

**Land Use Committee  
Town of Cumberland  
Council Chambers – Town Office  
April 23, 2015  
Minutes**

**I. Call to Order:** The meeting was called to order at 6:00 p.m. by Chair Steve Moriarty.

**II. Roll Call:**

**Present:** Steve Moriarty, Chair, Bob Waterhouse, Vice Chair, Adrienne Brown, Beth Fitzgerald, Tom Foley, Chris Franklin, Lynda Jensen, Sally Pierce, Sally Stockwell, Peter Bingham, Town Council, Chris Neagle, Planning Board, Peter Sherr, Planning Board

**Absent:** Bob Maloney, James Orser, Jeff Porter, Shirley Storey-King, Town Council

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

**III. Minutes of Previous Meeting:** March 19, 2015

Mr. Waterhouse moved to approve the minutes of March 19, 2015.

Mr. Sherr seconded.

VOTE: 8 in favor

2 abstain – Fitzgerald, Neagle

Ms. Stockwell, Mr. Sherr and Mr. Franklin arrived after roll call.

**IV. Review of the Draft Report of the Ad Hoc Land Use Advisory Committee**

Mr. Neagle thanked Mr. Moriarty for his leadership and preparing the excellent summary.

Ms. Stockwell also thanked Mr. Moriarty and asked why no reference to discussions was included in the report.

Mr. Moriarty stated the discussions are in the minutes and that would be too much detail for the report it is less important to how the committee decided but to show the end result.

The Committee reviewed the draft report with the following suggestions and changes:

**THE REPORT OF THE AD HOC  
LAND USE ADVISORY COMMITTEE**

**DATED:**

## TABLE OF CONTENTS

<u>I.</u>	<u>INTRODUCTION</u>	<u>2</u>
<u>II.</u>	<u>COMMITTEE CHARGE</u>	<u>2</u>
<u>III.</u>	<u>FIRST CHARGE</u>	<u>3</u>
<u>A.</u>	<u>FORESIDE GROWTH AREA</u>	<u>4</u>
<u>B.</u>	<u>TOWN CENTER GROWTH AREA</u>	<u>4</u>
<u>1.</u>	<u>Comprehensive Plan Change</u>	<u>4</u>
<u>2.</u>	<u>Recommended Zoning Ordinance Change</u>	<u>4</u>
<u>C.</u>	<u>WEST CUMBERLAND GROWTH AREA</u>	<u>5</u>
<u>D.</u>	<u>SUMMARY OF GROWTH AREAS</u>	<u>5</u>
<u>IV.</u>	<u>SECOND CHARGE</u>	<u>5</u>
<u>V.</u>	<u>THIRD CHARGE</u>	<u>6</u>
<u>VI.</u>	<u>FOURTH CHARGE</u>	<u>6</u>
<u>VII.</u>	<u>CONCLUSION</u>	<u>7</u>
	<u>RECOMMENDATIONS</u>	<u>8</u>

## I. INTRODUCTION.

The Ad Hoc Land Use Advisory Committee was appointed by the Town Council on May 12, 2014 and held its first meeting on June 3, 2014. The Committee met a total of fifteen times as a group, and a sub-committee met on a number of occasions to prepare the survey to be distributed to the public. [The minutes of those meetings are available which will further describe the process.](#) Several of the originally appointed members resigned along the way, and at the time of the completion of its work the committee consisted of the following residents and town staff.

### 1. Members:

Steve Moriarty, Chair	
Bob Waterhouse, Vice Chair	
Adrienne Brown	Bob Maloney
Beth Fitzgerald	James Orser
Tom Foley	Sally Pierce
Chris Franklin	Jeff Porter
Lynda Jensen	Sally Stockwell

### 2. Planning Board Members:

Chris Neagle  
Peter Sherr

### 3. Town Staff

Carla Nixon, Town Planner  
Pam Bosarge, Committee Secretary

### 4. Town Council Liaison

Peter Bingham  
Shirley Storey-King

All meetings of the Committee [were held at town hall. Advance notice of all meetings was provided and the public was invited to attend.](#) ~~were held at the Town Hall and were announced in advance and were open to the public.~~

The Council presented the Committee with a four- part charge as follows:

## II. COMMITTEE CHARGE.

[The Ad Hoc Land Use Advisory Committee shall review and make recommendations to the Town Council on the following:](#)

1. The two rural residential zoning districts (RR 1 and RR 2) including but not limited to, their location, boundaries, lot standards, and allowed uses. The committee will also review the provisions of Section 315-6 (G) and 315-6B-(G) and consider if any changes should be made to the existing Rural and Growth areas as contained in the 2009 Comprehensive Plan.

- 2. The Office Commercial (OC-S and OC-N) districts located on Route 1, including but not limited to, the location of the districts, the land uses allowed and lot standard requirements. The committee will also review the current Route 1 Design Guidelines.**
- 3. Consider if a Conservation Subdivision ordinance should be adopted and, if so, where and how the provisions would apply.**
- 4. Assist in the development and administration of a town-wide survey on issues relating to land use regulation.**

Although the Committee was asked to report to the Council no later than January, 2015, that target date could not be met but the Committee made every attempt to complete its work in an efficient and thorough fashion. A list of the Committee's recommendations is attached under [Tab #1-Attachment # 1](#)

### **III. FIRST CHARGE.**

This charge consisted of two sections, the first of which asked the Committee to examine the existing RR1 and RR2 zones, and the second of which asked the Committee to examine the existing rural and growth areas as described in the 2009 Comprehensive Plan.

With respect to the initial portion of the charge, after lengthy discussion and analysis [of the Survey](#) the Committee recommends retention of the existing RR1 and RR2 zones as shown on the current Official Zoning Map. With the exception noted below in sub-paragraph B, the Committee does not recommend any changes to the locations, boundaries, lot standards and permitted uses of the RR1 and RR2 zones. [This is consistent with the survey results, outlined in more detail under the Fourth Charge.](#)

The second and somewhat more complex portion of the charge addressed the growth areas as described in the current Comprehensive Plan. Reference is made to Chapter 14 of the 2009 Comprehensive Plan, titled "Future Land Use Plan" in which three rural and growth areas were described and recognized. A copy of Chapter 14 is attached under [Tab #2 Attachment # 2](#). Note [that](#) the growth areas do not differentiate between commercial and residential uses, and all three growth areas contain both rural and more densely settled portions. The three growth areas and the Committee's recommendations will be discussed separately.

Note: It does not appear that a map officially displaying the boundaries of the growth areas was ever approved following adoption of the Comprehensive Plan. A map was prepared in September 2008 depicting the growth areas, and was discussed by the Comprehensive Plan Committee, but it was evidently never adopted or approved. However, the map was used as a reference in committee discussions. Attached to this report under [Tab #3-Attachment # 3](#) is a map showing the Committee's recommended boundaries for the [three](#) growth areas.

[The designation of a Growth Area carries with it no zoning changes such as new or deleted uses or lot size changes or zoning impact, it is simply a planning device, rather it is an essential planning tool designed to show areas where growth can best be absorbed in order to help preserve more rural areas of town.](#)

## A. FORESIDE GROWTH AREA

This area is clearly and explicitly defined in the Comprehensive Plan as consisting of the Limited Density Residential (LDR) district, the Rural Industrial (RI) district, the Office Commercial – North (OC-N), and the Office Commercial – South (OC-S) districts. The Committee recommends that the Foreside Growth Area continue to consist of the four zoning districts specified in the Comprehensive Plan and does not recommend any changes to the boundaries of the Area. Accordingly, the map ~~attached under~~shown in ~~Tab Attachment #3~~ shows the Foreside Growth Area exactly as defined in the 2009 Comprehensive Plan without any further modification. Please note that in Section IV of this report the committee recommends a ~~number of several~~ use changes in the OC-N and OC-S zones. ~~There are no further use changes recommended for the area.~~

## B. TOWN CENTER GROWTH AREA

### 1. Comprehensive Plan Change

Analysis of the Town Center Growth Area was more difficult. While the Comprehensive Plan make reference to both the Medium Density Residential (MDR) zone and the Highway Commercial (HC) zone, the plan did not explicitly indicate whether there was to be connectivity between these two zones to create ~~the one, larger~~ Growth Area. The ~~narrative of the~~ plan can be read to imply a direct connection, but it can also be interpreted to mean that the MDR and HC zones were to constitute the Town Center Growth Area separately and not contiguously. The Plan was unclear as to whether any portions of the existing RR1 separating the MDR and HC zones should be included within the Growth Area.

Following extended discussion, the Committee recommends a Town Center Growth Area somewhat larger than may have been contemplated in the 2009 Comprehensive Plan, as can be seen on the ~~map in attachment # 3, attached map~~. Specifically, the Committee recommends inclusion within the area of some portions of the RR1 zone to the east of the MDR, to include Val Halla, the Small's Brook Crossing Subdivision, and the Town Forest. ~~While it would appear that these areas are not available for development, the committee believes they should be included in the event that future redevelopment occurs.~~ In addition, the Committee recommends that the boundary of the proposed new Growth Area to the east and west of Route 9 be drawn to correspond with lot lines, such that both sides of the Route 9 corridor between the MDR and HC are included within the Area.

To summarize, the Committee recommends that the Town Center Growth Area include the designated portions of the RR1 zone in such ~~as~~ a manner to connect the MDR and HC zones into a single Area. As a result, The Village Green Subdivision, the former Drowne Road School, and the Town Hall are included in the proposed new Growth Area.

### 2. Recommended Zoning Ordinance Change

With respect to that portion of the RR1 zone that lies within the boundaries of the recommended Growth Area, the Committee recommends that the zoning be changed to RR2 and that the Council and the Planning Board also consider other zoning changes that may be appropriate to this portion of the proposed Growth Area. It is the Committee's belief that zoning lot size requirements within the RR1 portion of the Town Center Growth Area ~~must be changed~~ to allow for more dense development in this area in order to protect rural areas from development to actually direct and encourage growth in this area of town rather than in the rural areas, as envisioned by the 2009 Comprehensive Plan.

### C. WEST CUMBERLAND GROWTH AREA

As was true of the Town Center Growth Area, the language of the Comprehensive Plan did not specifically define the boundaries of the West Cumberland Growth Area with respect to existing zoning districts. The language can be interpreted in a manner that includes only the various commercial zones that were adopted several years ago along the length of the Route 100 corridor. However, the existing Industrial (I) zone does not abut Route 100 and has potential for residential and commercial development.

Following discussion, the Committee recommends that the West Cumberland Growth Area consist of a large triangular- shaped parcel which includes the Route 100 corridor as well as all property to the west of the corridor and to the west of the Maine Turnpike extending to the western and southern boundaries of the Town.

### D. Summary of Growth Areas

In summary, the Committee recommends no changes to the boundary of the Foreside Growth Area as described in the 2009 Comprehensive Plan, but recommends specific boundaries for the Town Center and West Cumberland Growth Areas in order to address ambiguities in the description of these Areas in the Plan, and to encourage development to the growth areas and maintain rural character in other areas.

## IV. SECOND CHARGE:

The Office Commercial (OC-S and OC-N) districts located on Route 1, including but not limited to, the location of the districts, the land uses allowed and lot standard requirements. The committee will also review the current Route 1 Design Guidelines.

The Committee recommends removal of timber harvesting as a permitted use in the OC-N and the OC-S zones.

While the Committee is aware of the various housing alternatives that are permitted in the contract zone known as Cumberland Foreside Village, the Committee recommends against adding duplex or multiplex dwellings as permitted uses in the OC-S zone. Note that these housing options are currently allowed as permitted uses in the OC-N zone.

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With regard to additional uses, the Committee recommends that restaurant and retail be added as permitted uses in OC-N and OC-S zones, provided that the restaurant or retail use does not exceed 33% of the developed floor space and that no single restaurant or retail use may exceed 3,500 square feet. The Committee further recommends prohibiting drive-through restaurants in the OC-N and OC-S zones.

In light of the unique ~~shape of the boundary of the~~ OC-S zone, the Committee recommends creating an overlay district in the northern - most four lots of the OC-S zone for both restaurant and retail uses not to exceed 3,500 square feet in size, but with no limit on the overall percentage of the developed floor space that can be devoted to these uses.

The Committee reviewed and considered the current Route One Design Guidelines, and recommends that ~~the mandatory~~ Route One Design Standards ~~attached under as shown in Tab #4 Attachment # 4~~ be adopted in their place. The Standards are mandatory, but do not differ radically from the existing Guidelines, and closely resemble the Standards that are currently in place along the Route 100 corridor.

## V. THIRD CHARGE.

The Committee discussed at length the existing clustered, dispersed, and traditional subdivision provisions of Section 315-43 of the Cumberland Code. It is significant to point out that in the past twelve years nearly all approved subdivisions (with the exception of those located in contract zones) have followed the clustered model. Conservation subdivisions are similar to clustered subdivisions in that homes are clustered close together in one area of the lot in order to preserve open space areas and areas of high ecological value. However the Conservation Subdivision process is very different in that the high value areas of a parcel are depicted on the proposed plan PRIOR to laying out the road and house locations, and plan the development around high value resources right up front.

The Committee strongly recommends developing a Conservation Subdivision Ordinance that follows the Goals and Issues outlined in the attached framework. The Committee believes conservation subdivisions are an important tool for conserving important natural resources and the rural character of the town, and to some extent can counterbalance the expansion of the Town Center and West Cumberland Growth Areas into the RR zones.

The addition of a Conservation Subdivision, Ordinance provision, whether as an option or as a requirement, presents a broad array of complex and inter-woven land use planning considerations. Given limited resources and the desire to complete its work in a timely fashion, the Committee focused upon describing the framework of a potential Conservation Subdivision Ordinance rather than the specifics of the ordinance. ~~Attached under Tab #5 is a list of the Goals and Issues that should be taken into consideration in the formation of and eventual consideration of a Conservation Subdivision Ordinance.~~

The Committee recommends that the drafting of a Conservation Subdivision Ordinance be delegated to another committee to be appointed by the Town Council, and that such committee be provided with the services of a consultant in developing the language that addresses the Goals and Issues and which is otherwise ~~is~~ consistent with the 2009 Comprehensive Plan.

## VI. FOURTH CHARGE.

The survey subcommittee met a total of seven times and with the assistance of Brian Robertson of Market Decisions agreed upon a survey which was sent in September 2014 to over 3,200 residents and property owners in Cumberland. Results were compiled by Market Decisions, and ~~attached included in under Tab~~ Attachment #6 are the Land Use Committee Survey Results and the more detailed Land Use Committee



Survey Report. The Committee was guided by the results of the survey in making its various recommendations.

There was a 30% response rate to the survey which was considered to be statistically strong and reliably indicative of the desires of Cumberland residents. The Committee believes that the results of the survey will be of long-term value to the Town in making planning decisions beyond those issues with which the Committee was charged.

The Land Use Committee Survey Results is a concise summary of survey responses and the data has been compiled in a reader-friendly format. Briefly, residents are satisfied with the current pace of both residential and commercial growth. A ~~narrow~~ majority favored maintaining ~~the current RR1 and RR2 zones~~, ~~but there was also strong support for the creation of a single RR zone with a two-acre minimum lot size.~~ While the results regarding designating areas for residential growth did not show that some areas were clearly favored, there was extremely strong support for designating areas within the RR zones in which the protection of existing rural character should be encouraged. This lends strong support to the creation and adoption of a Conservation Subdivision Ordinance.

There was solid support for the creation of restaurant and retail uses along the Route One corridor as well as for mandatory Design Standards. The Committee's recommendations for the OC-N and OC-S zones correspond closely with the results of the survey.

#### **V. CONCLUSION.**

The Town is fortunate that so many of its residents from diverse backgrounds were willing to devote substantial time and energy to the charges presented by the Town Council. Our discussions were vigorous and far-reaching, and while there was not unanimous support for all of the recommendations there was substantial consensus agreement nevertheless. All members of the Committee look forward to the opportunity to discussing this Report and the attached recommendations in greater detail.

Respectfully submitted,

Steve Moriarty, Chairman

## RECOMMENDATIONS

1. 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.
2. No changes to the location, boundaries, lot standards and allowed uses of the RR1 and RR2 zones are recommended, except as noted above.
3. The Committee recommends that the boundaries of the Foreside Growth Area should be depicted as shown on the map attached under [Attachment #3](#)~~Tab 3~~.
4. The Committee recommends that the boundaries of the Town Center Growth Area should be ~~as~~ depicted as shown on the map ~~attached under~~[included in Attachment Tab # 3-3](#).
5. The Committee recommends that the boundaries of the West Cumberland Growth Area should be as depicted as shown on the map ~~attached under Tab 3~~[included in Attachment # 3](#).
6. Timber harvesting should be abolished as a permitted use in the OC-N and OC-S Zones.
7. Duplex and multiplex dwellings should not be added as permitted uses in the OC-S zone.
8. Restaurant and retail uses should be permitted in the OC-N and OC-S zones provided that the restaurant or retail space does not exceed 33% of the developed floor space and that no single restaurant or retail use may exceed 3,500 square feet.
9. An overlay district should be created to include the northernmost four lots in the OC-S zone for restaurant and retail uses provided that the uses not exceed 3,500 square feet in size, but with no limit on the percentage of developed floor space devoted to either use.
10. Drive-through restaurants should be prohibited in the OC-N and OC-S zones.
11. The Route One Design Standards [shown in Attachment # 4](#) ~~attached under Tab 4~~ of this report should be adopted in place of the existing Route One Design Guidelines.
12. The Cumberland Conservation Subdivision Ordinance Goals and Issues should be adopted as a framework for the study and development of a proposed Conservation Subdivision Ordinance.
13. Another committee should be appointed and, with the assistance of a consultant, should be charged with the development of a proposed Conservation Subdivision Ordinance.

The Committee agreed to review the proposed changes and approve by e-mail.

The Committee reviewed the Route One Design Standards which had been changed based on conversations and review.

Mr. Bingham asked if there was a provision for Planning Board waivers.

Ms. Nixon stated yes.

Mr. Moriarty stated if the Committee does not need to meet again, the next step is to complete the Binder and provide a presentation to the Town Council. He would hope as many members of the Committee as possible would be able to attend his presentation. The Town Council will refer the report to the Planning Board for review and the Planning Board will then refer it back to the Council for acceptance.

Mr. Bingham thanked the Committee for its great job stating this committee and the Coastal Waters Committee have been great and he is very appreciative of the time and dedication of the Committee.

Mr. Moriarty also thanked the Committee for its dedication, stamina and hard work; it has been a pleasure.

Mr. Waterhouse echoed the same sentiments.

V. Adjournment: The meeting was adjourned at 7:35 p.m.