



## Long Range Planning Advisory Committee (LPAC)

**Tuesday, April 2, 2019  
Meeting Minutes**

### Attendance

Name	Present	Name	Present	Name	Present
Breana Gersen <i>Chair</i>	-	Rich Jordan <i>Planning Board</i>	✓	Claudia King <i>Council Liaison</i>	✓
Becca Casey <i>Vice Chair</i>	✓	Sandra Lipsey <i>LPAC+</i>	-	Theo Holtwijk <i>Staff</i>	✓
Dimitri Balatsos	✓	Sam Rudman <i>LPAC+</i>	✓		
Paul Bergkamp	✓	John Winslow	✓		

Other Councilors attending: Caleb Hemphill, Amy Kuhn, Andrea Ferrante, Ted Asherman

Other Staff attending: Ethan Croce, Nathan Poore

Others attending: Tony DiPietro, Peter Kraft, Godfrey Wood, Nancy Lightbody, Ronald Dearth, Amanda Henson, Dudley Warner, Bill Welch, Tim O'Donovan, Ellen Bois, Craig Baranowski, Valentine Sheldon, Marjorie Getz, Steve Grimshaw, Bob Hunt, Keith Noyes, Todd Kelly, Ben Boudreau, Joel Brogan, Steve Hess, George Thebarger, Stephen Dyer, Linda Dyer, Jack Uminski, Heidi Kettinger Roy, Keith Roy, Mary O'Brien, Paulette Gosselin

The meeting was video recorded.

Becca started the meeting around 7:00 PM. LPAC members introduced themselves.

### **1. Review of Draft Minutes of March 14, 2019 Meeting**

The draft minutes of the March 14, 2019 meeting were approved as written.

### **2. Continuation of Growth and Density Review**

Theo gave an overview of the materials in the LPAC packets. Becca explained that the Council requested a recommendation on Residential A (RA) zoning district by its April 8<sup>th</sup> meeting and that this meeting was targeted to arrive at that. She said that the committee heard lots of comments and questions from the public.

Sam Rudman stated that he wanted to answer some of those questions by giving an overview how we got here. He referenced the 2010-2013 work involved in developing the 2013 Comprehensive Plan, State of Maine acceptance of the plan in 2014, the 70 meetings that were held, the outreach that was discussed, and the reports made to the Council. He noted the 2010 survey with 574 replies, as well as

the 2011 survey with 1077 responses. He mentioned the e-mail updates that were done, the door to door work, distribution of bookmarks, and inclusion of any contact list that the committee could lay its hands on. Sam said that the Comprehensive Plan covered 16 topics, one of them land use. He said that the committee saw the plan as a growth management tool. He noted that the committee studied growth between 1996 and 2011 and that it had been declining. He also noted the caution in the plan of using average numbers. He said that no 2 family dwellings had been built, and that half of the growth was in the Farm and Forest area. He said that the goals of the plan were to preserve rural character and to have 75% of future capital investment in the growth area. He said that the plan referenced the master planning that had been done, and that this had not gone well. He felt the discussion of establishing subzones in the RA area felt like master planning. The plan recommended making it easier to build accessory dwelling units so more people could age in place. He also said that prudent fiscal management and open space preservation were important in the plan. He cited the four motivations that are stated in the plan.

Sam continued by stating what the plan did. It established growth zones in order to manage growth. The goal was to have two thirds of new growth, within the limits of the growth caps, end up in the growth zones. He then noted the work by LPAC and CDC to develop zoning recommendations and develop a report on that. He said that unknowns of that work were how the market would respond to the zoning changes, but the Council set up a 3-year review of the impact, which was around now. Sam recited the recent Council review charge, including the sense of urgency to have a recommendation deadline of today.

Becca thanked Sam for his comments and invited the public to speak.

Bill McKenney said that he apologized for his lack of involvement in the process. He noted that it took a couple of years for development to occur following the zoning changes. He felt that that the Comprehensive Survey questions were leading, and that there had been no follow up on the plan. He stated that no one came to his neighborhood. He felt that the notion that growth was inevitable and that the plan was a growth management tool reflected a lack of the real world. He noted that there had been a challenge that the growth cap had been exceeded, but that he still did not know if it had or not. He wondered how the growth zones were established.

John Winslow responded that a Comprehensive Plan is mandated if a community wants to have growth caps or if it wants a shoreland zoning ordinance that is stricter than the state's standards, or if it wants pursue grants.

Bill continued by stating that the work of subzones had been done elsewhere and that he was surprised and disappointed by the committee's stance on that issue. He commented that small open space parcels in his neighborhood were now being developed. And that the committee seemed to be blaming residents for not partaking in the process. He felt there was no respect for historic growth patterns, setbacks, or neighborhood character. He advocated for a building moratorium.

Steve Dyer stated that in response to the Council charge to the committee it was a disservice to only look at the RA district, and not at the Village Mixed use (VMU) district as well. In the VMU area 100 units are being crammed into 80 acres, he said. He felt it was a travesty to ignore these issues.

Dudley Warner said that he wanted to provide a micro perspective. He reviewed a situation on Carmichael Avenue where four new lots had been created, and where the life of people who had lived

there for 50 years had been changed, and that not one person had known about it. He gave an example a gerrymandered situation where buildings now come within 10 feet of the property line. He thought that there had been nine months of talk, and that the new houses there were to be rented, most likely as Airbnb units. He recommended a building moratorium.

Ron Dearth stated that there had been a petition to rescind the zoning that had been signed by 869 residents. He asked how many people constituted a consensus. He said that he did not subscribe to the committee's misguided vision. He said he lived next to a 9,000 sf duplex, that had stretched the ordinance rules. He said that the building was still for sale. He wanted the committee to plan for us, work for us, and that he was not in the mood to compromise.

Joel Brogan said that he had seen a lot of growth and a lot of emotion. He said that he had purchased two lots for his family that now would be unbuildable. He said he understood the committee had been talking about grandfathering.

Becca explained the non-conforming lots approach that is in the current ordinance that the committee recommended to follow.

Joel continued by stating that he did not understand where some of the committee's numbers had come from. He cited 110 ft frontage as one example. He asked if the committee could give him assurances that his lots could be built upon.

Sam replied that this was a Council decision, and that non-conforming lots had been historically treated in this manner. Becca added that creating new non-conformities made it difficult. Ethan explained the current non-conformity rules. Projects have to meet setbacks and lot coverage in order to be buildable. There is also a setback variance that can be obtained. Lots would remain buildable subject to Council action.

Steve Grimshaw said that he held no personal animosity. He said that people were concerned about their property rights. He used the term "consented governed" and said that no one knew what was going on. He said that he owns a 100,000 square feet parcel and that the current rules would be bonanza for him, but that he did not want to touch the open space on his property. He said he had thrown the postcard away that the Town had sent. He suggested instead that the Town should have sent a letter with the tax bill through certified mail. He asked what the penalties were if the Town did not have a comprehensive plan.

John Winslow replied that it was tied to having growth caps, but that in his opinion the state's rules allow the growth caps to be reduced.

Steve asked what the growth caps were.

Sam said that the committee wanted to know if people agreed with the proposed zoning changes or not.

Marjorie Getz said she lived on Old Powerhouse Road and that she was interested in aging in place as she had an 80-year old husband. She said that her taxes were now \$40,000/year, and that this was an 8 fold increase in 23 years. She said she did not like the increased valuation of her property.

Adam Shapiro said he owned an 1 ½ acre property on the Foreside and that he also owned Apex Rentals. He noted that everyone wanted to live in Falmouth.

Heidi Kettinger felt that Falmouth should not open its door to everyone. Houses had been built behind her home causing property values to drop. She felt that it is one thing to have an in-law apartment. She said that the Falmouth Center project got her involved. She felt that the way the Public Forum had been handled made people more upset when they left compared to when they came in.

Bill Welch stated that the schools are overcrowded and that he was concerned with the taxes he had to pay. He felt that current development should be honored, that the zoning should be rolled back, and that he was not in favor of a moratorium.

Becca stated that the school department had issued a memo which was somewhat reassuring relative to overcrowding concerns.

Peter Kraft thanked the committee for its work. He cited various changes since 1980 and felt the town had done an amazing job. He noted that the population had doubled since then. He commented on traffic controls near a golf course development that seemed inconsequential, but that there had been more traffic and he was concerned with that. He felt they should do a Route 1 traffic study. He said that this is a town where people drive.

Valentine Sheldon said that people want to be heard. He said the town needed to hit the pause button and roll back the zoning. He said that the Comprehensive Plan was not doing its job and that faith in town government needed be restored.

Bill McKenney said that this process is pitting one neighbor against another.

Andy Beahm stated that he appreciated the work of the committee.

Becca thanked the speakers for their comments.

Sam stated that he felt the committee's draft numbers made sense. He said that the committee had considered the multiple zone idea for RA through mapping of lot size and frontage, and that many zones could be developed. He commented on the 2000 master plan effort and the letter from George Theborge, and that the effort of creating subzones had proven to be very complicated, and was there was insufficient time to promote it. He thought that rolling back to 2016 had merit and should be analyzed. That was the way the town had developed for 55 years and it was less complicated for residents. However, he felt this was inconsistent with the Comprehensive Plan to direct growth to growth areas and allow infill development and accessory dwelling units. He felt that the Council was asking for a more nuanced approach. He felt that rolling back to 2016 was abdicating responsibility. He said that the ten enabled projects got his attention as that represented evidence of the market. He noted that with the committee's proposal none of the ten projects could be built as designed. He said that no other projects had been analyzed. He gave data as to how many lots were larger than 50,000 sf, and how many lots were non-conforming. He noted that the committee's proposal would increase non-conformity. He thought that a 40,000 sf lot would allow for some 2 family development. He noted that 75% of lots have a frontage greater than 100 ft, and that 62% have a frontage greater than 125 feet, and that many lots in the Flats have frontage less than 100 feet. He thought that the side setback proposal would solve some problems such as with the Foreside Road example. As the hard stop that had been

suggested through a moratorium or roll back, Sam felt that better education may get at the issue. He felt that more outreach and education should be done, but that this was a Council decision.

Paul stated that he agreed. He too noted the communication and education gap. He felt that communication systems had changed, and that people seem to be confused. The soccer field project at Falmouth Center brought issues to the fore. The town may not have the skills or capabilities to communicate and should consider getting help to better engage with the public, so issues could be demystified and better explained. He said that the long range plan suggested a move to subzones, but that this was a big project when a committee meets just two times per month. He asked what to do now regarding a Council recommendation. He felt that the alternative set of numbers was a compromise. Another dimension, the roll back, was a place that people knew and which felt safe to them. He suggested that any change should be time-limited, to allow the town to get to the neighborhood level in 6 months or a year. He felt a big win in the process was the community's engagement as he felt more participation and skills were needed at the neighborhood level. Regarding growth caps, he felt that property turnover and migration should be examined. In conclusion he felt that the neighborhood level should be looked at, and that a step back now was needed to avoid unintended consequences. He felt that the 2016 zoning was a safer place.

Dimitri said he was impressed with the constructive comments the committee had received. He said he supported Sam's viewpoint, and added that some tweaking could be done, but that this was a good starting point.

John stated that he wanted to move backwards to pre 2016 zoning. He noted that the town had not blown up because of those rules. Regarding subzones he used the analogy of eating an elephant: one bite at a time. He noted the impact of stormwater runoff from impervious surfaces of development and that Portland now taxes such runoff and requires leach fields to treat it. He said he was not in favor of leaving the conditional use requirements for two family and multi family out as that would not allow neighbors to know what was going on next door. He felt that accessory dwellings should be allowed as a conditional use, and that no one had been denied a permit in the past. He was against a 10 feet front setback as that would not allow a car to be parked in front of a garage. He was in favor of pursuing subzones. He felt that the pre 2016 rules would avoid people having to guess as to what the zoning was as those were the same rules they were used to.

Joel Brogan commented that the zoning should not be constantly changed.

John replied that the 2016 zoning change was major change. He cited an example of a house that was built close to Route 9. He felt that would cause a problem when the road may need to be widened in the future. He said there was no perfect solution. He added that he wanted to keep people whole who might become non-conforming.

Sam said that subzones seemed like a ton of work, and asked if John had looked at the numbers.

John said that GIS might be a tool that could help with that.

Becca showed the individual worksheet results chart from the Public Forum that she had color coded, and the flipchart comments where she had highlighted questions that people had. She said that 25% of the comments were questions and felt that the town can do better through educational sessions in answering those questions. She felt that capturing all this engagement was the silver lining of the

process. Becca said that she pretty much echoed what Sam had said. She saw no problem with rolling back as a temporary solution, as she expected to revisit the RA zoning. She thought that perhaps all three options on the chart could become three subzones of RA. She indicated that the committee's proposal constituted a substantial roll-back, while avoiding some of the lot split problems. She stated that she would be for putting the primary recommendation on the 2/28 proposal. She felt that a moratorium was a tool for the Council to decide. She felt that looking at all other zones was huge.

Paul stated that another way to look at the issue was to ask if approaching it from the neighborhood level was the only way.

Sam felt that was a good community exercise. He added that meeting with developers was to get their perspective.

Dimitri said there was so much to do in limited time.

Paul commented that traffic and green zones in growth districts should also be considered.

Sam stated that he did not want a complete roll back. He wondered if directing growth to the growth areas was still a viable concept going forward. He thought that a timeline for a new comprehensive plan might get less interest but would need to be more creative. He felt that preserving the rural area was still an important concept, and that the plan was a good foundation.

The committee circled back to its recommendation. Some favored the committee's proposal. John stated he favored a roll back, and that he recommended that two committees be formed: a comprehensive review committee, which would use the comprehensive plan as a reference manual, and a land use zoning committee to implement the comprehensive plan.

Sam stated that the comprehensive plan looked at the town from 40,000 feet.

The committee asked the councilors present for feedback.

Caleb Hemphill stated that it was best if the recommendations were as clear as possible.

Claudia said she heard mixed opinions.

In recapping the committee's opinions, Paul indicated that both options – the committee's proposal and the pre-2016 roll back – were viable to him. John was in favor of a pre-2016 roll back. Sam was in favor of the committee's 2/28 proposal combined with education. Becca was in favor of 2/28 proposal, as was Dimitri. There was committee consensus to study subzones further, and that non-conforming lots and buildings should follow current rules. There was consensus that there should be better communication and information sharing, so people would be more aware. The committee noted that education was a two-way street.

John recommended that the state's comprehensive plan guide be consulted to help engage people.

Upon a question from Amy Kuhn, the committee responded that it had no recommendation regarding retroactivity.

Councilor Ferrante wanted to know if a 100 feet frontage with 20,000 sf lot option had been reviewed by the committee. The committee said that it had reviewed many options and that this information would be provided to the Council.

Theo said that he would prepare a draft of the committee's recommendations, but that this had to be final by Thursday. John requested that a draft be circulated to the entire committee. Theo said there was no time for an additional committee meeting to review the draft. He suggested that he work with Becca, instead of with the whole committee, to finalize the wording of the committee's report. The committee was OK with that approach. It was suggested to include a rationale for the committee's recommendations to try to address misinformation and confusion.

### **3. Other Business**

There was no other business.

### **4. Next Meeting**

The committee decided to meet next on 4/11 at 5:00 PM.

The meeting was adjourned at 8:49 pm.

Draft meeting notes prepared by Theo Holtwijk, April 9, 2019, rev1: April 16, 2019, rev 2: May 7, 2019