Innovative Zoning:
Land Conservation via Development –
Open Space Residential Design & Related Tools

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Portions adapted from the MA Smart Growth/Smart Energy Toolkit
Sprawl Development Maximizes Land Consumption & the Cost of Infrastructure

Six houses here require long driveways, separate wells for water supply and independent septic systems.

Berkshire County
On a state scale zoning calls for 2/3rds of the Commonwealth to be developed with single family homes on lots ≥ 1 acre.
About 1.6 million acres of developable land is zoned for houses on lots of >1 acre.

- Such zoning does not respect resources and yet it is the legal basis for development.
- Land acquisition efforts are important but will not be sufficient.
- Zoning could assist rather than hinder land protection.
BioMap identifies over 500,000 acres most in need of protection to conserve biodiversity.
A significant disconnect often exists between local plans and local zoning.

Alford’s 418 Plan calls for conservation of grey shaded areas and other lands.
OSRD or Large Lots?

Large Lots

- Lots may be consumed by home, garage, pool, shed, patio, landscaping, etc.
- May or may not contain open space and typically fragmented
- Often upscale homes

OSRD and similar

- Less impervious surface
- Permanent open space
- May contain mixed housing types
>75% of FY10 Commonwealth Capital Applicants had Cluster/OSRD

Commonwealth Capital Policy -- FY'05
Zoning for Clustered Development

Status of Cluster Development Zoning (or OSRD)
- Red: Commitment to adopt Cluster Zoning
- Brown: Municipality has Cluster Zoning or OSRD
- Yellow: No Cluster Zoning or commitment
- White: Unknown - No submission in FY'05

NOTE: 191 of 351 municipalities submitted a FY'05 Commonwealth Capital application
OSRD is a form of subdivision design that maximizes resource protection and optimizes the use of space.

The Problem

Loss of Open Space

The Solution

Smart Development

OSRD provisions provide inherent flexibility relative to minimum lot size, setbacks and frontage and therefore can streamline the permitting process.
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*Massachusetts Smart Growth Toolkit*
Flexible or “Set in Stone”?  

- Creative Partnership  
- Pre-Application Mtg (Four Step Process)  
- Special Permit Early in Process  
- Conservation Values  
- Streamlined Process  
- Early Stakeholder Involvement  
- Creative Incentives  

- Regulatory Focus  
- Early Financial Investment  
- Concurrent Permit Processes  
- Open Space Percentage  
- Uncertain Timeframe  
- Involvement at the hearing phase
Pre-Application Meeting and Site Visits

- Site Context Map (GIS data of the site in context to surrounding parcels)
- Site Analysis Map (GIS data of site features and existing conditions)
- Input from Conservation Commission, Board of Health, DPW, etc…
DETERMINATION OF YIELD

The process begins with determining how many lots could be developed under conventional zoning; this is the base yield of the property. From that point, the plan development process follows four basic steps:
1. Identify Conservation Value: such as wetlands, significant trees or tracts of forest, habitat, cultural resources or buffer zones. Remove these from the “developable area”.

2. Place houses: maximize residents’ enjoyment of these areas by providing access to open space, privacy, and preserving views.
3. Align roads and trails on the site to provide pedestrian and vehicle access.

4. Draw lot lines around the homes.
**BENEFITS of OSRD and similar**

**Economic**
- Reduces infrastructure and maintenance costs
- Reduces demand to acquire new public parkland
- Maintains local character

**Environmental**
- Protects unique or fragile habitats
- Reduces the pollution impacts of stormwater runoff
- Promotes aquifer recharge
- Provides opportunities to link wildlife habitats
- Can further goals of open space and community development plans

**Social and Recreational**
- Enhances New England community character
- Provides interconnected network of trails and open space
- Can encourage affordable housing
BENEFITS

For the Developer and Realtor

- Streamlines plan review process; reduces time and costs
- Adds valuable amenities that can enhance marketing and sale prices
- Increases resale value; homes in OSRD subdivisions have shown to appreciate faster than those in conventional subdivisions
- Decreases site development costs by designing with the terrain

The permitting structure encourages smart growth and facilitates a permitting process that is clear, easy to understand, and cost-effective to developers.
COMMUNITY OUTREACH:

OSRD and similar bylaws will have to be adopted at Town Meeting or by Council Vote. The Public’s concerns MUST be addressed for these votes to be successful. Common concerns include:

1) Will flexible provisions increase the amount of housing in the community?

2) Will the style of housing affect community character?

3) Will these subdivisions unduly affect the tax burden to the rest of the community?

4) How will density incentives increase the development potential of the community?

5) Are developers being given too much latitude?
BYLAW/ORDINANCE CONSIDERATION #1:

What is the Permit mechanism?
(Special Permit, By Right)

OSRD may be offered as a by-right development option, through Site Plan Review, or as Special Permit. Communities should assess how permitting is currently structured in their bylaw and use those mechanisms that have proven effective in the past.
BYLAW/ORDINANCE CONSIDERATION #2:

What are the resource priorities of the community?

• Resource priorities could include farmland, coastal areas, aquifers, sensitive habitats, historic buildings, forested areas, etc.

• The resource priorities will help shape the approach to site plan development.
Conservation Areas Should Be Identified Through A Comprehensive Planning Process
OSRD can be used to conserve large blocks of open space

Conservation of a greenway corridor

Conservation of a block of open space

Land targeted for protection

Individual Subdivisions

Land conserved via permanent conservation restriction
BYLAW/ORDINANCE CONSIDERATION #3:

How will the Bylaw affect other local regulations?

- Bylaw should consider input from all permitting agencies such as:
  - Conservation Commission
  - Health Department
  - Zoning Board of Appeals
  - Planning Board
  - Building Inspector

- Conflicts with existing regulations or other bylaws need to be resolved.
BYLAW/ORDINANCE CONSIDERATION #4:
What sort of incentives or bonuses can the community comfortably and effectively promote?

- The goals discussed in other planning documents should be consulted before determining different density bonuses:
  - Planned Production Plan (affordable housing)
  - Open Space and Recreation Plan
  - Executive Order 418 Community Development Plan
  - Master Plan/Local Comprehensive Plan
- Offering bonuses may require a considerable outreach effort as many Town Meeting voters will be afraid of increases in density.
COMMON DENSITY BONUSES

- More Open Space
- Affordable Housing
- Historic Structures

Towns may choose to give Density Bonuses:
- Increased open space
- To encourage a specific age demographic
- To promote town planning goals
- To promote low to moderate income units
- Based on the sensitivity of resources or the protection of resources
BYLAW/ORDINANCE CONSIDERATION #5
How to Handle Open Space Preservation?

Defining a Minimum Percentage of Open Space on the Lot:
• Percentage wetland within the open space shall not be greater than the percentage wetland on the entire site
• Contiguosness is emphasized to reduce habitat fragmentation
• Use of open space should be primarily defined to protect habitat and promote conservation, although additional purposes such as agriculture, historic preservation, and education can be defined

Who will own the open space?
• Municipality, Conservation Commission
• Non-profit Land Trust
• Corporation or trust owned jointly or in common by the lot owners of the OSRD
CASE STUDY

Caldwell Farm
Newbury, MA

Caldwell Farm is a 66-unit housing project, 100 of the 125 acres being maintained as open space including fields, forest, freshwater, and saltwater wetlands.
Island Co-Housing in West Tisbury

- 49.4 acre site purchased by South Mountain Company
- Subdivided into four parcels
- 30 acres for 16 unit co-housing development
  - Pedestrian-oriented
  - Streets and vehicles on perimeter only
  - Community center, communal responsibilities
- Comprehensive permit to cluster housing on 6 acres
- 24 acres left as open space
  - “Village Common”
  - Community garden
  - Pond
  - Playing fields
  - Wooded area
  - Owned by homeowners’ association
LUPA and CLURPA both:

• Enhance the framework for adoption of OSRD & similar tools

• Encourage adoption of OSRD & similar zoning tools

**OSRD** – Projects of >five units in any zoning district that requires a minimum lot area of >40,000 sf for single-family residential development must use open space residential design (unless determined infeasible by the RPA) (CLURPA includes a formula addressing areas on septic.)
Goal: Communities that follow Ashby’s lead and go from zoning that calls for growth everywhere ...
...to zoning that is far more attuned to resources and community goals outlined in the Plan.
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MA Smart Growth/Smart Energy Toolkit: