

## **§56 OPEN SPACE SUBDIVISIONS** *Revised 05-26-78*

### **56-1 Purpose**

In accordance with the Zoning Regulations, the Commission may permit the establishment of an Open Space Subdivision in a Residence AAA or Residence AA or Residence A zoning district for one (1) or more of the following purposes:

- 56-1.1** To avoid hazardous conditions and excessive damage from storm water runoff and stream flooding, to safeguard the groundwater table, and to protect streams and ponds from pollution, to protect and preserve the natural beauty of the terrain, and to encourage the wise use and sound management of natural resources throughout the Town.
- 56-1.2** To provide land for neighborhood recreation purposes.
- 56-1.3** To permit the best possible design of a parcel of land after consideration of its particular topography, size, shape, soils or other unique features such as valuable trees, watercourses, waterbodies, and historical, archeological and/or paleontological sites.
- 56-1.4** To preserve open space within the Town and to maintain the natural appearance, beauty and character of an area.

### **56-2 Procedural Requirements**

In addition to the procedural requirements of §52, an application for a proposed Open Space Subdivision Plan shall be accompanied by the following:

#### **56-2.1 Written Application**

The application required under §52-4 shall also contain a description of the extent to which the provisions for open space will be utilized, i.e., reduction of lot sizes, shape and setback.

#### **56-2.2 Existing Conditions Map**

- 56-2.2.1** The existing conditions map required by §52-4.3 shall show a conventional layout of lots and streets in conformity with zoning and subdivision requirements without the open space.
- 56-2.2.2** A duplicate of the existing conditions map required by §52-4.3 shall also show the proposed clustered layout of lots and sheets in conformity with the zoning and subdivision regulations with the proposed open space.

#### **56-2.3 Subdivision Map**

- 56-2.3.1** A subdivision plan for the proposed Open Space Subdivision shall show the proposed lots, setbacks and open spaces, as well as all other requirements for approval of a subdivision under §52-4.4 of the of the Subdivision Regulations of the Town of Westport.

**56-3 Standards and Conditions**

In addition to the design standards and improvement requirements of §54 and 55, a proposed Open Space Subdivision Plan shall conform to the following standards and conditions:

**56-3.1 Size**

The tract of land to be subdivided shall be not less than

- (a) 6 acres in a Res. AAA zone,
- (b) 3 acres in a Res. AA zone, and
- (c) 2 acres in a Res. A zone.

**56-3.2 Number of Lots**

The number of clustered lots in an Open Space Subdivision shall not exceed the number of conventional lots that could be created under the applicable zoning regulations for the district in which it is located and under the Subdivision Regulations of the Town, as indicated by the existing conditions maps required by §56-2.2, herein.

56-3.2.1 If the Existing Conditions Maps contain any wetlands, waterbodies or watercourses, then said maps shall be referred to the Conservation Commission for their review and a written recommendation indicating that the conventional lot layout either does or does not have a reasonable probability of complying with Inland Wetland Regulations shall be submitted to the Planning and Zoning Commission.

56-3.2.2 Nevertheless, the Planning and Zoning Commission shall be solely responsible for determining the number of conventional lots that could be created on the site.

**56-3.3 Lot Area and Shape**

Proposed lots may be reduced in area and shape to an extent equal to the area and shape requirements of lots in the next less restrictive zoning district. Therefore, lots in the AAA zone can be reduced to not less than one (1) acre; lots in the AA zone can be reduced to not less than one-half (1/2) acre and lots in the A zone can be reduced to not less than one-quarter (1/4) acre.

**56-3.4 Setbacks**

Proposed lots shall be allowed to meet the setback requirements of the next less restrictive zoning district, except that any setback along the boundary of the Open Space Subdivision shall meet the setback requirements of the zoning district in which it is located.

56-3.4.1 Setbacks for 1/4 acre lots within Residence A Zone shall be:

	Boundary Line	Interior Lot Line
Front	30 Feet	30 Feet
Side	15 Feet	10 Feet
Rear	25 Feet	25 Feet

56-3.4.2 Each one quarter (1/4) acre lot within an A zone shall be of such shape that a rectangle of seventy five (75) x one hundred (100) feet will fit on the lot.

**56-3.5 Water Supply and Sewage Disposal**

Each proposed lot may be reduced in area as provided herein only if approved by the Westport/Weston Health District and/or Westport Water Pollution Control Authority as satisfactory for the establishment of the proposed water and sewer facilities. Each proposed lot that is less than one acre (43,560 square feet) in size shall be served by either a public sanitary sewer or by a Community Sewerage System approved by the Conn. DEP.

**56-3.6 Area of Open Space**

The open space shall have an area not less than the total reduction in the normally required lot areas for the zoning district in which the Open Space Subdivision Plan is located. At least 75% of the open space shall be in one parcel. No land in streets and no recreation land as may normally be required by the Commission under §54-21, herein, shall be included in the Open Space.

**56-3.7 Location and Shape of Open Space**

The open space shall be located where it will carry out the purposes listed herein. It shall be of shape and dimensions considered adequate by the Commission after the consideration of the purposes of the Open Space.

**56-3.8 Access to Open Space**

Access shall be provided in such form and location to ensure the convenient use of the open space lands by all residents of the subdivision. Provision for at least one accessway, not less than twenty (20) feet in width, shall be made from a street.

**56-4 Use of Open Space**

The use of the resultant Open Space shall conform to the use as prescribed by the Commission in the approval of the Open Space Subdivision Plan. Open space land shall be shown on the Open Space Subdivision Plan and shall be appropriately labeled as required by the Commission.

- 56-4.1.1 Open Space land shall not be available or used for building lots at any time and shall be reserved and shall be available in perpetuity as open space.
- 56-4.1.2 Upon written petition signed by at least seventy-five (75) percent of the owners of record of the Open Space parcel, the Commission may approve changes in the use of the Open Space, provided that the Commission finds that the intent and purpose of the Open Space provision shall be maintained and preserved.

**56-5 Ownership of Open Space**

The open space shall either be conveyed to a tax-exempt agency or to the individual lot owners.

**56-5.1 Public**

- (a) If the open space parcel is more than two acres in size, the applicant may dedicate the open space to the Town of Westport, Westport Conservation Commission, Aspetuck Land Trust, Audubon Society or other similar tax exempt agency that is willing to accept and maintain said open space.
- (b) If the open space parcel is two acres or less in size, the applicant may dedicate the open space to the Town of Westport, or Westport Conservation Commission provided said parcel is contiguous to another Town-owned parcel.

**56-5.2 Private**

The applicant may convey the open space to individual lot owners as follows:

- 56-5.2.1 The owner of each lot in an Open Space Subdivision shall own an undivided interest in the Open Space proportionate to the total number of lots in the subdivision.
- 56-5.2.2 The owners shall be jointly responsible for the financial and physical maintenance of the Open Space through an association organized for that purpose.
- 56-5.2.3 Reservation and ownership of such Open Space lands shall be recorded in deeds or other legal instruments satisfactory to the Commission and approved by the Town Attorney as adequate to ensure the continued and proper maintenance and use of the Open Space lands by the owner(s) of the open space parcel(s).
- 56-5.2.4 Such deeds and legal instruments shall be recorded with the Town Clerk. This information shall also be recorded on the subdivision map in a manner satisfactory to the Commission.

**56-6 Final Approval**

An application for an Open Space Subdivision shall adhere to all of the approval and compliance requirements of §53, herein. The Commission may then approve the Open Space Subdivision Plan if it finds that the purposes, application procedure, standards and conditions of the Subdivision Regulations have been met and that the proposed development will not be detrimental to the public health, safety, general welfare and property values of the neighborhood. The Commission may attach such conditions that it deems necessary to preserve the purpose and intent of the Zoning and Subdivision Regulations of the Town.