



TOWN LANDS AND CONSERVATION COMMISSION

(Commission)

Town of Cumberland
290 Tuttle Road
Cumberland, ME 04021

Date: January 5, 2024

(* = Chair; + = liaison TC; ++=Code enforcement officer; ^(T) = trails SC; ^(F) = forest SC)
Chris Bolduc(abs); Bill Longley ++(abs); Mark Segrist +; Tig Filson+(abs);

To: Members:

Commission

David Cowan, Denny Gallaudet, Ellen Hoffman, John Jensenius ^{vice*}, Riva Krut,
Jesse Lamarre-Vincent, *Mike Schwindt, Joshua Steirman, George Turner (abs), Pete Wilson,
David Young

Forest Subcommittee

Melissa Cott, John Leavitt, *Gordon Lichter [✓], Todd Ontl, Linda Putnam, Sally Stockwell

Invasive Subcommittee

*David Cowan

Orchard Subcommittee

Adam Blackwell, Michelle Gardiner, Betsey Harding, Will Harper, *Jesse Lamarre-Vincent, Denise
Thorsson

Sustainability Subcommittee

Sukie Curtis, *Denny Gallaudet, Riva Krut, Jesse Lamarre-Vincent, Meddy Smith, Dave Witherill

Trails Subcommittee

Shaun Breton, Paige Diamant, Stephen Fitzgerald, David Grimm, *John Jensenius, Walker Newell,
Adam Orellana, Brian Stearns, Don Stowell

Note: Only members of the Commission and voting members of the subcommittees need attend. “[✓]” indicates subcommittee member attended Commission meeting.

From: Ellen Hoffman

Re: Meeting January 3, 2024

- December minutes were approved as written. Dave C moved to accept; Pete seconded; unanimous; no discussion.
- Town Council report (Mark)
 - Drowne Rd affordable housing vote to put project on the ballot next TC meeting.
 - Playground at Twin Brook – Bill S. will work with Peter B. of the Rec Dept to discuss permitting and DEP approval.
- Bill Report (No Bill report)
- Commission (Mike)
 - The majority of the meeting was spent discussing the Drowne Rd affordable housing project.



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- Mike:

Commission – Article III

Section 30-15. Purpose and duties. The Commission will promote the conservation of natural resources and encourage the conservation of water, and, and open space and vistas within the Town...

In addition, the Commission must:

- D. Offer input and recommendations to the Town Council regarding any proposed development of Town-owned property or any significant proposed change in use of Town-owned property.
- The following is a copy of an email Mike sent to members as a **draft** of discussion points on the affordable housing project at Drowne Rd.

Draft
discussion points on the
Affordable Housing project at Drowne Road

January 3, 2024

Several months ago the Town Council took steps to help make more affordable housing available in Cumberland. Included were three potential projects that would have added

- 55 senior apartments as part of a project along US 1,
- a 107-unit affordable housing construction project at Drowne Road, adjacent to the Town Hall, and
- a 72-unit in the gravel pit in West Cumberland. Half of these units are to be considered affordable housing with the balance to be market priced.

Combined, these three projects would have added 234 new homes in addition to the **XX** new homes constructed through the normal course of 2023. According to MSAD #51's most recent enrollment study, Cumberland had a 10-year annual average of 48 new housing units.

Information provided at the December 11, 2023 Town Council meeting showed the lack of affordable housing in Cumberland; that the median price of new homes exceeded \$800,000 during the year and only eight homes were sold for less than \$400,000.

At this point, we understand the senior housing project has been cancelled and that the 72-unit project is still in the works as are the 107 units proposed for Drowne Road.

There seems to be little dispute about the need for affordable housing in Cumberland as well as in the entire southern portion of Maine. The questions seem to be the number to be developed and the locations of the new housing.



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Putting these items in context, we do not dispute the need for affordable housing; instead, we need to consider the Drowne project within the context of the LCC sphere of responsibility.

Referencing our authorizing ordinance, Article III, Section 30-15, Purpose and Duties, we are to "...promote the conservation of natural resources and encourage the conservation of water, land and open space and vistas within the Town...."

In looking at the land proposed for the Drowne project, we note the bulk of the land is classified either as **Prime** or as **Of Statewide Importance** farmland. Only two small areas are excluded from these categories. According to the Conservation Subdivision ordinance (250-6. D (7)) applicable to developments in the RRI and RR2 zones, these soil types are considered high-value conservation areas needing preservation. Thus, constructing three multi-storied buildings plus adding 200 parking spots would be inconsistent with the best use of the limited high value agricultural lands available within the Town.

Also, the approved Climate Action Plan calls for 30% conserved land by 2030. When any change of use of town land is under consideration, we believe the default change should be conserved land and rewilding by native species.

In listening to the discussions regarding the softball fields, should they be moved from the Drowne location, the first place cited was the 10-acre plot adjacent to Stiles Way and Tuttle. Not just replacing the current two fields, instead, the discussion was for four fields and a 175-car parking lot. No discussion was heard about moving the playing fields to North Yarmouth, which shares recreation activities with Cumberland. Wescustogo Hall already has a significant adjacent parking lot along with open space that may well accommodate baseball fields without the need to pave over another field of grass. Other sites may also provide sufficient space without tying up 10 acres of open land.

We also have concerns about the proposed use of the land when considering the will of the donor. It appears the purpose of the Town Forest donation was to support education. The 1892 will (Book 589/page 204) specified that all future income from the land is to be used for education:

Test. Upon the death of my husband the income of said farm, so given and bequeathed by me to my husband as above mentioned, I give and bequeath to the Inhabitants of the town of Cumberland, Maine, said income to be used and expended for the cause of education, within its limits, by the officers of said town who have charge of the schools therein. Said income is to be expended annually by them or a majority of said officers, in said cause, as they shall think is best and prudent.



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Granted there is no income stemming from the use of the land for a baseball field; however, baseball is a part of the physical education component of a well-rounded education.

If lands set aside for the future, such as the Town Forest, are subject to incremental development inconsistent with the land usage at time of donation, why would a donor be interested in making their land available to the Town?

With this project, there would be no potential income from the sale or lease of the land nor will the land be used for education; instead, the land value would be materially diverted for 99 years at no charge with no direct benefit to education. While this may be deemed legal, it seems the underlying intent of the donation is circumvented. This may be a questionable precedent for future potential donors to the town, wishing to have their property preserved and used for a very specific purpose only to learn that, because they were not overly prescriptive in their paperwork, the land is used for completely different purposes.

We also note the decision to use generated funds for education rests with "...the officers of said town who have charge of the schools therein." Since elementary and secondary education within Cumberland rests with MSAD #51, a 99-year no-cost lease would deprive that body of its decision-making authority and students of potential income for generations. Also, if the land is included in a TIF district, any property taxes generated from the development cannot be used for education, further negating the stated purpose in the will.

As a result, we believe the proposed use of the Town Forest land for the 107-unit housing project and 200 space parking lot is inconsistent with the intent of the donor's gift and with the conservation of natural resources, land and open space within the Town. Therefore, we recommend the land not be used for the housing project.

Individual board members may have other questions pertaining to this 107-unit housing project. We urge them to participate in the discussion forums the Town Council is sponsoring at the Val Halla Community room in January and February.

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- Denny – Mentioned that Elizabeth Drowne is a close relative of his and feels that the intentions of her Will are not being honored. He feels that there is a loophole in the law and that if she made the same donation today, she would have used a Conservation Easement instead. Email sent before meeting:
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Good afternoon

Came across this interesting 1928 history and status of the Town Forest - a.k.a Drowne Farm.

At that time it was a working farm producing both hay and wood products.



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Note the reference to a "level field of fifty acres particularly adapted to raising hay, as the soil is a heavy clay loam" (scantic soils in our terminology). Surely this is the area where we are now mitigating the buckthorn.

Perhaps we might learn from the wisdom of our forefathers and bring this land back as hay field using late timothy, etc.

100 tons would be an annual crop with a value of around \$20,000 in today's dollars. In keeping with the terms of the will this amount could be used to lighten the tax levy in support of education.

Regards,

Denny Gallaudet

"The Drowne Farm"

What the Cumberland Town Forest Means to Greely Institute and the Town
Prize Essay Written by Ruth Burnell, June 1928

The town of Cumberland came into possession of the Town Forest, which was another name for the Drowne Farm in the early nineteen hundreds through the will of Mrs. Elizabeth Drowne in 1907. Her father, Captain Isaac Sturdivant, owned the farm many years and it is the only farm of one hundred acres which remains as originally laid out by the first surveyors of the town.

The terms of the will provided that the benefits derived from the farm should be used for educational purposes. There are thirty-five acres of woodland from which the heavy timber was cut in 1892, and four and five years later the hardwood was cut off. There is a level field of fifty acres particularly adapted to raising hay, as the soil is a heavy clay loam. A few years ago, one hundred tons of hay were cut from this field. The remaining fifteen acres are non-agricultural land, suitable for forestry purposes.

On May 16, 1928, one acre of pine and spruce three-or four-year-old transplants were set out as a first installment on the Cumberland town forest. This town is the seventh town in the state to adopt a town forest. It had been suggested that these fifteen acres of non-agricultural land be set out to spruce, pine, and hemlock, one or two acres each year under the direction of the agricultural class at Greely Institute.

The state gives the young trees for the transplanting and the necessary care gives Greely boys experience in forestry.

The school children of today should be taught the importance of conserving our trees, as we are using or destroying our forests four and one-half times faster than we are replenishing them.

Fifty years ago, forestry, fire preventing, and reforestation meant little to the editors of our newspapers and magazines. Today, thousands of columns of newspaper and magazines space are devoted to the great work of public education on forestry.

The establishment of the Cumberland Town Forest will be a valuable asset to the young people of the town. The future generation also will be assured a financial profit; further, Theodore Roosevelt said, "When you help to preserve our forests or plant new ones, you are acting the part of a good citizen.

The Drowne Farm is now occupied by the Bonneys.

The house has become private property and is owned by Gerald McCarthy.

A school house for the lower grades was built in [] behind the dwelling- and the Town garage and Town Dump are now beyond the school (1973).

What follows is a running dialog of the discussion:



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- Riva – spoke about transitions and a regenerative society, sustainability. LCC mandate – charge of conservation. Is conservation same as acquisition? Do we want an equitable Cumberland with social and economic equality? Better to build in town than on the outskirts.
- Jesse – Respects wishes of the Will but questions if that ship has sailed. Should have a discussion to not leave land alone; what about future of Cumberland? We should be moving forward not stop things in their tracks. This needs to be part of a discussion. What is the value of maintaining the land as is?
- Dave C – After reviewing the proposal, feels that giving feedback of this is outside of our purview. Are we to deal with intent? What is the vision of the Town on an ecological/ sustainability level. Is there an alternative way to get to the same results? Do we want to keep changing our mind? Does the land still qualify as farmland today?
- Pete W – Growth proposed is nonsense. Too fast. We should respect the Will. How is this affordable housing good for the Town? Strain school system.
- Josh – Growth and planning need regional perspective – scale. Greenspace and affordable housing, these things are wants. Hesitancy about override intent (of Will).
- Gordon – A lot of different opinions. Basic question is where would we move the ballfields? Need to find right piece of land – maybe that should be our (LCC) goal. Affordable housing is better way to build community.
- Mike – LCC needs to offer recommendations. This is weighing in if project should be built at all.
- John – This is Town land and we should give our input.
- Mark – There were several court cases in the past (1957, 1992) deciding if the Town has a legal claim – if the Town can do this. It was ruled that there is a duration in time and the Will conditions are no longer valid.
- John - Conditions of gift accepted at the time.
- Dave C – Were there other options instead of this parcel?
- Unidentified – This is “free” land
- Mark – Town has been talking about affordable housing for many years. Need to diversify. Where in Town can we build affordable housing?
- Dave Y – I don’t think this is the right place.



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- Unidentified - What about Styles Way? Multiple issues – already lost two ballfields to the portables and playground at the schools.
 - John – It makes more sense to use Styles Way.
 - Denny – The problem is the property, not affordable housing. What are we going to do with the Town Forest?
 - Mike – Pro affordable housing; but this is prime farm land – needs to be set aside – preserved even though forested; 10 acre is bird nesting habitat on Styles Way – better site for affordable housing than Drowne Rd; use land to support education; what about placing the baseball fields in North Yarmouth?
 - Riva – An alternate recommendation is not in Mike’s document. Should be added, say where it would work.
 - Denny – Land cost is minimum to whole package.
 - Mark – Legal zoning TIFF zone 8 for OceanView funds coming in for education.
 - Denny – Open question, how many kids coming into school from this project. Amount of dollars generated is not close to covering education cost.
 - John – What land does the LCC think would work? Offer input and recommendations.
 - Denny – Too much baggage with this parcel.
 - Josh – LCC role is to give a yes or no; affordable housing is not in our purview.
 - Dave C – LCC should not go out and find another parcel of land, not our responsibility. Yes, if this is what we recommend, then the rest of the Town Forest goes into a conservation easement for perpetuity. Is this land still farmable?
 - Riva – If Town Council goes ahead with this project, what are our recommendations, such as for parking?
 - Mike – Write up any thoughts or suggestions regarding the document (above) and forward by Jan 15 to Mike so he can construct a composite response.
- Trails Subcommittee (John)
 - Rines Forest - Trying to get gravel into the Waterfall Trail. John needs to touch base with Chris, hopefully Friday.
 - Town Forest - Walkway to toolshed for orchard and gardens in the spring.



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- Blanchard Oaks – Conservation easement or trail easement undefined. Resident of subdivision asked to walk open space with John to mark a potential trail.
- Ross Estates – Open space issue.
- Forestry Subcommittee (Gordon):
 - No meeting last month.
 - Rines Forest - Richard Humphrey owns a small grinder that can get onto trails. Did some grinding in areas Paul had previously marked off. Did great job. Paul recommends having area sprayed in the spring.
 - Looking at putting up signage to explain what is happening regarding cutting.
 - Question as what were all the blue flags (tape) doing in Rines?
- Sustainability Subcommittee (Denny)
 - No meeting in December.
 - Budget proposal VRF HVAC system in library. \$7,500 for engineering work
 - Looking into having a hazard waste collection with Yarmouth and Falmouth.
- Community Orchard (Jesse)
 - Jack and his family are moving back to Australia; will need a new MSAD51 liaison.
 - The tools have arrived in time for the tool talk January 13 10:00 at the library. A seed exchanged is planned for the end of the tool talk. Folks are encouraged to bring seeds to share.
 - Native plant seeds started in pots in Jesse's yard.
 - Partnering with Regenerative Roots and Cultivating Community. 50 more fruit trees for fall 2024 planting including apples, pears and paw paws.
 - The Orchard website is live. It is still under construction and hope to have a fully operational design by springtime. Jen Lopardo has been contracted to assist with the website, and templates for educational materials. The subcommittee will be meeting with her in January to review her work and update the website/host materials. Site URL: www.cumberlandorchard.org



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- Educational sessions have been firmed up. Aaron listed below is Aaron Parker of Edgewood Nursery.
 - March 2 (Aaron – food forest design @ PML)
 - March (Aaron – grafting workshop)
 - April (Aaron – living soils/ water wise gardening)
 - May (Aaron – Fruit tree planting)
 - June (Jesse – Oil free orchard maintenance)
 - July (Jesse – Trellising Berries/Grapes)
 - August (Aaron – pollinator support)
 - September (Aaron – making garden signs)
 - October (Aaron - Propagation workshop)
- Subcommittee is working on Community Orchard Values
 - Digging in – learn through doing; minimal soil disruption; getting hands dirty
 - Education – minimal chemicals; minimal fossil fuels; educate about invasives
 - Inclusivity – supporting native species
 - Diversity – all ages
- Invasive Subcommittee (from Dave C’s email)
 - Dave has received several applications; still interviewing. Two possible candidates. Several people are interested in helping but don’t want to commit.
 - What are we doing town-wide? Are we allocating enough resources to address invasive species or are there gaps? Dave is working on a plan – getting it on paper.
 - Email sent around about available resources:

Hey Folks,

Thought I’d share this excerpt of an email I received from the Maine Natural Areas Program in response to my message letting them know about our new Subcommittee, and requesting advice and suggestions:

If you are not part of the Maine Invasive Species Network, I suggest you join... it'll help keep you apprised of events, trainings, and the like. Here's where you can join the listserv, <https://extension.umaine.edu/invasivespecies/>. They also have a Facebook page. You might also be interested in joining iMapInvasives (FMI, https://www.maine.gov/dacf/mnap/features/invasive_plants/imap.htm) and our Maine Invasive Plants Field Guide (you can purchase it or download from the link at the bottom of this page, <https://www.maine.gov/dacf/mnap/publications/mipfg.html>). I believe you've found our factsheet/gallery pages, but if not, here they are, https://www.maine.gov/dacf/mnap/features/invasive_plants/invasives_gallery.htm.



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I highly recommend all of these resources, especially the Field Guide. I'd also recommend joining the FB group if you are inclined. There is another group that I follow that is more focused on plants, and covers the US and Canada: <https://www.facebook.com/groups/invasivenonnatives/>

Dave

- Rines Forest site visit while grinding in progress:





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- Mike mentioned that 30 more plants have been added to Maine’s “do not sell list”.
- iMapInvasives – waiting on the trainer spot to be filled
- Jesse asked if it was permissible to cut down invasives on private property close to the road.
- Ellen mentioned that there were a large number of invasive plants at Val Halla.
- New Business/coming attractions (Mike)
 - Future for composting
 - Tree City designation
 - New Member documentation
 - Invasive Subcommittee membership
 - Subcommittee chairs Mike needs FY 25 work plans and budgets for the February meeting.

Next meeting – February 7, 7 PM.