

**Land Use Committee
Town of Cumberland
Council Chambers – Town Office
August 28 – 6:00 p.m.
Minutes**

I. Call to Order: Chairman Moriarty called the meeting to order at 6:00 p.m.

II. Roll Call:

Present: Steve Moriarty, Chair, Adrienne Brown, Beth Fitzgerald, Tom Foley, Chris Franklin, Lynda Jensen, Bob Maloney, Jim Orser, Sally Stockwell, Bob Waterhouse, Peter Sherr, Chris Neagle, Peter Bingham, Council Liaison,

Absent: Peter Gagne, John Lambert, Sally Pierce, Jeff Porter

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

III. Minutes of Previous Meeting – July 31, 2014

Mr. Maloney moved to approve the minutes of July 31, 2014

Mr. Orser seconded.

VOTE: 10 in favor

1 abstain (Franklin)

IV. Draft Survey Review:

Mr. Moriarty stated the Survey Committee has been hard at work; Brian Robertson, the Consultant from Market Decisions was at the last meeting. The Committee has been provided a draft survey with the hope of adopting it tonight and having a final version by the middle of next week. The residents would be given a two week response date to return the survey to Market Decisions. Market Decisions will keep a running total of the fill in the blank questions. Residents will also have the opportunity to pick up surveys at the Town Hall for spouses. The Committee should have survey results by the end of September. Mr. Moriarty stated the Committee has voted on some issues prior to survey results for two reasons to formulate decisions; which may or may not change with the survey results.

The Committee reviewed the survey as follows:

- Page 2: consists of generic questions asking how residents feel about living in Cumberland.
- Page 3: Continues to ask questions about living in Cumberland and what zone a person lives in. A full size zoning map will be included with the survey.

**4. Do you have any concerns about living in Cumberland?
(Please check all that apply.)**

Taxes continue to rise and I may need to move to a town with lower taxes.	<input type="checkbox"/>
The quality of municipal services has declined.	<input type="checkbox"/>
There is too much residential growth.	<input type="checkbox"/>
There is too much commercial growth.	<input type="checkbox"/>
There is not enough growth to hold the line on taxes.	<input type="checkbox"/>

There is not enough open space.	<input type="checkbox"/>
There is no public oceanfront to enjoy.	<input type="checkbox"/>
I do not like the changes that have taken place on Main Street.	<input type="checkbox"/>
I do not like the changes that have taken place on Route 100.	<input type="checkbox"/>
Should we add - I do not like the changes that have occurred on Route 1	<input type="checkbox"/>
There are not enough activities for young people	<input type="checkbox"/>
There are not enough activities and/or services for older residents.	<input type="checkbox"/>
There are not enough bike paths or sidewalks in town.	<input type="checkbox"/>
Other concerns (please specify below)	<input type="checkbox"/>

Ms. Jensen asked if the question regarding Main Street and Route 100 should be a separate question.

The Committee discussed the questions in #2.

Mr. Neagle stated the sub-committee did a good job with the survey; stating he thought questions about changes to Main Street was outside the Committee charge.

Mr. Moriarty stated the responses when taken together are intended to give a mid-stream assessment of the community.

Ms. Brown stated there has never been any ocean access, is there a possibility of gaining ocean access.

Mr. Bingham and Ms. Storey-King stated the question of obtaining ocean front access has been in all of the previous comprehensive plans.

Ms. Stockwell stated questions #1 and #5 are similar and question 5 is a leading question, with the presumption that more growth will lower taxes.

Mr. Orser agreed the questions lead the witness.

Mr. Sherr stated they all lead the witness to a yes or no answer.

Ms. Nixon suggested the Committee review the whole survey.

Ms. Fitzgerald asked if the results would be tabulated by location.

Mr. Moriarty stated no, only by the answer to the zone the respondent resides in.

Ms. Asherman asked if the survey would be available on line.

Mr. Moriarty stated no, the consultant, stated surveys tend to lose control on line.

Mr. Neagle asked if the survey would be mailed to land owners.

Mr. Waterhouse stated at the subcommittee it was discussed to send the survey to the landowner who pays taxes.

Ms. Storey King stated the 11' x 17" zoning map should be inserted into the middle of the booklet between pages two and three.

- Page 4

Mr. Neagle stated the map circles need to be changed to include the entire Route 100, and all of Main Street is not a mixed use; and areas 4 & 5 on Route One should be narrowed to reflect the correct OCS and OCN districts.

- Page 5

Mr. Neagle stated the questions are very limited, the question of two or four acres might not be the answer it might be three acres, and the questions need more creative wording. Consider lot sizes and the type of development and not a broad brush of the whole community. We should have feedback for other options.

Mr. Moriarty stated in reality we have had the current zoning for 25 years.

Ms. Nixon shared comments from the Town Attorney, Natalie Burns regarding the question of should there be one Rural Residential zone with a 4-acre lot size minimum. This might be construed as exclusionary zoning. The Committee reviewed Ms. Burns' e-mail of August 27, 2014 which stated the following: *Hi Carla, I understand that when the Town Council reviewed the draft survey this past Monday night, they expressed concern about providing an option for residents to choose increasing the minimum lot size in the RR 2 zoning district from its current 2 acres to 4 acres. I am concerned about the possibility of a 4-acre minimum lot size being subject to a challenge as exclusionary zoning. As you know, we represent many municipalities, both in the greater Portland area and elsewhere in the State. Many of them have a rural character or areas identified as rural in character in their comprehensive plans. None of them has a 4-acre minimum lot size requirement. For this reason, it is my opinion that the Town should not consider adopting any minimum lot sizes that are greater than 2 acres in size. Please let me know if you have any questions.*

Mr. Neagle stated tons of communities have four acre lot sizes. Raymond Cape has acres form a quarter of acre to four acres; lots would still be buildable, with a classification of a legal non-conforming lot.

Mr. Sherr agreed with modifying the question to suggest something other than two and four acre lot sizes.

The Committee discussed question nine at length and agreed with revising the questions as follows:

In the third paragraph of Rural Residential Zoning on page 5 to change as follows:

Rural Residential Zoning

The first issue is about lot size requirements in the rural residential zones.

If you refer to the zoning map included as an insert to this survey, you will see that there are two large areas zoned for Rural Residential uses. Rural Residential 1 (“RR 1” as shown in blue) requires 4 acres for a single family house lot. The Rural Residential 2 (“RR 2” as shown in yellow) area requires 2 acres for a single family house lot.

Background: The decision to create two rural zones with different minimum lot size requirements was made in 1989 and was based on the results of a groundwater study that indicated larger lots were needed in areas with inferior soils to support septic systems. While this analysis was valid at the time, there have been changes to septic system design and materials that now allow a lot with poor soils to support a septic system. The question is whether to change the zoning so that both Rural Residential zones require a two acre minimum or to leave the lot sizes as they are: RR1 – 4 acre minimum; RR2- 2 acre minimum.

One point of view is that reducing lot size could double the number of new lots available for development and that such development would affect the rural character of the town. Another point of view is that **current** property owners in the RR 2 ~~to~~ have a greater number of potential lots. ~~(and therefore potentially higher property value) than property owners in the RR1 zoning district.~~

Please be aware that if the Town Council decides to consider revising lot size requirements, any zoning changes will be from this point forward. Any current property owners will have legal non-conforming lots that will still be buildable.

- The Committee discussed question # 9 with the following comments and suggested changes:

The Committee discussed that originally when this issue was discussed at the Planning Board and the Comprehensive Plan update Committee it was as an equity issue.

Mr. Moriarty stated all zones are arbitrary.

The committee reviewed the growth areas, with Mr. Neagle stating none of the growth areas are in the RR1 and RR2 districts.

Ms. Stockwell stated the crux of the issue is not acreage but where to direct growth to protect rural areas, and where higher density growth should be located to protect rural character.

Mr. Sherr stated to be up front the preliminary questions are: there is going to be growth, how do we sustain and target the growth to keep the Town’s character.

Mr. Moriarty referred to the 2009 Comprehensive Plan on page 158 which listed three growth areas, the Foreside, the Town Center and Route 100 Gray to Falmouth. The Rural Growth map is already in the current Comp. Plan and not part of our charge by the Council.

Mr. Neagle stated what’s wrong with asking, the concern is relative to ask questions for the big picture thinking in the RR1 and RR2 zones.

Ms. Storey-King stated the Council tabled by a 5-2 vote to hold a referendum on whether or not to combine the RR1 and RR2 into one RR zone. The Council thought we would have better information after the survey, and a referendum vote would not give enough information for the voter to make an informed vote.

Mr. Neagle suggested as a question: If you feel there should be targeted growth, which of these neighborhoods should growth occur? The neighborhoods being: Greely Road, Tuttle Road, Harris Road, Blanchard Road, Pleasant Valley Road, Orchard Road and Skillin Road. Do you feel certain areas or neighborhoods should be targeted for growth?

Ms. Jensen asked why target areas, if someone were filling out the survey they would want the growth in an area other than their neighborhood.

Mr. Neagle stated growth is targeted to areas with municipal services as a cost saving benefit to the community and to not encourage sprawl.

The Committee discussed ways to ask about encouraging growth in specific areas of town.

The following are suggestions to question # 9.

9. How strongly do you agree or disagree that...

	Strongly agree	Somewhat agree	Neutral	Somewhat Disagree	Strongly Disagree
1. How strongly do you agree or disagree that there should be one Rural Residential zone?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. How strongly do you agree or disagree that there should be one Rural Residential zone with a 2 acre lot size minimum?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. How strongly do you agree or disagree there should be one Rural Residential zone with a 4 acre lot size minimum.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. How strongly do you agree or disagree that the current RR1 and RR2 zones should be retained.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. How strongly do you agree or disagree that there should be specific areas in the Rural Residential 1 (RR1) zone where residential growth is encouraged.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. How strongly do you agree or disagree that there should be specific areas in the RR2 zone where residential growth is encouraged.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. How strongly do you agree or disagree that there should be specific areas in the RR zones where conservation should be encouraged.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. How strongly do you agree or disagree that conservation subdivisions should be encouraged in designated areas of the RR1 and RR2 zones?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do you think the Town should consider other minimum lot sizes in the RR1 and RR2 areas? If so, what? _____ _____ _____ _____					
9. If you support and encourage growth in the RR zones where would you like it? _____ _____ _____ _____					
10. If you support and encourage conservation, such as forestry, farming, habitat and open space to maintain the rural character where in the Rural Residential Zones would like? _____ _____ _____					

2- **10. Do you wish to share any thoughts with the Committee on the Rural Residential zone issue? Please use the space below to do so.**

The Committee discussed whether to ask questions specifically targeting areas of growth in the Town, and reviewed the Town’s current Growth map.

Mr. Moriarty suggested Committee members e-mail any other proposed questions to Ms. Nixon. Mr. Moriarty stated the Sub-Committee will re-convene prior to the next general meeting of the Committee.

Public Comments:

Ms. Asherman stated that the term conservation may be related to taking away people's development rights such as farm and open space and wood lots. The wording might be better to say to maintain the rural character of our town.

Mr. Chadbourne stated he has a house on 6.8 acres on Stockholm Drive which is located in the designated growth area. He would like to build a smaller house on the lot and sell the large house to downsize. He is unable to do that due to the four acre minimum lot size requirement. His lot cannot be reduced other than by Contract Zone which would need to have a public benefit. He felt the Committee needed to have this reference to individual scenarios to understand the concept of why in certain areas of town it would be beneficial to reduce lot sizes.

Mr. Waterhouse asked how growth is encouraged.

Mr. Moriarty stated with density for public facilities such as water and sewer.

Mr. Neagle stated the question is if some part of our town is to grow where you would like it to be.

Mr. Moriarty stated they would get input from the Consultant, Brian Robertson.

The Committee continued to review the survey.

- Page 6 - There were no suggested changes to page 6 of the survey.
- Page 7:

Mr. Franklin stated the pictures are helpful.

Mr. Sherr suggested that we add a picture with New England Architecture, such as the McDonalds in Freeport, and to replace the Pratt Abbott Photo.

The Committee discussed the difference between Route 1 Guidelines and Route 1 Standards.

Mr. Sherr stated the change from Route 1 Guidelines to Route 1 Standards will give the Planning Board the ability for additional review control. This change would be presented to the Planning Board for a Public Hearing and to the Council for another Public Hearing prior to implementation.

The Committee suggested an introduction explaining the existing Route 100 Standards and Route 1 Guidelines.

Route One Area (continued)

Currently, Route 100 has mandatory design standards that dictate the form and function of non-residential developments. However, Route 1 has only recommended “Guidelines” that are not enforceable by the Town. One way to avoid creating strip-type development (such as Rt. 1 in Brunswick) is to require each new development to meet certain requirements. This includes standard requirements that can include but are not limited to:

- Govern the design of the building;
- Specify the size and location of parking areas;
- Restrict the size, design and illumination of signs;
- Limit the number of single entrances by requiring internal connector roads;
- Limit hours of operation.
- Buffering
- Lighting

Below are examples of buildings that reflect the New



A single use building that fits the character of the village in which it is located. Note the roof line, building color, window lights and awning.

This building does not feature any New England architectural elements.

3. In general, do you think there should be mandatory design requirements that specify how the building and parking areas should look and function in the Route 1 area?

Yes	No	Unsure
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14.

Need to add: If retail and restaurant uses become allowed uses on Route 1,

4. do you think there should be other limitations on these types of uses in the Route 1 area?

Yes	No	Unsure
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IF YES: What types of limitations?

- Page 8:

- 5. Do you wish to share any thoughts with the Committee on the **Route 1 corridor issue?** Please use the space below to do so.**

- 6. Is there anything else you would like the Committee to consider on these issues? Please write in the space below.**

V. Next Meeting:

- **The Survey Sub-Committee will meet at a date to be determined by e-mail.**
- **Next regular Committee Meeting: September 25, 2014 at 6:00 p.m.**

Mr. Orser thanked the sub-committee for its work, stating it did a great job!

VI. Adjournment: The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Pam Bosarge
Administrative Assistant