

To see if the town will vote to amend the Zoning By-Laws by striking section 8.6 Flexible Development and Replacing it with the following:

## 8.6 OPEN SPACE RESIDENTIAL DEVELOPMENT

### 8.6.1 Purpose and Intent.

The Primary Purposes for this bylaw are the following:

- (1) To allow for greater flexibility and creativity in the design of residential developments;
- (2) To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
- (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;
- (4) To minimize the total amount of disturbance on the site;
- (5) To further the goals and policies of the Town of Canton Master Plan;
- (6) To facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner.

The Secondary Purposes for this bylaw are the following:

- (1) To preserve and enhance the community character;
- (2) To protect and enhance the value of real property;
- (3) To provide for a diversified housing stock;
- (4) To provide affordable housing to persons of low and moderate income.

### 8.6.2 Definitions See Section 11 Open Space Residential Development

### 8.6.3. Authority

The Planning Board shall act as the Special Permit Granting Authority for OSRD applications. The Planning Board may adopt within 90 days of the , and from time to time amend, Rules and Regulations consistent with the

provisions of this bylaw and G.L. c. 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

#### 8.6.4. Applicability

A. Any Major Residential Development must be permitted by issuance of a Special Permit from the Planning Board for either Conventional Development or OSRD in accordance with this bylaw. Applicants for a Major Residential Development shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this Bylaw.

B. Developments of four (4) lots or less may also apply for an OSRD Special Permit subject to the following criteria:

(1) Contiguous Parcels. To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are “contiguous” for the purpose of this section, if they will serve as a singular resource and effectively satisfy the Purpose and Intent of this bylaw as listed in Section 1.

(2) Land Division. To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, § 81P provided, however, an OSRD may also be permitted when the property is held in condominium, cooperative ownership or other form where the property is not subdivided.

#### 8.6.5. Application Procedure and Requirements

Applicants shall submit applications for an OSRD Special Permit in accordance with the Rules and Regulations Governing Open Space Residential Design as adopted and amended by the Planning Board.

#### 8.6.6. Design process.

At the time of the application for the Special Permit, in conformance with Section 5.A., applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a multidisciplinary team of which one member must be a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, unit placement if treated as a condominium, including designation of all common areas and open space.

A. Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or 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 archaeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

B. Locating 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.

C. Aligning the Streets and Trails. Align streets in order to access the house lots or units. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

D. Lot Lines. Draw in the lot lines using assumed lot lines if the ownership is in condominium, cooperative or other similar form of common ownership.

#### 8.6.7. Design Standards.

The following Generic and Site Specific Design Standards shall apply to all Sketch Plans for OSRD's and shall govern the development and design process:

##### A. Generic Design Standards.

(1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

(2) 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.

(3) Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings.

(4) All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

(5) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

#### B. Site Specific Design Standards.

(1) Mix of Housing Types. The OSRD may consist of any combination of single-family and two-family structures. Multifamily structures of not more than four (4) units may also be permitted by the Planning Board if they serve the purpose and intent of the OSRD Bylaw, as stated in Section 1.

(2) Parking. Each dwelling unit for single or two-family homes shall be served by two

(2) off-street parking spaces. Parking spaces in front of garages may count in this computation. For dwelling units with fewer than two bedrooms AND in structures containing four or more units, the applicant shall provide one and a half (1.5) parking spaces per unit. Calculations for parking spaces in these developments shall be rounded up to the nearest integer where necessary. The Planning board may choose to modify these requirements during the review process in response to conditions specific to an individual proposal.

(3) Drainage. The Planning Board shall encourage the use of Soft Stormwater Management Techniques and other Low Impact Development techniques that reduce impervious surface and enable infiltration where appropriate.

(4) Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.

(5) On-site Pedestrian and Bicycle Circulation. Walkways, trails and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate.

(6) Disturbed Areas. Every effort shall be made to minimize the area of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state.

#### 7. Open space requirements.

A. Open Space Requirement. A minimum of thirty percent (30%) of the site shall be open space. The percentage of this open space that can be wetland

shall not exceed the percentage of wetland for the entire site under existing conditions as shown on the Sketch Plan.

B. Description of Restriction on Open Space. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a permanent Conservation or Agricultural Preservation Restriction in accordance with G.L. c. 184 § 31, approved by the Planning Board and Board of Selectmen/Town Council and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Such land shall be perpetually kept in an open state, shall be preserved exclusively for the purposes set forth herein, and shall be maintained in a manner which will ensure its suitability for its intended purposes. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved by the Planning Board and Board of Selectmen/Town Council and enforceable by the Town.

(1) The open space shall be contiguous. Open Space will still be considered contiguous if it is separated by a roadway or an accessory amenity. The Planning Board may waive this requirement for all or part of the required open space where it is determined that allowing noncontiguous 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 the following additional purposes: historic preservation, outdoor education, passive recreation, aquifer protection, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit a small portion of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths) so long as it supports the primary and secondary purposes of the OSRD and is consistent with state and local level environmental protections.

The open space shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the Flexible Residential Development. Land considered by the Planning Board as marginal or unsuitable for building, such as, inaccessible wetland and open water, steep slopes, highly erosion or poorly drained areas, areas of very shallow bedrock, or of very high water table shall be included in the permanent open space;

but no more than fifty (40%) percent of the required open land shall consist of such marginal or unbuildable areas.

Common open land may be used for passive and active residential recreational purposes such as swimming pools, walking trails and tennis courts.

The Board may consult with the Conservation Commission and Building Commissioner to determine if land is marginal or unbuildable.

(3) Wastewater and stormwater management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.

C. Ownership of the Open Space. The open space shall, at the Planning Board's election, be conveyed to:

(1) The Town or its Conservation Commission;

(2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

(3) A corporation, homeowners association or trust owned jointly or in common by the owners of lots or units within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such homeowners association, trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

(4) A private owner for agricultural, horticultural or forestry.

D. Maintenance of Open Space. In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. 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 maintain it in

order to prevent or abate a nuisance. 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.

8.6.7. Dimensional Requirements.

All dimensions shall comply with the provisions of the lot dimensional regulations of this subsection.

Requirement	Residence B	Residence A	Residence AA
Minimum Lot Area (sq. ft.)	10,000	15,000	20,000
Minimum Lot Frontage (ft.)	50	50	50
Minimum Lot Width	50	50	50
Min. Lot Width Thru Building	60	70	70
Front Setback (ft.)	30	30	30
Side Yard (ft.)	25	25	25
Common Open Land	20	20	20
Rear Yard Setback	25	25	25
Max Lot Building Coverage	9%	8%	8%

8.6.8. Building Height

Maximum Height of Buildings. In all districts, no building shall be constructed to exceed the "Maximum Height" specified in the following table for the district in which said building is located:

The Maximum building height shall be 25 ft plus one foot for each additional 3 feet by which: (a) the setback exceeds the required setback distance, or (b) the narrower side width, or (c) rear yard depth, whichever of the three additional distances is the smallest; provided, however, the height shall not in any case exceed 35 feet.

Maximum building height shall be determined in accordance with the Massachusetts State Building Code.

1. When located on the ground, the maximum height of structure other than buildings, shall be the highest point on the structure and shall not exceed the maximum height for buildings in feet as set forth in Section 4.3.1. Structures may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line,

except that a fence or wall not greater than seven (7) feet in height may be located on, or closer to a lot line than seven (7) feet.

#### 8.6.9. Increases in Permissible Density.

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSRD Plan. The density bonus for the OSRD shall not, in the aggregate, exceed thirty percent (30%) of the Basic Maximum Number. Computations shall be rounded down to the next whole number. A density bonus may be awarded in the following circumstances:

A. For each additional ten percent (10%) of the site (over and above the required percentage) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded. Calculations shall be rounded down to the nearest integer when determining this bonus.

B. For every one (1) dwelling units restricted in perpetuity to occupancy by Moderate-Income Households (up to a maximum of 10% of the basic maximum number), one (1) market rate dwelling units may be added to the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.

C. For every historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

#### 8.6.10. Decision of the Planning Board.

A. Criteria for Approval. The Planning Board will review all data and hold a public hearing in accordance with M.G.L.c.40A, section 9. Prior to the close of the public hearing, the Planning Board shall recommend the development plan (either the Yield Plan showing Conventional Development or the Sketch Plan showing OSRD), that it considers the most beneficial to the Town. Within seven days, the Applicant shall then elect which plan he wishes to pursue and communicate this choice in writing to the Board, prior to the close of public hearing. The Board may approve such Plan with or without conditions. The Board shall disapprove both plans only if it finds that either the Conventional Development (Yield Plan) or OSRD Development (Sketch

Plan) is not a good faith design, or that the Plan that the Applicant elects to pursue does not conform to the requirements of the Bylaw. The Board may grant a Special Permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional subdivision of the property and finding that the following eight (8) factors are present:

(1) That the OSRD achieves greater flexibility and creativity in the design of residential or unit developments than a conventional plan;

(2) That the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archaeological resources;

(3) That the OSRD 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) That the OSRD reduces the total amount of disturbance on the site;

(5) That the OSRD furthers the goals and policies of existing community planning documents including, but not limited to, the Town's Local Comprehensive Plan, Open Space and Recreation Plan, Planned Production Strategy for Affordable Housing and EO418 Community Development Plan;

(6) That the OSRD facilitates the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;

(7) That the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.

(8) That the proposed design does not create undo risk to public health, safety and welfare.

B. Relationship between Concept Plan and Definitive Subdivision Plan. Any Special permit for a Major Residential Development or any Special Permit for OSRD that is granted a Special Permit and shows a subdivision must be followed by the submittal of a Definitive Subdivision plan in accordance with the Subdivision Rules and Regulations of the Town. The OSRD Special Permit shall be reconsidered if there is substantial variation between the Definitive Subdivision Plan and the Concept Plan. If the Planning Board finds that a substantial variation exists, it shall hold a public hearing on the modifications to the Concept Plan. A substantial variation shall be any of the following:

- (1) An increase in the number of building lots and/or units;
- (2) A significant decrease in the open space acreage;
- (3) A significant change in the lot layout or unit placement;
- (4) A significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- (5) Significant changes to the stormwater management facilities; and/or
- (6) Significant changes in the wastewater management systems.

#### 8.6.11. Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

And to amend Section 11 by striking “Flexible Development” and inserting the following in its place:

**Basic Maximum Number** – The number of units that would be allowed on a site using the standard Zoning Bylaw Provisions and/or Subdivision Rules and Regulations as determined by a Yield Plan.

**Hard Stormwater Management Techniques** – Structural stormwater management techniques including, but not limited to, catch basins, subsurface piping, stormwater inlets, and subsurface leaching facilities. These techniques generally require heavy infrastructure and often result in significant alteration of the site hydrology.

**Low-Income Household** – These households shall be defined as those in the “Very Low Income” affordability range as published annually by the Department of Housing and Urban Development. Although this figure is generally considered to be 50% of the Area Median Income (AMI), the Planning

Board recognizes that this calculation may vary depending on the subsidy program applied to the unit.

**Major Residential Development**-Any new development that will create more than four (4) residential lots

Moderate Income Household – These households shall be defined as those in the “Low Income” affordability range as published annually by the Department of Housing and Urban Development (HUD). Although this figure is generally considered to be 80% of the Area Median Income (AMI), the Planning Board recognizes that this calculation may vary depending on the subsidy program applied to the unit.

Soft Stormwater Management Techniques – Non-structural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre development hydrologic conditions to the greatest practicable extent.

**Or take any other action in relation thereto.**

Planning Board