

# Town of Windham

Planning Department  
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Windham, ME 04062

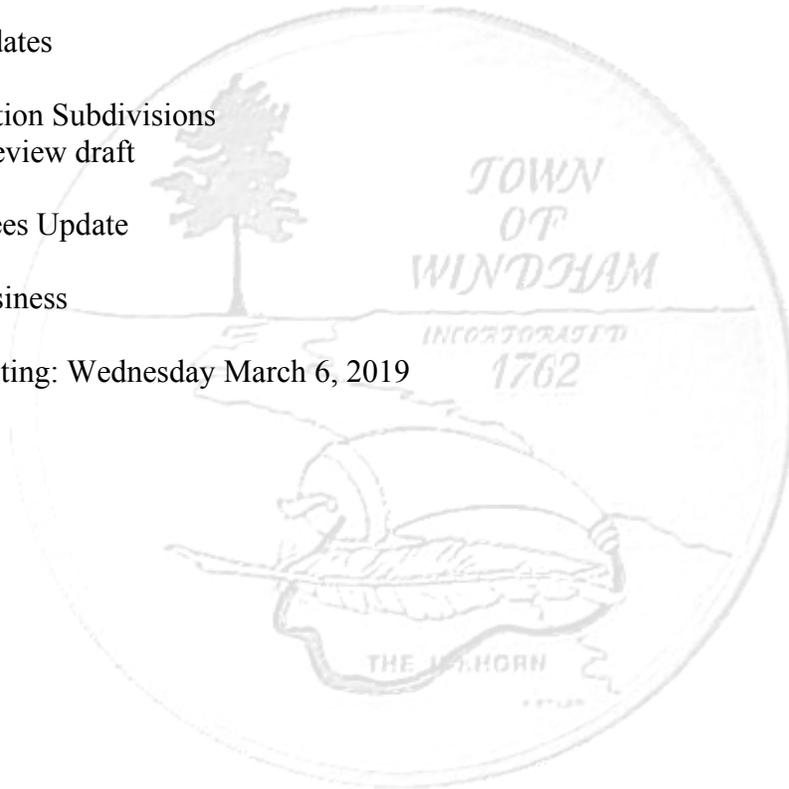
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**Long Range Planning Committee  
Conference Room 1, Town Office  
7:30 – 9:00 AM, Wednesday February 20, 2019**

## AGENDA

1. News/updates
2. Conservation Subdivisions
  - a. Review draft
3. Impact Fees Update
4. Other Business
5. Next Meeting: Wednesday March 6, 2019



## K. Conservation Subdivisions Cluster Developments

### 1. Purpose

This section establishes standards and procedures for developing for Conservation Subdivisions that set aside a significant portion of the site as common open space that is permanently protected while allowing the homes to be clustered on smaller lots on the portions of the site that have the least natural, cultural, or historical resource value for conservation purposes. The standards are intended to ensure that those areas of the site that are not developable or that have natural resource value are included in the common open space.

Commented [MOU1]: In RED From Falmouth (or new)

Development under this provision is intended to promote imaginative, well-designed subdivisions which preserve open space, forests and agricultural uses, and an overall rural character. Additionally, they provide public access to land for passive and active recreation, protect natural features, environmentally sensitive areas and wildlife cover, respect the physical qualities of the land, and, in some instances, reduce the overall development costs of a subdivision. The standards for a Conservation Subdivision ~~cluster development~~ allow for the creation of lots that are smaller than those that would otherwise be required by the applicable zoning district regulations and in some cases can be combined with density bonuses to allow additional lots, in return for setting aside the balance of the property as permanent common open space.

Commented [MOU2]: Windham's language with underlined words added

These provisions are designed to ensure that Conservation Subdivisions developed in the Town:

1. Preserve those areas of the site that have the highest natural resource value for conservation purposes (refer to 8 priorities listed below);
2. Preserve identified historic, archeological, and cultural features located on the site;
3. Locate the buildings and structures on those portions of the site that are most appropriate for development,
4. Create continuous open spaces or "greenways" by linking the common open spaces in adjoining subdivisions wherever possible; and,
5. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.

In addition to all applicable standards of this Ordinance, the Planning Board may approve a single-family Conservation Subdivision ~~cluster~~ subdivision provided the following conditions are met:

### 2. Procedure

(a) Application Requirements. All submissions for single-family subdivisions that meet the space and bulk requirements listed in the appropriate zoning district may be designed as a **Conservation** ~~cluster~~ subdivision.

(b) Property located within more than one residential zoning district. The overall density of the subdivision shall not exceed the combination of the density requirements of the districts in which the subdivision is located, before density bonuses are applied.

### 3. **Basic Standards for Conservation Cluster Subdivisions**

(a) **Conservation** ~~cluster~~ subdivisions ~~developments~~ shall meet all applicable requirements of the Land Use Ordinance.

(b) Each building envelope shall be an element of an overall subdivision plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of building envelopes and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.

(1) For **Conservation** ~~cluster~~ subdivisions that are not served by a public water supply, the applicant must demonstrate on the plan that it is possible to locate a subsurface wastewater disposal field and a well on each lot. When determined that it is necessary for specific lots, by the Planning Board, as a Condition of Approval, the location of these elements shall be elements of the subdivision plan, and any future changes to the location of these elements will require an amended subdivision plan review.

(c) The Planning Board shall allow lots within **Conservation Subdivision** ~~cluster developments~~ to be reduced from standard subdivision standards as specified in the applicable zoning district. In return for the reduction in the requirements for lot area, frontage, and structure setbacks, the applicant shall provide common open space.

(d) In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage of the parcel shall be divided by the net residential density standard of the applicable zoning district. Density bonuses are applicable, per the appropriate zoning district standards (see Section 400.)

(1) Density Bonuses are not applicable in the Highland Lake watershed.  
Notwithstanding 1 M.R.S. §302, this amendment shall be applicable to and

shall govern any application for subdivision plan approval that did not receive lawful final approval by, and so was pending on or at any time after, September 5, 2017 regardless of whether that application was a “pending proceeding” under 1 M.R.S. §302.

[Maximum Density. The maximum number of dwelling units that may be developed in a Conservation Subdivision shall be determined by dividing the calculated Net Residential Area of the parcel by the required Minimum Net Residential Area per Dwelling Unit for the district in which the subdivision is located and rounding down to the maximum allowed whole number of units. If the subdivision involves only part of a parcel, the Net Residential Area shall be calculated for that portion of the parcel proposed to be included in the subdivision and the determination of the maximum number of dwelling units within the subdivision determined based upon that Net Residential Area.]

**Commented [MOU3]:** I think this basically says the same thing as the language in d above that Windham already has. One needs to be selected, or a new one crafted. The second sentence may also apply (I haven't seen partial parcel subdivision guidance anywhere, but haven't looked extensively)

(e) Up to 30% of individual lots or dwelling units may have direct vehicular access onto a public road existing at the time of development.

(f) Streets constructed within a cluster subdivision must meet a public street standard.

(g) Diversity and originality in lot layout and individual building site design shall be encouraged to achieve the best possible relationship between the proposed development and the land under consideration.

#### 4. Conservation Open Space Standards (?): Required Common Open Space.

**Commented [MOU4]:** Something beyond "Basic Standards"

The open space provided by the Conservation cluster subdivision shall be identified on the recorded subdivision plan as "Common Open Space - Reserved for Recreation and/or Conservation Purposes".

Common open space meeting the following requirements shall be created and permanently protected as part of any Conservation Subdivision:

1. Minimum Amount Required – The amount of common open space provided within the subdivision shall be equal to or greater than the sum of the following:

**Commented [MOU5]:** Provisions a & b require that unbuildable areas such as wetlands and steep slopes automatically become part of the open space, and further requires that 50% of the developable land also be included in the open space and selected based on the priorities that follow.

a. At least fifty percent (50%) of the calculated Net Residential Area (see Section 536 – Net Residential Area or Acreage); plus,

**Commented [MOU6]:** It says "534" in the language; it's actually 536!

b. the unsuitable area of the parcel that is deducted from the gross area of the site to determine the Net Residential Area (see Section 536 – Net Residential Area or Acreage).

**Commented [MOU7]:** It says "534" in the language; it's actually 536!

2. Priorities for Land Included in Open Space – The land set aside in the common open space shall be selected based upon the following priorities:

**Commented [MOU8]:** Somewhere here is where Board discretionary guidance may need to be stated.

**Priority #1** Primary Conservation Areas including streams, wetlands, floodplains, vernal pools mapped by the town, and areas with a slope in excess of 25%. Vegetative buffers that are required by ordinance along these protected resources shall also be considered Primary Conservation Areas.

**Priority #2** Secondary Conservation Areas that provide protection for unique or irreplaceable resources including the habitat of rare, significant, or endangered species, the upland habitat of vernal pools mapped by the Town, archeological or historic sites, landmarks, and cemeteries.

**Priority #3:** Secondary Conservation Areas that provide for the continuation of resource systems into or through the site such as shorelands, river or stream corridors, wildlife travel corridors, trails, and unfragmented habitat blocks. The width of such corridors shall be as follows:

- a. Shorelands, river or stream corridors - 100% of the width of any required vegetative buffer in addition to the required buffer
- b. Wildlife travel corridors – 300 feet
- c. Recreational Trail Corridors – 25 feet on either side of the trail Unfragmented habitat blocks shall have a minimum contiguous area of 150 acres.

**Commented [MOU9]:** This provision encourages a doubling of typical buffers required under shoreland zoning or similar local ordinance requirements. Wider riparian buffers offer greater habitat opportunities as well as enhance water quality benefits.

**Commented [MOU10]:** This section of the ordinance does not define wildlife corridors up front but encourages projects to “build” corridors by setting swaths of open space aside that links to existing protected lands or provides future opportunity for linkages.

**Priority #4** Secondary Conservation Areas that are adjacent to other protected open space.

**Priority #5** Secondary Conservation Areas that maintain the rural character of roadsides.

**Priority #6** Secondary Conservation Areas that include identified scenic resources including viewsheds and agricultural fields along with the forested margin adjacent to these resources.

**Priority #7** Secondary Conservation Areas that encompass groups of small wetlands not included in #1, streams or ponds in a continuously forested area.

**Priority #8** Other Secondary Conservation Areas including fields, aquifer recharge areas, deer yards, and other identified habitat.

**3. Use of the Common Open Space** -- The common open space in a Conservation Subdivision shall not be used as the location for dwelling units or other nonresidential buildings or parking except as provided for below and shall only be used for the following purposes:

- a. The conservation and protection of natural resource areas, wildlife habitats, scenic features or views, and identified cultural or historic features such as stone walls, cemeteries, and similar identified features or resources;

b. Outdoor recreation uses and facilities including related accessory structures and buildings that are compatible with the overall scale and character of the subdivision provided that no more than 25% and a maximum of 3 acres of the common open space is altered or developed for recreational facilities and that any building shall have a gross floor area of less than two hundred (200) square feet and the total gross floor areas of all such buildings shall be less than one thousand (1,000) square feet;

c. Indoor community or recreational facilities that primarily serve residents of the subdivision, having a total gross floor area for all such facilities of less than two thousand (2,000)

d. Forest management and agricultural uses including animal husbandry that are specifically approved by the Planning Board as part of the subdivision approval;

e. Support facilities necessary for the subdivision including individual or community wells, stormwater management facilities, underground utility lines and related facilities such as sewer pump stations, small community storage buildings, and similar buildings and structures that are needed for the operation of the subdivision but not including personal storage buildings or sheds;

f. Individual or group subsurface wastewater disposal systems or parts thereof, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities;

g. Other appropriate uses that are compatible with the overall scale and character of the subdivision and that are specifically approved by the Planning Board. square feet, and that are compatible with the overall scale and character of the subdivision;

Permanent provisions for the use, ownership, and maintenance of the common open space including provisions for screening and buffering shall be established subject to approval by the Planning Board as part of the approval of the subdivision in accordance with the **Land Subdivision Ordinance**.

#### 5. **Other** Recreation and Open Space Requirements

(a) The open space provided by the **Conservation Subdivision** cluster-subdivision shall be identified on the recorded subdivision plan as "Common Open Space - Reserved for Recreation and/or Conservation Purposes".

~~(b) The total area of reserved open space within the development shall equal or exceed 50% of the gross land area of the property to be subdivided.~~

~~(1) Common open space shall not include road rights of way, streets, drives, or~~

parking.

~~(2) At least fifty percent (50%) of the land suitable for development (see Section 534 – Net Residential Area or Acreage) shall be included in the common open space.~~

Commented [MOU11]: Not necessary here. Addressed above

~~(b) (c)~~ The common open space shall owned and managed according to the standards of 911.E.2.

~~(c) (d)~~ Depending on the size and location of the subdivision, the Planning Board may require the developer to designate a portion of the total common open space area for recreation. The reserved open space shall be suitable for both passive and active recreation, including, but not limited to, bicycle and pedestrian trails, picnic areas, soft ball fields, tennis and basketball courts, tot lots and play grounds, and hard surface court games.

(1) It is desirable that areas reserved for recreation be at least one (1) acre in size and easily accessible from all lots within the subdivision.

~~(d) (e)~~ One principal access point having a minimum width of twenty (20) feet shall be provided for access to the required common open space from the road network within the cluster subdivision. Additional, secondary points of access having a minimum width of ten (10) feet may be provided from individual lots when these lots abut or are located within a portion of the common open space area.

(1) The size and location of the principal and secondary access points shall be reviewed and approved by the Planning Board as part of the Board's review of the cluster subdivision.

(2) In order to be eligible for any density bonus described in the applicable zoning district standards, the following conditions must be met:

a. The open space must be open for general public use, not just homeowners within the subdivision, and

i. The open space must either be accessed from an existing public street or

ii. Access is from an abutting property that is public, permanent open space or recreation land, or

iii. Access must be formalized in easement language if access is to be provided over the new subdivision street or streets until such time as the subdivision street or streets are adopted by the Town.

1. Access easements for the open space must be recorded at the registry prior to the issuance of building permits.

(f) The required common open space shall not be used for commercial recreation or for private clubs whose membership is different from the homeowners association.

(g) Common open space areas shall be contiguous. The proposed location of common open space areas should also be considered in relation to other open space areas on abutting properties, and logical connections to and from open space areas on abutting properties should be given consideration by the Planning Board.

(h) When reviewing the location and type of common open space designated in the subdivision, the Planning Board shall consider the following criteria:

(1) Individual lots, building envelopes, streets and parking areas shall be designed and situated to minimize alteration of any natural features to be preserved.

(2) The usability of the cluster's common open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.

(3) Irreplaceable natural features located on the property proposed for subdivision shall be included in the common open space. This includes, but is not limited to: stream beds and other water courses, significant stands of trees, (including the size of the trees), and rock outcroppings.

(4) The suitability of all land areas designated as common open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings within the subdivision, or length of streets.

(i) The land areas designated as common open space on the subdivision plan shall meet the following criteria:

(1) Common open space areas that can be combined with existing Town owned property dedicated for recreational use, dedicated open space on abutting property, land trust properties and public or private conservation easements, or with future land dedication potential shall be given priority.