

**PLANNING BOARD MEETING  
TOWN OF CUMBERLAND  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine 04021  
Tuesday, September 15, 2015  
7:00 p.m.**

**A.     *Call to Order:*** The meeting was called to order at 7:00 p.m.

**B.     *Roll Call:***

***Present:*** Chris Neagle, Chair, Gerry Boivin, Vice-Chair, Jeff Davis, Teri Maloney-Kelly, Steve Moriarty, Joshua Saunders, Peter Sherr

***Staff:***     Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

**C.     *Approval of Minutes of the August 18, 2015 meeting.***

Mr. Moriarty suggested a correction for page 16 that he joined the Ad Hoc Land Use Committee in May of last year not the Planning Board.

Mr. Saunders moved to approve the minutes of August 18, 2015 as amended.

Mr. Moriarty seconded.

VOTE: 6 in favor  
1- Abstain (Sherr)

**D.     *Staff Site Plan Approvals:***

1. Bowdoin Excavating – 261 Middle Road, Tax Assessor Map R02, Lot 41 in the Rural Industrial district (IR)

Ms. Nixon stated a landscape contractor is moving into a space that previously was occupied by a landscape contractor.

**E.     *Minor Change Approvals: None***

**F.     *Public Hearings:***

**1.   *Public Hearing: To recommend to the Town Council draft amendments to the 2009 Comprehensive Plan as recommended by the Ad Hoc Land Use Advisory Committee's final report dated June 15, 2015.*** The recommendations and final report are available at the Town of Cumberland Municipal Office and on-line at Cumberlandmaine.com

Mr. Neagle explained this item was a continuation from the August Planning Board meeting. The Ad Hoc Land Use Committee sent thirteen (13) recommendations in its final report to the Council who has now forwarded them to the Planning Board. At the August meeting, the Planning Board acted on eight of the thirteen. The five remaining recommendations were tabled and a workshop was set for September 10, 2015 for discussion of the growth areas and Route One Design Standards.

Mr. Neagle reviewed procedure stating this evening the Planning Board is not proposing any zoning changes; it is only considering the recommendations from the Land Use Committee for possible recommendation to the Town Council.

**The public portion of the meeting was opened.**

Mr. Shawn Alfreds of 271 Main Street; and has a house under construction at 30 Stockholm Drive. Mr. Alfreds thanked the Committee and the Board for their time, stating there was a lot of information discussed at the August meeting he felt there were two issues not discussed by the Committee.

- Traffic impact from development. Stating the volume and speed of traffic currently on Main Street; he asked if the traffic impact from the development of Village Green had been documented or studied.
- Impact of re-zoning on school enrollment and budget.
- Considerations for public safety, the schools, the road and public utility infrastructure and the financial impact of updates to each of these.

He asked that the Planning Board and Council take a step back and consider the broader town-wide implications of any zoning change. I would recommend the town hire an independent planner to advise the town on these and other growth implications.

Mr. Neagle thanked Mr. Alfreds for his presentation, and stated the Ad Hoc Committee did not have a detailed study on traffic or school impact. The message that has been conveyed from the town to the Planning Board is that the school has capacity for growth.

Ms. Kitty Chadbourne of 50 Stockholm Drive stated smaller lots and smaller homes would allow residents as they age to stay in the community. I am 12 years younger than my husband and will probably at some time become a widow. I would like to be able to build a smaller house on our lot that would be manageable as we age.

Mr. Neagle confirmed that Ms. Chadbourne supported the proposed growth area.

Ms. Chadbourne stated yes, and her husband Ted has been a consistent advocate with a similar message.

Mr. Ted Chadbourne of 50 Stockholm Drive stated they own seven acres and their current house is too large. Our lot has 500' feet of frontage which would accommodate a separate lot. He understands many of his neighbors do not intend to divide their land. Mr. Chadbourne stated this is a modest recommendation with a small change he and recommended the Board trust the wisdom of the Committee.

**The public portion of the meeting was closed.**

Mr. Neagle thanked the public for their comments and stated this has not been a hurried process. Five years ago a small committee was appointed to review and make recommendations on specific areas of the Comprehensive Plan. Following that Committee's work, the Town Council decided to appoint another, larger committee to review the issues, so a twenty plus member committee was appointed which met for more than a year.

The Board reviewed and discussed the five recommendations with the following votes:

- The Committee recommends that the boundaries of the Foreside Growth Area should be depicted as shown on the map attached under Attachment #3.

Mr. Moriarty stated the Town's Comp Plan is six years old and the 2009 plan described the Foreside Growth area, the Committee's proposal is precisely what was described.

Mr. Moriarty moved to recommend to the Town Council draft amendments to the 2009 Comprehensive Plan to adopt the boundaries of the Foreside Growth Area as shown on the map under Attachment # 3 of The Report of the Land Use Committee dated 6/15/15.

Mr. Saunders seconded.

VOTE: Unanimous 7-0

- The Committee recommends that the boundaries of the West Cumberland Growth Area should be as depicted and shown on the map included in Attachment # 3.

Mr. Moriarty stated as with the Town Center Growth Area the West Cumberland Growth Area was not specifically mapped so, the Committee read the language in the plan and followed the charge of the Council to define the West Cumberland Growth Area.

Mr. Moriarty moved to recommend to the Town Council draft amendments to the 2009 Comprehensive Plan to adopt the proposed boundaries of the West Cumberland Growth Area as depicted and shown on the map included in the Attachment #3 of The Report of the Land Use Committee dated 6/15/15.

Mr. Saunders seconded.

VOTE: Unanimous 7-0

- The Committee recommends that the boundaries of the Town Center Growth Area should be depicted as shown on the map included in Attachment # 3.

Mr. Neagle stated that in August the Board heard from many residents who were unhappy with this proposed change. The Planning Board held a workshop on September 10<sup>th</sup>. He stated that most of the residents who spoke at the August Planning Board meeting were not in favor of the proposal, however the Chadbournes supported the proposal. Mr. Neagle stated this is not a dramatic change and the majority of residents in the area are happy to have 4+ acre lots and there is limited possibility for splitting lots. Mr. Neagle stated he will support the proposal. The Committee worked for a year and a half.

Ms. Maloney-Kelley stated she was comfortable with the Committee's recommendation.

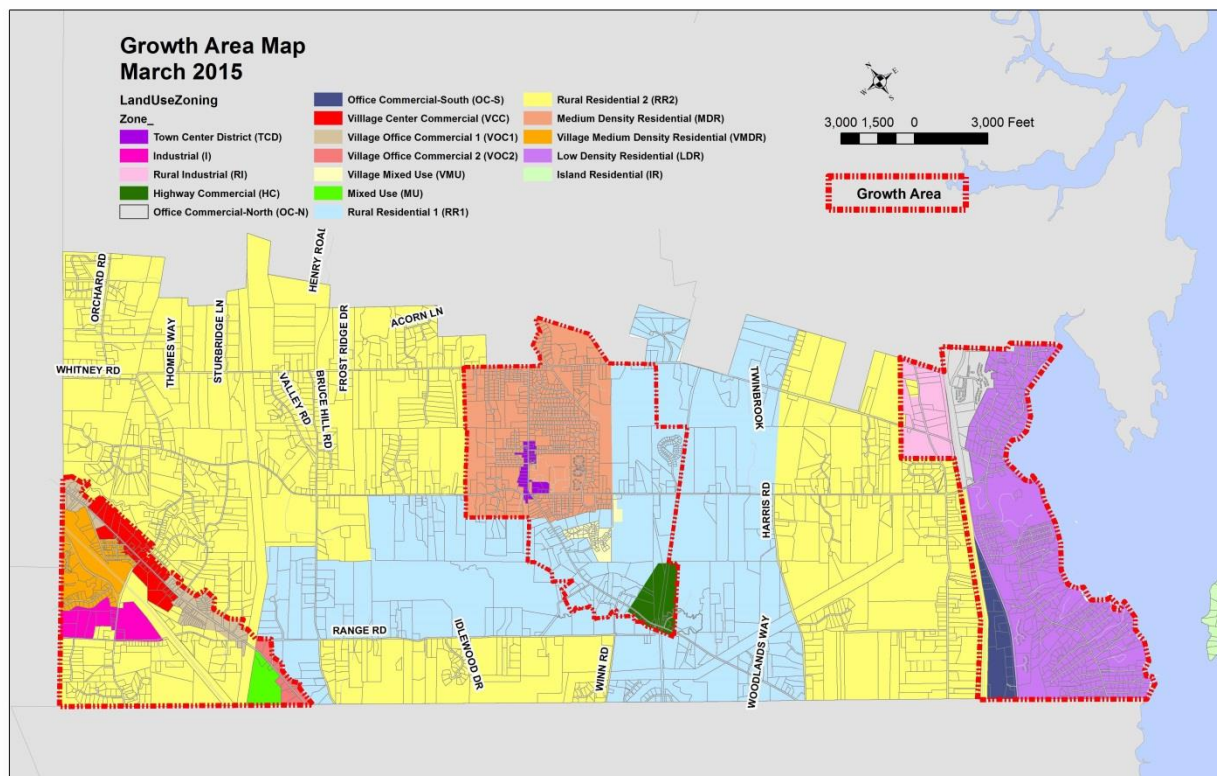
Mr. Boivin stated he thought the proposal was a bit aggressive and he does not support it.

Mr. Moriarty stated that just because an area is designated a growth area, a zone change is not mandated. Mr. Moriarty moved to recommend to the Town Council draft amendments to the 2009 Comprehensive Plan to adopt the proposed boundaries of the Town Center Growth Area as depicted and shown on the map included in the Attachment # 3 of The Report of the Land Use Committee dated 6/15/15.

Mr. Saunders seconded.

VOTE: 6 in favor (Saunders, Davis, Moriarty, Neagle, Sherr, Maloney-Kelly)  
1 opposed (Boivin)

Attachment # 3 – Growth Area Map as recommended by the Planning Board:



- The next item discussed by the Planning Board related to whether the boundaries of the existing RR1 and RR2 zones should be retained, with the exception of that portion of the RR1 zone connecting the MDR and HC in the Town Center Growth Area.

Mr. Sherr moved to recommend to the Town Council draft zoning map changes to change the RR1 zone to RR2 in the Town Center Growth Area as depicted on Attachment # 3 of the Ad Hoc Committee's final report dated 6/15/15.

Mr. Davis seconded.

Discussion:

Ms. Maloney-Kelly stated she is going to support this based on her service on the Aging in Place in Committee. We hear many comments from residents who want to have a smaller house to stay in Cumberland.

- No changes to the location, boundaries, lot standards and allowed uses of the RR1 and RR2 zones are recommended, except as noted above.

Mr. Moriarty moved to recommend there be no changes to the location, boundaries, lot standards and allowed uses of the RR1 and RR2 zones.

Mr. Saunders seconded.

VOTE: 6 in favor (Saunders, Davis, Moriarty,  
Neagle, Sherr, Maloney-Kelly)  
1 abstain (Boivin)

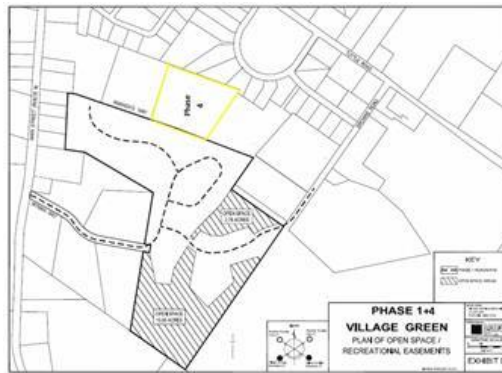
- The Route One Design Standards shown in Attachment # 4 of this report should be adopted in place of the existing Route One Design Guidelines.

Mr. Saunders moved to table the Route One Design Standards recommendation and to hold another workshop on October 6, 2015 at 6:30 p.m. in the Council Chambers.

Ms. Maloney-Kelly seconded.

VOTE: Unanimous – 7-0

2. **Public Hearing:** To recommend a draft amendment to the Town Council for an amendment to the **Contract Zone Agreement** with Bateman Partners, LLC for Village Green - Phase I (technical requirements) & Phase 4 (to add the lot formerly listed as Tax Assessor Map U10, Lot 1B) to Village Green as shown on the map below. Located in the VMU district with Contract Zone.



Mr. Sherr disclosed members of his firm Ransom Consulting Engineers have worked with Bateman Partners in the past, but not on this project. He has had no discussions or input on this project. Mr. Sherr stated he did not feel this would have any impact on his ability to hear this case.

Ms. Nixon stated the density is allowed in the Village Mixed Use Zone, the Contract Zone is to allow the narrower streets.

Mr. Bill Shane, Town Manager stated this request has been forwarded from the Town Council. The proposal is to add the Russell Lot Tax Map U10, Lot 1B to Village Green and develop six single family lots on the existing lot at Map U10, Lot 1B. This was to be on the agenda last month but was tabled to allow the developer time to hold a neighborhood meeting and address concerns of abutters in Cumberland Commons. The abutters had asked Mr. Bateman to reduce the number of from six to four lots. The developer considered the proposal and stated it would not be feasible with less than six lots. The technical changes are modifications to Wyman Way. Currently there are 37 houses built in village green.

Mr. Neagle asked if Amanda's Way could be accessed from Village Green.

Mr. Shane stated no, Amanda's Way is a private road with no interconnectivity.

Mr. Sherr asked about if the buffering issues were discussed with the developer and neighbors.

Mr. Shane stated yes there was extensive discussion and he would defer to the neighbors for specifics.

Mr. Moriarty asked if these were single family homes and not duplexes.

Mr. Shane stated yes.

Mr. Neagle explained the role of the Planning Board in a contract zone; the Planning Board will make a recommendation to the Council. And the Council will approve or amend, upon approval of the contract zone amendment the applicant will come back to the Planning Board for subdivision review.

**The public portion of the meeting was opened.**

Mr. David Finnegan of 17 Cumberland Common stated he is friends with the Russell family, and he was a member of the Doane Committee, and is astonished at how well Village Green has turned out, it is a great project. The Town held a meeting with abutters and the developer and as a result of the meeting he has five suggestions to modify the proposed plan.

- Request no more than four homes be permitted in Phase 4
- Increase buffering from 50 feet to 100 feet
- Require 25 feet of vegetative (planted) buffering within any buffering plan
- Request to eliminate the use of daylight basements particularly abutting the civic lot and abutting neighbors
- Request, per neighborhood meeting with Town Council, a 25 ft. variance from DEP as suggested by Mr. Bateman thus, moving the entire development 25ft. closer to the Russell residence.

Mr. Corey Zimmerman of 15 Cumberland Common suggested the possibility of building a two unit and having four dwelling units.

Mr. Moriarty stated in looking at Mr. Zimmerman's current neighbors on the left and right the proposed six dwellings are further away from existing neighbors. What is the problem? What is harmful?

Mr. Zimmerman stated this is a new neighborhood and will have an impact on his property; he knew existing closeness of neighbors when he purchased his property.

Ms. Connie Russell of 50 Amanda's Way stated she is the owner of the property, this has been a long time in planning and she is excited for the change. She respects the neighbors' concerns; however they could currently clear cut all existing trees on the lot. This proposal as discussed in reference to the Comp Plan this evening fits with the idea of higher density in the area where it can be supported by infrastructure. This request is consistent with the lot sizes in Village Green. I urge you to forward this to the Council for future discussion on house placement. As owner of the property we could currently clear cut all the existing trees on the lot.

**The public portion of the meeting was closed.**

The Board discussed the request with the following comments:

- This proposal would add six new houses and the Russell house for an addition of seven new lots to Village Green.
- At the neighborhood meeting the developer stated they would consider reducing the number of dwellings to four; there was no change in the proposal.
- A 50' buffer with the existing Cumberland Common buffer would give 100' of buffer
- The new proposed density is the same as Village Green – could the location be shifted.
- The Applicant could apply to DEP for a 25' variance to shift the houses
- The location of dwellings is limited by streams and topography of the site



- Discussion of what recommending a Contract Zone to the Council is. It does not give the Planning Board review of the lots and buffering. It is all stated in the Contract Zone, which can be changed at Council and then the subdivision is presented to the Planning Board.
- The first page of the Contract Zone in the second paragraph does not state the contract zone with the new amended acreage. Paragraph six on page one does not add the total number of residential lots with the additional seven lots.

The Board suggested that the applicant be present with the request.

**This item was tabled.**

**3. *Public Hearing: To recommend draft zoning amendments to change the zoning from Rural Residential One (RR1) district to the Village Mixed Use Zone (VMU) for the property located at 306 Tuttle Road, Tax Assessor Map R03, Lot 52.***



Ms. Nixon stated this request is similar to the previous request, this is a large parcel to be added to the Village Mixed Use Zone (VMU-Z); the applicant is present.

Mr. Shane stated Mr. Clyde Blackwell, representing the owner, approached the Council with a proposal to restore the 1780 Elizabeth Doane property by using the proceeds of the sale of an additional lot to repair the existing house. Mr. Blackwell is an architect; this change and resulting lot size reduction would be consistent with the surrounding properties in the VMU-Z; the Drown Road senior housing is in the VMU-Z district. Mr. Blackwell's proposal is to subdivide the one acre property into two approximately one-half acre lots which is permissible if the property were rezoned to the VMU-Z district to match the adjacent properties to the south and west. VMU-Z permits a 5,000 sq. ft. lot area with 15' front and rear yard setbacks and 10' side yard setback. The Town Council is asking for the Planning Boards recommendation on this zoning map change.

Mr. Boivin asked if the lot was currently non-conforming.

Mr. Shane stated yes.

Mr. Blackwell, stated he would like only two half (1/2) acre lots; to allow him to sell a second lot for a federal style house and to provide funds to restore the existing home.

**The public portion of the meeting was opened.**

Mr. Rick Doane of 4 Catalpa Lane stated he has spoken with neighbors and most think this is a good idea and agree with the concept; and it would be great to preserve the house. He stated this might be a better use of a contract zone voicing concern there are no protections regarding the current plan and limiting the division to only two lots. Mr. Doane stated if there are no controls on how many dwellings could be built, he would request the Council consider a contract zone.

Mr. Neagle agreed with a zone change there are no controls and a minimum 5,000 square foot lot could accommodate more than two dwellings.

Ms. Nixon stated the applicant is fairly confident he can restore the home, what would happen if the house were not salvageable.

Mr. Blackwell stated his contractor is Flying Point Construction; who is fairly certain the house can be restored. Flying Point Construction specializes in renovation of old homes.

The Board discussed the concerns of over development of the lot if the house couldn't be restored and impact on surrounding properties.

Mr. Moriarty suggested the following language as a control for the property: To amend §315-18 D. (1) of the Cumberland Code as follows: (1) Minimum lot size of 5,000 square feet, **provided the minimum lot size of a lot with frontage on Tuttle Road shall be 20,000 square feet.**

The Board discussed the suggestion and the following motion was made:

Mr. Moriarty moved to recommend to the Town Council a draft zoning map amendment for the property located at 306 Tuttle Road, Tax Assessor Map R03, Lot 52 to change the zone from Rural Residential One (RR1) to Village Mixed-Use Zone (V-MUZ) zone; and

To recommend to the Town Council draft zoning amendments to §315-18 D. (1) of the Cumberland Code as follows: (1) Minimum lot size of 5,000 square feet, **provided the minimum lot size of a lot with frontage on Tuttle Road shall be 20,000 square feet.**

Mr. Davis seconded.

VOTE: Unanimous 7-0

**G. Administrative Matters:** The Planning Board will hold a workshop on Tuesday October 6<sup>th</sup> at 6:30 p.m. to review the Route One Design Standards.

**H. Adjournment:** Chairman Neagle adjourned the meeting at 9:25 p.m.

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Clerk to the Board