



Town of Palmer

*Bondsville, Depot Village, Thorndike & Three Rivers
“The Town of Seven Railroads”*

Article XXI

Open Space Residential Development

§171-120. Reserved

§171-121. Reserved

§171-122. Open Space Residential Development

A. Intent

Open Space Residential Development (OSRD) in accordance with this ordinance shall be allowed by right in the Rural Residential, Suburban Residential, and Town Residential Districts except not in the Floodplain District. Open Space Residential Development shall mean a residential development in which a variety of housing types are clustered together, adjacent to permanently preserved open space. Open Space Residential Development shall be encouraged within the town, and shall be the preferred method of subdivision development wherever the following purposes would be served.

B. Purposes

(1) The purposes of Open Space Residential Development are:

- (a) To allow for greater flexibility and creativity in the design of residential developments, provided that the overall density of the development is no greater than what is normally allowed in the district;
- (b) To encourage the permanent preservation of open space, agricultural lands, forest lands and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
- (c) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
- (d) To maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands;
- (e) To facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
- (f) To ensure that residential developments respect the natural features of the land, including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites, scenic views, and rural character;
- (g) To encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the town;

- (h) To provide wildlife corridors connecting open spaces, needed by wildlife to ensure its survival.

C. Definitions

Common Area: Any land area, other than Open Space, set aside for common ownership as a result of an OSRD, including areas for Common Facilities.

Common Driveway: Vehicular access, which is not a street, but extending from a street, serving as a common vehicular access to more than one (1) but not more than six (6) residential lots built in accordance with the standards set forth in this ordinance. The driveway will lie entirely within the lots being served.

Common Facilities: Built facilities that are commonly owned by the property owners within an OSRD. Common Facilities may be proposed but are not required. They may include streets, rights of way, common buildings, wells, water and waste treatment systems, and recreation facilities.

Conventional Lot: A lot in a standard subdivision based upon the minimum dimensional requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Conventional Plan: A plan showing the division of property into lots based upon the minimum requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Existing Resources / Site Analysis Map: A map which identifies, locates, and describes noteworthy features to be designed around through sensitive subdivision layouts, such as vegetation, wetlands, steep slopes, farmland soils, historic or cultural features, threatened or endangered species, unusual geological formations, and scenic views or viewsheds.

Homeowners' Association: A private non-profit organization (corporation, association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and common open space of an OSRD, and to enforce certain covenants and restrictions.

Open Space: Undeveloped land set aside for common or individual ownership as a result of an OSRD, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of OSRD approval is that open space may not be further subdivided.

Open Space Residential Development (OSRD): A form of residential development where the density of the dwelling units is no greater than would be permitted in the district in where the OSRD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, or other farmland.

Prime Agricultural Soils: Agricultural land with soils designated as prime or of statewide significance by the U.S. Natural Resources Soil Service soil surveys.

Title V Regulations: 310 CMR 15.000

Wetlands: Areas characterized by vegetation described in Massachusetts General Laws, Chapter 131, Section 40, and the Town of Palmer Wetland Ordinance.

Yield Plan: A conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by Title V regulations, 310 CMR 15.000, as well as the Palmer Board of Health regulations. For

purposes of determining the number of OSRD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a single family dwelling unit as defined in the zoning district in which the OSRD is located and meet all other applicable requirements of the Zoning Ordinance and Subdivision Regulations. In no case shall the number of OSRD dwelling units exceed the number of units that would be allowed under a conventional subdivision.

D. Applicability

(1) Five (5) Acre Minimum. In any residential development consisting of five (5) contiguous acres or more in single or consolidated ownership, an applicant may apply for an OSRD under this ordinance. The minimum acreage may be waived by the Planning Board in instances where an applicant demonstrates that the criteria in §171-122.B. are met.

(2) Uses Permitted. The following uses shall be permitted in an OSRD, provided they are allowed in the zoning district within which an OSRD has been proposed:

- (a) Single Family Detached Dwelling Units;
- (b) Duplex or Two-Family Dwelling Units;
- (c) Agricultural uses including horticultural, raising of crops, livestock, poultry, nurseries, orchards, hay, and building related to the same;
- (d) Public park or recreation area;
- (e) Woodlots, arboreta, and other similar silvicultural uses;
- (f) Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use;
- (g) Accessory uses customarily incidental to any permitted use.

(3) Required for Special Land Features. The Planning Board may require an applicant to use an OSRD subdivision design if the property possesses one or more of the following special features:

- (a) Unfragmented open land as identified as a priority for protection in the Town's Open Space and Recreation Plan, Master Plan or the Community Development Plan;
- (b) Agricultural land with soils designated as prime or of statewide significance by the U.S. Natural Resource Conservation Service soil surveys;
- (c) Rare, threatened, or endangered species or exemplary natural communities according to the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program;
- (d) Unique natural, cultural, and/or historical features as identified in the Master Plan or Community Development Plan.

E. Increases in Permissible Density.

(1) 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 twenty percent (20%) 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 fifty percent 50%) 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 historic structure preserved and subject to a historic preservation restriction, one (1) dwelling unit may be added to the Basic Maximum Number.

F. Application Requirements

(1) Pre-application Review

- (a) The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, and any other relevant board. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed development including both conventional and OSRD models, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.

(2) Site Visit

- (a) Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the Special Permit. If one is requested, the Planning Board may invite other relevant boards.

(3) Existing Resources / Site Analysis Map

- (a) The following shall be submitted / presented to the Planning Board during the pre-application review at a regularly scheduled meeting for the purpose of assessing the impacts or implications of the development and shall be used in the preparation of a preliminary design plan.

- [1] Boundaries of wetlands defined by Massachusetts Wetlands Law CMR-140 and certified by a licensed wetlands professional engineer;
- [2] Location and limits of soils types, particularly Prime Agricultural Soils, consistent with the soils classification maps prepared by the US Department of Agriculture Natural Resource Conservation Service;
- [3] Areas where the depth of natural soil to bedrock is four (4) feet or less;
- [4] The extent of any Interim Wellhead Protection Areas and Recharge Areas;
- [5] Topographic contours at intervals of ten (10) feet or less;
- [6] Delineation of slopes of twenty-five percent (25%) or greater;
- [7] The location of cultural and historic features including, but not limited to, stone walls, archaeological and historic sites and structures, and significant and rare vegetation;
- [8] Areas delineated as "BioMap Core Habitat" or "Supporting Natural Landscape" on the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program;

(4) Preliminary Development Plan Submission

- (a) A Preliminary Development Plan shall be submitted in conformance with the Town of Palmer Subdivision Regulations. Applicants shall submit both a conventional plan and an OSRD plan in accordance with the applicable provisions of this Ordinance. Applicants shall submit the preliminary design to the Planning Board for review prior to development of a Definitive Plan. Approval of the Preliminary Plan by the Planning Board will be based on the review criteria standards set forth in Section 5.00 of the Rules and Regulations Governing the Subdivision of Land in the Town of Palmer.
- (b) Review of Preliminary Plan. The Planning Board shall review the Preliminary Development Plan in accordance with the criteria contained in this Ordinance and with other applicable regulations of the Town of Palmer. The review shall informally advise the applicant to the extent to which the proposed subdivision or land development conforms to the relevant standards of this Ordinance and may suggest possible plan modifications that would increase its degree of conformance. The review shall include, but is not limited to:
 - (c) The location of all areas proposed for land disturbance (streets, foundations, yards, septic disposal systems, storm water management areas, etc.) with respect to notable features of natural or cultural significance as identified on the applicants Existing Resources / Site Analysis Map;
 - (d) The potential for street connections with existing streets, other proposed streets, or potential developments of adjoining parcels;
 - (e) The location of proposed access points along existing road networks;
 - (f) The proposed building density and areas of impervious surface

(5) Definitive Development Plan Submission

- (a) A final Definitive Development Plan shall be submitted in conformance with this section and the Town of Palmer Subdivision Regulations as applicable. Such Plans shall adequately address standards delineated in this ordinance. In addition, the Definitive Development Plan shall address issues that have been previously discussed in the Existing Resources / Site Analysis Map.

G. Subdivision Approval Procedures

- (1) Applicants for Open Space development projects shall follow all procedures specified in the Town of Palmer Subdivision Regulations.
- (2) The Planning Board shall submit copies of the preliminary and final subdivision plans to the Board of Health, Conservation Commission, Department of Public Works, Department of Public Safety, Fire Chief, and Water Districts who shall review the application and submit their recommendations and comments to the Planning Board concerning :
 - (a) The completeness and adequacy of the data and methodology used by the applicant to determine the impacts of the proposed development;
 - (b) The effects of the projected impacts of the proposed development; and

- (c) Recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.
- (3) Failure of Boards to make recommendations within thirty (30) days of the referral of the application shall be deemed to be lack of opposition.

H. Design Process

- (1) At the time of the application for an OSRD, applicants are required to demonstrate to the Planning Board that the following Design Process was performed 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.
 - (a) 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.
 - (b) 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.
 - (c) 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.

I. Design Standards

- 1. No approval for an OSRD shall be given unless the application complies substantially with the following standards:
 - (a) The compatibility of the proposal with respect to the objectives and policy recommendations of the Open Space and Recreation Plan and Community Development Plan or Master Plan;
 - (b) Consistency with the Town of Palmer's Zoning Ordinance;
 - (c) All dwellings shall, to the greatest extent possible, be located out of view from any road unless valuable natural resources or farmland located to the rear of the property render building in view of the road more desirable;
 - (d) The portion of a parcel placed in open space shall, to the greatest extent possible, be that which is most valuable or productive as a natural resource, wildlife habitat, farmland, or forestry land;
 - (e) The OSRD shall result in the creation of less curb cuts or vehicular access points to a public way than would reasonably be expected to occur under Standard ANR or Subdivision Development.

- (f) 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.

J. Dimensional Standards

1. Allowed Density

- (a) The maximum number of dwelling units for an OSRD shall be determined by use of a yield plan, which is a conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by Title V regulations, 310 CMR 15.000, as well as the Palmer Board of Health regulations. For purposes of determining the number of OSRD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a single family dwelling unit as defined in the zoning district in which the OSRD is located and meet all other applicable requirements of the Zoning Ordinance and Subdivision Regulations. In no case shall the number of OSRD dwelling units exceed the number of units that would be allowed under a conventional subdivision.
- (b) There shall be no further subdivision of an approved OSRD.

2. Flexible Dimensional Controls

(a) Frontage

- [1] The minimum frontage for a tract on which an OSRD is proposed shall be a contiguous one-hundred (100) feet and provide safe access for a right-of-way of at least fifty (50) feet.
- [2] In the interest of flexibility and creative site designs, there shall be no minimum frontage requirement for individual lots on new subdivision streets within an OSRD, with the exception described in Section 1.10.2(c) below.
- [3] For each lot developed along a public street existing at the time of the application, the minimum frontage, minimum lot size and all other dimensional controls shall be those which are required in the underlying zoning district in which the OSRD is located.

(b) Lot Size

- [1] The minimum lot size for individual lots without town water and sewer within an OSRD shall be 30,000 square feet.
- [2] The minimum lot size for individual lots with town water and sewer within an OSRD shall be 15,000 square feet.

(c) Setbacks

- [1] There shall be a minimum setback of twenty-five (25) feet along all property boundaries of the overall tract for all structures, including accessory structures, parking areas, driveways and internal streets. Entrance streets connecting the OSRD to the external street system may cross the setback area.
- [2] There shall be no minimum front yard, side yard, or rear yard setback requirements for individual lots within an OSRD.

[3] There shall be a minimum of twenty (20) feet between buildings in an OSRD.

(a) Required Open Space

[1] The minimum open space requirement for an OSRD shall be fifty (50) percent of the total tract area.

TABLE 1 - TABLE OF CREATIVE DEVELOPMENT DIMENSIONAL REQUIREMENTS

<i>Development Type</i>	<i>Zoning District</i>	<i>Minimum Lot Size in Sq. Ft. (per Dwelling Unit)</i>	<i>Minimum Required Open Space</i>	<i>Minimum Lot Frontage (continuous in ft.)</i>	<i>Minimum Frontage for Total Dev. Parcel (ft.)</i>	<i>Minimum Front Yard (ft.)</i>	<i>Minimum Side Yard (ft.)</i>	<i>Minimum Rear Yard (ft.)</i>	<i>Minimum Distance Between Buildings (ft.)</i>	<i>Maximum % Building Coverage of Land including Accessory Buildings</i>	<i>Maximum Building Height (ft.)</i>
Standard Subdivision or ANR Development	Rural Residential - Town Water/Sewer - Individual Systems	60,000									
		60,000	None	150	N/A	50	30	30	60	50%	35
	Suburban Residential - Town Water/Sewer - Individual Systems	30,000									
		30,000	None	150	N/A	50	30	30	60	50%	35
	In Town Residential - Town Water/Sewer - Individual Systems	20,000									
		30,000	None	100	N/A	30	15	15	30	50%	35
OSRD Development	Rural Residential - Town Water/Sewer - Individual Systems	15,000									
		30,000	50%	None	100	None	None	None	20	50%	35
	Suburban Residential - Town Water/Sewer - Individual Systems	15,000									
		30,000	50%	None	100	None	None	None	20	50%	35
	In Town Residential - Town Water/Sewer - Individual Systems	15,000									
		30,000	50%	None	100	None	None	None	20	50%	35

3. Landscaped Buffers

- (a) A landscaped buffer no less than fifty (50) feet deep shall be provided where appropriate to screen the development from public streets and adjacent properties. Entrance streets connecting the OSRD to the external street system may cross the buffer area. The natural vegetation shall be retained whenever possible. If the natural vegetation is not sufficient to serve as an effective visual screen, landscaping shall be required to provide such a screen. Landscaping may include berms and/or decorative fencing of an appropriate height, and shall be installed under the conditions set forth in the Palmer Subdivision Regulations.
- (b) This buffer area shall be part of the common area, and shall be subject to the same restrictions that apply to that area.
- (c) Frontage lands on streets existing at the time of application shall be preserved as buffers to the maximum extent possible in addition to all required setbacks.

4. Common Driveways

- (a) The Planning Board may authorize the use of common driveways to provide access to no more than six (6) individual lots of land provided that the following conditions are met:
 - [1] A common driveway shall have a minimum roadway width of sixteen (16) feet to a maximum of twenty (20) feet, in addition to an easement of sufficient width to assure proper drainage and maintenance.
 - [2] A common driveway shall not exceed 600 feet in length.
 - [3] The slope or grade of a common drive shall in no place exceed 10% if unpaved or 12% if paved.
 - [4] The common drive shall intersect a public way at an angle of not less than 80 degrees.
 - [5] Alignment and sight distances should be sufficient to support a design speed of 15 mph.
 - [6] The common driveway shall be capable of providing access for emergency vehicles (WB 50) with either a "hammer head", "T" or "Y" configuration in lieu of a cul-de-sac for reverse direction in a single movement.
 - [7] The common driveway shall lie entirely within the lots being served.
 - [8] The common driveway, at its intersection with the street, must provide a leveling-off area with a slope no greater than 1% for the first 20 feet and a slope no greater than 5% for the next 30 feet.
 - [9] There shall be a minimum of 500 feet between the entrances of any two common driveways onto any road.
 - [10] A common driveway shall have adequate sight distance at its intersection with a public or private road, and shall not create traffic safety hazards to its users or the public.
 - [11] The common driveway shall access the property over the frontage of at least one of the lots being served by the driveway.

[12] The common driveway shall provide the only vehicular egress/access to the lots being serviced by it, and this shall be so stated in the deeds to the subject lots.

[13] Permanent signs, sufficiently readable from the road to serve the purpose of emergency identification, indicating the street number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway. This requirement is in addition to those for individual homes.

[14] Common driveway design shall to the greatest extent possible minimize adverse impact to wetlands, farmland, or other natural resources; allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and result in the preservation of rural character through reduction of number of access ways; and retention of existing vegetation and topography.

[15] The common driveway shall not be used for legal frontage requirements.

- (b) These standards may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Ordinance.

K. Utility Requirements

1. On-site Sewage Disposal: The following standards shall apply to developments requiring on-site sewage disposal:

- (a) The applicant shall either submit a septic system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the application, or;
- (b) Submit a common waste disposal system design prepared by a certified engineer and approved by the Board of Health and a plan illustrating the location of water supply wells with the application. Such common waste disposal system shall treat the waste from each lot on the subdivision, and shall be owned and maintained by the homeowners' association.
- (c) Such common waste disposal system may be located in common open space.
- (d) All Open Space Residential Developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211).
- (e) All Open Space Residential Developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For OSRDs with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:

[1] Applicants must designate, on a plan, specific areas of common open space as "nitrogen credit land", based on the following equation:

(40,000 square feet x number of lots) – (total square feet in proposed Open Space lots) = square feet of required nitrogen credit land in common open space

[2] Nitrogen credit land must meet DEP qualifications contained in "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310CMR15.216" including, but not limited, to the following qualifications:

- i. Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;
- ii. Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
- iii. Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
- iv. Not under surface water;
- v. Not already being used as nitrogen credit land.

[3] All designated nitrogen credit land must be permanently restricted from further development under a "Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land".

- i. After approval of the Flexible Residential Open Space Final Subdivision Plan, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

(f) It is required that septic tanks be installed on individually-owned lots. Nitrogen Credit Land must be at least 100 feet from all private wells.

(2) Water Supply

- (a) In order to meet state Title V requirements for separation distances between drinking water wells and septic systems, private drinking water supply wells may be located in the common open space for an Open Space Residential Development, provided that the provisions of Section 1.13 for a homeowners' association are met.

(3) Stormwater Management

- (a) The Planning Board shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable infiltration where appropriate.
- (b) Stormwater management systems serving the OSRD subdivision may be located within the required common open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space requirement.

L. Common Open Space

(1) Common Open Space Requirements

- (a) A minimum of 50% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.

- (b) Watercourses, lakes, ponds, wetlands and steep slopes over 25% may not be included in common open space calculations.
- (c) The Planning Board may permit up to three (3) percent of the open space area to be paved or built upon for structures accessory to the dedicated use of open space (i.e. pedestrian walks, bicycle paths, playgrounds, farm-related structures).
- (d) All recreational facilities, common areas, and common open space shall be reasonably accessible to all residents of the development.

(2) Land Protection Methods for Common Open Space

- (a) All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation, forestry or agricultural uses which preserve the land in its natural condition.
- (b) The land shall be owned by a non-profit land trust or conservation organization, homeowners' association, or individual, and a permanent conservation easement or deed restriction must be conveyed to the Town, with Town approval, or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space.
- (c) Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.

M. Additional Requirements

- (1) Trails. Where there is an existing local or regional trail network on land adjacent to a proposed OSRD, the developer of the OSRD may be required to connect to the existing trail network with trail corridors through the site, and shall grant the general public access to these trails in perpetuity. The minimum nature of public access required is pedestrian traffic. The instrument granting access, acceptable to the planning board, shall restrict the use of motorized vehicles where appropriate.
- (2) Open Space. Where there is an existing network of open space or large tracts of unfragmented open space on land adjacent to a proposed OSRD, the developer of the OSRD may be required to connect to the existing open space where feasible with the required open space set-aside, and shall grant the general public access to this open space in perpetuity. The minimum nature of public access required is pedestrian traffic. The instrument granting access, acceptable to the planning board, shall restrict the use of motorized vehicles where appropriate.
- (3) Forest Management. On sites where the open space to be preserved is mostly mature forest (70% or greater), the developer of an OSRD may be required to submit a Forest Management Plan developed by a Massachusetts Licensed Forester and approved by the Planning Board.
- (4) View Shed and Viewpoints. The development may protect in perpetuity view sheds and associated viewpoints, which are lands or corridors of land that contribute to the visual landscape of the Town, including items such as open fields containing stone walls. View sheds and viewpoints include, but are not limited to, those identified in the most current version of the Palmer Community Development Plan. The Planning Board may make use of a site visit to determine potential view sheds and viewpoints to be preserved.

(5) Historic Features. The development may protect in perpetuity historically significant buildings and landscapes, identified as such in the Community Development Plan, that include buildings and associated uses that are maintained and visually separated from the developed portion of the OSRD. Structures or landscapes not identified as such through the Community Development Plan may be determined by sufficient evidence presented to the Planning Board during review of the development. Such evidence may include comment from the Palmer Historical Society, listing or eligibility for listing on the National Register of Historic Landmarks, or other qualified statements of historic value.

N. Homeowners' Association

(1) In the event that ownership of the land will remain with the homeowners in the Open Space Residential Development, a non-profit, homeowners' association shall be established, requiring membership of each lot owner in the Open Space Residential Development.

(2) The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well.

(3) A homeowners' association agreement or covenant will guarantee continuing maintenance of such common utilities, land and facilities. Each lot shall be assessed a share of the maintenance expenses, and a copy of said document shall be submitted with the final subdivision application. Where no homeowners' association is proposed, an alternative plan shall be submitted with the final subdivision application.

(4) Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampden County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development.

O. Conflict with Other Laws

(1) The provisions of this ordinance shall be considered a supplement to the existing zoning ordinances. To the extent that a conflict exists between this ordinance and others, the more restrictive ordinance, or provisions therein, shall apply.

P. Severability

(1) If any provision of this ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this ordinance shall not affect the validity of the remainder of the Town's Zoning Ordinance.

Adoption History:

Agenda item and First Reading at Special Town Council Meeting held on April 4, 2007.

Public Hearing was warned in Palmer Journal Register on March 29 and April 5, 2007.

Public Hearing was held at _____ on _____, 2007 at Palmer Administration Building.

Agenda item and Second Reading at Special Town Council Meeting held on _____, 2007 and entered into the minutes of this meeting which were approved on _____, 2007.

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