

## **Conservation Subdivision Committee September 12, 2017 Meeting Minutes**

Chairman Schwindt called the meeting to order at 6:30 pm and introduced consultant Dan Bacon.

**1. Roll Call: Present:** Mike Schwindt - Chairman, Meg Coon, Paul Auclair, Sam York, Alan Blanchard, Tom Gruber - Town Council Liaison, Peter Sherr - Planning Board Liaison, Dan Bacon - Consultant, Carla Nixon - Town Planner, Christina Silberman – Admin. Asst. **Absent:** Sally Stockwell.

**2. Adoption of Minutes from the July 25, 2017 Meeting:** (Adoption of the minutes occurred after Mr. Bacon's presentation.) A minor correction to the July 25, 2017 meeting minutes was noted. Mr. Auclair moved to accept the minutes of the July 25, 2017 meeting as corrected, seconded by Mr. Blanchard and **VOTED, 5 yeas, unanimous – motion carries.**

**3. Presentation by Dan Bacon, Consultant:** Committee Consultant Dan Bacon of Gorrill Palmer said he is looking forward to working with the Committee on the Conservation Subdivision Ordinance project and he outlined his experience. Mr. Bacon said that it seems the Committee has been working on this for a while and has some lingering questions. Mr. Bacon previously gave a memo to the Committee with his perspective on some of the questions.

Councilor Gruber asked how long the conservation subdivision has been in place in Scarborough and Mr. Bacon replied since 2005/2006. Councilor Gruber asked if it is working. Mr. Bacon said yes it is and that the conservationists love it and it has become the preferred approach for developers.

Ms. Nixon asked if Scarborough gives a choice of subdivision type. Mr. Bacon explained that in Scarborough the conservation subdivision started around wetlands in rural areas. A conservation subdivision is required in areas with a certain amount of wetlands. Ms. Nixon asked what other subdivision options there are in Scarborough. Mr. Bacon said that the conservation subdivision replaced the cluster subdivision in Scarborough and a larger lot traditional subdivision can be elected where the conservation type is not required.

Mr. York said here in Cumberland building is done basically on the good land and the bad land is left for the open space which would include wetlands. Mr. Bacon said in Scarborough the goal is to create additional open space to buffer the wetlands.

Mr. Bacon provided the following presentation:

## CONSERVATION SUBDIVISION DESIGN – CONSIDERATIONS FOR CUMBERLAND

### CONSERVATION SUBDIVISION DESIGN (CSD) APPROACHES

- USEFUL ZONING TOOL FOR LAND DEVELOPMENT, CONSERVATION, RURAL LAND USES, RURAL CHARACTER AND GROWTH AND INFRASTRUCTURE MANAGEMENT
- CAN APPLY TO RURAL ZONES OR WIDE RANGE OF RESIDENTIAL ZONES TO PROMOTE:
  - MORE COMPACT DEVELOPMENT
  - LESS INFRASTRUCTURE & MAINTENANCE
  - FLEXIBLE, CREATIVE NEIGHBORHOOD DESIGN
  - GREEN SPACE & BUFFERS

## CONSERVATION SUBDIVISION DESIGN – RURAL OPTIONS

### RURAL AREA FOCUS:

- 50% OPEN SPACE IS ACHIEVEABLE – REQUIRES 1/2 - 2/3 REDUCTION IN CONVENTIONAL LOT SIZE
- 4 ACRE ZONING (1 LOT / 4 ACRES) – REDUCE TO 40,000 TO 80,000 SF PER LOT/DWELLING TO ACHIEVE 50% OPEN SPACE
- 2 ACRE ZONING – REDUCE TO 30,000 TO 40,000 SF PER LOT/DWELLING (POSSIBLE WITH ON-SITE WASTEWATER, EVEN BETTER WITH SEWER)
- 50% OF GROSS LAND OR 50% OF NET RESIDENTIAL ACREAGE – KEY DECISION
- 50% CAN ENABLE AGRICULTURE, WILDLIFE HABITAT, STREAM BUFFERS, RURAL CHARACTER
- CONSIDER DIFFERENTIAL DENSITY FOR CSD VS. CONVENTIONAL – 1 DWELLING / 2 ACRES FOR CSD OR 1 DWELLING / 4 ACRES FOR CONVENTIONAL – FREEPORT OR OTHERS USE THIS TOOL

### RURAL ZONE

NET RESIDENTIAL DENSITY  
1 DWELLING / 2 ACRES  
LOT SIZE REDUCTION  
TO 30,000 SF  
MINIMUM & 50%  
OPEN SPACE  
REQUIREMENT  
31 LOTS – 30,000 –  
40,000 SF LOTS  
85 ACRES OF OPEN  
SPACE

### RURAL ZONE

NET RESIDENTIAL DENSITY  
1 DWELLING / 2 ACRES  
LOT SIZE REDUCTION  
TO 30,000 SF  
MINIMUM & 50% OPEN SPACE  
REQUIREMENT  
13 LOTS – 30,000 –  
40,000 SF LOTS  
35 ACRES OF  
OPEN SPACE

### Mill Stream Subdivision

### FREEPORT RURAL ZONE

NET RESIDENTIAL DENSITY  
1 DWELLINGS / 2.5 ACRES  
LOT SIZE REDUCTION  
TO 1 ACRES  
& 50% OF NET  
RESIDENTIAL AREA  
30 LOTS – 1+ ACRES  
EACH  
96 ACRES OF  
OPEN SPACE

## VILLAGE OR SUBURBAN SUBDIVISION DESIGN OPTIONS

### GROWTH AREA FOCUS:

- CONSERVATION OR "VILLAGE" SUBDIVISION DESIGN – USEFUL IN GROWTH AREAS TOO
- 50% OPEN SPACE IS ACHIEVEABLE – REQUIRES 1/2 - 2/3 REDUCTION IN CONVENTIONAL LOT SIZE
- 1 ACRE ZONING – REDUCE TO 15,000 TO 20,000 SF PER LOT/DWELLING
- 20,000 SF ZONING – REDUCE TO 7,500 TO 10,000 SF PER LOT/DWELLING
- 30-40% OPEN SPACE MAY BE APPROPRIATE IN GROWTH AREA RESIDENTIAL ZONES
- OPEN SPACE ACTIVITIES – COMMONS, GREENS, CONSERVATION, COMMUNITY GARDENS

### VILLAGE RESIDENTIAL ZONE

NET RESIDENTIAL DENSITY 2  
DWELLINGS / 1 ACRE  
LOT SIZE REDUCTION  
TO 5,000 SF MINIMUM & 20%  
OPEN SPACE REQUIREMENT  
240 DWELLINGS OVERALL  
MIXE OF HOUSING TYPES –  
SINGLE, DUPLEX,  
TOWNHOUSES  
35% OPEN SPACE – 85  
ACRES

### SUBURBAN RESIDENTIAL ZONE

NET RESIDENTIAL DENSITY  
2 DWELLINGS / 1 ACRES  
LOT SIZE REDUCTION  
TO 7,500 SF MINIMUM  
& 50% OPEN SPACE  
REQUIREMENT  
52 LOTS – 10,000 –  
15,000 SF LOTS  
42 ACRES OF  
OPEN SPACE

The Committee discussed using gross area or net area to apply the open space requirement to. Mr. Sherr suggested requiring 50% open space of the gross area.

Ms. Nixon said that in Cumberland, the Ordinance asks that existing trails be maintained or relocated when land is subdivided. Something the Committee has to talk about is if trails should be open to the public or not. Ms. Nixon said that a lot of the value of a conservation subdivision for Cumberland is that there are nice open space parcels that are disconnected right now and Cumberland may want to connect them. Mr. Bacon said he has had experience with subdivisions with trails used by the public and in some cases the trail stayed in the same place as part of the open space and in other cases the trail was rerouted and an easement was provided to the town or a land trust.

Mr. Bacon noted that another question for the Committee is if parts of the open space can be developed, such as for a stormwater pond.

Mr. York asked if Mr. Bacon has seen any ramifications of having public trails. Mr. Bacon said that liability always comes up. Often there is an easement for the trails to another entity that assumes the liability. In some cases the open space can go to the town or to a land trust.

Mr. Bacon noted that in areas where the town is encouraging growth, the open space percentage could be lower because it may not be the priority. It does not have to be called a conservation subdivision, it could be called something else like a village subdivision.

Ms. Nixon asked if the amount of open space is fluid and negotiated as it is being designed with the Planning Board. Mr. Bacon said no, a project can get to a higher open space percentage based on the size of the lots and the layout of the neighborhood. Mr. Sherr said Cumberland is looking to have input upfront with a developer to look at where the good area is.

Ms. Nixon asked about site walks. Mr. Bacon said typically there is a concept/sketch plan that is the starting point then there is a site walk. A town can require a site walk before there is a plan and have a site inventory submitted. This can be hard on the developer's side because the developer has prejudged the land before they buy it so they know how many lots could go there. Mr. Sherr said we need to influence the concepts with the criteria that is established.

Mr. Bacon said that the smaller the lot you can allow for, the more flexibility a developer has to work with the Planning Board to save certain elements.

Mr. Sherr said that his opinion is that in lieu of having a density bonus program to add additional lots, he leans on providing a lower minimum lot size.

Ms. Nixon said if the town says the minimum lot size is 20,000 sq. ft., this gives a developer more lots than if the minimum lot size is 2 acres. Mr. Blanchard said he thinks a tradeoff for a smaller lot size is the percentage of space that is preserved. Mr. Sherr said he likes Mr. Bacon's concept of different lot size requirements for different

zones. Ms. Nixon asked what this would look like in an ordinance. Mr. Bacon said there are two key metrics, one is net residential density that will drive the number of lots overall.

Ms. Nixon asked if Mr. Bacon has experience with a maximum lot size and Mr. Bacon said he has not. Mr. Sherr said he thinks the key is the minimum lot size. Mr. Blanchard said a smaller minimum lot size will incent the developer to conserve more land. Mr. Sherr agreed and said infrastructure costs will be less and if a developer wants a maximum lot size, they can go with the traditional style.

Mr. York asked about recent subdivisions in West Cumberland with a lot of houses that lack character. Ms. Nixon said these were done with a contract zone that the Town Council authorized and were not developments that the town ordinance allowed. Mr. Sherr said the contract zones were similar to a cluster subdivision. Mr. York said the town could be faced with this again. Mr. Sherr explained that a contract zone is an overlay that the Town Council can pass and it could happen anywhere.

The minutes of the July 25, 2017 meeting minutes were approved at this time. See item #2 above.

**4. Continued Review of Draft Conservation Subdivision Ordinance:** Chairman Schwindt said the latest draft is dated Sept. 7<sup>th</sup> that include changes from the earlier versions. Chairman Schwindt noted that a box needs to be added to the chart on page 3 for maximum density. Mr. Blanchard said this would be for how many dwellings there can be on the parcel per acre or acres per dwelling. Ms. Nixon said this could vary based on the district.

Mr. Sherr asked if the Committee likes what Mr. Bacon presented and what is happening in other towns. Mr. York said he likes the flexibility. Mr. Auclair said he favors requirements being different for the different zones. Chairman Schwindt agreed that requirements can vary for different zones. Mr. Blanchard also likes the differences in the zones and he likes the idea of a larger area of open space.

Mr. Sherr said there can be many options for the open space as far as it being owned by a homeowners' association or transferred to the town. Mr. Auclair said he thinks this is part of what the Committee has to decide. Mr. Sherr said he thinks this could be up to the developer as long as the criteria is followed to establish the open space. Mr. Sherr said the town does not want to acquire more and more land that has to be maintained so it could just be an easement for a trail. Mr. Auclair said he is referring to the amount of open space and proposed a smaller percentage of open space be required for the growth areas.

Mr. Auclair asked Ms. Coon if, in her experience, this is something that people would be interested in Cumberland or would detract people or developers. Ms. Coon said that people are unique and one of the characteristics of Cumberland that people really like is the rural character. Cumberland does not have much of a village so people looking for

this may go to Yarmouth. Ms. Coon said people will choose their community based on their priorities and aesthetics are. Ms. Coon said right now, there are people that want to be in Cumberland but there is nothing to sell them. There are only 4 houses under \$400,000 for sale in Cumberland right now.

Mr. Auclair asked if a conservation subdivision is more expensive to buy in than a cluster or traditional subdivision. Mr. Bacon said he does not think so.

Mr. Sherr said right now, because the town does not dictate that the better land be part of the open space, mostly all non-buildable land becomes the open space. The town's goal is to try to help preserve the rural character.

Ms. Nixon asked if, from a political perspective, it would be wise for the committee to pitch this just for the rural areas to start and if it would be more palatable. Councilor Gruber said that it would. Councilor Gruber said that the town currently has no appetite to acquire more property and he worries about putting too much land into an easement because this will affect the tax base. Chairman Schwindt said the open area could be assigned to the other lots and become part of their tax base. There could be an easement for trails but this would not necessarily remove land from the tax base. Mr. Bacon said that if it is done right, a conservation design can have more valuable lots.

Mr. Auclair noted that the Committee has to decide if the conservation subdivision ordinance will only apply to one or two zones. Chairman Schwindt asked for a straw poll. Ms. Nixon noted that her thought is to keep the traditional style as an option. Mr. York said he likes the idea of having different types of open space requirements for different areas. Mr. Blanchard said he suspects that there isn't a piece of land in the MDR district that this would apply to. Ms. Coon said she thinks it should be applicable to the village also but she isn't sure. Mr. Blanchard said the RR1 and RR2 zones are most of the town. Mr. Auclair said he has no qualms about applying the conservation subdivision to RR1 and RR2 and he is ready to talk to the Council. Mr. Auclair noted that the Committee can always come back later for changes. Ms. Coon agreed. Chairman Schwindt said it is 3 to 1 in favor of applying the conservation subdivision to the RR1 and RR2 zones only.

Ms. Nixon said the next question is what the percentage of open space should be and if it is gross area or net area. Mr. Auclair said he thinks 50% of gross will still allow a lot of good property not to be utilized. Mr. Blanchard also likes 50% of gross and perhaps the RR2 should be 40% of gross. Mr. Sherr said it is less restrictive to start with and it can be changed later. Ms. Coon said she thinks 50% of gross and Mr. York agreed. Ms. Coon added that the minimum lot size can be different in the RR2.

Ms. Nixon reviewed the questions she had proposed to Mr. Bacon prior to the meeting.

Ms. Nixon noted that the proposal is that the current cluster subdivision will be done away with in the RR1 and RR2 zones and replaced with a conservation subdivision and the traditional subdivision will still be available. Mr. Sherr asked Councilor Gruber if it

would be less palatable to the Town Council if the conservation subdivision replaced all other subdivisions. Councilor Gruber said this is probably a fair statement but his preference is to just have the one style. Councilor Gruber noted that he can't speak for the whole Council. Mr. Sherr said from the Planning Board he likes the idea of keeping the option of a traditional type. Again, this could be changed in the future. Mr. Sherr said it doesn't make sense to have a conservation and a cluster type. Chairman Schwindt said the town could substitute the cluster with the conservation subdivision in the RR1 and RR2 and keep the current options in place for all other zones for the time being. The Committee agreed to keep the traditional option and replace the cluster option with the conservation option in the RR1 and RR2 and keep the other zones status quo.

Mr. Bacon said that he does not think the town needs to offer bonus lots to encourage conservation design but bonuses can be an added incentive to get things into a design that the town values. Ms. Nixon said that maybe there could be a bonus for a net zero design. Ms. Silberman noted that bonus lots were considered to entice developers to choose a conservation type over a cluster type so if the cluster is no longer an option, the town may not need to offer a bonus. The Committee agreed to start without a bonus.

Ms. Nixon asked Mr. Bacon if these tend to have sidewalks. Mr. Bacon said generally, no, but this is based on proximity to other sidewalks and destinations.

**5. Next Steps:** A revised draft ordinance will be provided to the Committee prior to the next meeting. Mr. Bacon will attend the next meeting.

Mr. Sherr noted that he would like to see the conservation subdivision applied across all zones with different criteria.

**6. Next Meeting Date:** The Conservation Subdivision Committee will meet again on Tuesday, September 26, 2017 at 6:30 pm.

**7. Adjourn:** The meeting adjourned at 8:30 pm.