

To see if the Town will to amend the Paxton Zoning Bylaw by;

I. Inserting a new Section 10, to read as follows:

SECTION 10. OPEN SPACE RESIDENTIAL DEVELOPMENT BYLAW

1. Purpose and Intent

The purposes of this bylaw are to preserve and enhance the community character and value of real property and further the goals and policies of the Town of Paxton Open Space and Recreation Plan by: Allowing greater flexibility and creativity in the design of residential developments; encouraging the permanent preservation of open space, including agricultural and forest lands, water resources, wildlife habitat, and historical and archaeological resources; encouraging a less sprawling, more economical form of development that conforms to natural features; and by minimizing the total amount of disturbance on the site.

2. Definitions

For purposes of this bylaw, the following terms shall have the following definitions:

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 Conventional Yield Plan.

Hard (Conventional) 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.

Major Residential Development-Any new subdivision, as defined in Chapter 44, §§ 81K-81GG, of the general laws, that will create more than four (4) residential lots.

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 predevelopment hydrologic conditions to the greatest practicable extent.

3. Applicability

A. A Major Residential Development may be permitted only upon an issuance of a Special Permit from the Planning Board. The Planning Board may issues a Major Residential Special Permit to allow either a Conventional Development or an Open Space Residential Development (“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 4 lots or smaller or the proposed development of any number of existing lots 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 cooperative ownership or other form where the property is not subdivided.

4. Pre-application

A. Conference. 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 may, at its discretion, invite other Town boards to attend the pre-application review. 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. The Planning Board may, upon the applicant’s consent and at the applicant’s expense, engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a Conventional or OSRD Special Permit.

B. Submittals. In order to facilitate review of the proposed development at the pre-application stage, applicants are strongly encouraged to submit the following information:

- (1) Site Context Plan. This plan shall illustrate the parcel(s) in connection to the surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This plan shall serve to enable the Planning Board to understand the site in relation to what is occurring on adjacent properties.

- (2) Existing Conditions/Site Analysis Plan. This plan shall show or indicate the existing conditions on the property. Based upon existing data sources and field inspections, this base map shall show current zoning district boundaries including Flood Plain and Water Protection Districts and shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature, nondegraded woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the plan. By overlaying this plan onto a development plan, the parties involved may clearly see where conservation priorities and desired development overlap/conflict.
- (3) Other Information. In addition, applicants are invited to submit the information set forth in 5.A. in a form acceptable to the Planning Board.

C. Site Visit. 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, at its discretion, invite other Town boards to attend the site visit.

D. Design Criteria. The design process and criteria set forth below in Sections 6 and 7 should be discussed by the parties at the pre-application conference and site visit.

5. Major Residential Development - Application for Special Permit

The Planning Board, acting as the Special Permit Granting Authority (SPGA), may authorize a Conventional Development Special Permit or an OSRD Special Permit for a Major Residential Development pursuant to the procedures outlined below.

A. Application. An application for the Special Permit shall be submitted on the form(s) provided by the Planning Board. Applicants for OSRD shall also file with the Planning Board fifteen (15) copies of the Concept Plan. The Concept Plan shall include a Conventional Yield Plan and a Sketch Plan [see Subsections A (1) and (2) of this Section], prepared by a multidisciplinary team including a registered land surveyor, or a registered professional engineer and a registered landscape architect. The applicant shall also submit both the Site Context Map and Existing Conditions/Site Analysis Map prepared according to Section 4.B. above. Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

- (1) Conventional Yield Plan. The Basic Maximum Number of allowable residential units shall be derived from a Yield Plan. The Yield Plan shall show a conventional development conforming to the applicable Zoning Bylaw provisions and Planning Board's Subdivision Rules and Regulations to show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional approach. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots resulting from the design and engineering specifications shown on the Yield Plan. The Yield Plan shall contain, at a minimum, the following information unless waived by vote of the Planning Board:
- a. Parcel boundaries, north point, date, legend, title "Yield Plan," and scale.
 - b. The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan.
 - c. The names of all abutters as determined from the most recent Assessors' records.
 - d. The names, approximate location, and widths of adjacent streets.
 - e. The locus of the land shown on the plan at a scale of forty feet to the inch (1" = 40').
 - f. Existing topography at 2-foot contour intervals.
 - g. Map of soils using NRCS soils mapping.
 - h. All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Yield Plan.
 - i. Lot lines with approximate areas and frontage dimensions, or unit placements and proposed common areas.
 - j. Location and extent of parking, landscaping, stormwater management, water supply and wastewater management service areas that would be required to accommodate the use.
 - k. If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.

- (2) Sketch Plan. The Sketch Plan shall address the general features of the land, and give approximate configurations of the proposed lots, of open space, and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section 6 below, and the Design Standards, according to Section 7 below, when determining a proposed design for the development. In addition to those requirements for a Conventional Yield Plan listed in Section 4.A(1), a Sketch Plan shall contain the following information:
- a. The proposed topography of the land shown at a contour interval no greater than two feet. Elevations shall be referred to mean sea level.
 - b. The location of existing landscape features, including forests, farm fields, meadows, wetlands, riverfront areas, water bodies, archaeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major land views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife, as identified as primary and secondary resources according to Section 6.A. Proposals for all site features to be preserved, removed, regraded, demolished, or altered shall be noted on the Sketch Plan.
 - c. The existing and proposed lines of streets, ways, driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated within the subdivision in a general manner.
 - d. Proposed roadway grades.
 - e. Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. However, a narrative explanation shall be prepared by a Massachusetts Certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized.
 - f. A narrative explanation prepared by a Massachusetts Certified Professional Engineer proposing systems for stormwater drainage and likely impacts onsite and to any abutting parcels

of land. For example, the narrative will specify whether Soft or Hard Stormwater Management Techniques will be used and the number of any detention/retention basins or infiltrating catch basins. It is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.

- g. A narrative explanation prepared by a Massachusetts Certified Professional Engineer, detailing the proposed drinking water supply system.
- h. A narrative explanation of the proposed quality, quantity, use and ownership of the open space. Open space parcels shall be clearly shown on the plan.
- i. All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
- j. A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions land transfers and Master Deeds with an accompanying narrative explaining their general purpose.
- k. A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

B. Procedures. Whenever an application for a Major Residential Development 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, to the Board of Health, Conservation Commission, Historical Commission, Building Inspector, Highway Department, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these 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-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-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.

C. Site Visit. Whether or not conducted during the pre-application stage, the Planning Board shall conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

D. Other Information. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a Special Permit for Conventional or a Major Residential Development Special Permit with the public hearing required for approval of a Definitive subdivision plan.

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 and house lots, 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.

7. Design Standards for an OSRD Project

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) 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.
- (4) 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) Housing Type. An OSRD Project shall consist of single-family structures.
- (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, 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 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.

8. Open Space Requirements for an OSRD Project

A. Open Space Requirement. A minimum of fifty percent (50%) of the site shall be open space. Within the open space designated to meet the open space requirement, the area that is upland shall not be less than fifty percent (50%).

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 Counsel 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.

- (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. Restrictions in or Title to the Open Space. The open space shall, at the Planning Board's election, be conveyed to or subject to Conservation Restriction(s) to be held by:

- (1) The Town or its Conservation Commission;
- (2) A qualified 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 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. 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.

9. Reduction of Dimensional Requirements for an OSRD Project

Applicant may propose to modify lot size, building placement, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

A. Frontage. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw. The minimum frontage may be reduced from the frontage otherwise required in the zoning district; provided, however, that no lot shall have less than 50 feet of frontage.

B. Setbacks. Every dwelling fronting on the proposed roadways shall be set back a minimum of 20 feet from the roadway right-of-way, and 10 feet from any rear or side lot line. In no event shall structures be closer than 30 feet to each other.

10. Decision of the Planning Board

A. Criteria for Approval. The Planning Board will review all data and hold a public hearing on an application for a Major Residential Development 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 or Special Permit with or without conditions. The Board shall disapprove an application for a Special Permit only if it finds that either the Conventional Development (Conventional Yield Plan) or the 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 this 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 satisfied:

- (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 Open Space and Recreation 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 application for Special Permit for a Major Residential Development 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.

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. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

and

II. To amend the "Use Schedule" found in subsection 3.2 of Section 3 of the Zoning Bylaw, by inserting a new line under part 3.2.2 "Residential" after line number 8, to read as follows:

"9) A new subdivision that will create more than four (4) residential lots (see Section 10)."

and inserting the designation "SP" under the associated columns for all Zoning Districts (GRB, GRA and B);

or act in any way thereon.

