

Conomo Point – A Bulletized Overview

Introduction

My intention in producing this *Bulletized Overview of Conono Point* is as an interested resident to provide a top-level summary of the current “Master Plan” for Conomo Point (CP) and some of the major historical events leading to the formation of the Plan. Although I have endeavored to check my facts with Town officials, this document should not be construed as an official production or position of any element of Town Government.

The governance of CP is complex and continues to be fraught with Town and legal debate dating back well over 100 years. For a number of reasons including public access, septic system regulation, and fiscal, the Town of Essex has entered new, short-term bridge leases, after the expiration of long-term leases in 2011, to allow planning for the final disposition of the property which includes sale, new long-term leases, and creation of open space. All of the information presented herein (and much more) is available on the Town of Essex web site, references are provided within, **Conomo Point Reference Material**, at: [http://www.essexma.org/Pages/EssexMA_Selectmen/Conomo Point Reference Materials](http://www.essexma.org/Pages/EssexMA_Selectmen/Conomo%20Point%20Reference%20Materials)

- Conomo Point is a land parcel partially owned by the town of Essex consisting of ~ 130 acres, ~ 40 acres of which are occupied by ~ 120 “cottages”, and is currently being described as being comprised of three main sections – North (10 acres), Central (7 acres), and South (23 acres), as depicted in the figure below.



Conomo Point, currently delineated as three main regions: 1) Southern, 2) Central (includes Beach Circle Robbins Island, and 3) Northern. From Brown-Sardina Plan Documents

- The Town bought the land from John Procter for \$4,600 in 1826, being one of four properties found to be suitable and affordable for a Poor Farm or Alms House. The first “shanties” were starting to be built around 1860 and had about 15 documented renters in 1892. (1)
- Fast forward to the period of 1950 to 1970, which saw rapid CP population growth (including many non-Town residents) due in large part to the town’s efforts to maximize rental income without increasing rental rates. (1)

Leasing History

- An 1876 annual Town Meeting marked the beginning of the Town’s landlord relationships with individuals who wished to lease building lots at Conomo Point – since that time voters have taken action on CP more than 150 times (1), with many associated legal suits and property value disputes.
- CP property rents have historically been very low. After several increases, rents still only averaged \$60 / year in 1986, with the total collected by the Town that year being \$5,700, ~ 0.05% on the assessed property (land) value of \$4.7M and a market value of approximately \$10M.(1) Note that CP properties, including the structures, are also taxed based on their assessed values, at the same rate as all other Essex properties.
- In 1987 a group of CP residents filed suit disputing a Town vote to raise rental rates to 3% of the assessed property value and a vote to retroactively control year-round use conversion. This turned into a class action suit, arguing that the changes to both the rents and year-round use was not consistent with the current lease agreement. In an effort to help both sides reach an amicable solution, the judge suggested the formation of a committee comprised of both tenants and town residents - several proposals were subsequently developed over the next four years, all were rejected by either the Town or Point residents. (1)
- A settlement was finally reached in 1991, with a new lease term of 10 years and a single ten year renewal option, after which time the prevailing lease agreements would be ended and the town would have the option to institute a new leasing agreement, or sell or retain the land for public use. This agreement increased the rents 10x (to an average of \$600 / leaseholder / year) with a provision for annual cost of living increase, and year-round conversions were permitted subject to Town approvals through 1994. As part of this agreement, assessed value on the land was discounted to 70% over the leasing period.
- After several attempts to construct a Town represented body for the study and mediation of issues pertaining to CP, the Conomo Point Planning Committee – CPPC – was formed in 1994 (2). The CPPC continues today to meet at least once a month, and is open to for public participation.
- In 1997 Essex voters agreed with a CPPC recommendation not to renew the CP leases, due to expire in 2011 after the 10 year option to renew on the 1991 agreement. In 1999 the Town voted to designate Northern CP for public use, based largely on the CPPC recommendation that *it was in the Town’s best interested to collaterally reduce the number of cottages....to lower waste water emissions.* (2) In 2008 funding was appropriated for subdivision of Southern CP with an eye toward sale, and the Town subsequently voted to sell Southern CP in 2012.

- At the May 2011 Town Meeting, voters authorized the Selectmen to enter into Bridge Leases, that may be renewed annually for up to a maximum of five years, allowing time for execution of the BOS's Recommended Plan for Conomo Point. Ninety-eight percent (119) of the 121 leaseholders who were offered this opportunity entered into the Bridge Leases. (3)
- The current rental rates on the annual bridge leases have been increased to be closer to typical market rates – note that the rates are based only on the appraised value of the land, not the structures – and have been set at 2.25% for the first year (2012), 3% for the second (2013) and 3.75% for the third (2014) after which all the leased lots at Southern and Central CP should have been sold, and long term leasing decisions will have been made for Northern CP. It is notable that the recent Walker vs. Town of Essex legal suit resulted in a October 2013 judicial decision that the rates for all three years had been properly set.

Department of Environmental Protection

- In 1996 the DEP found that the existing pattern and form of occupancy produced more wastewater flow than allowed for a single owner – the “owner” being the Town for the entirety of CP. The DEP required the Town to reduce the flow from its approximately 30,000 gallons per day to 10,000 gallons per day, where 10,000 GPD equates to 90 bedrooms at 110 gallons per bedroom. This finding allows the town to continue to own for residential lease purposes approximately 30 properties or about one quarter of the total number of original residences at Conomo Point; the remainder need to be sold or vacated. (4)
- In 2003, the Town and the DEP entered into a Second Modified Final Judgment to remediate pollution caused by failing septic systems. As part of that Final Judgment, the Town was required to update the plan and schedule for bringing the sewage disposal systems on the Town owned property at CP into compliance with Title 5 after expiration of the leases then in effect. The Town has since submitted, and the DEP agreed to, numerous plans and revisions to plans, the latest of which was April 2011, tied to the latest agreement of lease expiration. (3)
- The 2011 DEP agreement is based on the current BOS Plan for CP, and summarized as follows.
 - The 41 properties South of Robbins Island road will be brought into Title 5 compliance within 2 years of sale or by year-end 2014, with 2 exceptions to be done later.
 - A similar expectation and process has begun for what is now being called Central CP, consisting of Beach Circle and Robins Island, as agreed in the May 2013 Town meeting to develop zoning for that region, for subsequent sale for privatization; with all properties to be Title 5 compliant by year-end 2015.
 - The Plan for Northern CP is not yet formally agreed, but regardless of whether certain lots will continue under new long term lease or be sold, the Town intends that all septic systems will be in full DEP compliance within two years of any new agreement or sale, or by year-end 2015, whichever comes first.

The Board of Selectman's Recommended Plan for Conomo Point, circa 2011 - present

- Based largely upon a comprehensive study and report by the CPPC, the BOS presented in April 2011 “A Comprehensive Statement on Conomo Point” that *is responsive to both preserving and increasing the revenue stream from the Point and to improving public access as two main priorities expressed by the Town.* (5) The plan involves the following main elements:

Overview of events leading to and including current status of Conomo Point – Ken Riehl – October 2013

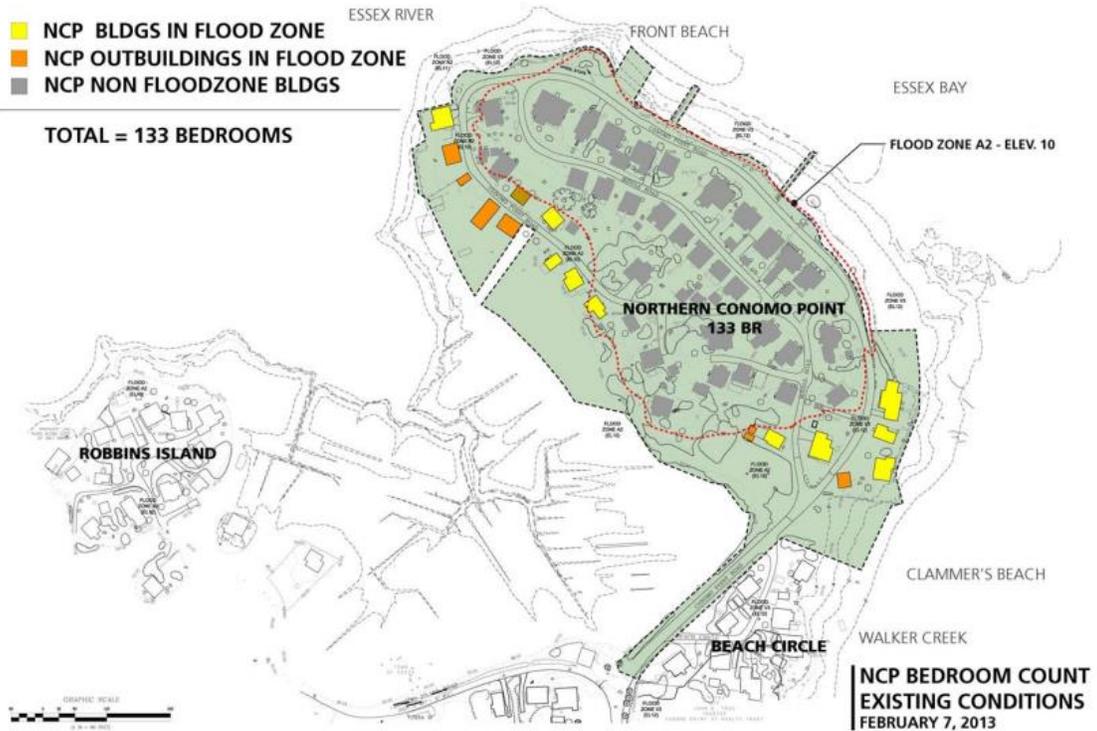
- Southern CP: Allow short term bridge leases to enable the zoning and subsequent sale of the Southern CP region leased lots. This region consist of ~ 23 acres and 41 sellable lots comprised of 16 year-round and 25 seasonal cottages. *Status: as of the end of October the Town is expecting to have sold 32 of the 41 properties for ~ \$6M, two more are in process with another anticipated for a total of 35 lots expected to be sold (the remaining 6 may be sold in the open market or may be reverted to parking and other public use activities). Of these properties, seven have been designated for year-round use, nine are year-round until the current owners sell at which time they will be deemed seasonal, and 25 will remain as seasonal use only.*
 - Central CP: Similar to Southern CP, allow short term bridge leases to enable the zoning and subsequent sale of the leased lots. This region includes Beach Circle and Robbins Island, and is comprised of ~ 7 acres with 24 properties of which are 22 sellable lots with 20 cottages, and having a total estimated sale value of ~ \$6M. Eight cottages are designated as year-round, to be converted to seasonal use upon sale, and 13 are seasonal with one as accessory. *Status: Zoning for Central CP was approved at the May 2013 Town meeting and the subdivision plan will be completed by year-end. The Town is expected to vote on approval to sell the lots in the annual 2014 Town meeting.*
 - Northern CP: Allow bridge leases to continue for up to five years for the implementation of future long-term leases, sale, or assumption by the Town. Northern CP is comprised of ~ 10 acres with ~ 60 properties, most of which contain cottages, 12 of which are year-round and the remainder are seasonal. The Board’s recommendation is to retain for long-term leases the properties in areas best suited to potential water front access, and to sell the properties that are less likely to support waterfront access. For the properties that may be offered long-term leases, the Board supports a term of at least 15 years and a process during those leases that will determine the post-lease status of each leased lot. *Status: In November 2012 the BOS hired consulting firm Brown-Sardina to develop options and a recommended plan for Northern CP – this is summarized in the Plan section below.*
- The question of who owns leaseholder property improvements (ie homes on leased land) has often been debated, and is today better understood with a recent (September 2013) court decision on a suit brought by four CP residents. In summary: structures not affixed to the land are property of the tenants and they are free to remove them at the end of the lease; structures deemed permanently affixed to the land (e.g., have a solid foundation, basement) are Town property at the end of the lease and no damages or compensation is to be awarded to the tenants in either case. (7)
 - With regard to the proceeds of the property sales, the revenue from these sales is put into a separate fund and is considered a capital asset of the Town. This money cannot be used for operating expenses and cannot be used without appropriation by Town Meeting. The Board of Selectmen hopes to work with the Finance Committee to plan reasonable strategies that will help create a revenue producing endowment for the Town while addressing other needs of the town. (6)

Brown-Sardina “Master Plan”

- As a result of a Town Meeting appropriation, the Selectman hired consulting firm Brown-Sadina in November 2012 to assess various options for the Northern CP region, primarily in response to the

“State Mandated Ruling” to reduce the effluent to a maximum of 10,000 GPD by a single owner (i.e., Town of Essex).

- These options were developed and presented / revised through 3 public forums from November 2012 – February 2013, and resulted in a Northern CP Master Plan in May 2013. The Brown-Sardina Master Plan established a Near-Term Plan (3-5 years), Mid-Term Plan (15-years +) and Final Master Plan (20-years +) with the objective to create a contiguous, sustainable and accessible public open space that would progressively expand over the 20-year time line while maintaining the flexibility for modifications due to natural, programmatic and litigious influences. (4)

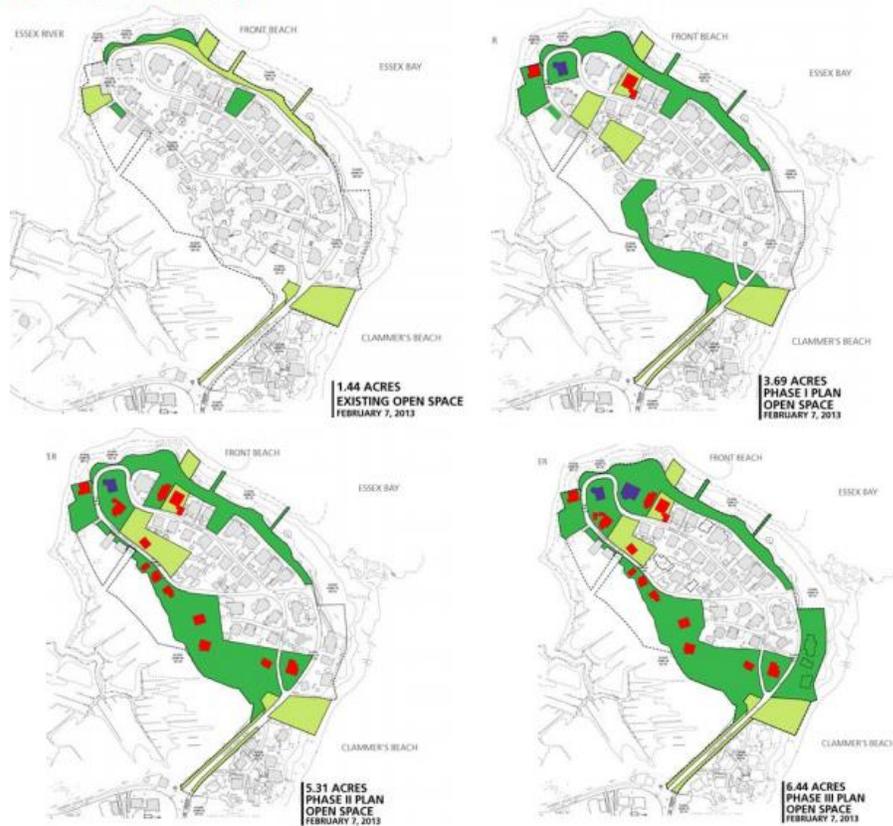


Northern Conomo Point today, showing Flood Zone; Brown-Sardina Plan

- A summary of the change in number of bedrooms and Open Space in each phase of the Brown-Sardina is provided in the table below, followed by an illustration comparing the Open Space for the three phases to that of today. (4)

	Current	NT Plan (3-5 Yrs)	M-T Plan (15 Yrs+)	Final Master Plan (20 Yrs+)
# Bedrooms	133	88	84	78
Open Space (acres)	1.44	3.7	5.3	6.4

OPEN SPACE COMPARISON



Comparison of Open Space – Current and 3 Phases of Brown-Sardina Plan

What's next?

- As of October 2012, the following activities are in-process and / or need to be approved by the Town
 - **Southern:** Completion of sale or reversion to public use of the remainder of the 41 lots constituting Southern CP, including resolution of three cases where the purchase of the property was not elected by former tenants.
 - **Central:** Planning board approval of the November 2013 subdivision plan and authorization of sale in the annual 2014 Town meeting.
 - **Northern:** The largest remaining element of the Master CP Plan is to determine / agree by Town vote what to do with the Northern region of CP. Further Town input on this is being requested via a meeting to be held in November 2013.

References

1. History of Conomo Point
2. 1999 Conomo Point Planning Committee (CPPC) Report
3. (DEP) Conomo Point Plan, Revised May 24, 2012
4. Brown Sardina Exec Summary
5. Board of Selectman Conomo Point Plan summary
6. Mailer From Selectmen to All Residents, April 29, 2013
7. September 2013 Court Decision (see Town Administrator for a copy)

Addendum

The Board of Selectmen's plan – as described in a Conomo Point Mailer, April 2013

Why Conomo Point matters to everyone in Essex

- The decisions that the Town makes, through Town Meeting, will determine how the property at Conomo Point is used in the future. These decisions all have direct and significant effects on property taxes for ALL Essex home and land owners.
- Parks, waterfront access and other amenities and issues aside, Conomo Point is first and foremost a financial issue for the town.
- Smart and responsible planning can improve Essex's strained budgets. Ill-advised decisions, not considering the many financial ramifications to the town, could leave the town financially strapped for decades.

What the Town needs to do about Conomo Point

- The DEP is requiring the Town to comply with the Consent Agreement and reduce the wastewater flow from the town owned properties to 10,000 gallons per day.
- This equates to 90 bedrooms at 110 gallons per bedroom, allowing the town to continue to own approximately 30 properties or about one-third of the residences at Conomo Point. The rest need to be sold or removed.

The Board of Selectmen's plan

The plan laid out by the Board of Selectmen over two years ago includes the following provisions, which have been somewhat modified as a result of the master planning work completed by the firm of Brown-Sardina earlier this year, working with the Conomo Point Planning Committee.

- The residences in Southern Conomo Point (south of Robbins Island Road) should be sold. This has been done through a series of votes at Town Meeting.
- The residences on Robbins Island and along Beach Circle should be sold. The zoning by-law for this area is before Town Meeting on Monday, May 6th. If this is successful, the Board will propose a subdivision and present an article for permission to sell this area at the 2014 Annual Town Meeting.
- The Town should retain ownership of the majority of, if not all of, the area of northern Conomo Point (the area north of Clammers' Beach). This may be achieved through a process of reducing bedrooms, attrition or limited sales of a few properties in the vicinity of Conomo Lane or, perhaps, a combination of all three.
- The Town should continue to own the maximum amount of property that it can in accordance with DEP in order to
 - Continue lease revenues, at fair market rates, to supplement the Town budget, for a period of 10 to 15 years.
 - Preserve options for future generations by keeping this parcel in town ownership.

- The Town should immediately begin design and construction work to improve public access to the Conomo Point waterfront, nearly all of which remains in town ownership and is currently accessible. Please see Figure A in the insert.
 - Improvements should include increased parking, rest facilities and inviting areas for Town residents to enjoy the scenery that Conomo Point provides.
 - Money for improvements to public access should be solely funded by increased revenues from the leased properties, such that no burden for this work is passed to taxpayers.
- A process of incremental improvement to the Conomo Point waterfront should be planned and completed over the next 5 to 10 years.
- Incremental improvements will allow sound budgeting.
- Incremental improvements will allow townspeople to use the new facilities and find what works and what is popular, so that additional improvements can be tailored to suit townspeople's interests and desires.

Why this plan is the logical and responsible choice

- The Selectmen's plan provides a thoughtful balance between responsibly protecting the Town's financial standing and providing more public access to Conomo Point. The Town could realize greater one-time revenue by selling more property, however this would be at the cost of losing the waterfront land forever. Decisions to take more property for use as park space in the near future will have uncertain results at best, as the land will not become "immediately" available and will cost the Town in lost revenue, additional legal fees, and increased construction and maintenance costs, all of which we can ill-afford at this time.
- The plan includes work to improve public access to the waterfront, which has been the comment most often heard regarding the Town property at Conomo Point. Furthermore, with careful financial planning, increased revenues from the leased properties, as well as interest from the capital from the sales, should help provide thoughtful and creative amenities at the Point, for all townspeople to use.
- The plan keeps the most desirable portions of the Point in town ownership, preserving options for future generations. Please see Figure B in the insert for a future "master plan". Current residents will be able to enjoy improved public access, have a voice in continued improvements and will not be additionally taxed for these amenities.

Proceeds from property sales

As properties are sold, the revenue from these sales is put into a separate fund and is considered a capital asset of the Town. This money cannot be used for operating expenses and cannot be used without appropriation by Town Meeting. The Board of Selectmen hopes to work with the Finance Committee to plan reasonable strategies that will help create a revenue producing endowment for the Town while addressing the needs of other areas in town.