

**Town of Wendell Zoning Bylaw
Proposed Conservation Development Amendments**

STRIKE:

Article X and all existing references to Conservation Development in current Wendell Zoning Bylaw.

INSERT:

Article VI. Special Permits, Use Regulations and Site Plan Review

{Amend Section F to add new “Site PB” permit category, add additional language to the Residential Uses table heading, and add a new “Conservation Development” entry at the end of the residential section of the table, as shown. No other changes.}

{Add to list of kind of permits available}

Site PB = By-right with site plan review from the Planning Board

I. Residential Uses

{insert following entry in table heading}

- 1. Except for Conservation Developments under Article X, new primary dwellings are allowed, subject to all other provisions of these Wendell Zoning Bylaws, at the rate of no greater than one new primary dwelling in any 7 year period on either: 1) a lot in existence on [insert date of first notice or adoption]; or 2) a new lot divided from a lot in existence on [insert date of first notice or adoption].**

**Conservation Development
(in accordance with Article X)**

Site PB

Article X. Conservation Development.

Section A. Purpose

1) The purpose of this article is to establish Conservation Development as the Town of Wendell’s preferred residential development methodology which protects the natural and cultural resources of the Town to a greater degree than either conventional subdivision or the “approval not required” (ANR) processes by integrating land conservation into every residential development project. Accordingly, the goal is to replace conventional subdivision with Conservation Development and to encourage an alternative to the creation of typical road-front lots through the ANR process.

Section B. General Description

1) This Conservation Development bylaw permits development of a parcel where a greater portion of the parcel is preserved by a conservation restriction that limits the allowable uses on that part of the land, while the lesser remainder of the parcel (development envelope) is used for

residential development. Conservation Development is the preferred residential development pattern.

2) The land which is most valuable for ecological protection, biodiversity, wildlife habitat and habitat connectivity, forest conservation, agriculture, aesthetics, historical significance, carbon sequestration, or recreation is permanently protected by a restriction under M.G.L. c. 184, § 31 approved by the Planning Board.

3) Residential development is confined within the development envelope and subject to site plan review. The property owner is given greater design flexibility within the development envelope and streamlined permitting.

Section C. Required Review

1) A Conservation Development may be proposed anywhere in Wendell. There are no minimum project sizes or minimum number of units required. A Conservation Development requires site plan review from the Planning Board. A property owner may submit a project application for a site plan review for one parcel, multiple parcels whether contiguous or not, or a portion of one or more parcels.

2) A Conservation Development shall comply with the provisions of this Article X unless the Planning Board allows a design that deviates from the requirements of Article X by special permit. Such special permit may only be approved if the applicant demonstrates that the proposed alternative provides adequate protection of the site's environmental resources and fulfills the purposes of this Article X as well as or better than a development meeting all the requirements of this Article X.

3) A conservation analysis by the applicant and conservation finding by the Planning Board, as herein described, are required components of the site plan review. No special permit is required, and the uses, density, and development rules are applied by-right. The Planning Board's role is not to exercise discretion relative to whether a project is allowed, but to ensure zoning is complied with in the design of the project and to create site plan review conditions addressing how the project is laid out. After completing the site plan review, the applicant may submit a plan for approval under section 5.00 of the Subdivision Regulations or, if the project is not a subdivision, a plan under section 3.00 of the Subdivision Regulations.

4) Provided all of the requirements of Section G. are met within two years, a site plan review for a Conservation Development shall remain in force thereafter. However, failure to comply with the requirements of Section G. within two years or at a later time shall cause the site plan review to lapse. Notwithstanding any other provision of Wendell's zoning, dimensional and density standards of Article V, secondary dwelling requirements of Article VI, large development review, and back lot development requirements do not apply to Conservation Development projects. Other sections of zoning do apply, except as otherwise noted in this article.

Section D. Calculations

1) The maximum number of dwelling units in a Conservation Development is calculated using the table below. Any combination of parcels and/or portions of parcels, whether contiguous or not, may be considered a project in the calculations below.

Allowed Dwelling Units in a Conservation Development

Base Data	#1	TOTAL AREA of project parcel(s) =	acres
	#2	TOTAL FRONTAGE of project parcel(s) on existing public roads =	feet
	#3	ACREAGE WITH BUILDING CONSTRAINTS (Acreage of water bodies, wetlands*, 100-year FEMA floodplains*, and slopes over 25%) =	acres
Calculations	#4	DWELLING UNITS BASED ON BUILDING CONSTRAINTS (#1 – (0.5 x #3)) ÷ 5 acres/unit =	units
	#5	DWELLING UNITS BASED ON MINIMUM LOT AREA OR FRONTAGE (Lesser of (#1 ÷ 3 acres/unit) or (#2 ÷ 200 ft/unit) =	units
	#6	BASE ALLOWED DWELLING UNITS (Greater of #4 or #5) =	units
As-of-Right Bonus Density	#7	If at least 10% or more of the base allowed dwelling units in #6 are affordable for rent or purchase for households earning 80% of Area Median Household Income, as calculated by the U.S. Dept. of Housing and Urban Development for the area that includes Wendell, with adjustments for family size; and the Planning Board finds that: 1. Deed covenants and institutional controls will ensure that units will remain affordable in perpetuity; and 2. The applicant has structured the project, provided all paperwork, fee, affirmative marketing and tenant selection, in accordance with the MGL c. 40B; and 3. Prior to obtaining a building permit for any of the units, the applicant obtains final state approval to count the units on the Subsidized Housing Inventory. 4. The required affordable units are to be built prior to the market-rate units or according to a schedule contained in the conditions of the site plan review. Bonus dwelling units is #6 x 0.20 =	units
	#8	If there is significant public access to and linking through the property and the Planning Board finds that such public access provides a significant recreational benefit (such as access to an existing trail network) consistent with specific objectives in the most recently adopted Open Space and Recreation Plan Bonus dwelling units is #6 x 0.15 =	units
	#9	If at least 85% of project parcel(s) is permanently protected land. Bonus dwelling units is #6 x 0.15 =	units

Total	#10	MAXIMUM ALLOWED DWELLING UNITS (The sum of #6 + #7 + #8 + #9 rounded <u>down</u> to nearest whole number) = (Note: Each residential unit of any kind is a dwelling unit, e.g., a two family home is two dwelling units and each Secondary Unit is a dwelling unit.)	
			units

*Wetlands and floodplain field-flagged boundaries must be approved by the Conservation Commission before completing this analysis, unless:

1. MassGIS wetlands data is used without field mapping with a safety factor that triples the amount of wetlands as shown by MassGIS. MassGIS/FEMA floodplain data may be used without field mapping with a safety factor that doubles the floodplain shown by MassGIS/FEMA; OR
2. MassGIS wetlands and floodplain data are used with whatever greater margin of safety the Wendell Conservation Commission determines is adequate based on a site visit it conducts.

Required Permanently Protected Land/Maximum Development Envelope

#12	MINIMUM REQUIRED PERMANENTLY PROTECTED LAND (#1 x <u>0.75</u>) = Note: Acreage with building constraints identified in #3, above, may account for no greater a percentage of the minimum required permanently protected land area than the percentage these areas represent of the gross parcel area. Additional permanently protected land dedicated in excess of the minimum 65% required may contain any percentage of constrained areas identified in #3.	acres
#13	ADDITIONAL PERMANENTLY PROTECTED LAND (from #10 or otherwise) =	acres
#14	TOTAL PERMANENTLY PROTECTED LAND (#12 + #13) =	acres
#15	MAXIMUM AREA OF DEVELOPMENT ENVELOPE (#1 - #14) =	acres

Section E. Conservation Analysis and Findings

1) A project proposed in accordance with this article must include a conservation analysis submitted to the Planning Board as a required component of its site plan review. Three copies of the conservation analysis shall be filed with the Planning Board. A conservation analysis examines site factors to identify what portions of a parcel should be preserved, what portions are most suitable for development, and which conservation and/or recreation features should be optimized in designing a project. The Planning Board shall, in the course of its site plan review, study the conservation analysis and shall make a conservation finding which shall be incorporated into its actions on the site plan review.

2) The conservation analysis shall include the most recent color orthographic photo of the site and land within 300 feet of the site, and a plan at the scale of 1" = 100' or of greater detail showing the following features of the parcel. This plan shall be prepared and stamped by a registered landscape architect, professional land surveyor, or professional engineer.

a. FEMA 100-year floodplains, topographic contour lines with intervals as required for site plan review, slopes of 15% to 25% and greater than 25%, water bodies, public and community water supply watersheds and aquifers, and all wetlands, as defined in the Massachusetts and Wendell wetland regulations/bylaws. Generalized wetland identification based on MassGIS data may be provided for the conservation analysis.

b. Land in agricultural use, mapped soils especially suitable for agriculture or forestry, ridgetops, trails, adjacent protected lands known historic and pre-Columbian features, Natural Heritage and Endangered Species (NHES) Living Waters Core Habitat and Critical Supporting Watersheds, and BioMap Core Habitat and Supporting Natural Landscapes.

c. Potential for foot, bicycle, horse, ski, snowmobile or wildlife connections to adjacent or nearby undeveloped lands, if any.

d. Analysis of undeveloped buffers necessary to screen development on the site from public roadways.

e. Stone walls, cellar holes, or other significant stone features anywhere on the property.

3) The Planning Board may waive all or portions of the required submittal for a conservation analysis when the Planning Board first consults with the Conservation Commission and Open Space Committee, considers their recommendations, and either:

b. determines that the waived portion of the conservation analysis is not relevant and useful to decisions about a particular site and would impose an undue hardship on the applicant and serve no benefit to the town; or

c. determines a full conservation analysis is not necessary when the applicant is providing at least 85% of the site as permanently protected land.

4) In making its conservation findings, the Planning Board shall:

a. notify the applicant forthwith if the information provided is incomplete or appears to be in error;

b. provide a copy of the conservation analysis to the Conservation Commission and Open Space Committee within 14 days of receipt;

c. consult with the Conservation Commission, the Open Space Committee, the most recently adopted master plan, and the most recently adopted open space and recreation plan;

d. generally assume that land farther away from the town road, open fields, land in agricultural use, and land identified as Priority Open Space in the Wendell Open Space and Recreation Plan should have priority for preservation; and

e. identify which site areas are most important to preserve and which conservation values should be optimized in project design. The priority shall be to identify opportunities for protection of ecologically sensitive areas, contiguous unfragmented forest land, timber and forest management, wildlife habitat and habitat connectivity, hunting, fishing, gathering, farmland, water supply areas, vistas, historic and pre-Columbian features, rural character features, trail links, and other unique site attributes.

Section F. Conservation Development Site Plan Review Requirements

1) The site plan review shall incorporate the Planning Board's conservation findings in all three design phases, as follows:

a. Permanently Protected Land: The protected land must be laid out to optimize the features identified as being important for preservation and to minimize any intrusions into habitat areas. For example, agricultural fields generally should not be bisected or intruded upon by any development, although in some circumstances after a wildlife assessment a driveway or road crossing may be appropriate if mitigation is utilized.

b. Development Envelope: The development envelope is laid out within the non-protected land area of the site identified as appropriate for residential use. This is where all roads, driveways and shared driveways, allowable dwelling units, most residential accessory uses, and development activity will be located.

c. Development Layout: The layout of development within the development envelope will include a design that:

i. maximizes preservation of important natural and historic features on the property and minimizes soil cutting and filling; and

ii. creates roadway layouts and common driveways to minimize curb cuts and visual intrusions on public ways by providing access to new homes and structures from internal ways and common drives and not from existing public roads to the extent practical. In a Conservation Development the Planning Board is authorized to waive zoning limits on the length of a common driveway and the number of homes using a common driveway if it finds that a longer common driveway is consistent with its conservation finding and the common driveway is built to additional design standards and additional institutional controls to accommodate the extra length and/or traffic.

Section G. Permanently Protected Land Requirements

1) The permanently protected land may remain in private ownership (original owner or new owner), or may be transferred to any of the following: a homeowner's association comprised of all of the residential lot owners in the Conservation Development; the Wendell Conservation Commission with town approval; or a state, federal, or non-profit agency or organization that will, in the opinion of the Planning Board, assure permanent preservation.

2) Regardless of ownership, a perpetual restriction under M.G.L. c. 184, § 31 (Restriction) shall be placed upon the permanently protected land. Such restriction shall be held by the Town of Wendell through its Conservation Commission, the Commonwealth of Massachusetts, or by a qualified non-profit conservation organization, such as a land trust.

3) The site plan review application must show all permanently protected land with full metes and bounds descriptions on a recordable survey and the proposed deed to the permanently protected land including its Restriction. After site plan review and prior to any development on the site: the Restriction preserving the protected land shall be accepted by and transferred to the designated holder; the Restriction shall be approved by the Commonwealth of Massachusetts; the survey, deed, and Restriction must be recorded at the Registry of Deeds or Land Court; and all property pins delineating the boundaries of the permanently protected land must be placed.

4) Prior to the issuance of any valid building permit, the deed and Restriction for the permanently protected land must be transferred and recorded in accordance with the above paragraph, free of any significant liens or encumbrances, with any mortgage subordinated to by all mortgage holders behind the Restriction.

5) The Restriction that must be submitted to the Planning Board shall:

a. be permanent;

b. be eligible for approval by the Commonwealth (demonstrated by obtaining their prior review/preliminary approval or by using the most recent model approved by the Commonwealth's Division of Conservation Services);

c. unless reserved prior to the Restriction, be sufficiently limiting to disallow any further development activities or uses that would be contrary to the interests Conservation Development seeks to protect (At a minimum the following must be prohibited: any new principal structures or uses, including new residential dwellings; new residential roadways, new common driveways, or new private driveways; and any new subdivision of the land);

d. be sufficiently restrictive of uses or activities that are incompatible with the conservation objectives of Conservation Development (although, at the discretion of the Planning Board, exceptions may be allowed, such as a small parking area, picnic or camping area, or building envelope for possible future accessory structure);

e. be written to allow and encourage forestry and agricultural uses and structures as defined in M.G.L. c. 128, § 1A so long as not inconsistent with the primary purposes of the Restriction;

e. contain a covenant that a Restriction holder, if other than the Commonwealth, will not accept fee title to the property without first transferring the restriction to another qualified entity; and

f. contain a mechanism, approved by the ultimate holder of the Restriction, for funding future administration of the Conservation Restriction.

Section H. Dimensional and Use Requirements within the Development Envelope

1) There are no minimum lot size, frontage, or setback requirements within the development envelope. Within the development envelope, roadway alignments, common driveways, road frontage, lot areas, and setback requirements, if any, shall be established by the applicant and shown on the proposed site plan in a general manner. However, all setbacks to existing roads and to land parcels that are not part of the Conservation Development shall not be less than those that normally apply for a residential use that is not in a Conservation Development.

2) Subsequent to site plan review under this section and any other necessary approvals (such as a special permit for a deviation from the requirements of this section), an applicant for a Conservation Development may submit either a subdivision plan or a non-subdivision (ANR) plan under section 5.00 or 3.00, respectively, of the Wendell Subdivision Control Regulations. In either case the aforementioned subdivision or non-subdivision plan shall substantially reflect the design approved and conditioned under site plan review for a Conservation Development.

3) All uses allowed in the zoning district in which the development envelope is located are allowed in a Conservation Development under the same permitting terms as specified in the Wendell Zoning Bylaws.