

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

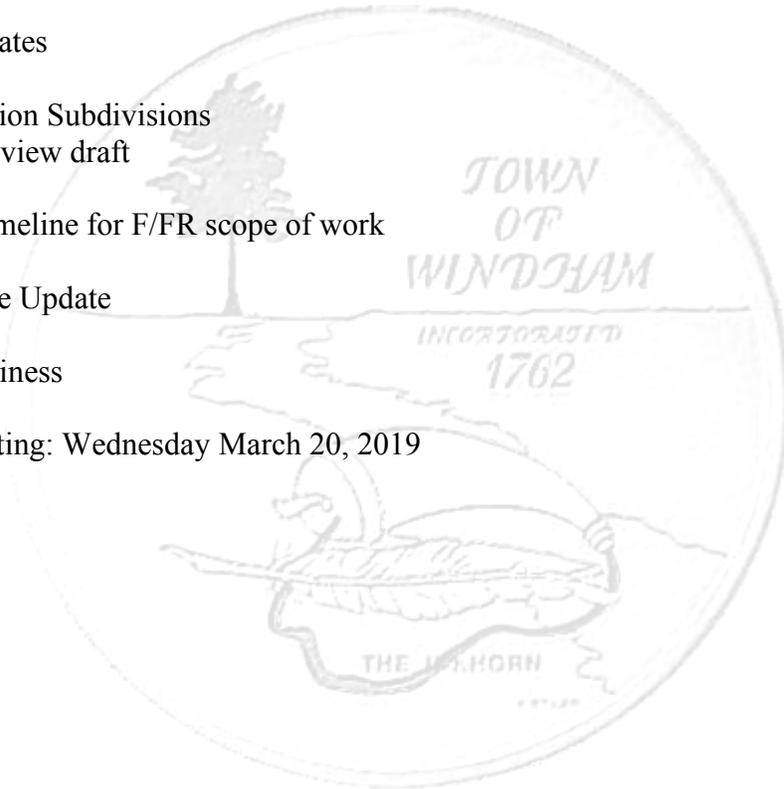
Voice 207.894.5960 ext. 2

Fax 207.892.1916

**Long Range Planning Committee
Conference Room 1, Town Office
7:30 – 9:00 AM, Wednesday March 6, 2019**

AGENDA

1. News/updates
2. Conservation Subdivisions
 - a. Review draft
3. Review timeline for F/FR scope of work
4. Impact Fee Update
5. Other Business
6. Next Meeting: Wednesday March 20, 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 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 Open Space.

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, Conservation Subdivisions should 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 ~~cluster development~~ Conservation Subdivisions 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 Open Space.

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

- a. Preserve those areas of the site that have the highest natural resource value for conservation purposes (refer to 8 priorities listed below);
- b. Provide an well-designed approach to the overall roadway and site layout that results in a landscape that provides a sense of a unique and appealing place;
- c. Preserve identified historic, archeological, and cultural features located on the site;
- d. Locate the buildings and structures on those portions of the site that are most appropriate for development;
- e. Create continuous open spaces or “greenways” by linking the Open Spaces in adjoining subdivisions wherever possible; and,
- f. 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 cluster subdivision provided the following conditions are met:

2. **Procedure**

(a) ~~(a)~~ — Application Requirements.

- (1) All submissions for single-family subdivisions in the Farm and Farm Residential zoning districts that meet the space and bulk requirements listed in

the appropriate zoning district may be designed as a ~~cluster~~ Conservation Subdivision or a Country Estate Subdivision.

~~(2) Submissions for subdivisions in all other zoning districts that meet the space and bulk requirements listed in the appropriate zoning district may be designed as a cluster subdivision or a Country Estate 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.

© Design Process for Open Space

(1) Delineation of Open Space

- a. The area to be designated as Open Space or otherwise preserved as part of the development shall be delineated based upon the Primary and Secondary Conservation Areas. The proposed Open Space in Conservation Subdivisions shall be identified in accordance with the following:
- i. The minimum percentage and acreage of required Open Space shall be calculated by the applicant and submitted in accordance with the provisions of this ordinance and of the Zoning Ordinance.
 - ii. The proposed Open Space shall be designated using the Site Analysis Sketch Plan as a base.
 - iii. The Primary Conservation Areas on the site shall be delineated and shall be incorporated into the Open Space. The Primary Conservation Areas shall include floodplains, wetlands, and areas with sustained slopes over 25 percent.
 - iv. The Secondary Conservation Areas on the site shall then be delineated. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed Open Space based upon the priorities set forth in the Zoning and Site Plan Review Ordinance
 - v. On the basis of those priorities and practical considerations related to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, sufficient Secondary Conservation Areas shall be identified to be included in the Open Space to meet at least the minimum area percentage requirement for Open Space. This delineation shall clearly indicate the boundaries as well as the types of resources included within them.
 - vi. The proposed Open Space shall include all Primary Conservation Areas and the Secondary Conservation Areas with the highest resource significance as identified in 5. For

subdivisions that are not Conservation Subdivisions, the Primary and Secondary Conservation Areas shall be identified using the Site Analysis Sketch Plan as a base. The layout of the subdivision shall consider these resources and shall preserve them to the extent reasonable.

(2) Open Space Design

- a. All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least 75 percent of the Open Space shall be contiguous to another Open Space area. For the purposes of this subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.
- b. Open Space shall, to the greatest extent possible, protect site features identified in the Existing Resources and Site Analysis Plan.
- c. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or to restore their overall condition and natural processes.
- d. No area of Open Space shall be less than 50 feet in its smallest dimension and less than 10,000 square feet in area. Open space not meeting this standard is allowed as an added project enhancement, but shall not be counted toward the required project Open Space.
- e. The boundaries of Open Spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the Open Space ends and private lot areas begin. Where structural demarcations, such as fences are used, they shall be the minimum needed to accomplish this objective.
- f. Open Space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

(3) Location of Building Sites

- a. Potential building sites shall be tentatively located taking into consideration the proposed Open Space and/or the Primary and Secondary Conservation Areas identified in 911.K.2.C.(1), as well as other relevant data from the Site Inventory Plan and Site Analysis Sketch Plan, such as topography and soils. Building sites should generally be located at least 100 feet from Primary Conservation Areas and at least 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences and other uses.

(4) Alignment of Streets and Ways and Creation of a Trail System

- a. Based upon the designated building sites, a circulation plan shall be designed to provide vehicular and pedestrian access to each site. The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision. A trail system shall be created within the Open Space to provide access from the subdivision homes to the open space network created by the subdivision.

(5) Drawing in the Lot Lines

- a. Upon completion of the 911.K.2.(c)(1-4), lot lines shall be drawn as required to delineate the boundaries of individual lots. Lots shall be designed in keeping with the standards for individual lots found in [Section 400] and shall be further designed to provide each residence with a clear delineation of its property bounds and with useable yard spaces.

3. **Basic Standards for ~~Cluster-Conservation~~ Subdivisions**

- (a) ~~Cluster developments~~Conservation Subdivisions shall meet all applicable requirements of the Land Use Ordinance.
- (b) 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.)
- (c) A landowner may choose not to maximize the development potential of a tract of land in the first subdivision application and reserve remaining development rights for a future subdivision application. In this instance, a conceptual master plan showing the location of future lots must be submitted. The conceptual master plan shall include the minimum information required for a sketch plan submission.
- (1) The subdivider may retain ownership of the remaining land from which the subdivision lots are to be created provided the portion of the remaining land counted toward the subdivision Open Space is subject to a permanent conservation or agricultural easement, or the subdivider may transfer ownership of the Open Space to a 3rd party per Section 911.E.2.
- (2) The land remaining will be a numbered lot within the subdivision.
- (3) The Open Space standards in Section 911.K.5 shall apply.

- (f) 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 ~~cluster~~ Conservation 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.
- (g) The Planning Board shall allow lots within ~~cluster developments~~ Conservation Subdivisions 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.
- (h) Up to 30% of individual lots or dwelling units may have direct vehicular access onto a public road existing at the time of development.

4. Arrangement of Lots

- (a) 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.
- (a) Factors considered by the Planning Board when evaluating the proposed arrangement of lots shall include, but not be limited to:
- (1) Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
 - (2) Minimization of impervious cover.
 - (3) Protection of stream corridors and other important habitat areas.
 - (4) Protection of wetlands
 - (5) Feasibility of continued or future agricultural use.
 - (6) Feasibility of continued or future forest management.
 - (7) Relationship to neighboring property, including conservation easements or natural, cultural, recreational or scenic features.

5. *Open Space Requirements*

(a) The Open Space provided by the cluster subdivision shall be identified on the recorded subdivision plan as “Open Space - Reserved for Recreation, Agricultural and/or Conservation Purposes.”

(b) Minimum Amount Required – The amount of Open Space provided within the subdivision shall be equal to or greater than the sum of the following:

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

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).

~~The total area of Open Space within the development shall equal or exceed 50% of the gross land area of the property to be subdivided.~~

~~(1) 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 Open Space.~~

(c) Priorities for Land Included in Open Space – The land set aside in the Open Space shall be selected based upon the following priorities:

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 [MOU1]: 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.

Commented [MOU2]: It says “534” in the language; it’s actually 536!

Commented [MOU3]: It says “534” in the language; it’s actually 536!

Commented [MOU4]: Somewhere here is where Board discretionary guidance may need to be stated.

Commented [MOU5]: 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 [MOU6]: 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.

(d) For Open Space not retained by the subdivider, one principal access point having a minimum width of twenty (20) feet shall be provided 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~~ 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 or the subdivider, 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.

(~~d~~e) The required Open Space shall not be used for commercial recreation or for private clubs whose membership is different from the homeowners association.

(e) Open Space areas shall be contiguous. The proposed location of 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.

- ~~(f) — When reviewing the location and type of 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 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 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 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.~~
- ~~(g) — The land areas designated as Open Space on the subdivision plan shall meet the following criteria:~~
- ~~(1) — 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.~~

Rural Windham Zoning Changes – Plan to Plan

Task 1 – Groundwork and Kickoff Activities

Task 1.1 – LRPC approval of project plan (10/17)

Products = Project Work Plan

Task 1.2 – ID local Stakeholder Groups

- Who else should be at the table during LRPC meetings as invited guests?
- Who should be consulted during the ordinance drafting process?
- Mike – Who would show up at a meeting against this ordinance?
 - Large Landowners
 - Developers
 - Environmental/Land Trust
 - Lakes/neighborhood associations
 - School community
 - Official Family?

Task 1.3 – Existing Document review - Comprehensive Plan and existing ordinance and map

- How well does the existing ordinance meet the vision of the plan?
- How well does the zoning match the future land use plan?
 - Assumption – there should be no F or FR zoning in Growth Areas and most of the Rural Areas should be F or FR

Products = Plan and ordinance summaries

Task 1.5 – Public Workshops #1 and #2 (11/18)

Do we need to define rural for people going into this meeting?
November 7 and November 10

Products = Workshop summary documents

Task 1.6 – Potential Stakeholder Group meetings for input (depending on attendance at Public Workshops)

Task 2 – Ordinance Drafting and Review

Task 2.1 – LRPC Review Map (1/9/19)

- Beyond the Growth and Rural areas, discussions about whether and where existing F and FR zones be combined?
- Does Windham need another zone or two in the Rural Areas to meet the goals of the plan and address new public input?

Task 2.2 – LRPC Review Ordinance – uses, standards, dimensional requirements (1/23/19)

- Once the geographies of the Rural zoning are established, more time needs to be spend on the regulations

Task 2.3 – Draft ordinance and map changes (WE ARE HERE!)

- Conservation Subdivision Draft
 - Assumption – this is a discrete task separate from the zoning map and standards we have reviewed in Tasks 2.1 and 2.2
 - Assumption – this task can happen within the overall project timeframe and should be delivered ASAP, prior to general recommendations for Rural Windham.
 - Questions:
 - Should this be an overlay zone with it’s own standards (like Falmouth) or built into the subdivision ordinance (like it is in Windham now)?
 - Should conservation subdivision design be mandatory (as LRPC suggested last year) or should there be an alternative offered (like Falmouth)?
 - What is the right mix of “black and white” standards for lot sizes, setbacks, buffers, etc., versus flexible or point based standards (like Windham’s commercial district guidelines or the stormwater standards for single lot development), or leaving certain design elements up to the Board’s discretion to work out on a project by project basis?
- Rural Windham Zone standards Draft
 - These will be shaped by the discussions at LRPC meetings in January 19 and the November 2018 workshops.

*Products = Conservation Subdivision Draft [APRIL 2019]
Ordinance Draft #1 [JULY 2019]*

Task 2.3 – Official Family meeting #1 to Review Ordinance Draft with staff, individual Boards, Committees and Commissions

- Review for enforceability, practicality, consistency
- This internal meeting should take place once the LRPC answers the questions in 2.3 and prior to developing the *Conservation Subdivision Draft* or the *Ordinance Draft #1 [APRIL 2019]*

Task 2.4 – Stakeholder Group meetings

- Review for alignment with rural goals and reasonable amounts of development
- Questions:
 - Given that stakeholder meetings did not happen as envisioned in Task 1.6, would such meetings be necessary?
 - What groups would be convened for such meetings?

Task 2.5 – Public Workshop #3 to review draft changes to Map and Ordinances

- Review for alignment with rural goals and reasonable amounts of development
- This could take the form of a Town Council Workshop Item to present the recommendations or a separate meeting like the November 2018 meetings or both.

*Products = Present Conservation Subdivision Draft to TC [MAY 2019]
Discuss Ordinance Draft #1 approach/outline to Rural Windham [MAY 2019]*

Task 2.6 – Final Draft proposed changes based on feedback in Tasks 2.3-2.5

Product = Ordinance Draft #2 [JULY 2019]

Task 3 – Formal Adoption Process and Ongoing Support

Task 3.1 – Planning Board Discussion and Public Hearing

Task 3.2 – Town Council Discussion and Public Hearing