

6.4 Open Space Residential Development

6.4.1 Purposes

6.4.1.1 This section is intended to promote integrated, creatively-designed residential development that results in the preservation of open space and natural resources, the reduction of infrastructure and site development costs, and the promotion of attractive standards of appearance consistent with Town character.

6.4.2 Special Permit Authority

6.4.2.1 The Planning Board may grant a special permit for an Open Space Residential Development ("OSRD") authorizing the construction of single family or townhouse dwellings in the Central District, the Residential District, the Outlying District, or the Coastal Conservation District, pursuant to the provisions of this section.

6.4.3 Eligibility

6.4.3.1 Any proposed development that would create two (2) or more single family dwellings or townhouse dwelling units on a parcel of land or set of contiguous parcels of land containing at least five (5) acres is eligible for consideration as an OSRD. Parcels separated by roadways shall be considered contiguous.

6.4.3.2 Any person that submits a conventional subdivision plan (preliminary or definitive) under the Subdivision Rules that would create five (5) or more single family dwelling lots on a parcel of land or set of contiguous parcels of land containing five (5) or more acres shall be required, simultaneously with the submission of such conventional subdivision plan, to submit an application for an OSRD special permit, together with an OSRD concept plan that meets the requirements of section 6.4.4.2, except that, at any time after the opening of the public hearing under section 6.4.5.2, the OSRD application and concept plan may be withdrawn.

6.4.3.3 Any application submitted under this section that involves a Subdivision of Land shall be subject to the approval of the Planning Board under the Subdivision Rules.

6.4.4 Submittal Requirements

6.4.4.1 All Applicants for an OSRD special permit shall submit the following to the Planning Board:

(a) An application on the form prescribed by the Board, and any fees determined by the Board under section 7.8.3.2.

(b) A Yield Plan. The Yield Plan shall establish the maximum number of single family dwellings that could be built under a conventional subdivision plan given the existence on the site of any topographical constraints and primary conservation areas. The Yield Plan shall also provide evidence acceptable to the Planning Board that on-site wastewater treatment and disposal systems would be permitted and constructed to serve such dwellings. Unless waived by the Planning Board, this evidence shall include a demonstration of suitable soil and groundwater conditions through representative sampling and testing of the buildable areas of

the site by methods approved by the Board of Health, and shall at a minimum consist of one determination of soil permeability and one observation of maximum ground water elevation per two acres of buildable land, such tests being distributed with reasonable uniformity over the site.

6.4.4.2 For developments that involve a subdivision of land, the Applicant shall, in addition to the materials specified in section 6.4.4.1, submit an OSRD concept plan, except that, in lieu of an OSRD concept plan, the Applicant may submit an OSRD preliminary or definitive plan that meets the requirements of the Subdivision Rules. The OSRD concept plan shall address the general features of the land, and give approximate configurations of lots and roadways, and shall include all information required by the Planning Board under section 7.8.3.2.

6.4.4.3 For developments that do not involve a subdivision of land, the Applicant shall, in addition to the materials specified in section 6.4.4.1, submit an OSRD site plan. Such plan shall satisfy the requirements of section 7.6, and shall contain such additional information as may be required by the Planning Board under section 7.8.3.2.

6.4.4.4 The plans required by section 6.4.4 shall be prepared by a team including a registered civil engineer, land surveyor, and landscape architect.

6.4.5 Procedures for Approval

6.4.5.1 Any person that is interested in obtaining an OSRD special permit is encouraged to arrange for a pre-application meeting with the Planning Board to discuss the proposed OSRD.

6.4.5.2 The Board shall hold a public hearing on the special permit application, and a concurrent public hearing on the applicable OSRD plan filed under section 6.4.4. The Board may issue the special permit, with or without conditions, if it determines that: (a) the proposed OSRD satisfies the requirements of this section, all other sections of the Bylaw, and any rules issued under section 7.8.3.2; (b) the proposed OSRD is superior to a conventional subdivision; and (c) the proposed OSRD promotes the purposes of this section.

6.4.5.3 For developments involving a subdivision of land, if the Planning Board issues a special permit on the basis of an OSRD concept or preliminary plan, the Applicant shall thereafter file an OSRD definitive plan. The Planning Board shall reconsider the special permit, in accordance with section 6.4.13, if there is any variation between the OSRD concept or preliminary plan that was submitted with the special permit application and the approved definitive plan.

6.4.6 Development Density

6.4.6.1 Unless a density bonus is permitted under section 6.4.8, the total number of dwelling units permitted in an OSRD shall not exceed the lesser of: (a) the number of dwelling units determined under section 6.4.7.2; or (b) the number of single family dwellings that would be allowed under a conventional subdivision plan, as determined by the Planning Board based on its review of the Applicant's yield plan. The Applicant shall bear the burden of proof regarding the permitted density.

6.4.6.2 The number of dwelling units determined under this section 6.4.7.2 shall be calculated by the following formula;

$$\text{Total Number of Units} = \frac{\text{TA} - (0.5 \times \text{PCA}) - (0.1 \times \text{TA})}{\text{District Minimum Lot Area}}$$

T A = Total Area of Parcel

PCA = Primary Conservation Areas

If a parcel lies in districts with different lot area requirements, a calculation should be made for each district.

6.4.7 Density Bonus

6.4.7.1 The Planning Board may authorize a density bonus in accordance with sections 6.4.8.2 and 6.4.8.3, except that the number of dwelling units awarded as a density bonus under such sections may not, in the aggregate, exceed thirty-five percent (35%) of the number of units permitted under section 6.4.7, and provided further that a density bonus may not be awarded under section 6.4.8.3 for an OSRD that would create three or more units in the Coastal Conservation District.

6.4.7.2 The Planning Board may authorize a density bonus of up to twenty percent (20%) if the Applicant proposes: (a) on or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed OSRD; or (b) townhouse dwellings constructed in a New England village style of architecture with a maximum of two bedrooms per unit.

6.4.7.3 For every one and one half (1.5) affordable dwelling units created by the OSRD, one (1) dwelling unit may be added as a density bonus, except that this density bonus may not exceed fifteen percent (15%) of the number of units permitted under section 6.4.7. The affordable dwelling units must qualify as Local Initiative Units under 760 C.M.R. § 45.03, and shall be constructed concurrently with the market rate units.

6.4.8 Open Space Requirements

6.4.8.1 Except as provided by section 6.4.9.5, a minimum of fifty percent (50%) of the OSRD shall be dedicated as permanent open space. Such open space shall be devoid of structures and impervious surfaces, and shall either be left in its undisturbed natural condition or developed to assure its use as an area for passive recreation or a visual amenity.

6.4.8.2 The percentage of the open space that is wetlands shall not exceed the percentage of the entire tract that is wetlands, except that a greater percentage of wetlands may be included in the open space if the Planning Board determines that such inclusion promotes the purposes of this section.

6.4.8.3 Open space shall be contiguous, except that the Planning Board may waive this requirement if it determines that allowing non-contiguous open space will promote the purposes of this section and/or protect primary and secondary conservation areas.

6.4.8.4 Unless conveyed to the Town, the open space shall be subject to a recorded restriction enforceable by the Town. The restriction shall provide that the open space will remain in an open state, will be used solely for the purposes allowed by this section, and will be maintained in a manner that will ensure its suitability for its intended purpose.

6.4.8.5 For an OSRD that creates only single family dwellings, the minimum open space requirement shall be forty-five percent (45%), as opposed to fifty percent (50%), of the OSRD, but only if an additional area of the OSRD is reserved for active or passive recreational activities by the residents of the OSRD. The square footage of this common recreational space shall equal or exceed the square footage of fifty percent (50%) of the OSRD, minus the square footage of the area dedicated as open space under section 6.4.9.1 (which must equal or exceed forty-five percent (45%) of the OSRD). Accessory buildings and structures are allowed in this common recreational space. Dwelling units and other principal structures, and paved driveways and parking lots, are not allowed in this space.

6.4.9 Dimensional Requirements

6.4.9.1 Except as provided by sections 6.4.10.2 and 6.4.10.3, the Planning Board may waive the minimum requirements for frontage, lot area, lot width, setbacks, and lot coverage that would otherwise apply to the parcel or portions of the parcel.

6.4.9.2 The Planning Board may not waive the frontage or setback requirement on a street that was not created by the OSRD.

6.4.9.3 At least fifty percent (50%) of the required front setback shall be maintained by the OSRD, unless the Planning Board determines that a further reduction would promote the purposes of this section.

6.4.10 Design Process and Development Standards

6.4.10.1 An Applicant shall determine the layout of streets, open space, and lots or building areas in the proposed OSRD in compliance with the following five-step design process:

- (a) Step One: Identify primary and secondary conservation areas.
- (b) Step Two: Identify the potentially developable area of the site. To the maximum extent feasible, the potentially developable area should consist only of land outside of primary and secondary conservation areas.
- (c) Step Three: Locate house sites within the potentially developable areas, and delineate private yards and shared amenities, so as to reflect an integrated community.
- (d) Step Four: Delineate the streets that will provide access to the house sites, and any desirable trails or walkways.
- (e) Step Five: Delineate lot lines, except where condominium or cooperative ownership is used.

6.4.10.2 In addition to any development and design standards adopted under section 7.8.3.2, the following is required:

- (a) To the maximum extent feasible, all utilities shall be located underground.
- (b) Signage shall be limited to one sign at each entrance to the OSRD, of a maximum signboard area of twelve (12) square feet, with content limited to the name and address of the development.

- (c) Each lot or dwelling shall be served by Town water, and a sewage treatment facility approved by the Board of Health.
- (d) A minimum of one and one half (1.5) off-street parking spaces per dwelling unit shall be provided.
- (e) Where townhouse dwellings are proposed, individual buildings shall contain no more than eight (8) dwelling units.
- (f) Unbroken building facades longer than sixty (60) feet, and regular spacings and building placements, shall be avoided.
- (g) Intensive, high quality landscaping of all open areas (excluding areas that will remain in an existing natural state) shall be provided.
- (h) Where townhouse dwellings are proposed, the development shall provide for varied roofline articulation that stresses New England village-style architecture, and the use of building materials and colors that are compatible with other quality buildings of similar scale in the vicinity.

6.4.11 Ownership of Open Space

6.4.11.1 The open space shall be conveyed to one of the following:

- (a) To the Town for park or open space use.
- (b) To a nonprofit organization dedicated to the conservation of open space.
- (c) To a corporation or trust comprising a homeowners' association whose membership is limited to the owners of all lots or dwelling units within the OSRD. The developer shall include in the deed to such owners beneficial rights in the open space, and shall grant a perpetual open space restriction to the Town to insure that it will remain in an open state and not be used for residential purposes or accessory uses. Such restriction shall be in the form and substance prescribed by the Planning Board, and may contain such additional restrictions on the use of the open space as the Board deems appropriate.

6.4.12 Revisions to the Special Permit

6.4.12.1 The Planning Board may make minor lot line changes and other minor revisions to an OSRD plan without a public hearing.

6.4.12.2 If the Planning Board determines that a proposed or required revision to the OSRD special permit or plan is substantial, it shall hold a public hearing on the revision. A substantial revision shall include the following: any reduction in size or change in location of the preserved open space; any significant change in the layout of the ways or lots; an increase in the number of dwelling units or lots; or a significant change in the general development pattern.

6.5 General Requirements

6.5.1 Building Height

6.5.1.1 The height of any structure in all districts shall not exceed thirty-five (35) feet or two and one-half stories.

6.5.1.2 Building height shall be measured as the vertical distance from the average elevations of the existing lot grade at the front of the building to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof.

6.5.1.3 Each story shall be deemed to be the portion of a building between the upper surface of any floor and the upper surface of any floor next above, having more than one-half of its height above the average elevation of the finished grade adjoining the building.

6.5.1.4 Limitations of height shall not apply to flagpoles, chimneys, radio and television antennae, windmills, silos, water tanks, public utility structures, and similar non-inhabitable structures.

6.5.2 In all districts, no lot shall have more than one (1) foot of perimeter for every thirty-nine and six-tenths (39.6) square feet of lot area and shall not be less than forty (40) feet in width at any location within the lot except within a portion of the lot where two (2) lot lines meet at a point.

6.6 Accessory In-Law Apartments in the Central, Outlying and Residential Districts

6.6.1 Purpose and Intent: It is the specific intent of this section to allow apartments, including kitchens, within single family properties in the Central, Outlying, and Residential Districts for the purpose of meeting the special housing needs of parents, and children, and their respective spouses of families of owner-occupants of properties in the Town of Rowley. To achieve this goal and to promote the other objectives of this by-law, specific standards as set forth below for such accessory in-law apartment use.

6.6.2 Accessory In-Law Apartments may be created only by Special Permit issued by the Board of Appeals and only within single family dwellings and located on lots, both in existence prior to January 1, 1990. In addition, accessory in-law apartments shall only be located on lots meeting the minimum lot area in the District which it is located on the date of the filing of the application for the Special Permit.

ECF NOTE: The following two sections of Rowley's Zoning Bylaw and/or Rules and Regulations Governing Subdivision of Land reference the OSRD Bylaw.

8.5 New Single Family Dwelling Limitation

8.5.1 Except as provided by section 8.5.2, the issuance of building permits for new single family dwellings is subject to the following limitations:

(a) Building permits shall not be issued authorizing the construction of more than twenty-four (24) new single family dwellings in the Town in any twelve (12) month period. The number of permits allowed for new single family dwellings in any month shall equal twenty-four (24) minus the number of such dwellings that have been authorized (exclusive of unused authorizations that have expired or been withdrawn) in the preceding eleven (11) months. Subject to the provisions of section 8.5.1(b), applications for building permits for new single family dwellings shall be held and acted upon in chronological order based on the date of the filing of a complete application with the Building Inspector.

(b) Building permits shall not be issued authorizing the construction of more than four (4) new single family dwellings in any twelve (12) month period on any set of lots created from land that was contiguous and held in common ownership at any time on or after the effective date of this section.

8.5.2 The limitations of section 8.5.1 are subject to the following exceptions:

(a) For new single family dwellings established as part of an Open Space Residential Development approved under section 6.4 of the Bylaw, the limitation of section 8.5.1(b) shall be ten (10) dwellings per twelve (12) month period, rather than four (4) dwellings per twelve (12) month period.

(b) The limitations of section 8.5.1 do not apply to affordable dwelling units, or to dwelling units authorized under a comprehensive permit issued under M.G.L., Ch. 40B, § 21, and permits issued for such units shall not be included in the count required by section 8.5.1(a).

8.5.3 Any time-limited protection against zoning change afforded by M.G.L., Ch 40A, § 6, shall be extended (if such protection has not already expired by the date on which a complete application for a building permit is filed with the Building Inspector) until such date as a building permit is issued under this section.

8.5.4 Section 8.5.1 shall not be construed as limiting the issuance of building permits for the enlargement or improvement of existing dwellings, or the restoration of previously existing dwellings.

4.1.6. Dead-End Streets

4.1.6.1 For the purposes of this section, any proposed street which intersects with a dead-end street shall be deemed to be an extension of the dead-end street.

4.1.6.2 A dead-end street may not exceed five hundred (500) feet in length, except that, where a greater length is necessitated by topography or other local conditions, the Planning Board may approve a dead-end street in excess of five hundred (500) feet, but only as part of an Open Space Residential Development approved under Section 6.4 of the Rowley Protective Zoning By-Laws.