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Conservation Subdivision

Conservation and Land Use Webinar Transcript

March 16, 2023, 1:00-2:30 p.m.

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00:00:03.479 --> 00:00:17.039

Good afternoon everyone and thank you for joining us today. My name is Ingrid Haeckel. I'm a conservation and land use specialist with the Hudson River Estuary program through a partnership with Cornell University.

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00:00:17.424 --> 00:00:20.184

Welcome to the conservation and land use webinar series.

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00:00:20.544 --> 00:00:33.504

Today's webinar will discuss conservation subdivision, which is a flexible approach to subdivision design that concentrates development and allows for preservation of valuable, natural areas and open space.

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00:00:33.774 --> 00:00:36.504

And we're very pleased to have two

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00:00:36.780 --> 00:00:46.950

Regional experts with us here today, presenting about this policy, Ted and John Lyons, and I'll introduce them a little bit further into this introduction.

6

00:00:49.195 --> 00:00:57.625

Uh, before we start, just a few webinar details to review if you're having difficulty connecting to the audio through your computer,

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00:00:58.165 --> 00:01:11.605

you can choose switch audio by clicking on the 3 dots next to the red exit button at the bottom of the screen. And there, you'll also find options to request a callback or to call in by phone.

8

00:01:13.950 --> 00:01:26.785

If you need help, please reach out to us using the chat function, um, in the bottom, right? Corner of the screen. If you have questions for the presenters, once they begin please use Q and a.

9

00:01:27.235 --> 00:01:38.425

and if it's not open already, you can find the Q and a by clicking the 3 dots next to chat in the bottom right Corner of the screen. note that your phone lines are muted.

10

00:01:38.755 --> 00:01:43.885

The webinar is being recorded and will notify you when it is available. Um, that's probably going.

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00:01:43.950 --> 00:01:56.635

To be sometimes next week, we'll follow up and also share the presentation slides from today. And at the end of the webinar, we kindly request your feedback through a survey that will pop up.

12

00:01:57.235 --> 00:02:07.375

And last of all, for those of you who are seeking municipal training credit, you'll receive an automated email confirmation of attendance sent by Webex at the end of the program.

13

00:02:09.300 --> 00:02:23.430

For those of you who may be new to the series the Hudson River Estuary program is a special program at the New York State Department of Environmental Conservation established to help people enjoy, protect and revitalize the Hudson river and its Valley.

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00:02:23.430 --> 00:02:33.420

We work throughout the 10 counties bordering the tidal Hudson from upper New York harbor to the federal dam in Troy, in the green area shown on the map here.

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00:02:33.420 --> 00:02:42.000

And we're working to achieve many key benefits, including the vital estuary ecosystem and its fish and habitats.

16

00:02:42.000 --> 00:02:51.690

Clean water, healthy, tributaries, climate, adaptive communities, conserved natural areas in the watershed and an informed and engaged public.

17

00:02:51.805 --> 00:03:06.715

as well as access for all to the hudson river. And within the program our conservation and land use team works with municipalities and regional partners to identify and conserve important habitats and natural

18

00:03:06.715 --> 00:03:21.535

areas through local land use planning and decision making and my fellow conservation land use specialist Christine Vanderlan who is also here on the webinar today both of us are available to provide technical assistance on a variety of conservation planning and policy

19

00:03:21.690 --> 00:03:30.390

Projects our program Web site is a clearing house for guidance and resources on these topics and we'll share the link to that through the chat as well.

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00:03:32.310 --> 00:03:45.235

So our next webinar will be in late April, we're still narrowing down the date, and will profile municipal planning and policy actions to conserve natural areas within the framework of new York's climate,

21

00:03:45.235 --> 00:03:52.945

smart communities certification program. We'll discuss the key roles that natural areas play in climate resilience.

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00:03:53.695 --> 00:04:08.575

and provide a brief overview of the climate smart community certification program and outlines climate smart actions for planning zoning and protection of natural areas and conservation subdivision is one of them we'll also hear a case

23

00:04:08.575 --> 00:04:14.125

study from a community that has implemented many of these actions and achieved certification status

24

00:04:14.910 --> 00:04:20.850

We'll share the link to register for the April webinar event. When we follow up with you after today's webinar.

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00:04:20.850 --> 00:04:26.279

With that I am very pleased to introduce our guest speakers.

26

00:04:26.279 --> 00:04:37.434

Ted Fink is the professional planner, and the founder of green plan, a firm that provides general community and planning services to municipalities throughout the Hudson Valley in upstate New York. Mr.

27

00:04:37.674 --> 00:04:45.714

has over 4 decades of experience in planning and land, use controls and helps communities, develop their own unique vision for conservation and development.

28

00:04:46.374 --> 00:04:56.244

He has helped many municipalities with adopting conservation development practices and other sustainable development techniques and has authored unique land use controls to protect biodiversity.

29

00:04:56.759 --> 00:05:04.769

Mr Fink is also an adjunct professor with Marist college of science teaching environmental science and policy courses

30

00:05:05.604 --> 00:05:12.174

And our 2nd speaker is John Lyons, and he is a land use attorney who has been practicing law for 38 years.

31

00:05:12.174 --> 00:05:21.684

He's a founding partner of the law firm Grant and lions, which is dedicated, solely to environmental and real estate law.

32

00:05:22.494 --> 00:05:33.714

In his practice, Mr Lyons provides counsel to planning boards and zoning boards of appeal. And is this town boards with formulating land use policies and drafting land use laws. Mr.

33

00:05:33.714 --> 00:05:41.784

Lyons also has a long background in land conservation and represents conservation organizations in conservation easement matters.

34

00:05:42.204 --> 00:05:51.564

He currently serves on the board of directors of the Catskill center for conservation and development, and recently stepped down from the board of directors of the Winnakee Land trust in Rhinebeck.

35

00:05:52.019 --> 00:06:00.479

So, we're really excited to have both of you with us today. so we'll start off with Ted and, uh.

36

00:06:00.479 --> 00:06:10.794

And we'll take some a few minutes for questions after his talk before John's talk begins and we'll, we'll have some more time for questions at the end of the program as well.

37

00:06:11.004 --> 00:06:17.634

But as we go along again, um, please, uh, feel free to enter any questions You have using the Q and a function.

38

00:06:18.599 --> 00:06:22.649

Um, so I will.

39

00:06:22.649 --> 00:06:28.319

See, if I can share the control to you, TED.

40

00:06:37.944 --> 00:06:52.434

right we can see that okay

41

00:06:52.884 --> 00:06:54.203

you're still muted

42

00:07:03.269 --> 00:07:08.039

There we go set up. Nope. All right. And How's that?

43 "Ted Fink" (673729792)

00:07:08.244 --> 00:07:12.564

Good. Okay. Good. All right. Well, good afternoon.

44 "Ted Fink" (673729792)

00:07:12.564 --> 00:07:22.074

Everyone. 1st of all Thank you for attending my goal today is to tell you a little bit about conservation subdivisions,

45 "Ted Fink" (673729792)

00:07:22.854 --> 00:07:37.554

some need to know issues related to how you go about designing conservation subdivisions. How you go about adopting them in local regulations some of the background, um.

46 "Ted Fink" (673729792)

00:07:38.039 --> 00:07:52.134

About Conservation subdivisions, and I hope you can walk away today with a roadmap for your community and how you may be able to bring the conservation subdivision design process to your community.

47 "Ted Fink" (673729792)

00:07:52.314 --> 00:07:53.124

Um, so.

48 "Ted Fink" (673729792)

00:07:53.609 --> 00:08:06.509

1st of all. Alright. Whoops. Went too far. So essentially, um, conservation subdivisions are a type of cluster development.

49 "Ted Fink" (673729792)

00:08:06.834 --> 00:08:17.664

Um, and you're probably familiar with cluster development. Um, many communities have already adopted some clustering provisions in their zoning or their subdivision regulations.

50 "Ted Fink" (673729792)

00:08:17.664 --> 00:08:32.424

Sometimes both, uh, zoning and subdivision. Conservation Subdivision really, though is a much more effective way to be able to design, uh, open space areas as part of a cluster subdivision.

51 "Ted Fink" (673729792)

00:08:32.814 --> 00:08:35.544

So I'm going to walk you through exactly where it came from.

52 "Ted Fink" (673729792)

00:08:36.509 --> 00:08:37.619

Okay.

53 "Ted Fink" (673729792)

00:08:37.619 --> 00:08:48.894

1st thing you need to know is that the whole concept was really originated by an eccentric guy by the name of Ian McHarg in the 1960s.

54 "Ted Fink" (673729792)

00:08:48.894 --> 00:09:01.194

he was a landscape architect, he also taught at the University of Pennsylvania, and he came out with a groundbreaking book in 1971. you can see my dog eared copy

55 "Ted Fink" (673729792)

00:09:02.184 --> 00:09:10.223

On the slide in front of you. Um, but essentially what he did back in the 1960 s, uh, he did a number of studies as a landscape architect.

56 "Ted Fink" (673729792)

00:09:10.223 --> 00:09:25.194

Uh, he came up with this concept for integrating the environment into development, and he did a whole study of Staten Island, which you can see on the right side of the screen where, um, back in those days,

57 "Ted Fink" (673729792)

00:09:25.194 --> 00:09:31.794

it was very much old school. Of course where, um, he took Staten Island, he created

58 "Ted Fink" (673729792)

00:09:32.159 --> 00:09:44.094

A series of, um, acetate overlays that displayed things like land, use, vegetation, ecological associations, wildlife habitats, forests,

59 "Ted Fink" (673729792)

00:09:44.094 --> 00:09:57.114

and so forth and in so overlaying 1 on top of another his hope was that through that process, that areas that would be,

60 "Ted Fink" (673729792)
00:09:57.894 --> 00:10:01.764
would be suitable for development could be revealed and areas that were

61 "Ted Fink" (673729792)
00:10:02.159 --> 00:10:16.584
Suitable for conservation could also be revealed and he put this all into his book design with nature and nothing really happened to it until the 1980 s. when a planner by the name of Randall Arendt.

62 "Ted Fink" (673729792)
00:10:16.584 --> 00:10:17.574
Randall Arendt

63 "Ted Fink" (673729792)
00:10:18.509 --> 00:10:33.054
started to pick up on this and ecided that one way to be able to really make design with nature uh usable and available to a wider audience was to use it with

64 "Ted Fink" (673729792)
00:10:33.294 --> 00:10:48.234
combine it with um cluster subdivision techniques which had been enabled by many states. new york has had this on the book since the early 1960s the clustering option and i'm going to get into exactly what all this stuff means as i as

65 "Ted Fink" (673729792)
00:10:48.234 --> 00:10:48.504
i talked

66 "Ted Fink" (673729792)
00:10:48.534 --> 00:11:03.444
through the process but in any case Randall really he innovated this process he came out with a couple of books one was called Rural By Design another one was conservation subdivision

67 "Ted Fink" (673729792)
00:11:04.494 --> 00:11:07.344
and these were in the 1990s

68 "Ted Fink" (673729792)
00:11:08.484 --> 00:11:23.364
So, I was an old fan of McHarg's work, and when I picked up on Rural by Design and the conservation subdivision process, when I looked at these books in the 1990s, I brought it to one of my clients at that time,

69 "Ted Fink" (673729792)
00:11:23.364 --> 00:11:37.614
which was the Town of Warwick, I was a planner there for 31 years in Orange County, and we decided to try and take this approach of conservation subdivision. take this approach of conservation subdivision

70 "Ted Fink" (673729792)

00:11:37.914 --> 00:11:52.044

A better way of clustering and integrated into the town's comprehensive plan and then later in the zoning and so in 1999, the town adopted a new comprehensive plan that specifically recommended the use of conservation subdivision.

71 "Ted Fink" (673729792)

00:11:52.044 --> 00:12:04.854

So, just so, you know, there's also other ways that municipalities have described this as open space subdivisions. And I think the idea was to move away from.

72 "Ted Fink" (673729792)

00:12:05.544 --> 00:12:07.494

idea was to move away from

73 "Ted Fink" (673729792)

00:12:07.619 --> 00:12:17.454

the term clustering, and I'll get into that in a moment as to, as to why some municipalities have done that. But these are the topics that I'm going to be covering today.

74 "Ted Fink" (673729792)

00:12:17.514 --> 00:12:25.824

I'm just going over a general introduction to this, how it can be integrated into the municipal planning processes.

75 "Ted Fink" (673729792)

00:12:26.904 --> 00:12:37.374

I'm going to discuss just a few other tools that can be used for conserving open space. Then we're going to get into the nuts and bolts. The Four

76 "Ted Fink" (673729792)

00:12:37.619 --> 00:12:49.944

Step process how it works, what a municipality needs to do in order to integrate these steps into their zoning subdivision regulations. I'm going to go through.

77 "Ted Fink" (673729792)

00:12:49.944 --> 00:13:00.504

I'm going to give you some local examples and talk about some of the other considerations, such as long term management of the open space within, within cluster developments.

78 "Ted Fink" (673729792)

00:13:01.289 --> 00:13:06.089

So just starting off, um.

79 "Ted Fink" (673729792)

00:13:06.089 --> 00:13:10.494

You know, when, when you think of the term conservation subdivision, it really does sound like an oxymoron.

80 "Ted Fink" (673729792)
00:13:10.824 --> 00:13:24.174
But it is one of many tools that can be used to, um, to develop communities and to retain the most important aspects of the natural and the cultural environment.

81 "Ted Fink" (673729792)
00:13:24.444 --> 00:13:35.934
Um, and so, even though it does sound like an oxymoron, it is a good technique. It's one of many that should be used by communities and there are some limitations on it and I'll get into that a little bit.

82 "Ted Fink" (673729792)
00:13:36.089 --> 00:13:36.839
Here.

83 "Ted Fink" (673729792)
00:13:37.404 --> 00:13:50.334
So 1st of all, um, things you should know what you're looking at right now and the right side of your screen is a conventional subdivision plan about illustrating an

84 "Ted Fink" (673729792)
00:13:50.364 --> 00:14:05.244
area that was subject to a conventional approach to subdivision development where every bit of open space is occupied by house lots and roads and driveways and those sorts of things and the approach at the

85 "Ted Fink" (673729792)
00:14:05.244 --> 00:14:06.714
bottom shows.

86 "Ted Fink" (673729792)
00:14:06.839 --> 00:14:19.314
How those same number of lots that are spread throughout a site can be laid out in a way where important natural resources such as biodiversity, uh, agriculture, um,

87 "Ted Fink" (673729792)
00:14:19.344 --> 00:14:30.534
and water quality and wetlands and streams and ponds. And those sorts of things can all be incorporated into the open space within the subdivision.

88 "Ted Fink" (673729792)
00:14:31.074 --> 00:14:36.774
So, 1st of all, 1st, thing you need to know is that it creates development but.

89 "Ted Fink" (673729792)
00:14:37.254 --> 00:14:50.844
The open space that's protected Does have to be protected in perpetuity and the enabling laws. Uh, the references are in that 1st, bullet. Town

Law section 278 village and general city law all have a counterpart enabling requirements.

90 "Ted Fink" (673729792)

00:14:51.984 --> 00:15:06.594

That any community in New York state can use. And the 1st thing about clustering or conservation subdivision is that this is an administrative planning technique.

91 "Ted Fink" (673729792)

00:15:07.974 --> 00:15:19.764

It can come about other than the cost of course, to update your regulations it can come about without any sort of a funding stream, such as a purchase of development rights program,

92 "Ted Fink" (673729792)

00:15:19.764 --> 00:15:23.604

or a bond authorization to buy and acquire open space within a community.

93 "Ted Fink" (673729792)

00:15:23.934 --> 00:15:36.744

This can allow for the development that is already authorized um, but it can benefit by having open space protected as part of the development approvals that go on. And.

94 "Ted Fink" (673729792)

00:15:36.839 --> 00:15:46.704

So, while municipalities are all authorized to be able to require clustering, they're not required to, by,

95 "Ted Fink" (673729792)

00:15:46.734 --> 00:15:56.484

various state laws. there are 3 different ways that it can be integrated into your code. One is that it's simply it's more passive, that it's allowed.

96 "Ted Fink" (673729792)

00:15:56.484 --> 00:16:06.774

So, cluster regulations can be designed so that anybody, anybody that wishes to subdivide property, um, could be able to do.

97 "Ted Fink" (673729792)

00:16:06.839 --> 00:16:10.979

so using a cluster plan instead of a conventional plan

98 "Ted Fink" (673729792)

00:16:11.784 --> 00:16:26.334

Um, it can be encouraged certainly any municipality can do everything that it wants to encourage it. Some municipalities have even provided some incentives for developers to be able to, um, to follow a cluster approach.

99 "Ted Fink" (673729792)

00:16:26.664 --> 00:16:40.974

And the 3rd way of course, is, um, each of the 3 laws that enable it also allow for a planning board to mandate clustering based upon a variety of different requirements that would have to be fulfilled in order to.

100 "Ted Fink" (673729792)
00:16:41.304 --> 00:16:54.024

Uh, to require this, um, as an alternative to the conventional plan, the goal of course, for clustering, as for conservation subdivision is to alter the standard bulk requirements.

101 "Ted Fink" (673729792)
00:16:54.054 --> 00:17:07.914

Um, and to reduce the, the minimum lot sizes that are generally required by zoning, um, as a trade off for protecting open space, but there's also other things that can be included in the rules.

102 "Ted Fink" (673729792)
00:17:07.944 --> 00:17:10.764
Um, so if, for instance.

103 "Ted Fink" (673729792)
00:17:11.574 --> 00:17:21.054

Affordable housing was a concern in your community compact housing types, such as multi family, or row houses and some of the other options that I'll talk about later,

104 "Ted Fink" (673729792)
00:17:21.354 --> 00:17:33.354

these can all be included within the rules for your conservation subdivision and they can also be broader narrow, but the uses cannot be changed that's very clear from the enabling acts.

105 "Ted Fink" (673729792)
00:17:33.384 --> 00:17:40.974

And 1 thing that a lot of people don't always realize is that it can be applied not only to residential

106 "Ted Fink" (673729792)
00:17:40.979 --> 00:17:48.959

Subdivision development, but also, in cases where non residential subdivision subdivisions are also proposed.

107 "Ted Fink" (673729792)
00:17:51.024 --> 00:18:02.964

So, this is a quick little illustrator graphic that shows you the basics of the 4 step process and I'll just go into it quickly here.

108 "Ted Fink" (673729792)
00:18:03.684 --> 00:18:15.534

1st, um, top left graphic. What you're looking at is just an illustrative farm site with some forest, a stream corridor, and some sort of made up things.

109 "Ted Fink" (673729792)

00:18:15.834 --> 00:18:18.864

And so the 1st thing that's done is there's a conservation

110 "Ted Fink" (673729792)

00:18:18.959 --> 00:18:26.424

Analysis of the site that identifies what are called primary and secondary conservation areas and I'll get into what that means later.

111 "Ted Fink" (673729792)

00:18:27.144 --> 00:18:38.064

The 2nd step is to locate where the streets are going to go and the trails throughout the areas that are identified as as development areas.

112 "Ted Fink" (673729792)

00:18:38.694 --> 00:18:51.414

The 3rd step is to locate the house sites and the 4th is to draw in a lot line. And 1 of the reasons why I wanted to highlight the, the actual steps in the process early on is because this is actually almost opposite.

113 "Ted Fink" (673729792)

00:18:51.414 --> 00:19:02.604

The kind of approach that was taken that gave clustering a bad name, um, that generally sites always have some sort of development constraints where it's steep slopes,

114 "Ted Fink" (673729792)

00:19:02.604 --> 00:19:07.704

Poor soils, could be wetlands, could be streams, resources That can't really be

115 "Ted Fink" (673729792)

00:19:08.339 --> 00:19:19.769

Developed that became a way for a developer to be able to minimize their impacts. Um, while also simply.

116 "Ted Fink" (673729792)

00:19:19.854 --> 00:19:27.354

Shoving those areas into the open space, and that was what was left over and there were a lot of examples of poorly designed cluster plans out there.

117 "Ted Fink" (673729792)

00:19:27.624 --> 00:19:28.614

And so, um,

118 "Ted Fink" (673729792)

00:19:28.644 --> 00:19:43.434

conservation subdivision was designed as a process to make sure that there was an effective step by step process designed to put conservation first and foremost in any plan that's done

119 "Ted Fink" (673729792)

00:19:43.434 --> 00:19:45.174

to subdivide a site.

120 "Ted Fink" (673729792)

00:19:46.314 --> 00:19:57.174

So, conservation subdivision is there, it's important to ensure that there are conditions that are placed on the ownership to use the maintenance of the open space.

121 "Ted Fink" (673729792)

00:19:57.414 --> 00:20:03.594

Uh, these are the kinds of things that that should always be included in a conservation subdivision regulation.

122 "Ted Fink" (673729792)

00:20:03.924 --> 00:20:14.994

Um, these kinds of things can even protect farming within a community if that becomes an objective of your town or your villager or.

123 "Ted Fink" (673729792)

00:20:15.449 --> 00:20:20.514

Whatever area, generally, density is not permitted.

124 "Ted Fink" (673729792)

00:20:20.604 --> 00:20:32.424

Um, if, uh, that is something that, um, people are concerned about, that it's going to result in more lots then could be developed under a conventional plan. Um.

125 "Ted Fink" (673729792)

00:20:32.819 --> 00:20:46.769

But the other thing is, uh, in terms of the open space, one of the misunderstandings that people often have is that if this is going to be open space, it's going to be public open space but that's not

126 "Ted Fink" (673729792)

00:20:46.769 --> 00:20:55.044

Uh, necessarily correct. developers can't be forced to dedicate the open space to a municipality. They can't be forced to open it to the public.

127 "Ted Fink" (673729792)

00:20:55.074 --> 00:21:07.104

Um, this is something that can be worked out through the, um, through the conditions that are placed on the ownership and the use of the open space. Uh, and they can be specified in your municipal code.

128 "Ted Fink" (673729792)

00:21:07.379 --> 00:21:11.219

Okay, so.

129 "Ted Fink" (673729792)

00:21:11.219 --> 00:21:23.754

Conservation subdivision, it's just one of the many tools that are available to municipalities. It just so happens That it is a relatively easy thing to place into your comprehensive planning documents.

130 "Ted Fink" (673729792)
00:21:23.784 --> 00:21:37.014
Um, they're good models out there of other communities that have, uh, developed regulations for conservation subdivisions. So, there's lots of good ones out there.

131 "Ted Fink" (673729792)
00:21:38.334 --> 00:21:46.494
I think it's reassuring to know that this particular process has been in place in the kind of work for more than two decades now.

132 "Ted Fink" (673729792)
00:21:47.214 --> 00:22:02.124
And I personally was involved in the review and the approval of multiple conservation subdivisions in the community. In fact, at 1 point in where we get became the predominant form of subdivision development in the community.

133 "Ted Fink" (673729792)
00:22:02.364 --> 00:22:04.314
Um, so.

134 "Ted Fink" (673729792)
00:22:05.189 --> 00:22:13.404
Other options that municipalities can use to conserve open space, um, are overlay districts.

135 "Ted Fink" (673729792)
00:22:13.434 --> 00:22:26.724
I know the, uh, program had a whole webinar last year that was devoted to conservation overlay districts. planned unit development is a tool that's been around for many decades.

136 "Ted Fink" (673729792)
00:22:26.754 --> 00:22:35.124
Now, that results in a, um, an individual plan for development of a property that can include.

137 "Ted Fink" (673729792)
00:22:35.189 --> 00:22:49.674
Simply residential uses, it can require, um, mix of uses. Um, but one of the features of planned unit developments is that there is also open space that is, uh, protected as part of it, but it's a, it's a different process.

138 "Ted Fink" (673729792)
00:22:49.674 --> 00:22:56.064
It's, um, enabled by separate, um, provisions within town village and general city law.

139 "Ted Fink" (673729792)
00:22:56.484 --> 00:23:05.094

Um, there's also, um, park and recreation land dedication or payments that are made in lieu of land

140 "Ted Fink" (673729792)

00:23:05.189 --> 00:23:14.519

dedication for the recreational and the park needs of subdivisions and for growth within a community.

141 "Ted Fink" (673729792)

00:23:15.234 --> 00:23:24.984

Development rights, they can be transferred, they can be purchased. I'll get in a little bit later to some of the options for doing that.

142 "Ted Fink" (673729792)

00:23:25.014 --> 00:23:35.814

Um, there's use of fee simple acquisition of lands for the protection of open space. Critical environmental areas under SEQR can also be enabled

143 "Ted Fink" (673729792)

00:23:36.174 --> 00:23:44.424

So that they, their goal is to protect and conserve open space, many communities in the

144 "Ted Fink" (673729792)

00:23:44.519 --> 00:23:53.844

Hudson Valley now, are authorized to prepare community preservation plans and to adopt a community preservation fund that's used-

145 "Ted Fink" (673729792)

00:23:53.844 --> 00:24:04.974

This is a form of purchase of development rights, but it has to be authorized by the legislature. in the Hudson Valley. Warwick, Red hook.

146 "Ted Fink" (673729792)

00:24:05.634 --> 00:24:18.714

Um, Chatham, there's a number of communities that have been individually authorized to be able to, um, prepare community preservation plans and establish programs. in general, Westchester, Putnam and Ulster counties.

147 "Ted Fink" (673729792)

00:24:18.714 --> 00:24:27.144

Any municipality within those 3 counties are also permitted to establish community preservation programs within them.

148 "Ted Fink" (673729792)

00:24:27.384 --> 00:24:35.184

And a really good source of information on open space protection is a guide that was prepared by the state called

149 "Ted Fink" (673729792)

00:24:35.279 --> 00:24:41.219

The local open space planning guide and certainly, if you have questions on any of these sorts of

150 "Ted Fink" (673729792)
00:24:41.219 --> 00:24:50.219
Options that are available. Um, that's a good place to start. There's a wealth of information there, um, for research on, on further aspects of that.

151 "Ted Fink" (673729792)
00:24:50.219 --> 00:24:56.159
So, what's some of the justification for why

152 "Ted Fink" (673729792)
00:24:56.159 --> 00:25:00.089
It's important, um, you know, as I mentioned earlier.

153 "Ted Fink" (673729792)
00:25:00.089 --> 00:25:08.364
Conventional subdivisions merely result in house slots and streets and conservation subdivisions provide way more.

154 "Ted Fink" (673729792)
00:25:08.604 --> 00:25:19.734
some of the benefits - we all benefit from things like plant and animal genetic diversity on lands that are protected as open space. Um.

155 "Ted Fink" (673729792)
00:25:20.009 --> 00:25:26.724
You know, we need the natural products of nature. Um, they're essential to our physical and mental health.

156 "Ted Fink" (673729792)
00:25:26.754 --> 00:25:39.564
I mean, there's a lot of studies now that have come out about how patients and hospitals recover faster if there rooms merely front on green spaces that recovering

157 "Ted Fink" (673729792)
00:25:40.314 --> 00:25:50.004
Um, people can view as opposed to other areas where hospital rooms face highways and buildings and things like that.

158 "Ted Fink" (673729792)
00:25:50.009 --> 00:26:04.944
and the same thing has been done for schools where achievement levels by students is better on the side of schools that face forests and open spaces versus the sides of schools that face the street. so there's

159 "Ted Fink" (673729792)
00:26:04.944 --> 00:26:19.944
real physical and mental health benefits that um uh that we can accrue from um from open space. it's good for the economy, i mean generally um any property that is sited near or

160 "Ted Fink" (673729792)
00:26:20.009 --> 00:26:29.519

Next to a, a protected open space area is going to sell for a higher value than properties that lack that access.

161 "Ted Fink" (673729792)

00:26:30.414 --> 00:26:36.744

It's also integral to our culture, our identity - to have areas that we can enjoy nature

162 "Ted Fink" (673729792)

00:26:36.744 --> 00:26:49.284

We can recreate we get free environmental services from flood plains and from wetlands and a whole variety of other things and it's all also a solution to climate change.

163 "Ted Fink" (673729792)

00:26:49.644 --> 00:26:59.424

So, an important thing, I think to keep in mind, though, is that while conservation subdivision can help to bring about more.

164 "Ted Fink" (673729792)

00:26:59.519 --> 00:27:11.699

Open Space protection in a community if that's an objective of the community, um, comprehensive planning of a municipality can reveal many other effective ways to be able to preserve open space.

165 "Ted Fink" (673729792)

00:27:13.974 --> 00:27:25.434

So we have a couple of new goals this is hot off the press. So end of January President Biden signed an executive order to conserve, at least 30% of our lands and waters by the year 2030.

166 "Ted Fink" (673729792)

00:27:25.434 --> 00:27:40.284

and just before that Governor Hochul also signed a law that was passed by both the assembly and the Senate, doing the same thing to support and contribute to efforts to conserve

167 "Ted Fink" (673729792)

00:27:40.314 --> 00:27:41.634

to conserve

168 "Ted Fink" (673729792)

00:27:41.724 --> 00:27:46.194

At least 30% of open space in New York state by the year 2030.

169 "Ted Fink" (673729792)

00:27:46.704 --> 00:27:57.774

so this is something that these aspirational sorts of proclamations and laws are finding their way into our culture and more and more. and more and more

170 "Ted Fink" (673729792)

00:27:59.574 --> 00:28:11.664

And one of the things that I can tell you about conservation subdivision, and the kinds of ways that people want to live in, by 40 years of comprehensive planning.

171 "Ted Fink" (673729792)

00:28:11.664 --> 00:28:24.714

I've worked in many many municipalities throughout the Hudson Valley in New York state, and there are some commonalities that is always found whenever we do public opinion surveys. We do visioning sessions.

172 "Ted Fink" (673729792)

00:28:25.044 --> 00:28:28.374

People want to preserve nature and open space in their community.

173 "Ted Fink" (673729792)

00:28:29.124 --> 00:28:43.824

What's most important to them are things like water resources and habitats they want to avoid sprawl development and guide growth to areas that are already developed and of course, conservation subdivision, one of the,

174 "Ted Fink" (673729792)

00:28:43.884 --> 00:28:56.214

um, one of the criticisms of it is that it does allow for development to be leapfrogged, but there's also other factors that, um, that go against it as well and.

175 "Ted Fink" (673729792)

00:28:57.474 --> 00:29:08.844

Some of the obstacles are that after World War II, we have the expansion of the interstate highway system and expansion in general of roads throughout our country.

176 "Ted Fink" (673729792)

00:29:08.874 --> 00:29:18.324

And this led from much easier access to areas That were once pretty much off limits for development: rural farms.

177 "Ted Fink" (673729792)

00:29:18.324 --> 00:29:26.904

Forests, open spaces, they created development opportunities throughout New York and the Hudson Valley and, of course.

178 "Ted Fink" (673729792)

00:29:27.029 --> 00:29:36.054

Another obstacle is that in order to change your comprehensive plan, your zoning, your subdivision regulations, it takes time it involves citizens,

179 "Ted Fink" (673729792)

00:29:36.054 --> 00:29:44.094

and it takes the determination of leaders to be able to ensure that these things are properly accounted for.

180 "Ted Fink" (673729792)

00:29:44.934 --> 00:29:58.644

And I've already talked about the cluster development, but you can see on this little graphic here, that many communities in New York state lack the necessary tools at this point to even be able to do that. So, I'm assuming that if you're attending this.

181 "Ted Fink" (673729792)

00:29:58.674 --> 00:30:07.404

And then when you want to learn more about conservation subdivision, that you do have zoning, you do have subdivision regulations because those are really where you start.

182 "Ted Fink" (673729792)

00:30:08.454 --> 00:30:14.274

So, the 1st, thing in terms of conservation subdivision is that it's always approved in

183 "Ted Fink" (673729792)

00:30:14.369 --> 00:30:24.594

A Density neutral manner so, if your zoning specifies that each house has to be on a 2 acre lot,

184 "Ted Fink" (673729792)

00:30:24.774 --> 00:30:32.094

and you have a certain density that landowners are accustomed to in your community.

185 "Ted Fink" (673729792)

00:30:32.304 --> 00:30:44.364

Um, it doesn't change any of the density that is already attributed to properties in the different zoning districts. The one thing that conservation subdivision does is to make sure that.

186 "Ted Fink" (673729792)

00:30:45.384 --> 00:30:57.714

That density is preserved together with the protection of open space and once we get into, um, how that happens, I'll, I'll get into it a little bit more, so it does create more efficient street utility patterns.

187 "Ted Fink" (673729792)

00:30:58.284 --> 00:31:04.824

Very important thing is it protects habitats in perpetuity in the open space.

188 "Ted Fink" (673729792)

00:31:04.824 --> 00:31:14.094

If they're properly identified through the conservation analysis that occurs on a site by site basis, even things cultural resources like scenic beauty,

189 "Ted Fink" (673729792)

00:31:14.369 --> 00:31:22.469

archaeology, historic sites, these can all be a part of the open space in a conservation subdivision.

190 "Ted Fink" (673729792)
00:31:22.469 --> 00:31:33.899
And so some communities have even gone as far as to require 80% open space and I'll get into that in a moment. So, where do you begin.

191 "Ted Fink" (673729792)
00:31:34.284 --> 00:31:48.264
Comprehensive planning should really come first, that's the basis for any changes to your zoning and especially your zoning and but also your subdivision regulations and so forth. There are many other ways to be able to identify open space.

192 "Ted Fink" (673729792)
00:31:48.264 --> 00:32:02.124
Your open space planning, a natural resource inventory, which is something that is certainly encouraged by the Hudson River estuary program, and many communities are getting on the bandwagon in the Hudson Valley and doing natural resources inventories.

193 "Ted Fink" (673729792)
00:32:02.454 --> 00:32:03.894
And it's a great way to

194 "Ted Fink" (673729792)
00:32:03.899 --> 00:32:14.844
Be able to identify what's most important to the community. um, other ways to be able to do it farmland protection plans, community preservation plans if they're available.

195 "Ted Fink" (673729792)
00:32:15.024 --> 00:32:27.144
Um, DEC and the Hudson River Estuary program, both have great mapping applications that are available on the Internet. Um, of course, things like conservation advisory council or boards.

196 "Ted Fink" (673729792)
00:32:28.164 --> 00:32:33.894
So, um, how does it happen? Well, first, the legislative board has to authorize

197 "Ted Fink" (673729792)
00:32:34.494 --> 00:32:45.144
Cluster subdivisions, simultaneously with approval by planning boards, legislative board sets the kind of conditions that are necessary for cluster to occur.

198 "Ted Fink" (673729792)
00:32:46.134 --> 00:32:52.914
The zoning subdivision regulations can be amended to include the conservation subdivision process.

199 "Ted Fink" (673729792)
00:32:53.189 --> 00:32:59.609

Um, and these can be done to, um, to accept or require.

200 "Ted Fink" (673729792)
00:32:59.609 --> 00:33:11.784

A flexible adjustment to the bulk standards, so that lots are going to be laid out in a different way than they would be in a conventional plan. Um, the laws do have to specify where they're permitted, when, and the objectives.

201 "Ted Fink" (673729792)
00:33:12.054 --> 00:33:18.654

Um, and of course, I mentioned already that, um, planning boards can be enabled to mandate cluster subdivisions as well.

202 "Ted Fink" (673729792)
00:33:19.284 --> 00:33:29.544

This is a little sketch here of the kinds of, uh, procedures that you would want to consider for, um, establishing a conservation subdivision design process: purposes

203 "Ted Fink" (673729792)
00:33:29.609 --> 00:33:42.504

Is key to having a clear, uh, uh, law that identifies exactly why it is that, um, this is being enacted; that gives authorization to the planning board.

204 "Ted Fink" (673729792)
00:33:42.624 --> 00:33:53.244

Um, there's a determination as to whether it's going to be mandated or simply voluntary. What are the uses that are authorized for instance, for the open space? Uh, there's the density determination.

205 "Ted Fink" (673729792)
00:33:53.244 --> 00:33:59.514

All these sort of steps are the kinds of things that do need to be included within the cluster regulations.

206 "Ted Fink" (673729792)
00:34:01.284 --> 00:34:15.444

There is 1st of all in order to, um, determine what are the number of slots that can be approved in a cluster development. Because after all, this is not going to be laid out with the engineering and everything else that you need for a conventional plan. Um, but.

207 "Ted Fink" (673729792)
00:34:16.704 --> 00:34:31.224

Because you're going to have to figure out a way to identify what are the number of dwelling units, or the number of lots that can be approved in a cluster development. There has to be a way to be able to come up with that number.

208 "Ted Fink" (673729792)
00:34:31.584 --> 00:34:45.534

Some communities will go with what they call a yield or a conventional plan that conforms to the minimum lot size density requirements and so on within your municipal code already. the other and what can be easier for

209 "Ted Fink" (673729792)
00:34:45.719 --> 00:34:57.834

Some communities is to use a formula where you take the overall gross density of a lot. You determine what needs to be subtracted from it such as wetland, steep slopes and so on.

210 "Ted Fink" (673729792)
00:34:57.864 --> 00:35:03.684

And then you come up with a formula that's based upon the density requirements of your zoning law.

211 "Ted Fink" (673729792)
00:35:05.844 --> 00:35:20.154

So, some of the steps in the process, I'd like to get in now to sort of the nitty gritty on how this whole works. So, one of the very first documents that's presented is to examine the conservation.

212 "Ted Fink" (673729792)
00:35:20.904 --> 00:35:32.214

That exists on the site and surrounding the site. And what I'm showing you here is an actual site context plan that was prepared for a subdivision in the town of Warwick. This is the site right here.

213 "Ted Fink" (673729792)
00:35:32.514 --> 00:35:43.404

Okay, and I'm going to be coming back to this a little bit later the reason why this is shaded is because this is a property right next to it that already was subject to a conservation subdivision.

214 "Ted Fink" (673729792)
00:35:43.674 --> 00:35:55.074

And so 1 of the requirements in Warwick was that there be a connection connectivity between, um, a site that's proposed for conservation subdivision and whatever exists in the surrounding area.

215 "Ted Fink" (673729792)
00:35:55.284 --> 00:36:01.614

And this can include other things such as other protected lands, forest, linkages, wetlands. Um.

216 "Ted Fink" (673729792)
00:36:02.489 --> 00:36:09.719

aquifers and some other things that, um, that would relate to your municipal objectives.

217 "Ted Fink" (673729792)
00:36:09.719 --> 00:36:14.789

And this is all developed on the basis of information that's already available in the public domain.

218 "Ted Fink" (673729792)

00:36:14.789 --> 00:36:22.169

All right, so the process, uh, begins with the conservation analysis of the site.

219 "Ted Fink" (673729792)

00:36:22.169 --> 00:36:36.179

Primary conservation areas, these are areas that likely could not be developed. In any case. These are your wetland areas that are protected federal state and local wetlands. If they exist in your local community, endangered species habitats.

220 "Ted Fink" (673729792)

00:36:36.179 --> 00:36:47.609

Streams and ponds, steep slopes 25% are greater, and flood plains. So these are areas that you typically would not want to allow development to occur in your community in any case.

221 "Ted Fink" (673729792)

00:36:47.609 --> 00:36:59.934

The other set of factors over here, the secondary conservation areas, these are areas that are also important based upon municipal objectives, but they can also add value to the subdivision.

222 "Ted Fink" (673729792)

00:37:00.804 --> 00:37:04.884

And they sometimes you can, you can.

223 "Ted Fink" (673729792)

00:37:07.014 --> 00:37:14.064

I think come up with ways to be able to ensure that as many of these features are protected as possible,

224 "Ted Fink" (673729792)

00:37:14.844 --> 00:37:25.284

but there's also the need to provide for a certain density based upon that density that's been determined through your conventional yield plans or your formula.

225 "Ted Fink" (673729792)

00:37:25.584 --> 00:37:35.184

So these are the kinds of things that are also identified and this is all done in a 4-step process where the various steps are.

226 "Ted Fink" (673729792)

00:37:35.514 --> 00:37:50.244

are illustrated so that the review board could make sure that all of the steps in the process are being followed properly and this happens to be a parcel of land that had two features to it and this is in the town of

227 "Ted Fink" (673729792)

00:37:50.244 --> 00:38:05.004

Warwick as well where one of the objectives of the town was to protect farming and agriculture within the community. also to protect water

resources and habitats and other areas and this was a particular one that had both um and it

228 "Ted Fink" (673729792)
00:38:05.489 --> 00:38:18.624

Was a subdivision that was approved it's, um, it's been built, um, at this point, this shows you, uh, the initial analysis of the primary and the secondary conservation areas, and this is very much an illustrative, uh, plan.

229 "Ted Fink" (673729792)
00:38:19.194 --> 00:38:33.144

We had many more documents that also identify these features that are shown on this graphic in a much more detailed way. But this was done for sketch planning purposes as part of the subdivision plans.

230 "Ted Fink" (673729792)
00:38:33.990 --> 00:38:45.060

Okay, the next one, um, this is where you go through this step 1, and it actually has 3 sub steps. This is where you

231 "Ted Fink" (673729792)
00:38:45.085 --> 00:38:56.455

Identify the areas that are primary and secondary conservation areas, and basically the lands that are left over are where they don't have the highest priority resources on the property.

232 "Ted Fink" (673729792)
00:38:56.455 --> 00:39:10.615

And so these are areas that would be subject to potential development. And so an actual potential development area is identified on the plan. a very important part of this is for the planning board to do a field visit to actually go over concepts.

233 "Ted Fink" (673729792)
00:39:10.645 --> 00:39:15.055

Um, and to take a look at exactly what needs to be done and.

234 "Ted Fink" (673729792)
00:39:15.060 --> 00:39:22.770

Just to give you an idea, these are the kinds of analyses that you would do as far as how much.

235 "Ted Fink" (673729792)
00:39:23.005 --> 00:39:32.905

Open space does need to be protected as part of the open space in a conservation subdivision and this is, uh, this will be available in the PDF.

236 "Ted Fink" (673729792)
00:39:32.905 --> 00:39:38.035

So you can examine it at a later time, but it's the kind of decision making that has to go into the process.

237 "Ted Fink" (673729792)

00:39:38.365 --> 00:39:52.765

So, in this case, this was a site that had, um, I believe it was 15 or 16 lots um, farming, of course, gets protected in this area. The more sensitive.

238 "Ted Fink" (673729792)

00:39:52.795 --> 00:40:07.525

natural resources get protected in this area and the houses are sited in sort of a midpoint on the property where both of these two objectives uh would allow for that development

239 "Ted Fink" (673729792)

00:40:08.005 --> 00:40:12.535

so this is a step that shows where the road goes it has to

240 "Ted Fink" (673729792)

00:40:14.245 --> 00:40:22.195

Be sited in this location because of site distance considerations there. There's always a variety of things that have to be accounted for

241 "Ted Fink" (673729792)

00:40:22.765 --> 00:40:34.225

But the idea was to avoid fragmenting habitats to minimize the road lengths, provide accommodations for public transit and bicycling and those sorts of things.

242 "Ted Fink" (673729792)

00:40:35.635 --> 00:40:49.225

And this is the final plan that came up. Now, you've got a lot lines that have been drawn in. And so how the open space is going to be used the farmer proposed that he would continue to farm the property. This is an area.

243 "Ted Fink" (673729792)

00:40:49.225 --> 00:41:01.795

That is going to be left to to nature. So those are the kinds of things that are all brought about in that 4 step process. I'm going to show you a couple of examples of this.

244 "Ted Fink" (673729792)

00:41:01.795 --> 00:41:05.215

This is a 6 lot rural subdivision in Pennsylvania where there was a

245 "Ted Fink" (673729792)

00:41:05.280 --> 00:41:19.915

Tree farm a meadow upon and a small forest. Um, and there were 6 slots that were approved in this one um, this is more of a suburban context also in Pennsylvania where there was a grove of mature trees.

246 "Ted Fink" (673729792)

00:41:20.215 --> 00:41:22.075

The plan was designed around that.

247 "Ted Fink" (673729792)

00:41:22.350 --> 00:41:31.860

There were some scattered trees also in other places. And so this was the plan that was developed to be able to account for protection of those areas.

248 "Ted Fink" (673729792)

00:41:31.860 --> 00:41:46.135

For villages and cities, um, this is a case where you may want to lower the, um, the minimum required amount of open space where density is more desirable to gain access to services and infrastructure and so forth.

249 "Ted Fink" (673729792)

00:41:46.405 --> 00:41:56.575

But yet, to be able to have some sort of conservation, um, in the backyard of houses, and if you wanted to be able to address things like affordability, cottage,

250 "Ted Fink" (673729792)

00:41:56.605 --> 00:42:01.855

courts is something that is growing around the country as an option for seniors.

251 "Ted Fink" (673729792)

00:42:01.860 --> 00:42:13.980

As an option for small families where there's shared open space, small units that are all clustered around that. And this can be done either by subdivision or other ownership options.

252 "Ted Fink" (673729792)

00:42:14.455 --> 00:42:19.015

So here's an example of a small 4 lot subdivision.

253 "Ted Fink" (673729792)

00:42:19.435 --> 00:42:29.935

This shows you, the 4 steps that were involved in the process to be able to identify what are the features that would be, um, would compose the protected open space.

254 "Ted Fink" (673729792)

00:42:31.440 --> 00:42:40.350

This is the actual plan, um, of development that shows how the lots and houses we're all sited very close to one another.

255 "Ted Fink" (673729792)

00:42:40.350 --> 00:42:48.090

This is your conventional plan they had established the 4 units as being the base density for it. And of course, this is the development that would have occurred.

256 "Ted Fink" (673729792)

00:42:48.115 --> 00:43:01.825

All of these lots could have been further developed by the landowners. Um, so there's no protected open space left in it. So this is an example

of a minor subdivision here going back to that. Same one that I talked about earlier work views. This is a very large development.

257 "Ted Fink" (673729792)

00:43:02.035 --> 00:43:15.805

This was a, uh, 250 acres site. Um, 53, lots were proposed. Um, and the idea was to identify, um, the wetlands, um, the habitats and so forth on this property. Um, and it eventually.

258 "Ted Fink" (673729792)

00:43:16.105 --> 00:43:17.815

um and it eventually

259 "Ted Fink" (673729792)

00:43:18.115 --> 00:43:32.005

Resulted in a plan that provided for 63% open space with habitats, forest, and farmland being a part of the open space within this particular development and this again shows you the 4 steps that resulted this also shows that

260 "Ted Fink" (673729792)

00:43:32.215 --> 00:43:43.465

adjoining property that I was talking about earlier where there was a development proposed on that one as well so that allowed for the open space to be contiguous to that other

261 "Ted Fink" (673729792)

00:43:43.770 --> 00:43:46.860

Property, uh, so that there was better connectivity.

262 "Ted Fink" (673729792)

00:43:46.860 --> 00:43:53.970

And this is the resulting plan, um, that came out of it with 63% open space.

263 "Ted Fink" (673729792)

00:43:53.970 --> 00:44:04.710

And this, of course, is the conventional plan, the yield plan that was used to develop the 53 lots is the basis for the cluster, uh, conservation subdivision.

264 "Ted Fink" (673729792)

00:44:06.415 --> 00:44:21.054

So, just a final word on a couple of things for the management of the open space, a couple of tools that can be used in this particular development, uh, subdivision was called.

265 "Ted Fink" (673729792)

00:44:21.265 --> 00:44:34.615

Um, we developed a homeowner's guide to be able to give to the future residents of the subdivision. There was also a stewardship manual that was used for protection of some really special habitats that existed on.

266 "Ted Fink" (673729792)

00:44:34.710 --> 00:44:40.945

Property that were wetlands. It was bog turtle habitat. There were several vernal pools on the property.

267 "Ted Fink" (673729792)

00:44:41.125 --> 00:44:55.075

And so all of these things were addressed in a stewardship manual to try and result in ecologically sensitive development as well as long term maintenance that involved the homeowners.

268 "Ted Fink" (673729792)

00:44:55.075 --> 00:44:56.755

That would buy into it.

269 "Ted Fink" (673729792)

00:44:58.525 --> 00:45:05.035

Some of the other things too, that some communities have done. These are taken right from the town of subdivision regulations.

270 "Ted Fink" (673729792)

00:45:05.035 --> 00:45:19.525

Rhinebeck has illustrated guidelines is simply the 1st, page of several pages of guidelines that illustrate the kinds of concepts that the town would like to see from, from applicants for subdivision approval.

271 "Ted Fink" (673729792)

00:45:19.765 --> 00:45:27.445

Um, the town has a standard site resource analysis assessment that answers a series of questions about habitats and conservation

272 "Ted Fink" (673729792)

00:45:27.780 --> 00:45:38.490

On the property that has to be submitted as part of the subdivision application. So these are just to give it a little sense of the kinds of things that are, um.

273 "Ted Fink" (673729792)

00:45:38.490 --> 00:45:44.370

Uh, all in place, uh, in in other communities and so.

274 "Ted Fink" (673729792)

00:45:44.905 --> 00:45:54.835

Um, these are, are a few links when you get PDF, There'll be links here to the estuary program, to the actual cluster rules that were adopted in Rhinebeck and

275 "Ted Fink" (673729792)

00:45:55.075 --> 00:46:05.035

Warwick, general code has a lot of examples of other communities and how you can do research on communities that have adopted conservation subdivision.

276 "Ted Fink" (673729792)

00:46:06.625 --> 00:46:18.025

These are Randal Arendt's websites. He's still in the game, and he's still out there advising communities and Authoring publications.

277 "Ted Fink" (673729792)

00:46:18.205 --> 00:46:28.735

American planning association has a lot of good things to say about conservation subdivision. Um, and with that, I think I'm ready to take any questions that anyone has.

278

00:46:30.450 --> 00:46:37.410

Thank you TED. Um, that's wonderful. So we do have a couple of questions that have come in. Um.

279

00:46:37.410 --> 00:46:49.110

And one is a kind of a general question, someone saying they're familiar with the benefits of conservation subdivision, but that developers tend to avoid it in their community.

280 "Ted Fink" (673729792)

00:46:49.110 --> 00:46:57.930

And they want to know what's the carrot to entice the voluntary use of conservation subdivision? Oh, that's a great question. Well.

281 "Ted Fink" (673729792)

00:46:57.930 --> 00:47:01.915

I mean, first of all, just to remind everyone, it can be mandated. Okay.

282 "Ted Fink" (673729792)

00:47:01.915 --> 00:47:13.135

So, with the use of that one word in your regulation, um, the planning board has the ability to be able to say, okay, there's, um, special freshwater wetlands on this property.

283 "Ted Fink" (673729792)

00:47:13.135 --> 00:47:27.835

And that is a reason why we want you to, um, develop conservation subdivision design. So that's the easy answer. The tougher answer, And, of course, we encountered this in the town of Warwick, where, back in the late 1990 s, there was a lot of skepticism about

284 "Ted Fink" (673729792)

00:47:27.930 --> 00:47:37.830

Cluster subdivision, because there were a lot of bad examples of cluster developments that hadn't gone through these kinds of discreet

285 "Ted Fink" (673729792)

00:47:37.830 --> 00:47:50.005

Step by step by step, um, analysis of property to lead to the conclusion of what are the most important parts of the environment that are going to be protected and so what we did what Warwick did, Okay.

286 "Ted Fink" (673729792)

00:47:50.005 --> 00:48:00.715

Well, what we're gonna do is we're going to reduce density town wide, so their 2 acre zoning districts became 4 acre minimum lot size zoning districts.

287 "Ted Fink" (673729792)

00:48:01.075 --> 00:48:07.675

The carrot they threw to developers to try and incentivize this program was that if you came in

288 "Ted Fink" (673729792)

00:48:07.830 --> 00:48:12.840

As an applicant for subdivision approval in what was formally a 2 acre district.

289 "Ted Fink" (673729792)

00:48:12.840 --> 00:48:18.330

Which then became a 4 acre district, you could get the density achievable.

290 "Ted Fink" (673729792)

00:48:18.330 --> 00:48:22.140

By calculating a 3 acre

291 "Ted Fink" (673729792)

00:48:22.140 --> 00:48:34.350

Bonus. so it was a little bit of a give back because Warwick was unsure about the process themselves. I'm not sure that they were totally convinced that it was the right way to do it. And lo, and behold.

292 "Ted Fink" (673729792)

00:48:34.765 --> 00:48:46.525

one, after another after another, every application that came in after that decision was made in 2001, was a conservation subdivision and it became so successful that 10 years later.

293 "Ted Fink" (673729792)

00:48:46.525 --> 00:48:58.495

And it was around 2010, 2011, the town backed off on that and took away. That incentive for clustering. Because it had become so popular in the community.

294

00:49:00.865 --> 00:49:15.685

That's fascinating. Um, so I, I see a bunch of questions here that are related to, in fact, the next Speaker's presentation, John lions will be talking more about the conserved open space and how the different options for how that can be.

295

00:49:15.715 --> 00:49:16.165

Um.

296

00:49:16.440 --> 00:49:21.450

Set aside and manage whether through conservation easement or other.

297

00:49:21.450 --> 00:49:25.860

Wise, but I want to ask 1 more question here. Um.

298

00:49:25.860 --> 00:49:30.360

1, quick 1 was whether there's draft model language.

299

00:49:30.655 --> 00:49:44.875

Or model language to include in a comprehensive plan you talked about the importance of the comprehensive plan as a foundation for establishing this policy and this community is in the process of updating their comp plan.

300 "Ted Fink" (673729792)

00:49:44.875 --> 00:49:47.005

So what should they be including.

301 "Ted Fink" (673729792)

00:49:47.695 --> 00:49:59.005

Okay, so, um, I think 2 of the towns where I've worked on this, uh, Town of Rhinebeck, and Town of Warwick both have comprehensive plans that have very strong recommendations for, um,

302 "Ted Fink" (673729792)

00:49:59.005 --> 00:50:09.985

incorporating conservation subdivision into the overall tools that are used and so those would be places to start, um, other towns that I'm familiar with, um, have also done it.

303 "Ted Fink" (673729792)

00:50:09.985 --> 00:50:17.185

I know there's, there's a number of communities in the Hudson Valley, um, that habit and maybe what I can try and do Ingrid is to develop a

304 "Ted Fink" (673729792)

00:50:17.310 --> 00:50:22.530

List of communities I'm familiar with that had done it and

305 "Ted Fink" (673729792)

00:50:22.530 --> 00:50:28.410

You can send that out along with the slides and that will inform others as well.

306

00:50:30.180 --> 00:50:35.430

Great that would be wonderful. I'll do my best.

307

00:50:35.430 --> 00:50:41.070

Thanks so I think right now just in the interest of time, um.

308

00:50:41.070 --> 00:50:44.460

I'm going to share the controls with John.

309

00:50:44.460 --> 00:50:49.770

And we'll go ahead with the next presentation.

310

00:50:49.770 --> 00:50:55.650

And we'll have, uh, some more time for questions at the end of the webinar.

311

00:50:55.650 --> 00:51:00.000

So, John, you should be able to share your screen now.

312

00:51:24.450 --> 00:51:31.680

Great I can see that. Um.

313

00:51:33.750 --> 00:51:39.180

But you are muted How's that?

314 "John Lyons" (345997056)

00:51:39.180 --> 00:51:44.160

Good. Okay. Thank you. Um.

315 "John Lyons" (345997056)

00:51:44.160 --> 00:51:51.210

Oh, Ingrid, thank you very much. I'm going to, uh.

316 "John Lyons" (345997056)

00:51:52.350 --> 00:52:00.240

Get our hands dirty a little bit and get into some of the details of.

317 "John Lyons" (345997056)

00:52:00.240 --> 00:52:06.810

What actually needs to be done in order to make sure that.

318 "John Lyons" (345997056)

00:52:06.810 --> 00:52:11.100

The lands that you've worked so hard to.

319 "John Lyons" (345997056)

00:52:11.100 --> 00:52:22.050

Carve out and conserve during the design process, to make sure that those lands get conserved over the long term.

320 "John Lyons" (345997056)

00:52:22.050 --> 00:52:33.060

Um, we'll be talking today about a variety of different techniques that are available.

321 "John Lyons" (345997056)

00:52:33.060 --> 00:52:38.490

Um, but I think one of the things that I'd like to leave everybody with.

322 "John Lyons" (345997056)

00:52:38.490 --> 00:52:46.830

One of the big ideas that I'd like you to carry with You coming away from this

323 "John Lyons" (345997056)

00:52:46.830 --> 00:52:52.320

Program is to be thinking about long term stewardship

324 "John Lyons" (345997056)

00:52:52.320 --> 00:52:57.810

At the earliest possible juncture when the planning process begins.

325 "John Lyons" (345997056)

00:52:57.810 --> 00:53:00.960

Uh, I think that one of the, uh.

326 "John Lyons" (345997056)

00:53:00.960 --> 00:53:08.280

I think one of the biggest problems that I see in my practice is instances where.

327 "John Lyons" (345997056)

00:53:08.280 --> 00:53:14.820

Statutes either requiring conservation subdivision.

328 "John Lyons" (345997056)

00:53:14.820 --> 00:53:19.380

Or it's chosen by planning boards, but

329 "John Lyons" (345997056)

00:53:19.380 --> 00:53:32.670

A lot of thought doesn't end up being given to the issue of stewardship until the end of the process. And then there ends up being kind of a catch up game where

330 "John Lyons" (345997056)

00:53:33.265 --> 00:53:43.375

Applicants start trying to put together the pieces that are necessary to ensure some kind of long-term stewardship of the conserved properties.

331 "John Lyons" (345997056)

00:53:43.915 --> 00:53:50.305

And I think that one of the other issues that I see is that planning boards.

332 "John Lyons" (345997056)
00:53:50.520 --> 00:53:53.520
Sometimes take a hands off approach.

333 "John Lyons" (345997056)
00:53:53.965 --> 00:54:06.715
With regard to the stewardship issues and say, well, that's something that's in the basket of the applicant, and it's up to them to go out and figure it out and come back to us with a proposal.

334 "John Lyons" (345997056)
00:54:07.105 --> 00:54:18.475
And my opinion is that I think that the conservation subdivision process can work much more effectively from a long term

335 "John Lyons" (345997056)
00:54:19.500 --> 00:54:25.050
Effectiveness standpoint when there is thought being given

336 "John Lyons" (345997056)
00:54:25.050 --> 00:54:39.925
Uh, to stewardship at the beginning of the process, when you're going through some of the things that Ted outlined, and also where the planning board takes more of an active role in thinking about the stewardship,

337 "John Lyons" (345997056)
00:54:39.925 --> 00:54:44.215
and maybe trying to help arrange for stewardship.

338 "John Lyons" (345997056)
00:54:46.560 --> 00:54:47.875
The, um,

339 "John Lyons" (345997056)
00:54:49.795 --> 00:55:04.585
One of the things that's necessary when you start thinking about stewardship at the beginning of the process is to give some thought to the reason why a particular piece of land is being conserved in

340 "John Lyons" (345997056)
00:55:04.585 --> 00:55:05.845
a subdivision.

341 "John Lyons" (345997056)
00:55:06.420 --> 00:55:21.205
Um, uh, the examples that Ted used, uh, showed lands that had, there was agricultural activity taking place, or there are natural resources that are on those sites that are worthy of

342 "John Lyons" (345997056)
00:55:21.450 --> 00:55:26.665
preservation, sometimes there's a wider

343 "John Lyons" (345997056)

00:55:26.695 --> 00:55:34.945

There's a wider desire to preserve rural character and sometimes there's a desire to, uh,

344 "John Lyons" (345997056)

00:55:34.975 --> 00:55:49.525

conserve lands for recreational uses and you need to take a look at what the goal of the conservation is with an eye toward making sure that the mechanisms that get used

345 "John Lyons" (345997056)

00:55:50.005 --> 00:55:51.385

to insure conservation.

346 "John Lyons" (345997056)

00:55:51.450 --> 00:55:55.830

Are as good a match as possible for those goals.

347 "John Lyons" (345997056)

00:55:55.830 --> 00:56:04.080

The preservation method should be realistic and so when you're thinking about

348 "John Lyons" (345997056)

00:56:04.080 --> 00:56:18.090

How land is going to be preserved you need to think about the nuts and bolts about how that's going to be done. And again, I've seen instances in our practice where

349 "John Lyons" (345997056)

00:56:18.090 --> 00:56:23.820

Conservation land has been set aside.

350 "John Lyons" (345997056)

00:56:23.820 --> 00:56:29.610

Uh, the applicants been told to go out and, you know.

351 "John Lyons" (345997056)

00:56:29.610 --> 00:56:33.840

The Planning board would like to have the land protected by a conservation easement.

352 "John Lyons" (345997056)

00:56:33.840 --> 00:56:40.170

And the developer has difficulty in

353 "John Lyons" (345997056)

00:56:40.170 --> 00:56:47.940

Finding a party, a qualified party that's going to be able to hold that easement. And we'll talk a little bit about that later. I

354 "John Lyons" (345997056)

00:56:47.940 --> 00:56:59.190

In my practice, we represent a number of planning boards, and I also have served for years on the boards of

355 "John Lyons" (345997056)
00:56:59.275 --> 00:57:10.195

Land trusts, and in particular on the stewardship committees of those land trust, and so later on, we'll talk a little bit about the land trust perspective.

356 "John Lyons" (345997056)
00:57:10.435 --> 00:57:17.635

And how that needs to be included in the thinking that goes on about stewardship when you're, um.

357 "John Lyons" (345997056)
00:57:18.330 --> 00:57:23.820

Talking about, uh, conservation subdivision, uh, in the design phase.

358 "John Lyons" (345997056)
00:57:26.010 --> 00:57:30.390

This is just a reminder, the early bird gets the worm.

359 "John Lyons" (345997056)
00:57:30.390 --> 00:57:35.400

Get thinking, as soon as you can about long term stewardship.

360 "John Lyons" (345997056)
00:57:35.400 --> 00:57:41.220

Um, the other concept that needs to be, uh, that I think.

361 "John Lyons" (345997056)
00:57:41.220 --> 00:57:46.140

Planning Board members need to bear in mind and applicants too.

362 "John Lyons" (345997056)
00:57:46.140 --> 00:57:52.140

Is that forever is a really long time and.

363 "John Lyons" (345997056)
00:57:52.140 --> 00:58:01.795

The mechanisms that get chosen for stewardship of conserved lands have to be, if you really want to achieve success,

364 "John Lyons" (345997056)
00:58:02.095 --> 00:58:15.265

you have to put in place the mechanisms that are best calculated to achieve the vision for conservation at the time that the subdivision is approved. And.

365 "John Lyons" (345997056)
00:58:15.570 --> 00:58:24.715

You have to remember this is something that we talk with clients that are entering into or granting conservation easements.

366 "John Lyons" (345997056)
00:58:25.105 --> 00:58:34.075

You have to think over the long term, it's not only the commitment that we have today to conservation but.

367 "John Lyons" (345997056)
00:58:34.620 --> 00:58:42.505

You know, these mechanisms, whether it's a conservation easement or deed restriction, they're going to be in place for a long time.

368 "John Lyons" (345997056)
00:58:42.684 --> 00:58:51.475

They're going to end up being administered by people years from now that never knew us and never really participated or knew anything about the process

369 "John Lyons" (345997056)
00:58:51.475 --> 00:59:04.105

That gave rise to these mechanisms, so those mechanisms have to be flexible. They have to be matched to the circumstances and the right nuts and bolts have to be.

370 "John Lyons" (345997056)
00:59:04.620 --> 00:59:09.750

Put into place to make sure that they'll be as effective as possible.

371 "John Lyons" (345997056)
00:59:09.750 --> 00:59:20.880

Over the long term. I'm gonna go through with you today and look at the

372 "John Lyons" (345997056)
00:59:20.880 --> 00:59:24.480

The major options that are available for

373 "John Lyons" (345997056)
00:59:24.480 --> 00:59:36.720

The stewardship of conserved land over the long term and we'll talk about conservation easements. We'll talk about fee ownership of the conserved land by

374 "John Lyons" (345997056)
00:59:36.720 --> 00:59:46.020

A land trust, we'll talk about deed restrictions. Um, homeowners, association ownership of conserved lands.

375 "John Lyons" (345997056)
00:59:46.020 --> 00:59:51.450

Estate lots, and then municipal parkland.

376 "John Lyons" (345997056)
00:59:54.690 --> 01:00:01.320

This is a big slide and I apologize for everything that I tried to pack on to this slide. But.

377 "John Lyons" (345997056)
01:00:01.320 --> 01:00:08.130
This is because this is probably the most important slide in the presentation.

378 "John Lyons" (345997056)
01:00:08.130 --> 01:00:12.420
A conservation easement is the gold standard for

379 "John Lyons" (345997056)
01:00:12.420 --> 01:00:15.840
The preservation of

380 "John Lyons" (345997056)
01:00:15.840 --> 01:00:27.150
Conserved land in the long term. It's clearly the best tool that's available for assuring good quality land Stewardship going forward.

381 "John Lyons" (345997056)
01:00:27.150 --> 01:00:35.550
In a conservation easement what happens is that the landowner extinguishes

382 "John Lyons" (345997056)
01:00:35.550 --> 01:00:44.160
development rights on a particular piece of property, or on a portion of property and

383 "John Lyons" (345997056)
01:00:44.160 --> 01:00:51.390
Then, an easement is given to a 3rd party organization that actually steps in

384 "John Lyons" (345997056)
01:00:51.390 --> 01:00:54.660
And actively monitors

385 "John Lyons" (345997056)
01:00:54.660 --> 01:00:57.660
The care and maintenance of that property

386 "John Lyons" (345997056)
01:00:57.660 --> 01:01:12.060
Over the long term, and has a responsibility for the stewardship of that land that's to be conserved. And most trusts exist just to fulfill this purpose.

387 "John Lyons" (345997056)
01:01:12.060 --> 01:01:21.870

one of the wonderful things about a conservation easement that's held by a land trust is that the planning board also

388 "John Lyons" (345997056)

01:01:21.870 --> 01:01:29.700

Um, can trust in the receiving organization for the easement. Um.

389 "John Lyons" (345997056)

01:01:30.265 --> 01:01:36.505

They've already set forth as their mission caring for these properties

390 "John Lyons" (345997056)

01:01:36.505 --> 01:01:49.945

A lot of study goes on at land trusts as to how best to monitor conservation easements and how to be good stewards of the land going forward in perpetuity. Um.

391 "John Lyons" (345997056)

01:01:50.545 --> 01:02:03.925

Most land trusts are accredited by the land trust alliance, which is a national organization, which provides oversight to land trust organizations.

392 "John Lyons" (345997056)

01:02:04.165 --> 01:02:11.725

You have if you're a land trust you need to apply for and there's quite a rigorous process of getting accredited by LTA.

393 "John Lyons" (345997056)

01:02:12.990 --> 01:02:17.640

And one of the nice things for planning boards is that

394 "John Lyons" (345997056)

01:02:18.685 --> 01:02:28.555

Accreditation provides a separate form of oversight and assurance that doesn't require any effort from a planning board but gives you,

395 "John Lyons" (345997056)

01:02:29.755 --> 01:02:43.945

it will give a planning board a sense of security that a land trust that's accredited by LTA will do a quality job in monitoring and being a steward for the lands that are under easement.

396 "John Lyons" (345997056)

01:02:44.250 --> 01:02:49.980

We'll talk a little bit more too, as we go along about

397 "John Lyons" (345997056)

01:02:49.980 --> 01:02:58.410

The land trust perspective and some more of the nuts and bolts of conservation easement but, um.

398 "John Lyons" (345997056)

01:02:58.410 --> 01:03:02.670

That active stewardship role is something that

399 "John Lyons" (345997056)

01:03:02.670 --> 01:03:15.810

Doesn't really come across to the same degree with regard to any of the other options that are available. So you'll see as we go along and it's really why it is the gold standard. Um.

400 "John Lyons" (345997056)
01:03:15.810 --> 01:03:19.410
Municipalities sometimes hold easements.

401 "John Lyons" (345997056)
01:03:19.410 --> 01:03:26.670
And we've been involved in instances where that's happened in my opinion

402 "John Lyons" (345997056)
01:03:26.670 --> 01:03:37.555
It's not the best choice, uh, simply because municipalities aren't really set up to be easy and holders. You have to remember land trusts, It's their very reason for living.

403 "John Lyons" (345997056)
01:03:37.555 --> 01:03:48.715
So, everything that goes on at the land trust is centered around trying to do that job. Well, municipalities are not really set up to meet the stewardship responsibilities.

404 "John Lyons" (345997056)
01:03:49.140 --> 01:03:58.225
Um, they, uh, I found that their record in monitoring easements that they do hold is pretty spotty.

405 "John Lyons" (345997056)
01:03:58.645 --> 01:04:05.965
Um, they can sometimes be reluctant to expand the funds that are necessary to do monitoring.

406 "John Lyons" (345997056)
01:04:05.965 --> 01:04:19.045
And as I mentioned on the slide, changes in political administration can cause for variations in the commitment to being a good steward. It's not anything against

407 "John Lyons" (345997056)
01:04:19.165 --> 01:04:33.775
Municipalities it's just, it's not a great, you know, it's not a perfect fit. I think instances where I have found it is a better fit is when you have a situation in front of you, where there are, there's

408 "John Lyons" (345997056)
01:04:34.170 --> 01:04:41.035
An interest in the municipality that happens to coincide with the need for a conservation easement.

409 "John Lyons" (345997056)
01:04:41.035 --> 01:04:49.315

And one example that we had recently in the office is where the conserved lands were not only

410 "John Lyons" (345997056)
01:04:50.155 --> 01:05:04.345

To be conserved in order to preserve the natural resource value of the property, but those conserved lands also happened to be in part of the watershed for the municipality's water supply and so in that instance,

411 "John Lyons" (345997056)
01:05:04.495 --> 01:05:19.255

the municipality was very committed and very motivated to. They did take an easement over the property, and they were very committed and motivated to making sure that stewardship was out front and that there was a good solid commitment to stewardship

412 "John Lyons" (345997056)
01:05:19.710 --> 01:05:21.300
Going forward.

413 "John Lyons" (345997056)
01:05:21.300 --> 01:05:27.540
Also, the applicant's perspective needs to be considered

414 "John Lyons" (345997056)
01:05:27.925 --> 01:05:42.475
With regard to conservation easements. It's usually the applicant's responsibility in the process to approach a land trust to have discussions with the land trust to.

415 "John Lyons" (345997056)
01:05:42.750 --> 01:05:55.075
Uh, maybe enter into a contract with a land trust that's willing to put a conservation easement on property and there are costs associated with all those efforts.

416 "John Lyons" (345997056)
01:05:55.615 --> 01:06:00.355
And in addition, some land trust also will expect

417 "John Lyons" (345997056)
01:06:00.570 --> 01:06:05.815
An endowment payment, which is a payment to the land trust,

418 "John Lyons" (345997056)
01:06:05.875 --> 01:06:18.565
which is a means of offsetting the cost of the in perpetuity monitoring responsibilities that the land trust is taking on. When

419 "John Lyons" (345997056)
01:06:19.380 --> 01:06:24.030
They agree to be, uh, the grantee for an easement.

420 "John Lyons" (345997056)

01:06:24.030 --> 01:06:31.620

Um, applicants, um, you come across applicants that are run the gamut.

421 "John Lyons" (345997056)

01:06:31.620 --> 01:06:44.940

Some applicants are very tuned in to the values that are trying to be promoted through conservation subdivision and they're enthusiastic about participating in the process. And then, um.

422 "John Lyons" (345997056)

01:06:44.940 --> 01:06:48.120

You have at the other end, I think.

423 "John Lyons" (345997056)

01:06:48.565 --> 01:06:55.855

We haven't ran into many applicants that don't really believe in the process, but in smaller subdivisions,

424 "John Lyons" (345997056)

01:06:56.155 --> 01:07:10.465

we have encountered applicants that don't really have the kind of funding that sometimes is necessary or they have it and they're not that willing to spend it to be really vigorously pursuing the conservation easement process,

425 "John Lyons" (345997056)

01:07:10.465 --> 01:07:17.575

because there are other expenses associated with easements. You need to, there are technical expenses. Um.

426 "John Lyons" (345997056)

01:07:18.120 --> 01:07:32.155

The easement area on the property needs to be defined, that needs to be surveyed. There needs to be a description of that property. So there are lots of nuts and bolts expenses that go into

427 "John Lyons" (345997056)

01:07:33.600 --> 01:07:39.720

Getting into a conservation easement from the applicant's perspective. So again.

428 "John Lyons" (345997056)

01:07:39.720 --> 01:07:44.935

You know, giving thought to these things early on in the process, I think,

429 "John Lyons" (345997056)

01:07:44.965 --> 01:07:55.255

ends up benefiting everybody and it's better for planning boards to understand exactly what the situation is at the earliest possible juncture.

430 "John Lyons" (345997056)

01:07:57.120 --> 01:08:04.140

Now, moving down from conservation easements, we'll talk a little bit about some other

431 "John Lyons" (345997056)
01:08:04.140 --> 01:08:08.400
Mechanisms that are available.

432 "John Lyons" (345997056)
01:08:08.400 --> 01:08:18.480
One is, instead of an easement is transferring title to the property to a land trust or another qualified

433 "John Lyons" (345997056)
01:08:18.480 --> 01:08:23.370
Uh, environmental organization, and in that instance, um.

434 "John Lyons" (345997056)
01:08:23.370 --> 01:08:38.040
The land trust would be the steward of the property as the owner of the property. That's normally, I think a level of stewardship that would give me a fairly high degree of confidence.

435 "John Lyons" (345997056)
01:08:38.040 --> 01:08:51.295
The issue that needs to be discussed with the land trust is the duration of ownership, whether the plans for the land trust is to own the property in perpetuity or whether their,

436 "John Lyons" (345997056)
01:08:51.295 --> 01:08:58.135
plan is only to own the property for a particular period of time. That needs to be sussed out.

437 "John Lyons" (345997056)
01:08:59.160 --> 01:09:11.640
at the beginning to make sure that whatever the plans are for the property will be in compliance with the requirements of the subdivisions and the requirements of the town law.

438 "John Lyons" (345997056)
01:09:11.640 --> 01:09:16.440
For many years land trusts were.

439 "John Lyons" (345997056)
01:09:16.440 --> 01:09:27.900
Mostly interested in easements and not as interested in acquiring fee title. I think that that's changed a little bit in recent times and there's more of a willingness, um.

440 "John Lyons" (345997056)
01:09:27.900 --> 01:09:36.180
So, this might be a tool that may end up emerging to have a little bit more profile over time.

441 "John Lyons" (345997056)
01:09:36.180 --> 01:09:47.370

And the last question you see on the slide, there is whether the acquisition process is going to involve payments and what are the expenses and again.

442 "John Lyons" (345997056)
01:09:47.370 --> 01:10:00.270

Those nuts and bolts or something that can't really be ignored because sometimes they do actually end up influencing the practical availability of these particular options.

443 "John Lyons" (345997056)
01:10:01.380 --> 01:10:09.180

Deed restriction is we're moving down sort of, in quality.

444 "John Lyons" (345997056)
01:10:09.180 --> 01:10:18.030

Deed restrictions are very common. Um, I have this listed as a deed restriction, but actually you can have.

445 "John Lyons" (345997056)
01:10:18.030 --> 01:10:23.040

A declaration of covenants and restrictions.

446 "John Lyons" (345997056)
01:10:23.040 --> 01:10:28.590

Um, which is an instrument that encompasses both restrictions and covenants.

447 "John Lyons" (345997056)
01:10:28.590 --> 01:10:32.880

Typically restrictions are, um.

448 "John Lyons" (345997056)
01:10:32.880 --> 01:10:46.050

Provisions in that instrument that restrict the right to use land that a landowner would otherwise have in the normal bundle of property rights that we get when we acquire property.

449 "John Lyons" (345997056)
01:10:46.050 --> 01:10:52.380

Covenants would be the portion of the instrument that would impose

450 "John Lyons" (345997056)
01:10:52.380 --> 01:11:05.820

Affirmative obligations on the parties to the covenant. So that would be the place where you'd see if there was a maintenance obligation, it would be part of the covenants.

451 "John Lyons" (345997056)
01:11:05.820 --> 01:11:08.970

You see deed restrictions

452 "John Lyons" (345997056)
01:11:08.970 --> 01:11:12.210
Functioning fairly often, or at least we do.

453 "John Lyons" (345997056)
01:11:12.210 --> 01:11:15.480
As the means of, um.

454 "John Lyons" (345997056)
01:11:15.480 --> 01:11:22.830
Conserving, you know, making sure that a particular piece of property.

455 "John Lyons" (345997056)
01:11:22.830 --> 01:11:33.570
Is conserved, they can erase the uses that would normally be allowed on the property and that's how the conservation takes place.

456 "John Lyons" (345997056)
01:11:33.570 --> 01:11:40.260
Deed restrictions the restriction provisions often.

457 "John Lyons" (345997056)
01:11:40.260 --> 01:11:48.630
Are referred to in the deeds that are given to the parties that buy lots of the subdivisions. So they have a notice going forward.

458 "John Lyons" (345997056)
01:11:48.630 --> 01:11:52.380
Um, the,

459 "John Lyons" (345997056)
01:11:52.380 --> 01:11:57.750
Problem or what makes deed restrictions less attractive is the fact that

460 "John Lyons" (345997056)
01:11:57.750 --> 01:12:01.830
The stewardship obligation.

461 "John Lyons" (345997056)
01:12:01.830 --> 01:12:09.000
Some of them can be imposed by covenants, but it's in my experience those

462 "John Lyons" (345997056)
01:12:09.000 --> 01:12:21.120
stewardship obligations are almost never as nearly as robust as what you would get with a conservation easement. I mean, many conservation. Easements are.

463 "John Lyons" (345997056)
01:12:22.285 --> 01:12:36.475
Maybe 30 or 40 pages long they really get down into the details of explaining. Okay, what can be done? What can't be done who's responsible for this? How does it get it? How do violations get enforced?

464 "John Lyons" (345997056)
01:12:37.855 --> 01:12:50.995
They really, modern conservation Easements really cover a lot of good ground and that's part of what makes that, and then they're recorded in the clerk's office and that breadth and depth.

465 "John Lyons" (345997056)
01:12:51.120 --> 01:12:57.300
Is part of what makes them such an effective and robust conservation technique.

466 "John Lyons" (345997056)
01:12:57.300 --> 01:13:03.450
Deed restrictions don't have that same breadth and depth. Um.

467 "John Lyons" (345997056)
01:13:03.450 --> 01:13:06.900
And they can work and they can work Well.

468 "John Lyons" (345997056)
01:13:06.900 --> 01:13:11.100
I think the major caution I would provide is that.

469 "John Lyons" (345997056)
01:13:11.100 --> 01:13:17.130
Again, um, they tend they sometimes tend to be, um.

470 "John Lyons" (345997056)
01:13:17.130 --> 01:13:20.335
Something that gets introduced at the very end of the process.

471 "John Lyons" (345997056)
01:13:20.365 --> 01:13:30.385
The applicants got everything all set, and we've set aside our conservation area, and then they are told, oh, yeah, you need to get deed restrictions here,

472 "John Lyons" (345997056)
01:13:30.385 --> 01:13:36.055
get it, show us some proposed deed restrictions, and it's almost an afterthought.

473 "John Lyons" (345997056)
01:13:36.775 --> 01:13:51.775
I have seen really declarations of covenants and restrictions that have been very well done and can be very effective. So, I think if effort gets put into it, it's something that you can definitely make it work and

474 "John Lyons" (345997056)
01:13:52.495 --> 01:13:54.175
You will see that

475 "John Lyons" (345997056)
01:13:54.270 --> 01:14:08.965

You may encounter instances where the applicant is not able to get a land trust to hold a conservation easement. And the municipality is not ready to hold a conservation easement and you're not going to have a homeowners association.

476 "John Lyons" (345997056)
01:14:08.965 --> 01:14:21.685

And so the deed restriction emerges as the primary tool that's practically available to you. So you need to do the best that you can to make that tool work as effectively as possible.

477 "John Lyons" (345997056)
01:14:23.340 --> 01:14:29.220

A homeowners association is another is another option.

478 "John Lyons" (345997056)
01:14:29.220 --> 01:14:35.760

Uh, it's not always available to you, because not every subdivision.

479 "John Lyons" (345997056)
01:14:35.760 --> 01:14:39.030

comes with a homeowners association

480 "John Lyons" (345997056)
01:14:39.030 --> 01:14:47.130

So, the purpose of homeowners associations, generally, as you probably already know is to, uh.

481 "John Lyons" (345997056)
01:14:47.130 --> 01:14:50.850

Form an entity that becomes responsible for

482 "John Lyons" (345997056)
01:14:50.850 --> 01:14:54.180

Paying for maintaining

483 "John Lyons" (345997056)
01:14:54.180 --> 01:15:02.610

Of the common areas of the development. So sometimes if you have, an example, would be conserved lands, that, uh.

484 "John Lyons" (345997056)
01:15:02.610 --> 01:15:14.220

And there has to be, uh, there has to be somebody that owns those lands. Once they've been set aside, they're set aside for the benefit of the people in the subdivision.

485 "John Lyons" (345997056)
01:15:14.220 --> 01:15:29.065

And the homeowner's association, which ends up being a corporation ends up being the entity that comes to own the conserved lands, and there are other common elements as well like, another example,

486 "John Lyons" (345997056)

01:15:29.065 --> 01:15:39.295

would be a private road that can be owned by a homeowner's association. So, a home homeowners association where it exists can be a good mechanism.

487 "John Lyons" (345997056)

01:15:39.600 --> 01:15:54.385

Uh, because again, there's, there's an entity there that has an affirmative responsibility for caring for the conserved lands. Now, the difference, the big difference between an HOA and a land trust is that.

488 "John Lyons" (345997056)

01:15:54.630 --> 01:15:57.960

The HOA isn't really

489 "John Lyons" (345997056)

01:15:57.960 --> 01:16:09.720

Set up to solely focus on the mission of conserving lands and even though it has an affirmative stewardship obligation.

490 "John Lyons" (345997056)

01:16:09.720 --> 01:16:13.560

It's not what it is built for exclusively.

491 "John Lyons" (345997056)

01:16:13.560 --> 01:16:25.380

And so where there will be a homeowners association, there needs to be some discussion during the approval process with the applicant about the responsibilities that the HOA will have.

492 "John Lyons" (345997056)

01:16:25.380 --> 01:16:32.875

For the conserved lands and homeowner associations have to be,

493 "John Lyons" (345997056)

01:16:33.205 --> 01:16:47.725

you have to apply to create them to the state attorney general's office and they're reviewed by the attorney general who eventually approves prospectus or offering plan

494 "John Lyons" (345997056)

01:16:47.785 --> 01:16:55.195

associated with the sale of lots and a development where there's an HOA. And what you need to do in the planning

495 "John Lyons" (345997056)

01:16:55.380 --> 01:16:58.140

Process is just to make sure that

496 "John Lyons" (345997056)

01:16:58.140 --> 01:17:11.755

The stewardship obligations of the HOA for conserved lands is something that's discussed and baked into the internal governance documents of the homeowners association.

497 "John Lyons" (345997056)
01:17:11.755 --> 01:17:22.105
If you just wake up to this, at the end of this process, sometimes the applicants have the HOA already up and running and getting ready for approval at the planning board level.

498 "John Lyons" (345997056)
01:17:22.105 --> 01:17:27.835
And it becomes more difficult to... you can amend bylaws and things later.
But

499 "John Lyons" (345997056)
01:17:28.140 --> 01:17:31.500
I think getting in at the beginning, um.

500 "John Lyons" (345997056)
01:17:31.500 --> 01:17:35.160
It is really the best method, um.

501 "John Lyons" (345997056)
01:17:35.160 --> 01:17:42.510
You can also have a municipal 3rd party right of enforcement for, um.

502 "John Lyons" (345997056)
01:17:42.510 --> 01:17:50.340
As a backstop to some of the HOA obligations and that's something that needs to be discussed with the applicant. Um.

503 "John Lyons" (345997056)
01:17:50.340 --> 01:17:58.170
During the process. Municipal park land is a, this is kind of an obscure.

504 "John Lyons" (345997056)
01:17:58.645 --> 01:18:12.055
Well, it's not obscure, but it's, I guess it's something that's uncommon. It's a possibility where title to the property, the conserved land, would be taken over by the municipality.

505 "John Lyons" (345997056)
01:18:12.055 --> 01:18:16.105
And the municipality would be the owner and the steward and

506 "John Lyons" (345997056)
01:18:16.410 --> 01:18:29.875
Um, that can work, uh, I haven't seen it happen a lot. There needs to be a commitment on the part of the municipality to acquire the land.

507 "John Lyons" (345997056)
01:18:29.875 --> 01:18:34.945
It matters whether that acquisition is going to have a cost associated with it.

508 "John Lyons" (345997056)

01:18:35.430 --> 01:18:44.820

But once parkland, if land is dedicated as municipal parkland, it's a very secure.

509 "John Lyons" (345997056)

01:18:44.820 --> 01:18:48.840

Means of, uh.

510 "John Lyons" (345997056)

01:18:48.840 --> 01:19:02.250

Of assuring the continued conservation of the property, because once land has been dedicated as parkland It's extremely difficult to reverse that. The

511 "John Lyons" (345997056)

01:19:02.250 --> 01:19:06.870

one of the things that you need to think about, though, also, is that

512 "John Lyons" (345997056)

01:19:06.870 --> 01:19:19.830

You have to make sure before you go into this, that the municipality's vision for how this land is going to be used is a match for the planning board's vision about how

513 "John Lyons" (345997056)

01:19:20.455 --> 01:19:34.225

This land is going to be conserved over the long term and I'll use an absurd example. You don't want to have conserved open space that the planning board wants to

514 "John Lyons" (345997056)

01:19:35.550 --> 01:19:42.775

Preserve rural character, and then have the municipality once it becomes parkland and this might not happen immediately.

515 "John Lyons" (345997056)

01:19:42.775 --> 01:19:51.175

But remember again, we always have to think into the future when there are people at the controls that are not really familiar with what happened, but you just don't want.

516 "John Lyons" (345997056)

01:19:51.480 --> 01:19:56.940

The parkland to end up, you know, as a soccer field, or something like that. Um.

517 "John Lyons" (345997056)

01:19:56.940 --> 01:20:02.340

Uh, for a use that doesn't comply with the initial vision.

518 "John Lyons" (345997056)

01:20:04.140 --> 01:20:14.100

Um, working together, so let's talk about, um, some of the partnerships that planning boards, um, should have.

519 "John Lyons" (345997056)
01:20:14.100 --> 01:20:19.080
When they're giving thought to, uh.

520 "John Lyons" (345997056)
01:20:19.080 --> 01:20:26.100
conservation subdivisions and in particular, the matter of stewardship.

521 "John Lyons" (345997056)
01:20:27.505 --> 01:20:39.235
Since, uh, conservation easement is the gold standard I think it's very important for planning boards to understand what happens on the other side of the table with land trust and to

522 "John Lyons" (345997056)
01:20:39.595 --> 01:20:43.885
and I recommend that where it's possible for you to do it.

523 "John Lyons" (345997056)
01:20:43.885 --> 01:20:56.095
Planning board should have a meeting with representatives of the local land trust to sit together, have a cup of coffee and share with each other the perspectives that each has

524 "John Lyons" (345997056)
01:20:56.100 --> 01:20:58.950
On the process and

525 "John Lyons" (345997056)
01:20:58.950 --> 01:21:09.240
How do you get familiar with what everybody is trying to take out of the process for themselves? You have to remember that the choice

526 "John Lyons" (345997056)
01:21:09.240 --> 01:21:16.770
To accept an easement by a land trust is a discretionary choice. They don't have to do it.

527 "John Lyons" (345997056)
01:21:16.770 --> 01:21:30.715
And there are lots of factors that they will be weighing, they want to make sure what's the conservation value of the property how does this sync with the mission of our organization?

528 "John Lyons" (345997056)
01:21:32.070 --> 01:21:40.680
How difficult and expensive will our stewardship responsibilities be in terms of being able to monitor.

529 "John Lyons" (345997056)
01:21:40.680 --> 01:21:46.290
You know, a lot of monitoring still gets done by sending

530 "John Lyons" (345997056)
01:21:46.290 --> 01:21:53.370
Humans out every year to walk the perimeter of the property and to make sure that it's still in the

531 "John Lyons" (345997056)
01:21:53.370 --> 01:21:58.740
conserved condition that it's supposed to be in, but there's a cost associated with that.

532 "John Lyons" (345997056)
01:21:59.545 --> 01:22:05.425
And even where there's drone monitoring, now, there's costs associated with that too.

533 "John Lyons" (345997056)
01:22:05.425 --> 01:22:18.145
So you know, the land trust is going to be very conscious of what the costs are going to be and they are going to have a very sensible.

534 "John Lyons" (345997056)
01:22:19.585 --> 01:22:26.515
They're going to sensibly pay attention to the idea, you know, can we meet these costs? And is it good for our organization?

535 "John Lyons" (345997056)
01:22:26.515 --> 01:22:39.355
So, I would encourage a dialogue. most land trusts act in kind of a regional basis and you can usually identify for your community,

536 "John Lyons" (345997056)
01:22:39.355 --> 01:22:48.985
the land trust that operates in your area. And I think you would find if you wanted to sit down with them. I think you'd find an enthusiastic reception.

537 "John Lyons" (345997056)
01:22:49.080 --> 01:22:50.760
Because I think this is something that.

538 "John Lyons" (345997056)
01:22:50.760 --> 01:22:57.090
Um, is good for everybody and land trust would be happy to do.

539 "John Lyons" (345997056)
01:22:57.090 --> 01:23:04.590
So, we talked about, you know, I've talked ad nauseam about getting involved, early on.

540 "John Lyons" (345997056)
01:23:04.590 --> 01:23:18.480
I also talked about just having planning boards, getting involved in the shopping for a land trust, and not leaving that just to the applicant.

541 "John Lyons" (345997056)
01:23:18.480 --> 01:23:32.940

The other thing is just, you know, understand early on it's important whether a conservation easement is a real possibility. If you have mandatory conservation subdivision in your community.

542 "John Lyons" (345997056)
01:23:32.940 --> 01:23:42.655

It's not really assured that the land that gets aside as open space is going to have a high conservation value and because of that there may, you know,

543 "John Lyons" (345997056)
01:23:42.655 --> 01:23:53.155

the land may not be attractive enough to a land trust and you'll have to down shift to some of the other options, and it's better to have the sense of that

544 "John Lyons" (345997056)
01:23:53.430 --> 01:24:06.270

Early on so that you can tailor the design the conditions of subdivision approval to the options that do end up being available to you.

545 "John Lyons" (345997056)
01:24:10.740 --> 01:24:16.650

Another partnership is between planning boards and town boards and, um.

546 "John Lyons" (345997056)
01:24:16.945 --> 01:24:31.315

In the communities that I work in the town boards usually have their own town attorney, and we just usually do the land use work for the towns we represent the planning boards and zoning boards of appeals.

547 "John Lyons" (345997056)
01:24:31.315 --> 01:24:44.935

And then help out the town boards with land use policy and land use issues. But it's amazing to me how often sometimes that the worlds of planning boards and town boards never collide.

548 "John Lyons" (345997056)
01:24:45.385 --> 01:24:46.645

They, especially when.

549 "John Lyons" (345997056)
01:24:46.650 --> 01:25:00.475

You have good smart planning boards. They go off and start doing a good job, and they don't need a lot of attention. And sometimes there can be a little bit of a disconnect because the town board doesn't have to do a lot of supervising.

550 "John Lyons" (345997056)
01:25:01.675 --> 01:25:12.145

I think that it, we always try to encourage a connection between the planning boards and town boards. And if you think that the municipality.

551 "John Lyons" (345997056)
01:25:12.480 --> 01:25:22.950
Is, um, that there's either a good reason for the municipality to hold the conservation easement or, you know, acquire parkland

552 "John Lyons" (345997056)
01:25:22.950 --> 01:25:33.570
Again, these are not the kind of questions that you want to be taking to a town board at the end of the conservation subdivision process. There are

553 "John Lyons" (345997056)
01:25:33.570 --> 01:25:44.250
Lots of considerations for towns. they have their own version of factors that they have to go through. Just like the land trusts, about

554 "John Lyons" (345997056)
01:25:44.635 --> 01:25:57.955
Making sure that if they decide to take those responsibilities that they're prepared to follow through and fulfill their stewardship responsibilities and to meet whatever expenses are associated with it.

555 "John Lyons" (345997056)
01:25:59.340 --> 01:26:14.335
and devote if there's some manpower that's going to be required for stewardship that they're willing to devote those resources to that so again i would encourage communication if

556 "John Lyons" (345997056)
01:26:14.335 --> 01:26:29.335
you think that this is a possibility when you're in the design phase somebody from the planning board should sit down with folks from the town board and figure out if there's you know how

557 "John Lyons" (345997056)
01:26:29.340 --> 01:26:32.490
Possible those options are.

558 "John Lyons" (345997056)
01:26:34.015 --> 01:26:48.925
These are just some quick, little tips and nuts and bolts for the mechanics. Conserved open space should be conspicuously identified on the subdivision plat map.

559 "John Lyons" (345997056)
01:26:48.985 --> 01:27:00.835
Um, our recommendation is that not only should there be map notes, but it also should be labeled as conservation space conspicuously on the plat map.

560 "John Lyons" (345997056)
01:27:01.440 --> 01:27:05.250
Um, if there are going to be, um, restrictions.

561 "John Lyons" (345997056)
01:27:05.250 --> 01:27:13.920
Um, those should be set forth on the Map notes on the plat map that's going to be filed with the county clerk's office.

562 "John Lyons" (345997056)
01:27:13.920 --> 01:27:22.920
The court cases say that those notes alone are actually sufficient to insure the conservation of, um.

563 "John Lyons" (345997056)
01:27:22.920 --> 01:27:32.670
The status of conservation lands, but in addition to that you should, even though that's true.

564 "John Lyons" (345997056)
01:27:33.025 --> 01:27:47.845
You should require for conservation easement supports they have to be recorded. what recording does and the county clerk's office is that it puts the world on notice that either a conservation easement is in place or the deed restriction is

565 "John Lyons" (345997056)
01:27:47.845 --> 01:28:02.665
in place. And when people come to purchase property in those subdivisions, in the future, title companies will pull up those easements or those deed restrictions and make sure that prospective purchasers

566 "John Lyons" (345997056)
01:28:02.670 --> 01:28:06.390
Understand the obligations that, um.

567 "John Lyons" (345997056)
01:28:06.390 --> 01:28:09.780
And restrictions that apply to their property before they buy it.

568 "John Lyons" (345997056)
01:28:09.780 --> 01:28:14.700
Um, typically we required, uh.

569 "John Lyons" (345997056)
01:28:15.715 --> 01:28:25.255
Deed restrictions to be drafted by the applicant, and then submitted to the planning board for its lawyers to review and approve before they get recorded in the clerk's office.

570 "John Lyons" (345997056)
01:28:25.255 --> 01:28:31.585
And then after recording a copy of the recorded instrument should be filed with the planning board.

571 "John Lyons" (345997056)
01:28:32.370 --> 01:28:38.280

And where homeowners' associations will own conserved lands again.

572 "John Lyons" (345997056)
01:28:38.280 --> 01:28:47.730

You can have discussions to make sure that, uh, appropriate provisions are placed in the bylaws and the governing documents of the, um.

573 "John Lyons" (345997056)
01:28:48.535 --> 01:29:00.655

Usually, the attorney general's office, if there are common areas will require some kind of agreement that memorialize the obligation to maintain those.

574 "John Lyons" (345997056)
01:29:00.925 --> 01:29:04.074

And again, it's good to get involved.

575 "John Lyons" (345997056)
01:29:04.980 --> 01:29:15.900

At the time that those agreements are being submitted to the attorney general, so that the planning board's vision and conditions for that, get baked into the agreement that gets approved by the.

576 "John Lyons" (345997056)
01:29:15.900 --> 01:29:19.260
Um, by the attorney general.

577 "John Lyons" (345997056)
01:29:19.615 --> 01:29:33.925

So, my takeaways for today are just to be thoughtful and careful about implementation. try to think ahead as far as you can so that you're, you know,

578 "John Lyons" (345997056)
01:29:33.925 --> 01:29:43.165

you're thinking in parallel. So you're thinking about design, but you're also thinking about long term stewardship.

579 "John Lyons" (345997056)
01:29:43.470 --> 01:29:56.970

Conservation lands on a subdivision plot that don't end up getting conserved actually damage your long-term success. So that's something that you want to avoid.

580 "John Lyons" (345997056)
01:29:56.970 --> 01:30:11.935

and even though they're not nearly as sexy as design which can be kind of fun and interesting the nuts and bolts of implementation are really important and it's something to pay attention to. and your your planner if you're on a planning

581 "John Lyons" (345997056)
01:30:11.935 --> 01:30:19.105

board your planner and your attorney can be a big help to you on both of these um

582 "John Lyons" (345997056)
01:30:19.465 --> 01:30:34.105

To Make you just to make sure that your factoring in the nuts and bolts as you go forward. again be realistic about the value of the lands to be conserved. A lot of times in the examples that we use The conservation,

583 "John Lyons" (345997056)
01:30:35.005 --> 01:30:49.165

The natural resources are obvious and the lands to be conserved are obvious. When, as I said, conservation subdivision is mandatory, Sometimes that's not quite as clear.

584 "John Lyons" (345997056)
01:30:49.315 --> 01:30:56.965

So you have to take a good hard look at what's being conserved how is it likely to be used and what's the best way to conserve it?

585 "John Lyons" (345997056)
01:30:57.240 --> 01:31:02.730

And just, uh, get partners in at an early stage.

586 "John Lyons" (345997056)
01:31:02.730 --> 01:31:06.030

Thank you for your attention and.

587 "Christine Vanderlan" (1574895872)
01:31:06.030 --> 01:31:10.020

Um, I'm available for questions if there are any.

588 "Christine Vanderlan" (1574895872)
01:31:11.520 --> 01:31:16.320

John, we are at 230, which is when we.

589 "Christine Vanderlan" (1574895872)
01:31:16.320 --> 01:31:30.265

Plans and advertise that we would wrap up our webinar, but I'm going to just ask and, you know, that's true for the speakers as well as attendees. So for folks who have to depart, thank you for attending. Thank you Ted.

590 "Christine Vanderlan" (1574895872)
01:31:30.265 --> 01:31:44.515

And John for your informative presentations. And I'm wondering, though, if, because we do have a number of really good questions, if John and Ted, you can stay on another 5, maybe 10 minutes tops.

591 "Christine Vanderlan" (1574895872)
01:31:45.205 --> 01:31:46.315

And for folks who can hang on.

592 "Christine Vanderlan" (1574895872)

01:31:47.275 --> 01:31:58.495

Can stay and listen, but then also we'll have a recording, so you can click through to a link to the recording, which we'll send out later and catch up on these answers. If you have to leave right now.

593 "Christine Vanderlan" (1574895872)

01:31:58.615 --> 01:32:05.965

So, with that one question, that has come in. I saw your thumbs up, So we are staying on.

594 "Christine Vanderlan" (1574895872)

01:32:07.465 --> 01:32:15.265

Is should the conservation area be deeded as a unique parcel or can it be pieces of

595 "John Lyons" (345997056)

01:32:15.929 --> 01:32:20.939

An independently owned parcel or parcels. Mm. Hmm.

596 "John Lyons" (345997056)

01:32:21.204 --> 01:32:33.654

Yeah, it can be both and the choice comes down to whether, if it's going to be a separate deeded parcel, the choice is whether there's an entity to actually take ownership of that parcel.

597 "John Lyons" (345997056)

01:32:34.014 --> 01:32:40.554

So, if there's a homeowner's Association, that would be typically the type of entity that would own a parcel like that.

598 "John Lyons" (345997056)

01:32:40.799 --> 01:32:43.979

Where there's no one to own it.

599 "John Lyons" (345997056)

01:32:44.544 --> 01:32:58.854

Sometimes the municipalities will take those where there's no one to own it. then it can be the conservation area can be spread. It can either be on one parcel that's owned by one of the lots that where there's a house.

600 "John Lyons" (345997056)

01:32:59.039 --> 01:33:11.759

Because, as Ted explained, you have a lot of flexibility for lot sizes. So some of the lots are gonna be big, some, lots, maybe smaller and you can also spread the conservation area across.

601 "John Lyons" (345997056)

01:33:11.759 --> 01:33:22.439

Lots that are owned by the homeowners and then you put down either a conservation easement or deed restrictions on that portion of the lot that's being conserved.

602 "Ted Fink" (673729792)

01:33:25.404 --> 01:33:27.024

John, just to add to that.

603 "Ted Fink" (673729792)

01:33:27.024 --> 01:33:40.944

My understanding is the land trusts are reluctant to take on conservation easements that span multiple properties as well because of having a deal with the individual property owners, um, multiple property owners, as opposed to one property owner,

604 "John Lyons" (345997056)

01:33:40.944 --> 01:33:44.154

where you would have the conservation lands all in one line.

605 "John Lyons" (345997056)

01:33:44.489 --> 01:33:55.169

So, tell me, I think that's a good point and that's true. You usually realistically end up with deed restrictions as the mechanism when that's the circumstance.

606

01:33:55.169 --> 01:34:02.249

Yep, thank you John. That was, um, really great and.

607

01:34:02.784 --> 01:34:14.574

It's just such a rich and complex policy to implement. So, we've been wanting to go more in depth about this topic for a while.

608

01:34:14.574 --> 01:34:21.504

I'm so glad we could have you, and Ted join us. So we have a question whether you can explain a little further

609 "John Lyons" (345997056)

01:34:21.779 --> 01:34:31.199

About how a municipality can take a 3rd party enforcement right For a deed restriction. How does this work within a planning board approval process?

610 "John Lyons" (345997056)

01:34:31.199 --> 01:34:38.519

Most of the time, most of the time it's done through a voluntary agreement.

611 "John Lyons" (345997056)

01:34:39.444 --> 01:34:54.324

There's a negotiation with the applicant, and we ask as a planning board that a 3rd party enforcement right Be put in the deed restriction. And most of the time applicants are

612 "John Lyons" (345997056)

01:34:54.629 --> 01:35:04.889

Fine with doing that. And that's the way we do it. We also usually consult with the town board just to make sure that

613 "John Lyons" (345997056)
01:35:04.889 --> 01:35:11.429
That's something that, you know, they'd be willing to participate in if it ever came to that.

614 "Christine Vanderlan" (1574895872)
01:35:11.429 --> 01:35:15.299
Thank you.

615 "Christine Vanderlan" (1574895872)
01:35:17.339 --> 01:35:23.639
So, we also have a question about whether either Ted or John

616 "Christine Vanderlan" (1574895872)
01:35:23.639 --> 01:35:26.939
You are aware or have tracked

617 "Christine Vanderlan" (1574895872)
01:35:26.939 --> 01:35:35.969
Specific projects over a period of time to see how the open space areas are faring say, after a decade or some portion of time.

618 "Ted Fink" (673729792)
01:35:38.334 --> 01:35:51.084
Yeah, John, I don't have any answers to that. I think that's a great thing for a student, Maybe um, that is ripe to begin to look into these things to see how well, they've fared over time.

619 "Ted Fink" (673729792)
01:35:51.084 --> 01:35:59.124
I don't know whether or not, um, land trust have done that are not but that's a great answer to, um, to know.

620 "Ted Fink" (673729792)
01:35:59.124 --> 01:36:07.344
And, uh, you know, what, what sorts of mechanisms were put in place, have homeowners been willing to comply um, you know, if there are.

621 "John Lyons" (345997056)
01:36:07.529 --> 01:36:14.399
Stewardship guidelines, if there's homeowners guides, you know, the kinds of things that are sometimes developed. Um.

622 "John Lyons" (345997056)
01:36:14.399 --> 01:36:25.014
So that, that that is a great question and the answer is important. I also haven't tracked any particular developments. Some of the difficulty with this.

623 "John Lyons" (345997056)
01:36:25.764 --> 01:36:36.354
Although Ted's work with Warwick goes back a long time that was groundbreaking when Ted was doing that. And, um.

624 "John Lyons" (345997056)
01:36:37.194 --> 01:36:49.314

You know, conservation easements or conservation subdivisions you do see them, but in the last few years, you know, we haven't seen as many, big subdivisions either. We're seeing a lot of small ones.

625 "John Lyons" (345997056)
01:36:49.314 --> 01:37:02.814

So there haven't been that many examples out there to follow. There are some that are emerging now and now that that's been mentioned, that's something I'll make a note of to start trying to follow what the history is.

626 "Ted Fink" (673729792)
01:37:03.834 --> 01:37:14.094

That's a great point, John because one thing I can, I can say to add to this, on the Warwick example anyway, is that the town really wanted to conservative protected open space.

627 "Ted Fink" (673729792)
01:37:14.304 --> 01:37:28.314

And so, it went into that toolbox, and it actually adopted a lot of the other techniques that was mentioned in that one slide, including a community preservation plan and they had a purchase of development rights program through a bond authorization.

628 "Ted Fink" (673729792)
01:37:28.584 --> 01:37:32.844

So, what wound up happening with the, with the town's.

629 "Ted Fink" (673729792)
01:37:32.909 --> 01:37:47.574

Ability to be able to actually buy up the development rights on properties within the community. All of a sudden jumped off in the 2000s and so many of the larger parcels of land that were subject to development approval before this stuff came into place.

630 "Ted Fink" (673729792)
01:37:48.084 --> 01:37:50.784

All of a sudden, you know, they were taken off the market.

631 "Ted Fink" (673729792)
01:37:51.089 --> 01:38:03.084

Because the farmers sold their development rights, or, you know, the land owners that had some beautiful, you know, park like setting with habitats and everything else. They, they came off the market.

632 "John Lyons" (345997056)
01:38:03.084 --> 01:38:07.103

So now, uh, the town is seeing mostly small lot development.

633
01:38:07.529 --> 01:38:11.189

Yeah, that's what we're seeing most of right now. Yep. Yep.

634

01:38:11.189 --> 01:38:21.149

Um, so there's some questions asking about conservation easements and I'm going to try to.

635

01:38:21.149 --> 01:38:29.454

put a couple of them together. I think people may be familiar with, you know, when someone donates an easement that there may be tax benefits.

636

01:38:29.454 --> 01:38:41.934

But in this sort of situation with the subdivision, are their tax benefits to the developer for the easement, um, or what benefits does the, does the applicant receive through, you know, for.

637

01:38:42.209 --> 01:38:50.399

Putting an easement on the property and does it require an appraisal? Does it change the assessment of the property?

638 "John Lyons" (345997056)

01:38:51.264 --> 01:39:04.914

Oh, my gosh. There's a lot there's too much to that. the short answer is that my understanding is that when an easement is being required, you don't get a tax deduction for creating the easement.

639 "John Lyons" (345997056)

01:39:05.334 --> 01:39:19.854

And so normally, when easement is donated, you can get a tax deduction for the amount, the delta between what the property's worth with the development rights in place.

640 "John Lyons" (345997056)

01:39:20.399 --> 01:39:35.244

what the property's worth with those removed by that conservation easement and and appraisals are involved at that time because you have to be able to put a number on those things. but typically my experiences in developments that conservation easements is

641

01:39:35.244 --> 01:39:38.754

something that's required and so a tax deduction is not available.

642

01:39:39.059 --> 01:39:45.749

Okay, thank you. And I, I guess related to that again, there's more questions about.

643

01:39:45.749 --> 01:39:55.139

How can this be made to be required? Does that require a zoning amendment for a town Maybe that has this policy, but it's not required.

644 "John Lyons" (345997056)
01:39:55.139 --> 01:40:01.049

They would need to amend the zoning or yes, if it's going to be mandatory,

645
01:40:01.049 --> 01:40:06.149

Uh, you know, it needs to be set forth this mandatory in the subdivision regulations. Yep.

646
01:40:18.774 --> 01:40:28.344

We are at 2:40, so perhaps we should wrap up and I apologize. There are so many questions we didn't get to. We will share these questions

647
01:40:28.559 --> 01:40:36.119

With the speakers and also share contact information if you wish to follow up.

648
01:40:36.119 --> 01:40:47.304

Uh, and as Christine said, you'll receive an email probably, um, next week with a link to the recording and, uh, to download the slides if you're interested.

649 "John Lyons" (345997056)
01:40:47.784 --> 01:40:55.104

And so we, thank you so much again, Ted and John for your presentations and your time today. Um.

650 "John Lyons" (345997056)
01:40:55.439 --> 01:40:59.759

Thanks for putting this on because this is

651 "John Lyons" (345997056)
01:40:59.759 --> 01:41:14.214

Um, it's, it's a really important technique, but there's a lot that goes into it. I mean, there's a lot that goes into design. There's a lot that goes into implementation and the fact pattern variations are all over the place.

652 "Ted Fink" (673729792)
01:41:14.214 --> 01:41:28.734

So, we just dipped our toe into it today, but it's important ground to cover. Yeah. Great job and thanks so much Ingrid and Christine for putting this out. It's a great topic. And it's one I'd love to see more communities, take advantage of.

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01:41:29.759 --> 01:41:30.599

Yeah.

654

01:41:30.599 --> 01:41:44.549

Yeah, yes, it's definitely a valuable tool for conserving habitat and open space. Um, and I think you shared some great examples of how to do that more effectively. Yep.

655

01:41:44.549 --> 01:41:47.639

Thank you. Our pleasure.

656

01:41:47.639 --> 01:41:51.209

Thank you okay. Have a great afternoon. Okay.

657

01:41:51.209 --> 01:41:54.839

Thank you. Thanks everyone. Bye. Bye.

658

01:41:54.839 --> 01:41:59.208

Bye.