

4850. Open Space Residential Design (Special Permit) (ATM 5/21/2008, Article 24; Amended ATM 5/9/2011, Article 37; Amended ATM 5/5/2015 Article 42)

1) Purpose and Intent

a. **Primary Purposes.** The primary purposes for Open Space Residential Design (OSRD) are the following:

1. To allow for greater flexibility and creativity in the design of residential developments;
2. To encourage the permanent preservation of public open space, agricultural land, forestry land, wildlife habitat and other natural resources including aquifers, water bodies and wetlands, and historical and archeological resources in a manner that is consistent with Norwell's Master Plan and Open Space Plan;
3. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
4. To minimize the total amount of disturbance on the site;
5. To further the goals and policies of Norwell's Master Plan and Open Space & Recreational Plan;
6. To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economic and efficient manner;
7. To facilitate the construction and maintenance of public trails and associated amenities to enhance the pedestrian experience.

b. **Secondary Purposes.** The secondary purposes for OSRD are the following:

1. To preserve and enhance the Town's character;
2. To protect and enhance the value of real property;
3. To protect the Town's water supplies;
4. To provide for a diversified housing stock;
5. To protect agriculturally significant land.

2) Special Permit Required. All OSRD developments require Special Permit approval. The Planning Board, acting as the special permit granting authority (SPGA), may authorize an OSRD Special Permit for OSRD subdivisions pursuant to the requirements and procedures outlined in this bylaw.

3) Eligibility for OSRD Special Permit Approval

- a. **Applicability.** Special permits for OSRD Definitive Subdivisions are allowed in all residential districts.
- b. **Minimum Size of Subject Property.** To be eligible for consideration for an OSRD Special Permit, the subject property shall contain a minimum of five (5) acres.

The Planning Board may waive this requirement if the land offers opportunities for contiguous open space and the Planning Board deems that the design satisfies the purpose and intent of this Bylaw.

- c. **Contiguous Parcel.** The Planning Board may determine that two (2) or more parcels separated by a road or other man-made feature are “contiguous” for purposes of this section if they satisfy the purpose and intent of this Bylaw.

4) Pre-Application Conference

- a. **Pre-Application Conference.** The applicant is required to attend a pre-application conference, which may occur at one or more regular meetings of the Planning Board. The parties at the pre-application conference shall discuss the OSRD design process and criteria set forth in this Bylaw. The Planning Board shall invite to the pre-application conference the Conservation Commission, Board of Health and any other Town officers or representatives whose input is deemed by the Planning Board to be necessary and in the Town’s best interest. The purpose of a pre-application conference is to attempt to minimize the applicant’s costs of engineering and other technical experts, and to discuss the proposal with the Planning Board at the earliest possible stage in the development.
- b. **Timetable.** At the pre-application conference, the applicant shall outline the proposed OSRD project and seek preliminary feedback from the Planning Board and/or its technical experts.
- c. **Technical Expert.** The Planning Board shall discuss engaging technical experts at the expense of the applicant to review the submittals required for the OSRD Special Permit.
- d. **Pre-Application Site Visit.** Prior to the Pre-Application Conference, the Planning Board may require a site visit in order to better understand the site and facilitate pre-application review of the OSRD proposal.
- e. **Pre-Application Conference Submittals** *(Voted ATM 5/10/2011; approved by AG 8/24/2011)*
 - 1. **Site Context Plan.** This plan shall identify the subject parcel in connection to its surroundings. Based on existing data sources (including all state and local natural resource maps such as the National Heritage Endangered Species Program Priority and Estimated Species maps), field inspections and the evaluation of the Norwell 2005 Master Plan Maps (including the “Natural Resources with Priorities” map) or those of any succeeding master plan, the Site Context Plan shall identify Primary and Secondary Conservation Areas, as described in Section F) within the proposed parcel and show all major natural resource areas or features, including those that cross parcel lines and those that are located on adjoining lands. All on-site local, state and federal regulatory resource boundaries and buffer zones shall be clearly identified. This plan will enable the Planning Board to understand the site in relation to adjacent properties.

2. **Order of Resource Area Delineation (ORAD).** The applicant shall submit a valid ORAD from the Conservation Commission and still be responsible for maintaining said ORAD throughout the subdivision approval process.
 3. **Existing Conditions/Site Analysis Plan.** This plan shall identify all easements and visible features on the property. Based upon existing ORAD, data sources and field inspections, this plan shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include but are not limited to wetlands, vernal pools, wetland buffer zones, riverfront areas, floodplains, existing topography, slopes over twenty (20%) percent, mature non-degraded woodlands, trees over twelve (12) inches in diameter, hedgerows, farmland, unique or special wildlife habitats, historical or cultural features (such as old structures or stone walls), geologic formations, solar orientation and scenic views into and out from the property, and any other significant natural features. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap or conflict.
 4. **Enhanced NRCS Soils Map.** This map will identify the suitability of the soils and soil types for the stormwater treatment areas and, if proposed, the location of any communal or off-lot septic systems. All previously completed percolation test results, depth to groundwater test holes and soil logs shall be shown on the map. The information depicted on Site Context Plan and the Existing Conditions/Site Analysis Plan may be consolidated onto the Enhanced NRCS Soils Map, if practical.
 5. **Photographs.** Photographs of the site and significant resources shall accompany the pre-application conference submittals if the Planning Board requests them to garner a better understanding of the subject property.
- 5) Application for OSRD Special Permit and Submittals
- a. **Application.** An application for an OSRD Special Permit shall be submitted on the Norwell Planning Board "Form O." Seven (7) total copies of the application and the Yield Plan shall be required. In addition, the applicant shall also submit seven (7) copies of the Site Context Plan, the Existing Conditions/Site Analysis Plan and the Enhanced NRCS Soils Map, showing any changes requested during the Pre-Application Conference.

Whenever an application for an OSRD Special Permit is filed with the Planning Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan and other documentation with the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police and Fire for their consideration, review and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt by the reviewing party of all the required materials; failure of the reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five (35) day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five (35) day period. The decision/findings of the

Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

b. **Yield Plans.** Two yield plans shall be submitted to the Planning Board:

1. **Traditional Subdivision Yield Plan.** A Plan showing the layout of the maximum allowable number of house lots under the Planning Board Rules and Regulations for a traditional subdivision. The plan shall include an area of upland satisfactory to the Planning Board as a drainage parcel. (*revised ATM 5/5/2015, Article 42*)
2. **OSRD Yield Plan.** A Plan showing the layout of the maximum allowable number of house lots in an OSRD Definitive Subdivision. The maximum number of lots shall be calculated using the following approach: (*revised ATM 5/5/2015, Article 42*)

Determine total land area expressed in square feet, then

Subtract all wetland areas expressed in square *feet*, then

Multiply this subtotal by 0.9, then

Divide this subtotal by 43,560 (any non-integer number shall be rounded down the nearest integer)

The equation for this calculation is:

$$(\text{Total land area} - \text{area of wetlands}) \times .9 / 43,560 = \text{allowable lots}$$

expressed in square feet

- c. **Development Plan.** The development plan shall bear the seal and certification of a registered Landscape Architect, or a multidisciplinary team of which one member is a registered Landscape Architect. The plan shall show the existing conditions of the subject parcel, identify the proposed open space and developable areas, and adhere to plan design components defined by Section 6 of this Bylaw.

The Landscape Architect shall include a brief narrative on the plan that describes the characteristics of the planned open space and how the planned development preserves grades, vegetation and natural features in the development areas.

The Development Plan shall also contain the information required for a Preliminary Subdivision Plan, as set forth in Section 5.0 of the Planning Board's most current Subdivision Rules and Regulations.

The Planning Board shall vote to formally acknowledge that the submitted Development Plan is substantially complete.

6) **OSRD Development Plan Design**

- a. **Design.** Applicants shall demonstrate to the Planning Board that the following OSRD design process was followed in determining the layout of proposed open space, streets and house lots:

1. Conservation Areas. First, Primary Conservation Areas (such as wetlands, riverfront areas and floodplains regulated by local, state and federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the potentially developable area will be identified and delineated. Land identified as potentially developable shall not be located in any Primary Conservation Areas, or to the maximum extent feasible, in any identified Secondary Conservation Areas.
 2. Locate House Sites. Locate the approximate sites of individual houses within the potentially developable area and include the delineation of private yards and shared amenities, so as to reflect an integrated community. The shared amenities should be located so that the number of homes enjoying the amenities shall be maximized.
 3. Align the Streets and Trails. Align the streets to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails on and abutting the subject parcel.
 4. Lot Lines. Draw in the lot lines.
- b. **Reduction of Dimensional Requirements.** In an OSRD development, the Planning Board may authorize a reduction in any of the Intensity of Use and Dimensional requirements in the Zoning Bylaw. The following standards shall apply:
1. Lot frontage shall not be less than fifty (50) feet.
 2. Lot size shall not be less than one-half (1/2) acre of upland. No area within the fifty (50) foot wetlands buffer strip may be included in determining compliance with this requirement.
 3. No building or structure shall be erected, placed or added so as to extend within twenty-five (25) feet of the front property line, nor within ten (10) feet of the side or rear property line.
 4. No two (2) points on lot lines shall be less than fifty (50) feet apart except where the shortest distance between such points, measured along the perimeter of the lot, is less than or equal to one hundred fifty (150) feet.
 5. Lot shall be exempt from Sections 2432 and 2450 of the Zoning Bylaw.
 6. Only lots on the street to be created by the OSRD subdivision Special Permit are to benefit from the reduced area, setback and frontage requirements. No reductions of frontage, setbacks and area shall be allowed on any lot that fronts on an existing way not created via OSRD Special Permit.
 7. The applicant shall submit a document outlining proposed methods of reducing the visual scale and massing of structures to create a development that adheres to the rural character of the town.

- c. **Open Space Requirements.** A minimum of fifty (50%) percent of the upland on the subject property shown on the approved development plan shall be permanently protected as open space. Any proposed open space, unless conveyed to Norwell's Conservation Commission, shall be subject to a recorded conservation restriction, providing that such land shall be perpetually kept in an open state and be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner consistent with its intended purpose as open space.

1. The upland open space shall be contiguous. (*revised ATM 5/5/2015, Article 42*)

The Planning Board may waive the contiguous requirement for all or part of the required open space within the OSRD Definitive Subdivision where it is determined to the satisfaction of the Planning Board that allowing non-contiguous open space will promote the goals of this Bylaw and/or protect identified Primary and Secondary Conservation Areas.

2. The open space shall be used for wildlife habitat and conservation and any of the following additional purposes: historic preservation, recreation, walking trails, bike paths, view vistas, parklands, agriculture, horticulture, forestry or a combination of these uses. Whatever use is proposed shall be served by suitable access for such purposes. The Planning Board may allow open space uses not specified in this section if the Planning Board considers the use consistent with the purpose and intent of this Bylaw.
3. Disturbed Areas within Open Space: not more than one-half (1/2) of dedicated open space shall be disturbed or altered. A disturbed area is any land not left in its natural state. At the option of the Planning Board, other areas may be considered as contributing towards this requirement where the development plan includes the restoration of the area to a more natural condition, for example, where an abandoned gravel pit will be regraded and replanted with vegetation consistent with its surroundings.
4. Open space shall not include land set aside for the road's right-of-way.
5. Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the dedicated open space to be used for components of sewerage disposal systems serving the subdivision, when the Planning Board finds that such use will not be detrimental to the character or quality of the open space or wetlands. "Decentralized Cluster Wastewater Systems" or communal sewerage disposal systems shall not be allowed within the dedicated open spaces if they have mounding that does not comport with the surrounding grades.
6. Engineered drainage systems such as retention, detention and infiltration ponds, shall not be allowed within the open space except where specifically permitted by the Planning Board under Section 6.e.6. Underground infiltration systems or other low impact drainage systems (as defined by Section 6.f) shall be allowed within the open space subject to an agreement that the proposed road and drainage system will remain private in perpetuity.
7. Communal buildings and structures that are accessory to the open space shall not be allowed within the dedicated open space unless the Planning Board deems that their location therein satisfies the purpose and intent of this Bylaw.

8. **Ownership of the Open Space:** the open space shall, at the applicant's election and subject to the approval of the Planning Board, be conveyed to either the Town's Conservation Commission, or a nonprofit organization or land trust whose principal mission is the conservation and protection of open space, or to a corporation or trust owned jointly or in common by the owners of lots within the proposed OSRD Definitive Subdivision. If conveyed to a trust, maintenance of such open space and facilities shall be permanently guaranteed by such trust, which shall provide for mandatory assessments for maintenance expenses for each lot and unit.
 9. **Maintenance Easement:** if the open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to provide maintenance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.
 10. The protected open space must be clearly delineated on the ground with permanent markers before any building permits are issued. The Planning Board may require the installation and maintenance of reasonable measures in order to delineate such areas and ensure that open space areas are not encroached upon by abutting lot owners.
- d. **Roadway Design and Construction.** Streets in OSRD Definitive Subdivisions shall adhere to the traditional subdivision requirements as set forth in the most recent Planning Board Rules and Regulations except as superseded by the following standards 1-5. (*revised ATM 5/5/2015, Article 42*)

The Planning Board reserves the right to waive strict compliance with any part of this section if the specific waivers comply with the purpose and intent of this Bylaw and are in the public's interest.

1. Street Design. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
2. Dead-end Roads. Streets shall not exceed a maximum length of up to one thousand (1,000) feet measured from the centerline of the nearest intersecting through street to the end of the subdivision way (farthest extent of right-of-way).
3. Dead-end Road Length and Buffer. When OSRD dead-end roads exceed five hundred fifty (550) feet in length, measured from the centerline of the nearest intersecting through street to the end of the subdivision way, dedicated open space should be provided at a depth of one hundred (100) feet, along the entire length of the existing street from which the subdivision derives its frontage.

When OSRD dead-end roads do not exceed five hundred fifty (550) feet in length, dedicated open space should be provided at a depth of twenty-five (25) feet, along the length of the existing street from which the subdivision derives its frontage.

4. Cross Section. Typical subdivision cross-section requirements as set forth in the most recent Planning Board Rules and Regulations shall apply with the exception that dead-end roads shall have a minimum 24 foot width with a 12 inch berm.
 5. Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate. The Planning Board will strongly encourage that such amenities be designed so as to link to like facilities adjacent to the subject parcel. If no such facilities exist and the property abuts land that may be further developed in the future, the Planning Board may require that a reserve access strip be created to facilitate connection to future developments.
- e. **Screening, Landscaping and Buffer Areas.** In addition to the stated requirements elsewhere in the Zoning Bylaw, the following shall be required for OSRD Definitive Subdivisions.
1. All surface stormwater management facilities shall be accompanied by landscape plan, signed and sealed by a registered Landscape Architect. The landscape plan shall screen surface stormwater management facilities from both dwelling and roadside views.
 2. Roadside and Adjacent Property Buffer Areas. A vegetated buffer is required along the entire length of existing ways abutting the proposed subdivision as per §6.d.3. The subdivision roadway may cross such buffer areas.

A vegetated buffer of a depth of at least seventy-five (75) feet is required along developed residential property adjacent to the subdivision.

None of the existing vegetation in these buffer areas should be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project.

The Planning Board may waive this buffer requirement when it determines that doing so is not inconsistent with the purpose and intent of this Bylaw. The Planning Board may require additional plantings in a buffer area if the existing vegetation does not provide adequate screening.
 3. Resource Buffer Areas. A natural vegetated buffer at least one hundred (100) feet deep shall be preserved along ponds, wetlands, vernal pools, streams and riverfront areas on or adjacent to the property. The Planning Board may waive this buffer requirement when it determines that doing so is not inconsistent with the purpose and intent of this Bylaw.
 4. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree cutting and the alteration of natural grades. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover.
 5. The removal, disturbance or disruption of historic or cultural structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties. If such elements exist, the applicant shall submit a narrative explaining how said interests are being preserved or how removal, disturbance or disruption is being minimized.

6. Subject to the approval of the Planning Board, wastewater and stormwater management systems may be located within buffer areas.
- f. **Stormwater Management.** The Planning Board encourages the use of non-structural stormwater management techniques such as swales, bio-retention areas, rain gardens and other Low Impact Development drainage techniques that reduce impervious surface and promote groundwater recharge. Drainage requirements for OSRD Definitive Subdivisions shall meet the requirements of the Planning Board's Rules and Regulations and current DEP Stormwater Management Requirements.

The approximate number and location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan. A narrative explanation prepared by a certified Professional Engineer proposing systems for stormwater drainage and its likely impacts on-site and to any abutting parcels of land shall be submitted in the application.

- g. **Utilities.** Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. A narrative explanation shall be prepared by a certified Professional Engineer detailing the proposed wastewater systems to be utilized by the development.

A narrative explanation prepared by a certified Professional Engineer shall detail the proposed drinking water supply system.

- h. **Site Visit.** Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the project review process. The applicant and/or its agents shall accompany the Planning Board and/or its agent if a site visit was not performed during the pre-application process.
- i. **Compliance with Rules and Regulations.** OSRD Definitive Subdivision Plans shall adhere to all of the Planning Board's current Rules and Regulations unless provisions of such regulations are specifically addressed within this Bylaw.

7) Decision of the Planning Board: OSRD Special Permit

- a. **Special Permit Approval.** The Planning Board will hold a public hearing within sixty-five (65) days of receiving an OSRD Special Permit and acknowledged Development Plan and approve, approve with conditions, or disapprove an OSRD Special Permit within ninety (90) days of said public hearing in accordance with M.G.L. Chapter 40A, Section 9. Upon the written mutual agreement of the applicant and the Planning Board, the ninety (90) day Special Permit decision period may be extended at any time. The OSRD Special Permit Decision and the corresponding Development Plan shall be filed with the Town Clerk and the decision shall be provided to the applicant via regular mail. Upon receipt of the Planning Board's written decision regarding the Development Plan, the applicant may submit an OSRD Definitive Subdivision Plan. Planning Board approval of an OSRD Special Permit requires that any OSRD Definitive Subdivision Plan be substantially compliant with the Special Permit and corresponding Development Plan.

- b. Waivers.** The Planning Board may vote on any or all waivers requested by the applicant that the Planning Board is given the authority to waive under this OSRD bylaw. Remaining waiver requests shall be addressed in the Definitive Subdivision decision. **(amended ATM 5/5/2015, Article 42)**
- c.** The Planning Board may approve the OSRD Special Permit if it finds that the proposed development has less detrimental impact on the subject property and the abutting neighborhood than a conventional definitive subdivision, after considering the following factors:

 - 1. The Development Plan achieves greater flexibility and creativity in the design of residential developments than a conventional subdivision.
 - 2. The Development Plan promotes permanent preservation of open space, agricultural land, forestry land, and other natural resources including water bodies and wetlands, and historical and archeological resources.
 - 3. The Development Plan promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision.
 - 4. The Development Plan reduces the total amount of disturbance land on the site.
 - 5. The Development Plan furthers the goals and policies of Norwell's Open Space and Master Plan.
 - 6. The Development Plan facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner.
 - 7. The Development Plan facilitates the construction and maintenance of trails along with connections to existing or planned trails within the town to enhance the pedestrian experience.
 - 8. The Development Plan complies with the purpose and intent and design standards in this Bylaw.
 - 9. No waiver requests have been denied by the Planned Board. (amended ATM 5/5/2015, Article 42)**
- d.** Any OSRD Special Permit approval must be followed by the submittal of an OSRD definitive subdivision plan in accordance with the Norwell Planning Board's Rules and Regulations. The OSRD Definitive Subdivision Plan shall not be approved unless the plan is substantially consistent with the approved Development Plan. A determination of substantial inconsistency will be based on the following conditions:

 - 1. An increase in the number of building lots;
 - 2. A material decrease in the open space acreage or lot layout;
 - 3. A material change in the general development pattern which adversely affects natural landscape features and open space preservation.

4. Material changes to the stormwater or wastewater management facilities.
- e. The Planning Board may modify an existing OSRD Special Permit when the subsequent OSRD Definitive Subdivision Plan, in the opinion of the Planning Board, more fully satisfies the purpose and intent of this Bylaw. The Planning Board may also require that the Development Plan be modified so as to comply with the material changes identified by the Planning Board before the modified OSRD Special Permit is approved.
 - f. The Planning Board, in its discretion, shall have the authority to adopt rules and regulations consistent with this Bylaw.
 - g. If any provision of this Bylaw, in whole or part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision found invalid. In all other aspects, all provisions of this Bylaw will remain in full force.