

Article 18  
**Conservation Cluster Development District**

**[Amended 5-2-1983 ATM by Art. 12]**

**§ 198-1801 Purpose; special permit required.**

1801.1. For the purpose of promoting the more efficient use of land in harmony with its natural features; encouraging the preservation of open land for conservation, agriculture, open space and recreational use; preserving historical and archaeological resources; and protecting existing or potential municipal water supplies, all in accordance with the general intent of this Zoning Bylaw to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland, an owner or owners of a tract of land within a Single Residence District, or an authorized agent or agents of such owner or owners, may submit an application for a special permit exempting such land from the lot area and frontage, yard, setback and width of lot requirements of Article 7.

1801.2. The Planning Board is hereby designated as the special permit granting authority for all purposes under this article and shall adopt rules and regulations with respect to the administration of applications for special permits under this article.

**§ 198-1802 Site plan.**

1802.1. In addition to any other documents or information required by the Planning Board pursuant to its rules and regulations adopted hereunder, application for a special permit pursuant to this article shall be accompanied by a site plan (the "plan"), which plan shall show all of the information required for a definitive subdivision plan as specified in the Planning Board Subdivision Regulations, such additional information required by § 198-601 through 605 of this Zoning Bylaw, as the Planning Board deems necessary, and, to the extent applicable, all proposed instruments to be recorded with the plan.

**§ 198-1803 Public hearing; general requirements.**

**[Amended 5-5-2005 ATM by Art. 27; 5-5-2005 ATM by Art. 29; 10-3-2012 STM by Art. 6; 11-15-2016 STM by Art. 4; 05-12-2022 ATM by Art. 19]**

1803.1. After notice and public hearing in accordance with law, which public hearing shall be held within 65 days after the filing of the application with the Planning Board, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission, Historical Commission, and the Board of Health, grant such a special permit, provided that:

1803.1.1. It finds that the proposed plan is in harmony with the purposes and intent of this Zoning Bylaw and this article.

1803.1.2. The area of the tract of land is not less than 5 acres.

1803.1.3. The total number of dwelling units on the tract of land, including any affordable units required by Section 2204, does not exceed

The number of building lots that could be created in the tract without a special permit hereunder through a conventional subdivision in full conformity with the dimensional requirements of this Zoning Bylaw and the Planning Board's Subdivision Rules and Regulations, plus one lot for each 10 of such building lots that could otherwise be created

1803.1.3.1. For purposes of demonstrating the number of lots under Subsection 1803.1.3., an applicant under this Bylaw shall submit a dimensioned lotting plan signed and stamped by a registered professional engineer and land surveyor ("Proof Plan") showing the layout of lots and roadways for a development tract that fully complies with the requirements of the Zoning Bylaw and the Planning Board Subdivision

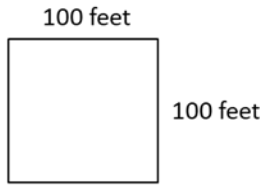
Rules and Regulations for a conventional subdivision and is a feasible development plan under state and local environmental statutes and regulations.

- 1803.1.4. Within the Residence Districts, the Planning Board may allow by special permit structures to be constructed containing more than one dwelling unit, but not more than four dwelling units per structure. The total number of dwelling units shall not exceed the total that is allowed under § 198-1803.1.3.
- 1803.1.5. Notwithstanding any provision of this Zoning Bylaw to the contrary, the Planning Board may permit by Special Permit attached and detached dwelling units to be erected on single lot(s).
- 1803.1.6. Each of the building lots shown on the site plan shall have adequate frontage, but no less than 50 feet, on a public or private way.
- 1803.1.7. Each of the building lots shall be of a size and shape as shall provide a building site that shall be in harmony with the natural terrain and other features of the tract, but no such lot shall have an area of less than 20,000 square feet as shown on the plan.
- 1803.1.8. The front, side and rear yards of each lot shall be shown on the plan by dashed lines indicating the area within which a building may be built. All dwellings, accessory buildings, driveways and roadways shall be set back at least 50 feet from the perimeter of the tract except that the Planning Board may reduce this setback to not less than 15 feet if it furthers the interests of this bylaw, and 15 feet from any open land. except for that portion of a driveway or roadway that intersects a public or private way for access to the development.
- 1803.1.9. For Conservation Cluster Developments consisting of at least a majority of single-family detached dwellings, at least 35% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be designated as Open Land. For Conservation Cluster Developments consisting of at least a majority of single-family attached dwellings, at least 50% of the land area of the tract, exclusive of land set aside for road and drainage areas, shall be designated as Open Land. For the purpose of this article, "Open Land" is defined as a parcel or parcels of land, or an area of water, or a combination of land and water, not including roads or ways, whether public or private, The Open Land shall be reserved for open space, conservation, agriculture, passive recreation, park purposes or some combination of the foregoing.

1803.1.9.1. The minimum required Open Land shall not contain a greater percentage of wetlands as defined in the Wayland Wetlands and Water Resources Protection Bylaw (excluding buffer zones), than the percentage of wetlands found in the overall tract of land on which the cluster development is located.

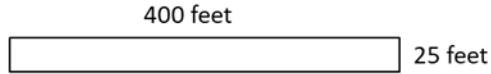
1803.1.9.2. In order to limit the degree to which the Open Land may have an irregular shape, and to optimize the public and ecological value of the Open Land, the following Lot Shape Factor formula shall be used:  $\text{Lot perimeter squared} \div \text{Actual Lot area} = \text{Lot Shape Factor}$ . Eighty-five percent (85%) of the area of the minimum required Open Land shall not have a Lot Shape Factor greater than 50. See examples below:

**Illustration #1**  
**Conforming Lot Shape Factor**



Perimeter = 400 feet  
Perimeter<sup>2</sup> = 160,000 feet  
**Area = 10,000 square feet**  
Lot Shape Factor = Perimeter<sup>2</sup> / Area  
**Lot Shape Factor = 16**

**Illustration #2**  
**Non-Conforming Lot Shape Factor**



Perimeter = 850 feet  
Perimeter<sup>2</sup> = 722,500 feet  
**Area = 10,000 square feet**  
Lot Shape Factor = Perimeter<sup>2</sup> / Area  
**Lot Shape Factor = 72.25**

1803.2. Conveyance of the Open Land.

1803.2.1. The Open Land shall be conveyed either:

- (a) To the Town or its Conservation Commission, but only if the Town or Conservation Commission agrees to accept title to the Open Land;
- (b) To the Sudbury Valley Trustees, Inc., and its successors or to another nonprofit conservation organization approved by the Planning Board, the principal purpose of which is the conservation of open space; or
- (c) To a corporation, trust or association owned, or to be owned, by the owners of lots or residential units within the tract, provided that if such a corporation, trust or association holds title, ownership thereof shall pass with conveyance of the lots or residential units.

1803.2.2. If title to the Open Land is held by an entity other than the Town, provisions shall be made satisfactory to the Planning Board that the Town, through its Conservation Commission, Planning Board, or other board, can enforce restrictions or easements imposed upon the Open Land by the Planning Board as conditions of its special permit.

1803.2.3. Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit the Open Land to be used for subsurface waste disposal where the Planning Board finds that such use will not be detrimental to the character or quality of the Open Land.

1803.3. No lot shown on the plan for which a permit is granted under this article may be further subdivided, and a notation to this effect shall be shown on the approved, recorded plan.

**§ 198-1804 Conditions.**

1804.1. The Planning Board may, in appropriate cases, impose as a condition of the special permit further restrictions, conditions and safeguards upon the tract, or parts thereof, to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town of Wayland.

**§ 198-1805 Decision.**

1805.1. In connection with the granting or denying of a special permit under this article, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision that shall include, at a minimum:

1805.1.1. A determination of the maximum number of lots upon which dwellings could be constructed (without a special permit hereunder) and a determination of the area of the tract usable for residential

construction in accordance with § 198-1803.1.3 herein. **[Amended 11-15-2016 STM by Art. 4]**

- 1805.1.2. A general description of the neighborhood in which the tract lies and the effect of the plan on the area.
  - 1805.1.3. The relation of the proposed development to long-range plans of the Town, if any.
  - 1805.1.4. The extent to which the proposed development is designed to take advantage of the natural terrain of the tract.
  - 1805.1.5. The extent to which the proposed open land is of such a size, shape and location and has such adequate access so as to benefit the Town.
  - 1805.1.6. If the Planning Board grants the special permit, the finding required by § 198-1803.1.1 above.
  - 1805.1.7. If the Planning Board denies the special permit, its reasons for so doing.
  - 1805.1.8. If the Planning Board disagrees with the recommendations of the Conservation Commission, Historical Commission, or the Board of Health, it shall state its reasons therefor in writing. **[Amended 11-15-2016 STM by Art. 4]**
  - 1805.1.9. If, by the terms of the special permit, the Planning Board permits the open land to be used for subsurface waste disposal, the finding required by § 198-1803.2.3 above. **[Amended 11-15-2016 STM by Art. 4]**
- 1805.2. Such decision must be reached, filed with the Town Clerk and sent or delivered to the applicant within 90 days after the public hearing held on the application for the special permit, unless said ninety-day deadline is extended in accordance with law. Failure to so act shall be deemed approval in accordance with law.

#### **§ 198-1806 Open Land.**

**[Amended 11-15-2016 STM by Art. 4]**

- 1806.1. If a special permit is granted, the Planning Board shall impose as a condition that the Open Land shall be conveyed, free and clear of any liens or encumbrances except those that may be permitted by the Planning Board, and subject to a perpetual restriction of the type described above (if applicable), prior to the Planning Board's release of any lots from the subdivision restriction covenant or, if there is no such covenant, prior to the Building Commissioner's issuance of a building permit for any lot, unless the petitioner shall provide a cash performance bond in an amount sufficient in the judgment of the Planning Board to guarantee the conveyance of the Open Land as required by the special permit. The petitioner shall provide satisfactory assurance of said conveyance and recording, in the form of copies of the recorded instruments bearing the recording stamp, and of such freedom from encumbrances. In any event, the Open Land shall be conveyed as required on or before one year after the conveyance of the first lot.

#### **§ 198-1807 Duration of special permit.**

- 1807.1. A special permit granted under this article shall lapse within 18 months if substantial construction has not begun by such date, except for a good cause shown and approved by the Planning Board.

#### **§ 198-1808 Amendments.**

- 1808.1. Following the granting by the Planning Board of a permit under this article, it may, upon application and for good cause shown, after notice and a public hearing as required for granting a special permit, amend the plan solely to make changes in lot lines shown on the plan; provided, however, that no such amendment shall:

- 1808.1.1. Grant any reduction in the size of the open land as provided in the permit;
- 1808.1.2. Grant any change in the layout of the ways as provided in the permit;
- 1808.1.3. Increase the number of building lots as provided in the permit; or
- 1808.1.4. Decrease the dimensional requirements of any building lot below the minimal required by this Zoning Bylaw.