential Development plan are properly fulfilled by securing a bond or other negotiable security in an amount satisfactory to the Board. The Board shall release all or portions of such security as construction of improvements is approved in accordance with the Town's specifications.

If a covenant is employed as a performance guarantee, such covenant shall be in conformance with a Master Deed for the Cluster Residential Development, and shall state that no lots within the Cluster Residential Development shall be sold and no buildings shall be erected thereon until improvements specified as a condition of the Special Permit are constructed to serve the lots and/or buildings adequately.

The procedures to be followed in assuring completion of improvements through a performance guarantee shall be consistent with the Planning Board's Rules and Regulations Governing Subdivision of Land, Section 4.9.

4. Design and Construction Standards

The Planning Board shall assure that design and construction standards within the Cluster Residential Development are in compliance with the Planning Board's Rules and Regulations Governing Subdivision of Land, Sections 4, 5, and 6.

5. Administration

a. Inspection and Control

The Planning Board shall designate its appointed representative(s) for the inspections of all phases of work within cluster residential developments. The actual cost of said inspections shall be paid by the applicant or his/her/their/its successors prior to inspections by utilization of the revolving account established in Section 2.d. of these Rules and Regulations. At the points hereinafter indicated, the construction of required streets and other improvements shall be inspected:

- (1) The installation of underground utilities and services shall be inspected as appropriate by the Planning Board's appointed representative before the backfilling of trenches.

(2) The roadway shall be inspected prior to each required construction step by the Planning Board's appointed representative upon completion of the subgrade, base course, binder and surface course.

(3) The sidewalk shall be inspected by the Planning Board's appointed representative prior to each required construction step.

(4) Following the completion of all the improvements required by the Special Permit Granting Authority, the cluster residential development shall be inspected by the Planning Board's appointed representative and/or appropriate Town Departments.

b. Unless the approval of the work completed, including approval of materials used, to each point has been given in writing, no further work shall be done until such work is subsequently completed to the satisfaction of the Planning Board's appointed representative, which shall be given in writing.

c. Inspection shall be requested by the applicant at least 24 hours in advance by notice to the Planning Board.

d. Such required inspection shall be at the expense of the applicant who shall make all necessary arrangements with the Planning Board and/or the appropriate department(s).

e. Variation

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgement of the Planning Board in its action as the SPGA, such action is in the public interest and not inconsistent with the intent of the Zoning Act or the intent of the North Attleborough Zoning By-Laws, Section VI.I.

f. Amendments

These Rules and Regulations may be amended from time to time in accordance with Section 9 of Chapter 40A of the General Laws.

g. Validity

The invalidity of any of the foregoing rules, regulations and requirements shall not affect the validity of the remainder.

6. Effective Date

These Rules and Regulations shall be effective on and after the _____ day of _____ 19____.

FORM C-1
PREAPPLICATION FOR
A CLUSTER RESIDENTIAL DEVELOPMENT PLAN

File two completed forms with the Planning Board and one with the Town Clerk in accordance with the Planning Board's Rules and Regulations Governing a Special Permit for a Cluster Residential Development.

North Attleborough, Mass.....20.....

TO THE PLANNING BOARD:

The undersigned herewith submits the accompanying preapplication for the property located in the Town of North Attleborough for review of a Cluster Residential Development under the requirements of the Zoning Act and the North Attleborough Zoning By-Laws, and the Planning Board's Rules and Regulations Governing the Special Permit Process for a Cluster Residential Development in the Town of North Attleborough. The original and 6 contact prints are enclosed herewith.

1. Name of Applicant.....
Address.....
2. Name of Engineer or Surveyor.....
Address.....
3. Deed of Property Recorded in.....Registry,
Book.....Page.....
4. Location and Description of Property:

Signature of Owner.....

Address.....

A list of names and address of the abutters and abutters to abutters within 300 feet of this plan is attached. These names are as they appear on the most recent tax list.

(A payment of \$100.00 is attached.)

FORM C
APPLICATION FOR
A CLUSTER RESIDENTIAL DEVELOPMENT PLAN

File three completed forms -- two with the Planning Board and one with the Town Clerk in accordance with the Planning Board's Rules and Regulations Governing a Special Permit for a Cluster Residential Development.

North Attleborough, Mass _____, 20 ____

TO THE PLANNING BOARD:

The undersigned herewith submits the accompanying application for the property located in the Town of North Attleborough for approval as a Special Permit for a Cluster Residential Development under the requirements of the Zoning Act and the North Attleborough Zoning By-Laws, and the Planning Board's Rules and Regulations Governing the Special Permit Process for a Cluster Residential Development in the Town of North Attleborough. The original and 6 contact prints are enclosed herewith.

1. Name of Applicant _____
Address _____
2. Name of Engineer or Surveyor _____
Address _____
3. Deed of Property Recorded in _____ Registry,
Book _____ Page _____
4. Location and Description of Property:

Signature of Owner _____

Address _____

A list of names and address of the abutters and abutters to abutters within 300 feet of this plan is attached. These names are as they appear on the most recent tax list.

(A payment of \$200.00 plus \$2.00 per linear foot of roadway is attached)

Dated_____

COVENANT

CONDITIONAL APPROVAL CONTRACT

KNOW ALL MEN BY THESE PRESENTS

that whereas the undersigned has submitted application dated _____, to the North Attleborough Planning Board for a Special Permit for a Cluster Residential Development entitled and dated _____, and has requested the Board to endorse the accompanying plan without requiring a Performance Bond. The special permit for such plan has been approved by the Planning Board on _____.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the North Attleborough Planning Board endorsing said plan without requiring a performance bond, and in consideration of one dollar in hand paid, receipt whereof if hereby acknowledged, the undersigned covenants and agrees with the Town of North Attleborough as follows.

1. The undersigned will not sell any building area in the Cluster Residential Development or erect or place any permanent building on any such building area until the work on the ground necessary to serve adequately such building area has been completed in the manner specified in the aforesaid application and accompanying plans, and in accordance with the covenants, conditions, agreements, terms and provisions contained in the following.
 - a. Application for Approval of a Special Permit for a Cluster Residential Development (Form C) and dated_____.
 - b. Rules and Regulations Governing Special Permits for a Cluster Residential Development Granted by the Planning Board as the Special Permit Granting Authority, and the Rules and Regulations Governing the Subdivision of Land in North Attleborough as applicable.
 - c. The accompanying Cluster Residential Development Plan as defined by the above Rules and Regulations and as qualified by the decision on the special permit issued by the Planning Board dated _____.

Dated _____

2. This agreement shall be binding upon the executors, administrators, devisees, heirs, successors, and assigns of the undersigned.

It is the intention of the undersigned and it is hereby understood and agreed that this Contract shall constitute a covenant running with the land included in the aforesaid Cluster Residential Development and operate as a restriction upon said land.

It is understood and agreed that building areas within the Cluster Residential Development shall, respectively, be released from the foregoing conditions upon the recording of a Certificate of Performance executed by a majority of said Planning Board and enumerating the specific building areas to be so released.

This covenant will be in conformance with the Master Deed for the Cluster Residential Development, and reference to this Covenant shall be made to therein.

3. The undersigned represents and covenants that the undersigned is the owner (*) in fee simple of all the land included in the aforesaid Cluster Residential Development and that there are no mortgages of record or otherwise on any of said land, except such as are described below and subordinated to this Contract, and the present holders of said mortgages have assented to this Contract prior to its execution by the undersigned.

IN WITNESS WHEREOF the undersigned applicant(s) as aforesaid, do hereunto set their hands and seals this _____ day of _____ .

Owner _____

Address _____

Applicant _____

Address _____

Dated _____

Description of Mortgages: _____

(Give complete name and Registry of Deeds reference)

(* If there is more than one owner, all must sign.)

Assents of Mortgagees:

COMMONWEALTH OF MASSACHUSETTS

_____, SS _____ 20_____

Then personally appeared the above named _____ and acknowledged the foregoing instrument to be _____ free act and deed, before me.

Notary Public
My Commission expires: _____

1 copy each:

- Applicant
- Planning Board
- Town Clerk
- Registry of Deeds or Land Court