**Conservation Subdivision Committee**

**June 27, 2017 Meeting Minutes**

The meeting began at 6:30 pm.

**1. Roll Call: Present:** Mike Schwindt, Alan Blanchard, Paul Auclair, Peter Sherr, Tom Gruber, Meg Coon, Sally Stockwell, Carla Nixon - Town Planner, & Christina Silberman - Administrative Assistant. **Absent:** Sam York

The Committee discussed Paul Auclair’s membership status. Mr. Auclair was appointed to the Conservation Subdivision Committee prior to being appointed to the Planning Board. The Planning Board liaison to this committee is Peter Sherr. Ms. Nixon will follow up with the Town Manager to see if Mr. Auclair should be considered a regular voting member of this committee still or if he should be considered a non-voting Planning Board liaison. In the interim, Chairman Schwindt determined that Mr. Auclair may continue serving as a public committee member with voting privileges.

**2. Adoption of Minutes from the May 23, 2017 meeting:** Mr. Sherr noted a minor correction to the minutes. The amended minutes were accepted unanimously.

**3. Continued Review of Draft Conservation Subdivision Ordinance:** Chairman Schwindt said that for the 6/24/17 draft he took care of a lot of the edits for typos and inconsistencies in the prior draft and incorporated the changes from the last meeting.

Chairman Schwindt reviewed comments from Committee member Sam York, who was absent, on the revised draft. The Committee began review of the 6/24/17 draft.

Ms. Stockwell asked Ms. Nixon to provide maps that show different scenarios and to check ordinances in other towns with conservation subdivisions to see what they have for an open space percentage.

In reviewing section 6.2.3.A, Site analysis map, Ms. Stockwell said it would be helpful to include information from the Beginning with Habitat maps on the wetland and riparian resources and high value plant and animal resources in particular. Ms. Nixon said that the section already refers to wetlands and asked if these are different than the NWI wetlands. Ms. Stockwell said no, but they do show riparian habitat areas. Ms. Stockwell said that there are also focus areas of ecological significance but she doesn’t think there are any in Cumberland. Ms. Stockwell will make a list of things she would like added here and will send it to everyone. Mr. Blanchard noted that the next section, 6.2.4.B.3, has a lot of the items just discussed to be added. Ms. Stockwell said that not everything she would like is listed here. Mr. Sherr said that the additional items should be added here.

Mr. Auclair asked what is meant by the reference in 6.2.3.B by “issuance of a land disturbance permit”. Ms. Nixon said this may have come from another ordinance and should be stricken and replaced with “final approval”.

Mr. Sherr said that he recalled discussion at a previous meeting about adding a workshop as part of the application process. Ms. Nixon will add an application procedure section to the draft ordinance that will include a workshop at the beginning of the process.

Chairman Schwindt noted that section 6.2.4.A is a definition of open space and questioned if there is another section in the Town’s ordinances with definitions that should be checked for consistency. Ms. Nixon said that there are not a lot of definitions in the current Subdivision Ordinance and she will check to ensure that the definitions are consistent. The Committee decided to remove section 6.2.4.A because the language is included in section 6.2.4.F, Legal instrument for protection, and the sections will be renumbered.

Chairman Schwindt said he found a definition for “common open space” in the Chapter X draft ordinance. There is also a definition for “open space” in the X draft. Ms. Nixon said that anything in the X draft that is underlined is proposed new language to be added to the Town’s Subdivision Ordinance. Ms. Nixon said another piece of the Committee’s work will be to go through this section of the Subdivision Ordinance and the Committee doesn’t need to do this quite yet. The Committee does need to define open space.

Ms. Nixon noted that Chairman Schwindt asked who makes the decision about what constitutes an “unusual hardship” referred to in section 6.2.4.B.2 and answered that it is the Planning Board. The Committee debated whether the ordinance should note that this is the decision of the Planning Board. Ms. Stockwell suggested striking the language beginning with “unless the applicant demonstrates”. Chairman Schwindt agreed and suggested ending the paragraph with a period after “open space”. Ms. Nixon noted that item g of this section is an example of something the Planning Board could alter and allowing changes is a tool that the Board should have.

Ms. Stockwell said that she is not comfortable with the way the ordinance separates primary and secondary conservation areas. The areas listed as primary are mostly unbuildable portions of the lot and will be taken out anyway. Ms. Stockwell said the items listed do not seem like primary conservation areas to her, they are part of the open space but are the undesirable and unbuildable parts of the land. Ms. Stockwell said that the goal of a conservation subdivision is to first remove the unbuildable stuff and then figure out where the other high value land is that should be protected. Mr. Auclair said that if 15% of the property has already been taken out and with a 75’ buffer around the entire perimeter, this is a lot of land that will be open space and not really contiguous with anything. If there is a stream, there is a 75’ buffer on each side. Mr. Auclair questioned what is left to be contiguous and said that the standards are so important in deciding what the percentage of open space will be. Mr. Sherr said using the words primary vs. secondary implies that one is better than the other. The language for the primary areas says “must” be included and for the secondary areas the language says “may” be included. Mr. Sherr agreed that the Committee may not want to use the words primary and secondary. Ms. Nixon said that the terms primary and secondary can be taken out but noted that these are key things in all of Randall Arendt’s work on conservation subdivisions. Ms. Nixon said that her concern about removing these words is that the engineers and landscape architects that come in with a conservation subdivision are familiar with these terms.

Chairman Schwindt reviewed the proposed changes to the Standards to determine open space section asked if the Committee agrees with #1 and there were no objections. Chairman Schwindt asked if the Committee agrees with Ms. Stockwell’s recommendation for #2 to put a period after “open space” and delete the remaining language and there were no objections.

Ms. Nixon said she will determine if use of the terms primary and secondary are an industry standard. Ms. Stockwell asked Ms. Nixon to look into what Randall Arendt lists as primary and secondary areas. Ms. Coon said she sees it as one being mandated and the other being desirable.

Mr. Auclair asked about item 2.e and asked if an endangered species has to be present or if it is just a habitat where they could live. Mr. Sherr said that for certain species it can be just a habitat where they could live. Ms. Stockwell said that one way this can be addressed is to say that it has to be a mapped habitat by the State or the Town.

Ms. Nixon will email the Committee members a list of all of the potential items that could be considered for primary (must) or secondary (may) conservation areas. The Committee members can go through the list and rank order the areas and say if the area should be a “must” or a “may”. Ms. Nixon said the Committee should give thought to what is unique to Cumberland, such as shellfish areas, that other communities may not have.

The Committee discussed usage of the term “flood zone” instead of “flood plain”. The Committee decided that the reference cited should be “as shown on effective FEMA flood maps”. The draft ordinance should use these same terms in both places. Mr. Auclair said the wetlands language should be the same in both places also.

Ms. Stockwell asked how cemeteries and burial grounds are handled. Ms. Nixon said she hasn’t dealt with one and thinks the State protects them.

Mr. Blanchard asked for clarification of item under sec. 6.2.4.B.3.d regarding tree drip lines and said the meaning is not clear. Ms. Nixon said this can be changed.

**4. Next Steps:**

The Committee will continue their review at the next meeting on July 25th at 6:30 pm.

**5. Adjourn:** Mr. Auclair moved to adjourn, seconded by Ms. Coon and voted, all in favor.