

ARTICLE V
Section 5-60

OPEN SPACE COMMUNITIES

April 6, 2000

Section 5-60-01 Open Space Communities

Open Space Communities shall be permitted in the Rural Residential and Residential A districts only upon the issuance of a Special Permit from the Planning Board (the Board), and in accordance with the Rules and Regulations Governing the Subdivision of Land, Westfield, Massachusetts (Subdivision Regulations). Board approval of a Special Permit hereunder shall not substitute for compliance with the Subdivision Regulations, nor oblige the Board to approve a related Preliminary or Definitive Plan, or an ANR Plan, nor reduce any time periods for Board consideration thereunder.

General Description

An Open Space Community shall mean residential development in which the houselots are clustered together into one or more groups, which are separated from each other by permanently-protected open space.

Purposes

The purposes, in order of priority, of allowing an Open Space Community are to:

- a. encourage the permanent preservation of open space, agricultural lands, and other natural and cultural resources including views of open space from both existing City roads and from within the development;
- b. encourage a less sprawling form of development, therefore consuming less open land and allowing for the protection of ridgelines, hillsides, roadway corridors, and other visually sensitive landscapes.
- c. maintain the traditional New England rural character and land use patterns in which small villages connect with open spaces and farmlands, thus facilitating direct access to open space by residents of the Open Space Community.
- d. allow for greater flexibility and creativity in residential design which facilitates the addition of recreational and aesthetic amenities to new neighborhoods.
- e. facilitate the construction and maintenance of streets, utilities and public

services in a more economical and efficient manner;

Section 5-60-2 General Requirements

The following requirements apply to all Open Space Communities.

- a. The development shall include only those housing types otherwise allowed in the underlying zoning district.
- b. The minimum land area required shall be no less than five acres, contiguous except for separations due to intervening roadways, and held in single ownership or control at the time of application.
- c. Each building lot shall be located, and of a size and shape, to provide a building site which will not create adverse impacts upon the natural terrain or other land features.
- d. In order to facilitate multi-modal circulation. There shall be an adequate, safe and convenient arrangement of sidewalks, bike lanes and paths, walking paths, roadways, alleys, driveways and parking, as appropriate.
- e. Prior to submission of the Special Permit application to the Planning Board, the plan shall identify the location and extent of: 1) all wetlands on the parcel as affirmed by the Westfield Conservation Commission (through a Determination of Applicability) under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and the City of Westfield Local Ordinance 944 as amended; 2) all ground surfaces with a slope of greater than 25%; and 3) all areas of floodplain identified as Flood Zone A on the most recent FEMA Flood Insurance Rate Map.
- f. Notwithstanding approvals hereunder, an Open Space Community must comply with all other applicable local and state regulations.
- g. Open space shall be retained primarily in contiguous areas. Front, back, and side yards of building lots are not counted toward the open space requirement.

Section 5-60-3 – Dimensional and Density Requirements

Residential dwelling units, and lawful accessory structures, may be constructed on lots within an Open Space Community although such lots have less area and frontage than normally required, provided the layout demonstrates preservation of open land in furtherance of the stated purposes of this section, and the overall density of the development is no greater than what is normally allowed in the zoning district.

The maximum number of dwelling units is based on developable land. Areas identified in 5-60.2(e), above, shall be excluded. The remaining land shall then be further reduced by 20 percent to account for roadway area and layout constraints. The final land area is then divided by the minimum lot size normally required in the district to arrive at the maximum number of dwelling units permitted in the Open Space Community.

Where, in the judgement of the Board, the aforementioned method will not result in a reasonable estimate of the number of dwelling units which could be built on the parcel conventionally, the Board may require the applicant to provide further evidence in the form of a conventional Preliminary Plan in conformance with the Subdivision Regulations and applicable zoning in the district, evidence of successful percolation testing and soil evaluations sufficient to meet Board of Health requirements for on-site disposal systems, and approvals by the Conservation Commission of any work in areas under their jurisdiction.

There shall be excluded from the number of lots shown on the conventional Preliminary Plan all lots which the Board finds are not reasonably buildable, whether by reason of excessive development and site preparation measures or costs; sanitary disposal, drainage, water supply or vehicular access problems; restrictive easements or encumbrances; limited or unusually-configured buildable area; the presence of surface waters, bordering vegetated wetlands, land subject to flooding, steep slopes, ledge, rock outcroppings, land subject to state or federal restrictions; or a combination of the foregoing. In consideration of the foregoing, the Board may rely upon findings and recommendations of the Board of Health, Sewer or Water Commission, Conservation Commission, Highway Department, City staff, or any appropriate state or federal agencies.

Minimum Lot Frontage and Yard Requirements

	Lot <u>ft²</u>	Frontage Throughway** <u>ft</u>	Frontage Cul-de-sac** <u>ft</u>	Side Yard <u>ft</u>	Front Yard <u>ft</u>	Rear Yard <u>ft</u>
RR	20K*	100	80	10	25	40
R-A	20K*	100	80	10	25	40

- ❖ 40K required with on-site water and septic, unless shared septic leaching areas or density calculation in the aggregate per Title 5, subject to Board of Health approval.
- ❖ 100 feet of lot width is required at the building line. Flag lots are permitted as described herein.

Flag lots, with a minimum frontage and width of 40 feet at any point of measurement between sidelines, may be permitted as a design measure in furtherance of the purposes of this bylaw, provided that the pole portion does not exceed 500 feet in length, and that the flag portion meets all applicable lot area and yard requirements above. No two flag lots may adjoin one another at the street.

Section 5-60-4 – Design Requirements

Where appropriate in the judgement of the Board for the individual development site, the following additional criteria shall be incorporated into the proposed site plan for an Open Space Community:

1. **Open Space Layout:** Open Space should include the most sensitive resource areas on the property and should be designed as larger blocks of land. Fragmentation, or the creation of long, thin strips of open space should be avoided. Whenever possible, the open space shall be laid out to preserve roadside views along City roads, and views from City roads into the development. Physical and visual access to the open space for homeowners shall be maximized in the design of the development, with open space areas readily differentiated from private lots. Wherever possible, when open space directly adjoins private lots, it shall be demarcated with logical, straightforward boundaries such as existing rock walls, tree lines, hedges, topographical breaks, a roadway or path, or post and rail fencing. Where the boundaries of the open space are not readily observable in the field, the Board may require placement of survey bounds sufficient to identify the location of the open space.

Open spaces shall, to the greatest extent feasible, be laid out in deference to Westfield's Open Space Plan, so as to be contiguous and complementary with open space areas of similar character (whether permanently preserved or not) on adjacent parcels, and to facilitate the through movement of wildlife.

2. **Development Location:** Residential lots and access streets shall be grouped in locations designed to: take advantage of solar access opportunities; maintain scenic views, particularly those seen from Westfield's roads; provide internal views of open space for residents; protect prime wildlife habitat; preserve historic and prehistoric sites and their environs; and protect natural features such as, but not limited to, surface waters, drainage courses, vernal pools, wetlands, floodplain, aquifers, older-growth trees, fields, and unique geologic formations. Development along existing scenic roads and creation of new driveway openings on existing regional roadways shall be minimized.

3. **Pedestrian Circulation:** Dedicated open spaces shall be laid out in conjunction with existing and proposed streets and sidewalks so that the greatest degree of internal pedestrian circulation and access to both on-site and off-site open space is achieved. Walking “loops” are preferred over one-way routes. Access onto open space must be clear and direct, and arranged in a manner that does not conflict with the actual or apparent use of private lots. Access to open space from the new street network shall be provided by a strip of land at least 20 feet wide, suitable for a footpath, from one or more streets in the development. Where the open space is to be owned by the City of Westfield, adequate provisions shall be included to accommodate public use, including locations for placement of future parking spaces and signage.
4. **Vehicular Circulations:** Where the Planning Board deems that it is in the city’s best interest and is consistent with the intent and purpose of the state Zoning Act and Subdivision Control Law, through streets shall be laid out to connect with existing or potential streets on adjacent land. Street segments designed with open space on one or both sides are encouraged.
5. **Landscaping:** Naturally - occurring vegetation shall be conserved to the great extent feasible, especially along existing City Roads. Landscaping and tree removal is subject to the approval of the Board prior to any work and final approval of the Open Space Community. Common areas (such as community greens and cul-de-sac islands) shall be landscaped with deciduous shade trees (minimum 2 inch diameter at breast height,) and flowering shrubs with high wildlife conservation value. Unless existing forest trees are retained, both sides of new streets shall be planted with deciduous shade trees (minimum 2 inch diameter at breast height), at a suggested interval of 60 feet, which may vary according to species selected and site-specific factors, at the discretion of the Board.
6. **Shoreline Areas:** In areas within 200 feet from each bank of any water body or watercourse (as defined by M.G.L. c.131,S 40), lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:
 - a. A significant portion of the shoreline shall be a part of the dedicated open space.
 - b. No excessive erosion, sedimentation, water pollution or disruption of the natural flow of the water will result from the construction.
 - c. Fisheries and wildlife habitat within and along the water body or watercourse are protected.

- d. An undisturbed buffer strip of native vegetation 50 feet back from each affected bank is maintained.
 - e. A minimum set-back for structures from all banks of 100 feet, and from Bordering Vegetated Wetlands of 50 feet is maintained.
7. **Agricultural Areas:** In agricultural areas, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:
- a. Developed areas are located on the least fertile soils for agricultural use so that land mapped as “Prime Agricultural Land” or of “State Importance” by the U.S.D.A. Natural Resources Conservation Service will remain available for future agricultural use.
 - b. Structures are located within any wooded upland on the parcel, or along the far edges of open fields.
 - c. Residential and agricultural areas are situated to minimize the lengths of any common boundaries between new house lots and lands preserved for agriculture.
 - d. Dwelling units and non-agricultural structures are separated from the agricultural uses by a 100 foot wide buffer strip of trees and native plantings sufficient to reduce conflicts between farming operations and residents.
8. **Upland Areas:** In areas of greater than 15% slope or upon hilltops and ridgelines, lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:
- a. Potential building sites are located so the tops of structures will be below the ridgeline or hilltop or, if the site is heavily wooded, the tops of structures shall be lower than the existing canopy height of trees on the ridge or hilltop.
 - b. The removal of native vegetation is minimized.
 - c. Grading or earth-moving is planned and executed in such a manner that the final contours are consistent with the existing terrain, both on and adjacent to the site.
9. **Forestry Areas:** In forested areas where there exists a potential for a sustained - yield of forest products, (based on existing vegetation, parcel size, contiguity with other forestry parcels, and forestry site indices), lots shall be laid out, to the greatest extent feasible, to achieve the following

objectives:

- a. Areas of older-growth forest or productive forest soils are included in the dedicated open space.
- b. Access for logging equipment is provided in a manner that does not conflict with the residential uses.
- c. Adequate buffering is provided in order to minimize disruption of residential areas or conflicts with the use of other open space areas, and to assure the safety of the residents.

Section 5-60-5 – Open Space Requirements

The total area of open space shall equal or exceed the sum of the areas by which any residential lots are reduced below the minimum lot area normally required in the zoning district; oversized lots shall not compensate for reduced-size lots in this calculation. Regardless, a minimum of 50 percent of the gross parcel area under consideration shall be set aside as open space for recreation, conservation, forestry, or agricultural uses which retain the property in essentially its natural condition thereby preserving the scenic and aesthetic qualities of the land.

Areas identified in 5-60-2(e), above, any account for no greater a percentage of the minimum required open space area than the percentage these areas represent of the gross parcel area. Open space dedicated in excess of the minimum required may contain any percentage of areas identified in 1601 (e), above.

Further subdivision of the open space is prohibited. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected, but shall not exceed five- percent coverage of said open space.

At the discretion of the Board, the following options are available for ownership of the open space.

- a. Conveyance to a community association, corporation, or trust owned by the owners of lots within the development. If such a community association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity.
- b. Conveyance to a non-profit organization, the principal purpose of which is the conservation and preservation of open space.

- c. Conveyance to the City, at no cost, and acceptance by the City Council for a park or open space use. Such conveyance shall be at the option of the City and shall require the approval of the City Council.
- d. Retention by the original owner or conveyance to a new owner, subject to all conditions and restrictions of the Special Permit, Definitive Plan approval, and Conservation Restriction.
- e. An appropriate combination of the above.

In any case where such land is not conveyed to the City, a perpetual restriction enforceable by the City shall be recorded to ensure that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. Such restrictions shall further provide for maintenance of the open space in a manner which will ensure its suitability for its function, appearance, cleanliness, and proper maintenance of drainage facilities, utilities, and the like. Such restrictions shall be recorded in a Conservation Restriction in perpetuity as authorized by M.G.L. c. 184, SS31-33. Where the aforementioned Conservation Restriction is deemed by the Board not to be appropriate for all or a portion of the open space, the Board may authorize an alternative method of restriction.

Section 5-60-6 – Community Association

If option 5-60-5 (a), above, is approved, a non-profit, incorporated community association shall be established, requiring membership of each lot owner in the Open Space Community. The community association shall be responsible for the permanent maintenance of the common open space and any associated facilities. A community association agreement or covenant shall be submitted with the special permit application guaranteeing continuing maintenance of such land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of the Board.

Such agreements or covenants shall provide that in the event the association fails to maintain the common open land in reusable order and condition in accordance with the agreement, the City may, after notice to the association and individual property owners and a public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The agreements or covenants shall also provide that the cost of such maintenance by the City shall be assessed ratably against the properties within the development.

Prior to the conveyance of any lot, the community association must be organized, and an association agreement or covenant signed and recorded at the registry of

deeds.

The developer shall be responsible for all maintenance costs, liabilities, insurance costs, and any other costs associated with the open space until at least fifty- percent of the lots are sold.

Section 5-60-7 – Review Process

Prior to formal application for a Special Permit, the applicant shall arrange for and conduct a field visit to the property with City staff, including, but not limited to the planner and conservation commission coordinator.

To construct an Open Space Community it is necessary to first have an approved Special Permit. Following approval of the Special Permit, the applicant may then submit for approvals under the Board's Subdivision Regulations pertaining to Open Space Communities. The Definitive Plan shall be in conformance to the Special Permit and any conditions thereto. All conditions of the special permit shall be met at the time of endorsement of the Definitive Plan by the Board.

Upon approval of the Special Permit, all restrictions upon the use of the designed open space areas shall be in effect. Any subsequent acts in violation of these restrictions shall be grounds for revocation of the Special Permit and denial of approvals under the Subdivision Regulations.