

**Land Use Committee  
Town of Cumberland  
Council Chambers – Town Office  
October 16, 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, Beth Fitzgerald, Tom Foley, Chris Franklin, Lynda Jensen, Sally Pierce, Sally Stockwell, , Peter Bingham, Town Council, Shirley Storey-King, Town Council, Chris Neagle, Planning Board

Absent: Beth Fitzgerald, Peter Gagne- resigned, Jim Orser, Bob Maloney, Jeff Porter. Peter Sherr, Planning Board

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

**III. Minutes of Previous Meeting:** September 25, 2014 – Tabled

**IV. Survey Update:**

Mr. Moriarty stated the survey has been mailed and residents are beginning to fill it out. The Committee should have some results to discuss at the next meeting on the 30<sup>th</sup>.

**V. Continued Discussion of Conservation Subdivision Model (continued)**

Mr. Moriarty stated at the last meeting Ms. Nixon presented a draft subdivision and Power Point presentation on conservation subdivisions. The 2009 Comp Plan recommended the town adopt a conservation subdivision and eliminate the traditional subdivision option. The Town Council held a workshop in which they did an exercise to illustrate the process for conservation subdivisions and it was decided not to continue with the recommendation. The Comp Plan Update Committee prior to our committee considered the conservation subdivision and took no action.

Mr. Moriarty stated he had requested a list of subdivisions that have been approved within the last ten years and what type of subdivision they were, i.e., traditional, clustered or dispersed.

The Committee reviewed the list and of the nineteen subdivisions approved only two were traditional, the rest were clustered or contract zone. One was a family subdivision and the other, Cider Mill (located on off Whitney and Orchard roads) was traditional style because the configuration of the lot did not allow for an internal subdivision road.

Ms. Nixon stated she no longer thinks it is appropriate to remove the traditional subdivision option as it may be a property owner's only design option, and it is clearly not over-used.

Mr. Neagle stated the Cider Mill subdivision had the option of clustering condominiums with open space; the traditional was the only option for seven individual lots with houses.

Mr. Bingham stated the Comprehensive Plan gives recommended actions and goals; but it is not necessary for the Town to adopt those recommendations.... the Comp Plan is to be used for guidance.

Mr. Neagle stated in court decisions the Comp Plan is the absolute Bible and if an action or ordinance is not in conformance with the Town's Comp Plan it may not hold up in Court.

Mr. Bingham stated today there is more good material on conservation subdivisions and examples of how they have been used in Falmouth. Pending the survey results he would tend to agree that certain areas in town, located in growth areas should consider conservation subdivisions; previously they were too restrictive.

Mr. Moriarty stated a good example of a clustered subdivision is Village Green; the property had no high value land. As a result of development the pond has been cleaned up and the open space connects to the Town Forest. It is a great example of how clustering works with conservation goals.

Mr. Moriarty stated at the last meeting we were hoping to have a guest speaker, but there is not one this evening. Standish has a conservation ordinance which has not been used.

Ms. Nixon stated Falmouth has a conservation subdivision option, but she was unable to speak with someone prior to this meeting to find out what works well and what doesn't. She will try again before the next meeting.

Mr. Moriarty stated that Falmouth has a Resource Conservation Overlay district; with input from the survey we may follow Falmouth's overlay district or allow conservation subdivision anywhere or in a particular area of town.

Mr. Waterhouse asked if Standish uses only a conservation subdivision ordinance.

Ms. Stockwell stated yes in the rural areas, however it has not yet been used; with the recession, approved subdivision lots have not been built out.

Mr. Bingham stated if the Rural Residential 1 and 2 districts combine, we could set guidelines from that.

Ms. Storey-King stated she likes the concept of a Reserve Conservation Overlay, but stated we need to identify what is important to preserve such as: wildlife corridors, trail systems, wildlife, visual corridors. Falmouth is very purposeful.

Mr. Moriarty referred to page 22 of the draft stating one of the differences in cluster and conservation is that conservation requires 40% of the total acreage be in open space. There are also additional criteria in determining value of the acreage; he recommended the Committee read the draft conservation language for the next meeting.

Mr. Moriarty stated tonight the committee might discuss whether to pursue conservation subdivisions as mandatory or optional. Conservation subdivision requirements are more complex than current requirements. If conservation subdivisions are optional and not required is it feasible for a developer to utilize it.

Mr. Bingham stated yes with a density bonus.

Mr. Foley stated price range on lots would be a determining factor and asked if lots might have a premium value if located in a conservation subdivision.

Ms. Stockwell stated cost of infrastructure is typically less for development with smaller roads.

Mr. Neagle suggested eliminating dispersed and leaving clustered subdivisions for smaller lots and 25% open space, and think about adding conservation principles to clustered subdivisions. He would agree developing cost less, he was not sure traditional subdivisions should be eliminated. At Planning Board

sketch plan review the developer receives guidance from the Board. He feels we should pursue the use of conservation subdivisions; with the question on whether it should be mandatory in certain parts of Town. On Tuttle Road and Range road the survey may indicate that residents think these areas with scenic vistas which should be preserved.

The Committee discussed whether a conservation subdivision could be required by the Planning Board.

Ms. Nixon stated the Ordinance language gives the Planning Board the power to decide the style of subdivision: "The Planning Board shall advise the applicant as to whether to develop as traditional, clustered or dispersed."

Mr. Franklin stated in Cape Elizabeth there are no traditional subdivisions. There are lots that are not feasible to be clustered due to wetlands etc.; in those instances when a developer is unable to provide open space they pay an impact fee to the town of about \$2,000 to \$3,000 dollars per lot.

Mr. Bingham asked how it would be determined that the only option for development is the traditional subdivision.

Mr. Neagle stated it is usually obvious due to topography, wetlands, etc.

Mr. Neagle stated the Planning Board and Planning Department work with the developers.

Mr. Bingham stated if he were to develop his land a conservation subdivision appears to be more acceptable. Falmouth has 90,000 square foot lots and when developers are explained the incentives, they are interested.

Ms. Nixon showed an example of R & N Woods II – Maeve's Way; showing that the developer came in with a traditional plan and with some design guidance and discussion with staff it was modified to create a cluster design requiring much less infrastructure and preserving an opens space are and a nice buffer from the adjacent subdivision.

Ms. Nixon stated another example was Castle Rock Business Park; the developer wanted to have separate lot entrances off from Route 100. She talked with them and suggested an internal loop road which was much better design. It is critical to figure out what resources we as a town are interested in protecting and how to create incentives.

Ms. Stockwell stated one of the benefits of conservation subdivision is that early in the process valuable resources are discussed with the developers. She felt unless there was some compelling reason a developer couldn't develop with conservation standards the entire Rural Residential areas of town should require conservation subdivisions. The benefit is to have the same number of units in less area, less cost and to protect natural resources. We also want to be careful about pushing development away from the main roads which might infringe on the wildlife habitats. In some areas visual impact is the resource we may want to protect. In most clustered subdivisions fifty to seventy percent of the open space is unbuildable and not able to be developed. The point with conservation subdivisions is to no longer just have unbuildable open space but open space that is of high resource protection value.

Ms. Jensen stated she would like people to be more considerate of the back sides of houses in clustered subdivisions. There is no buffer at Castlerock and she looks at the back sides of the houses which are all the same.

Ms. Nixon agreed Castlerock was originally designed to be a commercial subdivision, but the contract zone took the same design and placed houses on the lots and the only buffering in the rear was the requirement that each landowner plant a tree in their back yard.

Mr. Neagle asked Ms. Jensen what the Town could do better.

Ms. Jensen stated require a buffer on the back side of the lots.

Mr. Neagle stated the Planning Board agreed it is not fair to only require buffering from the front; however in that subdivision it was difficult because there was no natural buffer to be maintained.

Ms. Jensen suggested if anyone wondered what she was talking about to drive on Mill Road see how it looks.

Ms. Nixon stated the subdivision was not redesigned for residential lots stating in time hopefully residents will plant trees; she talked with another abutter, Tyler Nash who voiced the same concern from his view on the opposite side of the subdivision.

Mr. Neagle stated thirty years ago Fox Run was developed in an old gravel pit and he thought the same thing, but twenty years later the development is entirely different with mature tree growth and buffering.

Mr. Bingham asked if buffering could have been required.

Ms. Nixon stated in this case there was no way to add a buffer; the development was restricted by affordable housing cost limit.

Mr. Neagle stated Castlerock was designed as a contract zone with the Council prior to coming to the Planning Board.

Ms. Storey-King stated maybe we should have design standards for the back of houses.

Mr. Neagle agreed he would support architectural standards.

Mr. Waterhouse stated he is struggling with what our task is; my take on Ms. Jensen's issue is that was a contract zone for affordable housing because the town needed affordable housing.

Mr. Moriarty stated that coupled with the fact that the Cumberland Business Park failed over several years.

Mr. Waterhouse stated those houses were cookie cutter houses because they were needed, perhaps that development shows how more attention should be paid to that type of development with standards etc. I am not sure what this Committee is supposed to look at; it is an example of affordable housing, however the houses on the other side of the street are nicer. We are not asked to look at affordable housing, I feel badly for Ms. Jensen but it doesn't have anything to do with cluster and conservation subdivision. As we discuss cluster and conservation subdivisions I would be interested in a table that would show the difference between cluster and conservation subdivisions. It appears we are getting rid of dispersed and keeping traditional and from what I read cluster vs conservation is the size of the minimum you can have smaller lots in conservation than in cluster. Which raises a question in my mind is that what people want to buy, will they want 20,000 square foot lots. Do we want to focus on small lots with very tight neighborhoods or is there an appetite in Cumberland to have larger lots that are still clustered. I would

rather have a little more space. I like the idea of maintaining open space but have a concern of packing houses into too small an area. I assume a house on a larger lot is more valuable.

Mr. Moriarty stated I share your view that the Committee shouldn't be looking at Castlerock. However, Village Green is selling like hotcakes with very small lots.

Mr. Waterhouse stated these lots are right down town. If you built that development on Range Road he is not sure people would want 20,000 square foot lots.

Mr. Neagle stated the point with cluster or conservation is you don't get a large lot to call your own; instead you share thirty acres with your neighbors. Mr. Neagle stated he feels the market has shown there is a huge demand for that type of housing.

Mr. Bingham stated it would be useful to see a couple of parcels of land one off Tuttle Road and one somewhere else and see how it would look developed with clustered and conservation.

Ms. Nixon stated it would be difficult to do not knowing the significant features of the property.

Mr. Neagle stated make it a hypothetical piece of land.

Ms. Storey-King stated Falmouth Resource Conservation Overlay has cluster or country estates with an eight acre minimum. You could still subdivide your lot and not cluster your houses.

Mr. Neagle stated it would be interesting to see how many developers chose the Country Estates option.

Ms. Storey-King stated there are some off from Woodville Road.

Mr. Foley stated trends are going to smaller properties; with less maintenance to allow for more leisure time for owners. There is a market for smaller square footage with less outside lawn maintenance; with shared open spaces to walk or bike.

Ms. Stockwell stated the State Planning Office did a survey of what people want and 30% want a tighter neighborhood, younger people want to walk to amenities; demographics from the older and younger are pushing for smaller neighborhoods.

Mr. Foley agreed, people want a neighborhood for their children to play and for parents to know their neighbors.

Mr. Franklin stated he agrees that is true, but if you think of putting those types of neighborhoods on Tuttle or Range Road, would they attract families? They are competing with the same lots where people can walk to school. If we try to design small lots in rural neighborhoods would people want to live in smaller neighborhoods.

Mr. Moriarty stated Small's Brook Crossing was very successful, there was about a two year build out. It is a community set back from the road with open space. People who bought in there early have not sold because they love the neighborhood.

Ms. Storey-King stated she thought the success in that neighborhood is the long road and it is not visible from Tuttle Road, it is a remote, cozy neighborhood.

Mr. Nixon asked if they should take a straw vote. What I am hearing is that everyone likes the conservation subdivision. I am not proposing we use this draft; it was put together to show all the elements required for a conservation subdivision. This committee may not be the committee to come up with a proposed draft conservation ordinance, but whether or not to recommend adopting a conservation subdivision.

Mr. Neagle stated the process prior to presenting a plan to the Planning Board is important. The developer would come into the Planning Department and discuss valuable resources to preserve on the property. The process prior to going to the Planning Board is not in the draft, and that is as important as the requirements of the subdivision. He felt the Committee has the expertise to draft an Ordinance.

Mr. Moriarty reviewed the Council charge which states: To consider if a Conservation Subdivision Ordinance should be adopted and, if so, where and how the provisions would apply. The Committee's recommendation will not be the final word on the subject it will be reviewed by the Planning Board and Town Council. I would like to spend the time to do a decent job, with that said the Committee is dwindling in size. How long we all are committed to staying together as a Committee; we have had several members resign and several who are not attending. Do we want to meet every two weeks?

The Committee needs to review:

- RR1 and RR2 zones and
- Route One Design Standards and
- Restaurant and retail uses in the Office Commercial North and South districts?

These final discussions will be after the results of the survey.

Ms. Stockwell suggested a smaller sub-committee to work on details of the Conservation Subdivision to bring back to the Committee similar to the survey sub-committee.

Mr. Moriarty stated that is a good thought.

Mr. Moriarty reviewed the framework of conservation subdivision issues to be discussed:

Options:

- Overlay zone
- Automatic in the RR1 & RR2 zones
- Mandatory or optional in Rural zones
- Minimum tract size requirement
- Whether minimum reserved land is a fixed percentage of the total acreage
- A combination percentage of the total acreage and the buildable acreage
- A percentage of the buildable acreage

Mr. Bingham agreed we need to set the parameters from the 20,000 foot view.

Mr. Franklin stated he felt the key issues are the where and the how, he agrees we are not trying to draft the language. If it is not mandatory it will be very difficult to get developers to use conservation subdivisions.

Mr. Neagle agreed but he has learned that the Planning Board has the ability to require the developer to build a conservation subdivision.

Ms. Storey-King suggested not using the name conservation subdivision but state these are the standards for a subdivision in Cumberland.

Mr. Neagle stated the name conservation subdivision could be a red flag and agrees but hopes we do consider this as an option.

Ms. Storey-King stated she is in favor of the conservation subdivision ordinance, but using it as our subdivision ordinance.

Mr. Neagle state we have discussed that we still need traditional and clustered subdivisions for some types of development.

Mr. Foley stated he thought condominiums would fit into a conservation subdivision.

Mr. Franklin sees this as a strategic tool and the goal is not to necessarily look and feel different but is used to identify the important features to be preserved. I think there are places like Drowne Road that benefited from the high density development. I am not sure this should be the only option for subdivisions.

Ms. Storey-King stated Drowne Road is not in the Rural Residential zones, she intended this to be the only option for Rural Residential districts.

Mr. Waterhouse stated we are tasked with the RR1 and RR2 zone and his thought is we are going to go to one zone. Let's assume there is one Rural Residential zone, for example a two acre lot you can have twice the development land. To have conservation subdivision eases the burden of two acres in all areas of town. It softens the blow of increasing development and decreasing the rural areas of the community. His sense is requiring the conservation subdivisions would be a plus to the rural residential districts.

Ms. Nixon stated she would put together a draft with answers as to where and how to utilize conservation subdivisions for the next meeting.

She would also prepare charts to compare cluster to conservation subdivisions.

Mr. Waterhouse asked if these would apply to both minor and major subdivisions.

Mr. Neagle asked for a hypothetical 100 acre parcel with twenty acres of high value land and 20% unbuildable to give basic parameters for a visual.

Mr. Moriarty stated the next meeting is in two weeks and there should be some preliminary survey results.

Ms. Nixon will have some charts and examples of cluster and conservation subdivisions with a chart showing the differences.

Mr. Franklin asked for a copy of Mr. Shane's map which shows the actual developable land in the Rural Residential 1 district.

Mr. Moriarty stated lot sizes and retail and restaurant uses on Route One can be discussed at the November 13<sup>th</sup> meeting.

Ms. Pierce asked if Village Green subdivision would look different if it were a conservation subdivision.

Mr. Neagle stated Drowne Road didn't conserve any developable land.

Ms. Stockwell stated a conservation subdivision would preserve a percentage of developable land and a fundamental point is determining if the 40% is deducted from only the developable acreage subtracting, roads, steep slopes, etc. She stated a conservation subdivision sets apart buildable as well as unbuildable land.

**VI. Upcoming Meetings:**

**Next Meeting of Full Land Use Committee: October 30, 2014 at 6:00 p.m.**

**VII. Adjournment:**

The meeting was adjourned at 7:45 p.m.

Respectfully submitted,

Pam Bosarge, Administrative Assistant