

**Land Use Committee
Town of Cumberland
Council Chambers – Town Office
November 13, 2014 – 6:00 p.m.
Minutes**

I. Call to Order: The meeting was called to order at 6:00 p.m.

II. Roll Call:

Present: Steve Moriarty, Chair, Bob Waterhouse, Vice Chair, Adrienne Brown, Beth Fitzgerald, Tom Foley, Chris Franklin, James Orser, Sally Stockwell, Peter Bingham, Town Council, Shirley Storey-King, Town Council, Chris Neagle, Planning Board

Absent: Lynda Jensen, bob Maloney, Sally Pierce, Jeff Porter, Peter Sherr, Planning Board

Staff: Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

III. Minutes of Previous Meeting: September 25, 2014 and October 16, 2014)

Mr. Neagle moved to approve the minutes of September 25, 2014 and October 16, 2014.

Mr. Foley seconded.

Vote: Unanimous 5 in favor

Note: Beth Fitzgerald abstained for October 16, 2014)

Mr. Moriarty stated we have received a few preliminary results from the survey. There was a glitch in the mailing and the Foreside zip code received the surveys late. At the next meeting on December 11th we will have full results.

Dr. Waterhouse stated it would be interesting to see the order of percentages. He asked if the final report could highlight every other row or every other block for easier reading.

Mr. Bingham asked how many surveys had been returned.

Mr. Neagle stated what he noticed was the strong support for the Route One direction to allow retail and restaurants.

Dr. Waterhouse asked if there was a way to know percentage of participation by neighborhoods.

Mr. Moriarty stated he had received a lot of comments on the quality of the survey stating it was a very thoughtful well done piece of work.

Ms. Nixon stated she thought we could get responses by zoning districts.

Mr. Moriarty stated we will have full survey results at our next meeting.

IV. Continued Discussion of Conservation Subdivision Model

Ms. Nixon reviewed the chart showing neighboring towns and their types of subdivisions and lot requirements.

Town	Applicable Areas	Minimum Lot Size	% of Open Space Required	Density Bonus or Neutral
Cumberland Cluster Subdivision	RR1 & RR2	PW & S – 20,000 PW – 45,000 No W & S 60,000	25%	Neutral
Falmouth Conservation Subdivision Note: Falmouth has Country Estates with are large lot subdivisions	All Residential Areas RES, A, B, C	Sewer – 10,000 sq. ft. No Sewer – 20,000 sq. ft.	30% of NRA	
Freeport	<u>RR1</u> Open Space (OS) Subdivision Expanded Space (ES) Subdivision Large Lot (LL) Subdivision <u>RR2</u> OS Subdivision ES Subdivision LL Subdivision <u>MDR</u> OS ES LL <u>MDR II same as above</u>	20,000 sq. ft. 20,000 sq. ft. 5 acres 20,000 sq. ft. 20,000 sq. ft. 5 acres 20,000 sq. ft. 12,000 sq. sewer 20,000 no sewer 100,000 sq. ft. Same as above		
	<u>MD A & B</u> OS ES LL	25,000 sq. ft. 20,000 no sewer 10,000 with w/s 20,000 sq. ft. 7,000 with w/s. 100,000 sq. ft. 40,000 with w/s 80,000 no w/s		

Cape Elizabeth Open Space Zoning	<u>Residence B (Required)</u>	20,000 sq. ft.	40%	
	<u>Residence A (Optional)</u>	20,000 sq. ft.	40%	
	<u>Residence C</u>	N/A		

Mr. Orser stated Cape Elizabeth is simple with only two levels of subdivisions

Ms. Nixon presented the following Power Point presentation on Clustered Subdivisions.

<p>Conservation Subdivisions</p> <p>OVERVIEW AND ISSUES</p>	<p>Our Current Subdivision Ordinance:</p> <p>Permits 3 types of subdivisions:</p> <ul style="list-style-type: none"> • <u>Traditional</u>: min. lot sz.; no open space • <u>Dispersed</u>: min. lot size 60,000 sf.; 25% open space. • <u>Clustered</u>: lot size based on availability of w/s; 25% open space. 	<p>Major differences are:</p> <ul style="list-style-type: none"> • Process (is more inclusive, more considered) • Ability to determine (and protect) those resources that are of most importance to each town. • Usable open space
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Ms. Nixon stated one of the things that the Committee needs to determine is whether the Net Residential Acreage includes unbuildable acreage such as roads, steep slopes, wetlands etc.

<p>Why Add Conservation Type?</p> <ol style="list-style-type: none"> 1. Called for in 2009 Comprehensive Plan 2. Protect prime agricultural land from development 3. Preserve desirable open space area 4. Provide a way to link existing trails and open space 5. Preserve wildlife corridors 6. Lessen visual impact 7. Involve all interested parties (developer, Town, abutters, committees) earlier in the process before significant money is spent on design engineering. 	<p>Advantages</p> <ul style="list-style-type: none"> • For critics: Protects species & ecosystems by preventing further habitat fragmentation & loss. Provides wildlife corridors. • For towns: Fewer public costs for maintenance of infrastructure; protects open space without losing tax revenue; reduced demand for <i>public</i> green space, since it has been provided by the developer. • For people: Social & recreational benefits: neighbors sharing, planning community events, protected open space provides great recreational activities. 	<p>Disadvantages</p> <ul style="list-style-type: none"> • Perceived risk by developers & buyers. • Fear of elimination of desired sites to build homes. • How to counter? <ul style="list-style-type: none"> – Education – Incentives?
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<p>The Formula:</p> <ul style="list-style-type: none"> • Take total parcel area. • Deduct Primary Conservation area. • Take net developable area, divide by min. lot size to get number of lots. • Place these lots <i>around</i> but not <i>within</i> the secondary conservation areas. 	<p>Example: Primary Cons. Areas</p> <ul style="list-style-type: none"> • Unbuildable wetlands • Water bodies • Flood plains • Steep slopes 	<p>Examples: Secondary Cons. Areas:</p> <ul style="list-style-type: none"> • Mature woodlands • Upland buffers around wetlands & water bodies. • Prime farmland • Natural meadows • Critical wildlife habitat • Areas of historic, cultural or archaeological significance.
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Issues to Decide	Charge	Committee Options
<ul style="list-style-type: none"> • Where to require C.S.? (it can't be optional) (RR 1? RR 102? Both? All residential areas?) • Density: Bonus or Neutral? • Which resources to be in Primary Cons. Areas? • Which resources " " Secondary Cons. Areas? • What does the Committee Charge require? 	<ul style="list-style-type: none"> • To consider if a conservation subdivision ordinance should be adopted, and if so, where and how the provisions would apply. 	<ol style="list-style-type: none"> 1. Committee report recommends the development and adoption of a C.S. leaving the Planning Board and Staff to draft for Ordinance for Council review/approval. 2. Subcommittee of this committee meets to draft C.S. ordinance.

Mr. Neagle stated he thought conservation subdivisions were a better direction.

Dr. Waterhouse asked if the 20% unbuildable land would go towards the 40% open space, and asked if the developer would receive more lots for an incentive.

Mr. Moriarty asked if currently the secondary areas were buildable.

Ms. Nixon stated yes; she said she once read that the Old English term "Cumberland" means "land of rolling hills", which seems to be a feature that Cumberland residents want to preserve.

Mr. Moriarty asked the Committee for options and voiced concern of the attrition rate of the Committee and inability to get 100% attendance. He asked if the Committee could hold together long enough to create the frame work for the Conservation Subdivision. This framework would be passed along to the Planning Board and Town Council for drafting of the ordinance language. If this Committee were to continue with a subcommittee we would continue to work well into winter/spring of 2015. This Committee is approaching the end of our scope of work; with the survey results we will be able to decide on the RR1 and RR2 issue and re-visit the uses on Route One. He stated between the two options he felt number one was the best.

Dr. Waterhouse asked how ordinances are historically written; would there be another committee designated.

Mr. Neagle stated historically the Planning Board has never created an Ordinance. It is ultimately up to the Town council; he is happy to recommend to the Council option # 1.

Mr. Orser asked about assurance that the Ordinance would be drafted in accordance with the Committee's framework.

Ms. Storey-King reviewed the process: This Committee would strongly recommend to the Town Council in its report to draft a conservation subdivision ordinance The Council would refer the request to the Ordinance Committee who would use what resources necessary to draft the Ordinance. The draft Ordinance would go to the Town Council who would refer it to the Planning Board for a public hearing and the Planning Board would in turn refer it back to the Town Council with or without comments for adoption and another public hearing.

Mr. Neagle agreed he does not see this committee existing beyond the final report to the Council; he stated Ms. Nixon drafts most Ordinances that are reviewed at the Planning Board.

Dr. Waterhouse stated it is difficult to give a strong recommendation without the decision on the RR1 and RR2 districts.

Ms. Nixon stated the chart does not show a four acre minimum conservation subdivision. Her recommendation is that they give a final report with the recommendation for conservation subdivisions.

Mr. Franklin stated the question is whether the conservation subdivision would be mandatory or optional.

Mr. Moriarty reviewed slide # **10 - Issues to Decide**.

- Where to require a Conservation Subdivision. RR: RR2 or both. All Residential zones?

It seems like the Rural Residential zones would make sense. The MDR is developed and there are no large parcels of undeveloped land in the LDR zone. I am not sure I would require it other than the large rural zones, he asked the Committee for their opinion.

Mr. Bingham stated when you look at the map and the areas around Range Way there are several large undeveloped parcels in the RR2 zone. He agrees we need to look at the entire Rural Residential area. We also need to look at lot size requirements; we may want some lot size limitations whether that is 10 or 20 acres. A sixty acre lot can preserve more valuable open space.

Mr. Moriarty asked if you were developing ten acres in one of the RR zones that might be too small for a conservation subdivision.

Mr. Bingham stated he would defer to Mr. Franklin who is more of an expert.

Mr. Franklin stated that is one way to look at it; to require a conservation subdivision on a five acre lot is a large amount of work for not a great return. Maybe it is ten acres, twelve or fifteen acres; if you have a sizeable lot it should be required. This should be done in such a way that it doesn't punish the landowner; it will just be a different type of development.

Dr. Waterhouse wondered historically how zones RR1 and RR2 were separated; the division lines appear arbitrary, not based on size of lots. If we are requiring a conservation subdivision on certain size lots that potentially redefines the residential areas.

Mr. Bingham stated as a small picture it probably was arbitrary, we were looking at general lines regarding to hydrology and soils.

Mr. Foley asked if what he was hearing was to have the RR1 and RR2 zones combined and having conservation subdivisions mandatory on lots greater than X acres.

Mr. Neagle stated there are two different big questions; one of which we haven't tackled yet, do we need two RR zones. If we have RR1 and RR2 or only one RR zone what would be the minimum lot size. He agreed Conservation Subdivisions should apply to the RR zones with a ten acre minimum requirement. Development on lots smaller than ten acres should be developed with a cluster design, and we should get away from traditional with the exception for some lots such as the Whitney Road subdivision.

Ms. Nixon stated they could develop a waiver provision for the Planning Board. When the Committee started the sense she had was we didn't want to do away with four acre zoning, because it would keep Cumberland rural with large lots. Now when I look at it, this plan gives us a better approach; we don't need the artificial four acre lot. Currently we have no mechanism to preserve the fields or sensitive resources on the four acre lot. I think the issue is no longer the size of the lot but which design works best to preserve resources. This would give the Planning Board a tool to define and protect areas that are important.

Dr. Waterhouse stated the issue comes back to small or large lots. He has asked families on larger lots the reason for moving to Cumberland and the answer has been the rural larger lots. He is not sure he agrees with ten houses on half acre lots to preserve the open space. The buildable lot size is a concern.

Mr. Neagle agreed some people want ten acres of land, and there are lots of houses available. Those options aren't going to change. I don't think we lose that option when the land is developed into a conservation subdivision. Those concepts can live side by side.

Mr. Franklin stated if you have a large lot and can have twenty houses with a conservation subdivision there is nothing to prevent eight houses on larger lots as long as the criteria to set apart 40% of buildable land is met. Developers are not required to maximize the number of houses that can be built on a lot. If the market is requiring larger lots that is still possible. The Ordinance states the minimum lot size.

Ms. Nixon stated Jordan Farms subdivision had larger lots than required; the net residential density would have allowed for more lots.

Mr. Neagle stated the minimum lot size is important for the non-subdivision development; such as when a parent has twelve acres and wants to gift some lots to their children. I would like to have relatively large lot requirements for the projects that occur without town review; and can cumulatively over a long period of time impact development.

Mr. Orser asked why if a family member wants to allocate a parcel of land to children, why they couldn't build on two acres.

Mr. Neagle stated his personal view is that two acres is too small. For example if you have a twenty acre parcel and want to break it up I would rather you only get five or six lots as opposed to ten lots for land that is reviewed outside town approval. My magic solution is in the RR1 and the RR2 zone is to get rid of the distinction and have three acre zoning. It is simple, half way between the two zones and conservation subdivision allows potentially 60,000 square foot lots. If the parcel was developed by cluster subdivision they could get six lots, conservation could have eight lots to allow a big piece of valuable open space.

Dr. Waterhouse asked if we were going to take away the ability of a family to divide off a lot every five years without town review. The only time a conservation subdivision would be applied is when someone divides three or more lots in a five year period.

Mr. Neagle stated that is correct; that is state law.

Mr. Moriarty stated most development of single family construction has been outside subdivision review.

Mr. Chadbourne of Stockholm Drive stated he is familiar with the law that allows lots to be split every five years. Would the lot size still need to be two or four acres?

Mr. Moriarty stated yes, that is the purpose of the minimum lot size.

Mr. Moriarty stated there is a general consensus that the Committee's objective is to come up with the framework for a conservation subdivision ordinance. As part of our overall final report as opposed to the full blown detailed draft language itself.

The Committee agreed with that concept.

Mr. Moriarty stated it is correct we can't do a lot on the conservation subdivision until we know what to do with the RR1 and RR2 zoning. We can't make a decision on the RR zoning without the results of the survey. We asked the residents for their input for that purpose and we need to give due consideration on how they weigh in.

Mr. Moriarty reviewed the Committee's remaining work to be done as follows:

- Route One Design Standards
- Retail – Restaurant Uses – Route One – We will rely on the survey for guidance – review preliminary votes from last summer
- Minimum lot sizes in the Rural zones – stay the same, combine, or something different
- Form the framework for a conservation subdivision for the Rural Zones.

Mr. Moriarty stated he didn't think the Committee was in favor of applying the conservation subdivision town wide in all residential zones.

Mr. Foley stated he didn't think it could apply.

Mr. Moriarty stated in regards to minimum parcel size we could pick a number or turn to our neighboring towns for guidance.

Ms. Nixon stated Falmouth doesn't distinguish the size of the parent lot.

Dr. Waterhouse asked if the Randall Aaron book had a lot size for the trigger for a conservation subdivision.

Ms. Nixon stated she didn't think so. Except everything is relative maybe it is only a nine acre lot and with the smaller lot size you still have the potential of determining the key areas to preserve and locate the houses in other spots. The more I think about this concept, it could be applied everywhere. With a conservation subdivision you are getting smaller lots and more protected open space.

Ms. Brown asked if Cumberland look like the West Cumberland contract zone area if we do that; because she doesn't like the look.

Ms. Nixon stated no, if they had used the conservation subdivision one of the first things that would have been looked at would have been visual impact.

Ms. Storey-King stated the subdivisions were contract zone with design standards; for house styles; Castlerock only had four choices of houses to build. There were more options on Morrison's Hill side of the property. The objective of this project was to provide affordable housing.

Mr. Moriarty stated it wasn't a mandate it was done by the Town Council to fill a need for affordable housing after many years of waiting for commercial development.

Mr. Neagle stated the preliminary survey results for the question "Do you think there should be specific areas in the RR zones where rural character should be preserved?" The response was 78% yes.

Mr. Chadbourne stated the conservation subdivision should apply to lots over five, ten, or twenty acres. The primary reason for his attending these meetings is the four acre requirement; which has chewed up farming land and created sprawl. He asked for a review of the Stockholm Drive area and the Village Green subdivision which has approximately 15,000 square foot lots.

V. Upcoming Meetings: December 11, 2014.

Mr. Moriarty stated the next meeting will be the 11th of December and Brian Robertson from Market Decisions will give survey results.

Mr. Neagle asked to have results prior to the meeting.

Mr. Orser asked how many people wouldn't be able to attend the 4th of December. Ms. Brown won't be able to attend either.

Mr. Moriarty stated if we went a week later it is the week before Christmas.
The Committee discussed dates and Ms. Nixon will poll the Committee for December meeting dates.

Ms. Nixon stated she would ask about moving the meeting to the 4th.

Mr. Franklin referenced the map with green tree growth and open space properties; which shouldn't be considered unbuildable. Those properties can be unenrolled from those programs at any time.

Mr. Bingham stated that is a good point, he noticed there are a lot of large lots in the RR2 zones.

Mr. Neagle asked about the Godsoe property that connected to the Rines property. This update will need to be made to the maps.

VI. Adjournment:

Mr. Neagle moved to adjourn the meeting at 7:30 p.m.

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Pam Bosarge, Administrative Assistant