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Memorandum

To: LUPC Commissioners
From: James Francomano, Senior Planner
Samantha Horn Olsen, Planning Manager
Date: March 7, 2014
Re: Rangeley Prospective Zoning Plan status update

INTRODUCTION

The Commission instructed staff to collect information concerning the Prospective Zoning Plan for the Rangeley Region ("the Rangeley Plan") and how well it is serving the region. The resulting information is intended to assist the Commission in making a preliminary assessment as to whether or not the Rangeley Plan is still meeting the needs of area residents and stakeholders. The performance of the Rangeley Plan can be measured with reference to its vision statement and guiding principles, as adopted by the Commission, and in light of any unforeseen changes in circumstances since that time.

Staff contacted 20 stakeholders in the local area, representing a broad range of interests. All of the contacted individuals were given a common set of questions and provided an opportunity to offer any commentary they thought appropriate. These contacts resulted in written responses and/or phone interviews from 14 individuals, as well as brief responses from 2 others. After reviewing the responses to these inquiries and making a preliminary assessment about the status of the Rangeley Plan, the Commission might consider a number of options including taking no immediate action, conducting a more formal review of the plan, considering some of the subdivision concerns during the review of the subdivision rules, or undertaking a complete update of the plan. These options are outlined in the conclusion section. (The interview questions are attached as Appendix A.)

BACKGROUND

The Rangeley Plan is intended to help achieve the vision local people have for their region. The vision for the region articulated in the plan is to:

- Be a four-season recreation gateway to the working woods for recreation and forestry;
- Rely upon the Town of Rangeley as the economic center;
- Focus most year-round development primarily in the three adjacent plantations including Dallas, Rangeley and Sandy River;
- Retain the working woods in all but discrete locations in outlying townships; and
- Maintain a diversity of lake experiential qualities in the region from remote to rural and developed settings.

The Rangeley Plan states it is guided by the following six principles:

- **CONSISTENCY WITH CLUP.** Be consistent with the vision, goals, and policies of the Commission's Comprehensive Land Use Plan;
- **PLACE-SPECIFIC.** Create zones that respond to the particular character of the Rangeley Lakes Region. Differentiate between plantations appropriate for growth - primarily plantations adjacent to service centers and organized communities - and those plantations and townships that are remote;
- **LONG TERM VISION.** Promote land uses that reinforce the special character of the region over the long term and discourage or prohibit those that do not. Do not fuel speculative development, drain the economies of existing economic centers, fragment the working forest and ecosystems, or reduce resource protection;
- **ROOM FOR REASONABLE EXPANSION.** Plan enough room for development in the next 20 years based upon the historical growth rate;
- **FOCUS ON LOCATIONS FOR DEVELOPMENT AND MAKE PERMITTING EASIER AND EQUITABLE THERE.** Make it easier to develop in designated areas. Provide incentives and remove obstacles so that people do "the right thing." Do not force landowners to designate their land for development. Above all, assure equitable results for all landowners, large and small; and
- **STICK TO THE PLAN.** Make it more difficult to rezone areas outside of designated development zones unless extenuating circumstances, such as unforeseen public needs, emerge. Otherwise, this plan, and the effort that went into it will not be an effective investment.

The plan's vision for the region and guiding principles encapsulate what the local community and the Commission were trying to achieve at the time of plan approval in the year 2000. It is appropriate to use these as a reference point for evaluating whether the plan has been successful and whether it is still meeting the needs of local residents and stakeholders. Keys to the implementation of the Rangeley Plan include:

Five new development zoning subdistricts (or "D zones") were created by the Rangeley Plan including several mapped areas designated for expanded residential subdivision development (see Appendix B for a complete list). These prospectively zoned areas were intended to supplement or expand existing D zones to allow for approximately 20 years' worth of development and growth. The Rangeley Plan also instituted a higher standard for proposals for changes to zoning, which requires that any proposed new use be necessary to respond to unforeseen circumstances.

INQUIRIES ON THE CURRENT STATUS OF THE RANGELEY PLAN

Our goal in making these inquiries was to develop a sense of whether the Rangeley Plan is working well overall, and the questions (included as Appendix A) cover a range of topics. However, as the Commissioners are aware, the impetus for this effort was the feedback of a few landowners who have expressed interest in residential subdivision development at locations where the zoning, consistent with the Rangeley Plan, does not allow further subdivision. Several of the questions were designed to elicit information on this topic. For example, we asked: is there enough land zoned Development – Residential (D-RS) in the Rangeley Plan? This question is at the heart of the “Focus development” and “Provide for reasonable expansion” principles above.

In summary form, the following are comments received from stakeholders in response to staff’s inquiries made during the months of January and February 2014. In asking the questions, we directed respondents to certain questions that were of particular relevance to their expertise, but invited them to answer any questions that they wished. We have listed the comments and themes most often heard in discussions with respondents and organized this material under topic headings from the vision statement and guiding principles of the Rangeley Plan as cited above. Because of similarities or overlap, some of the vision and principle statements are combined or rearranged for readability of the document. The “Consistency with CLUP” and “Long Term Vision” principles were general enough in nature that we have not listed specific responses here; rather, the performance of the plan on these points can be assessed by reviewing all of the other points collectively.

For each topic below we have provided selected, representative statements made by the respondents, including direct quotations where appropriate, and have identified the respondent by profession only for reference purposes. Where comments are labeled as being paraphrased, they are either from staff notes from conversations with respondents by phone or somewhat edited versions of written comment submitted by some respondents. Direct quotations from written responses are denoted by quotation marks. Discussion of the comments and possible next steps follow at the end of the memo.

“Rely upon the Town of Rangeley as the economic center”

- Town Official: Commercial development at Saddleback could be detrimental to the business volume in downtown Rangeley. It is preferable to concentrate retailers and service providers in downtown Rangeley. However, if a large employer were part of a proposed new development, then any location in the overall region would be a good one. (Paraphrased.)
- Business Owner: Competition is good. People will still come into downtown Rangeley even if

new restaurants go in up around Saddleback. If 500 more people come to go skiing, 100 of them will always want to check out downtown. Growth is always good. I've never seen growth that was detrimental to anything. I don't want to see New York City but, I know that won't happen here. (Paraphrased.)

Land Trust officer There is some commuting to Rangeley... from Madrid, Stratton, and Rumford. Taxes are lower in the UT, that may impact people's choices, also prices are lower. The farther out the residents go from Rangeley, the greater the burden in providing services. (Paraphrased.)

Plantation official There has to be something else that can help with jobs in the areas. Most of the younger generation don't stay. Jobs are banks, logging, Saddleback, school, health center. (Paraphrased.)

“Focus most year-round development primarily in three adjacent Plantations...”, “Differentiate between plantations appropriate for growth... and those plantations and townships that are remote”

We did not ask respondents to comment directly on this aspect of the Rangeley Plan. Current permitting data, such as was reviewed by the Commission in connection with its deliberations on a recent zoning petition, shows that the ratio of permit activity in the region remains steady as between the three primary plantations (Dallas Plantation, Rangeley Plantation, and Sandy River Plantation) and the seven outlying townships that are also included in the Rangeley Plan area.

Roughly 4/5 (four fifths) of the permit activity in the areas covered by the Rangeley Plan takes place within the three primary plantations.

Builder: Teachers live in Plantations and as far away as Madrid and Phillips because Rangeley is not affordable. Part of it is taxes. (Paraphrased.)

“Focus development (and make permitting easier and more equitable there).”

Developer: “[The region] needs a second bite at cleaning up these inadequate subdivisions.”

Developer: More subdivision lots close to Saddleback ski mountain would be good for business there. (Paraphrased.)

Realtor: Consider the example of the Sugarloaf ski mountain. There, the town of

Carrabassett Valley partnered with the resort to build a golf course, and permitting is much faster there. (Paraphrased.)

Land Trust officer: The organization has made applications, process seems to have worked. (Paraphrased.)

Plantation Official: The premium value placed on property zoned for subdivision is unfair. (Paraphrased.)

Builder: Leave remote areas alone – don't compromise them. (Paraphrased.)

Plantation official: The plan is meeting the needs of the community, particularly because some restrictions on accessory structures were loosened. (Paraphrased.)

"Provide for reasonable expansion – create explicit and reasonable boundaries for zones in order to meet the development needs of the region over the next 20 years."

Realtor: "...things changed in 2008 and now there are a million lots for sale...
Simply, because of an over supply of land, lower pricing, and it's not the right time to come on the market. Fortunately [some] sellers are 'healthy' enough to wait it out a bit rather than flood the market with more lots."

Developer: There are 150 lots available in older subdivisions but they are either priced too high or are small lots or not in a good location. (Paraphrased.)

Realtor: "Currently 92 lots in LUPC jurisdiction FOR SALE - 4 Lots SOLD in 12months.
Currently 73 lots in Town of Rangeley FOR SALE - 11 Lots SOLD in 12months.

"There are probably 140 lots currently APPROVED in subdivisions (90 % in Town of Rangeley) that are not for sale at this time."

Realtor: "Statistics: Rangeley PLT, Dallas PLT and Sandy River PLT: Current land lots for sale: 97; Sold in the past year: 3.

"Homes: Plantations: current for sale 63; Sold in the plantations: 20 (includes Saddleback) Rangeley homes for sale: 113; Sold in Rangeley: 40; Rangeley current for sale: 68; Sold: 13."

Developer: "There definitely is a shortage of residential land area available for new residential subdivisions. I have reached this conclusion because I did with unorganized communities assistance a very thorough study of all the lands in the communities of Dallas Plt., Rangeley Plt., and Sandy River Plt... the only land in the three units is owned by large lumber companies and has been in Tree Growth Protection for a long period and is in the higher elevations which disallow easy access for road building and access in winter months when people wish to come to their second homes and participate in winter sports that are so important to the area."

Realtor: "There is a glut of property for sale."

Woodlands Manager: "The recession certainly slowed development and had an impact on the implementation of the [Rangeley Plan]."

Woodlands Manager: Implementation of the Rangeley Plan has not been fully tested due to the recession. (Paraphrased.)

Land Trust officer: There are many unsold, undeveloped approved subdivision lots. If the plan and zones were out of synch, people would be beating the door down, and that doesn't seem to be the case. Not hearing much from community about the plan. Recent conservation has not negatively impacted development opportunities. Abutting conservation land increases value.-(Paraphrased.)

Builder: Non-waterfront lots for primary residences should be loosened up a little bit because what's out there isn't good quality. Upgrading road systems in existing subdivisions would be a good place to focus. Improves desirability and phosphorous issues. Lot sizes could be smaller except for phosphorous issues, and man-made engineered solutions do not last well over time, particularly because of maintenance issues, so need larger lots in long run. (Paraphrased.)

Builder: Sandy River Plantation is more desirable due not only to proximity to the ski mountain but also proximity to Farmington and access to Rt. 4 which is more important than access to Rts. 16 and 17. (Paraphrased.)

Realtor: "If market demand had stayed stable, then LUPC supply would have run short."

Woodlands Manager: "Zoning is difficult to implement unless landowner intent is known. Even then it is not fair to penalize a landowner who chooses not to develop."

Consultant Engineer: "I am not sure if there is a shortage of land zoned for development. That is not the issue. It is really the number of land owners who control the land zoned for development. LUPC has essentially put a premium price on these lands they zoned, while significantly devaluing the land that is zoned as a management district. I do not believe that LUPC should be playing this role. In fact, the re-zoning process I believe is intended to level this playing field. The only problem is that the LUPC track record on re-zoning in the Rangeley Plan is horrible."

Land Trust officer: If there is one thing to consider, it's taking a close look at potential employers. This is very different from subdivision proposals. Flexibility could be built in that creates an expectation that they could work with LUPC. This might encourage someone. (Paraphrased.)

"Be a four-season recreation gateway to the working woods for recreation and forestry"

Land Trust officer: Short-term conservation activity is mostly shoreline and mostly completed. The next step is when the investment groups decide to divest – that could be a conservation opportunity at a much greater scale. (Paraphrased.)

Regional Planner: In the preparation of the Town of Rangeley's 2012 Comprehensive Plan there were some concerns about development in the plantations having a negative impact on water quality, especially due to timber harvesting, road building and storm water management. (Paraphrased.)

"Retain the working woods in all but discrete locations in outlying townships."

Woodlands Manager: "Rangeley is the hub, but without the spokes it would be a shadow of itself."

Woodlands Manager: Activity in the outlying townships drives the economy in Rangeley, not the other way round. (Paraphrased.)

Woodlands Manager: "Residential (seasonal or year rounds) development in the outlying townships has been low to non-existent, depending on the town."

Contractor: "[Rangeley Plan subdistricts do not work well because] both responsible timber harvesting and development is very restricted or prohibited in some zones."

“Maintain a diversity of lake experiential qualities in the region from remote to rural and developed settings”

Builder: Even as a developer / builder myself I don't think we should sacrifice the natural resources we have to keep developers, realtors and wealthy buyers happy. Water quality is our number one priority; phosphorus is the limiting factor. (Paraphrased.)

Business Owner: “We've locked up and tied up about all the land they need for conservation, I believe. We could lightly develop what's left and it wouldn't hurt a thing... I do like to go out on the lake and not see houses everywhere but between the Rangeley Lakes Heritage Trust and State Parks that's enough conservation land.”

Developer: “The balance of development and conservation in the region is well established by the Heritage Trust in Rangeley. They purchased or established controls against further development along most of the remaining waterfront around the Lakes and major rivers. The Trust has assured the area that it can not be over developed nor can there be small lots along the waterfronts.”

“Stick to the plan – make it difficult to rezone areas outside of designated development zones, unless extenuating circumstances, such as unforeseen public need, emerge.

The following criteria apply to the Commission's deliberations on Zoning Petitions for property located in prospectively zoned areas, as per Section 10.08,C,1 of the Land Use Districts and Standards:

- The requested change is needed due to circumstances that did not exist or were not anticipated during the prospective zoning process;
- The new development subdistrict is either contiguous to existing development subdistricts or within areas that are suitable as new growth centers.
- The change will better achieve the goals and policies of the Comprehensive Land Use Plan including any associated prospective zoning plans.

We note that only two rezonings have been applied for and approved under the rezoning criteria, adopted in rule and reflecting the Rangeley Plan, that became effective on January 1, 2001:

- Permit #ZP 721, a U.S. Customs and Border Patrol facility approved by the Commission in 2008.
- Permit #ZP 736, which achieved a rezoning in 2012 on the basis of a new wetlands delineation.

Two additional rezonings have been approved under pre-Rangeley Plan rules. The projects in question were identified ahead of time as part of the prospective zoning process in the year 2000.

- Permit #ZP 372, an expansion plan for the Saddleback ski area approved in 2007.
- Permit #ZP 652, rezoning from M-GN and P-GP to D-RS (12.07 Acres) approved in 2005.

Developer: "There needs to be a relief valve. Where LUPC, developers and stakeholders agree, the plan should allow them to act."

Woodlands Manager: "Thirteen years is a short time in terms of land use."

Consultant Engineer: I've had three significant projects that could not pass the "unforeseen circumstances" test for rezoning and therefore could not move forward. (Paraphrased.)

Plantation Official: If the Rangeley Plan says it should be updated regularly then update it. Hold a public hearing for broader input on the current status. (Paraphrased.)

OTHER ISSUES RAISED BY RESPONDENTS

Subdivision Regulations

Business Owner: Homes are too expensive for young people just starting out. People who live and work year-round in the area... don't benefit from another big house on the lake. How about more density, cutting off back lots with no frontage on the lake, other ways to make sure affordable housing is included. (Paraphrased.)

Realtor: "I've only done one twelve lot development in the past 15yrs and it was in the Town of Rangeley... one of the toughest things is that roads, surveyors, land planners, attorneys if needed, it's all so expensive and I understand why you cannot create a development and sell \$20,000 lots... just not worth doing. I have seen an increase in customers looking for lots in the \$20k range this past six months... appears there is a need, but pricing has not come down enough yet."

Developer: We should find a way to address phosphorous and other environmental impacts on smaller projects (stick) and incentivize collaboration and collective investment in septic systems, road construction and other infrastructure needs, such as with greater "bonus" density (carrot) allowed in cluster subdivisions There should also be streamlined permitting if using a certified contractor as a

way to improve outcomes. This could mean self-certification as opposed to requiring staff inspection for subdivision roads and infrastructure, but staff inspection (and potentially bonding or other form of performance guarantee) is important for contractors that aren't certified. (Paraphrased.)

LUPC Administration

- Realtor: The LUPC should have a Professional Engineer on staff for road design, storm water management and other site performance issues which this respondent feels our current staff is not qualified to resolve in a timely manner. The LUPC should reopen the Rangeley office. West Farmington is too far for convenient scheduling and too far for effective staff support. (Paraphrased.)
- Developer: The LUPC should put on free educational seminars on its application procedures. Application procedures and submission requirements should be very clear and predictable – the more you spell everything out, the more the developer will like it. A punchlist format would be helpful. Also, free CLE classes on proper subdivision practices for title attorneys would help too. (Paraphrased.)
- Land Trust officer: Most of the issues now with LUPC are about enforcement of existing regulations. (Paraphrased.)
- Plantation Official: In the past, some people disagreed with LURC, but it's a lot better now, a lot to do with people providing service. (Paraphrased.)

ANALYSIS

Staff has come away with a few major impressions from these interviews:

Subdivisions: According to stakeholders and staff observations, there is an abundance of existing subdivision lots available for sale and many of these have been on the market for several years. Some are located within largely undeveloped subdivisions with incomplete or degraded infrastructure. Although this feedback is anecdotal, it was broadly consistent among respondents who broached this topic.

One way to help ensure effective implementation of the Rangeley Prospective Zoning Plan would be to assist permit holders of existing, underperforming subdivisions to redesign their previously approved subdivision plans in order to effectively generate new, more marketable housing opportunities in a manner that would not require rezoning.

Other than a notable economic recession, generally, why are the already approved lots not selling?

The respondents provide some plausible answers. These include small lot size, inferior location of remaining lots as compared to the first few lots that sold, substandard road construction and other infrastructure liabilities, and non-functioning homeowners associations. What could be done to encourage permit holders with approved-but-underdeveloped subdivisions to seek new financial partners if necessary, redesign their sites, address infrastructure needs and take other steps to allow these lands that are in fact zoned for residential subdivision development to realize more of their potential? What, if any, role is there for the Commission?

If the Commission desires to and is able to influence these conditions it may be preferable to rezoning more land – and not only because the Rangeley Plan was intended by the Commission to minimize such rezonings. Rezoning additional land for subdivision does not guarantee that the newly approved land will result in desirable, marketable subdivisions – the Commission defers to the developer to determine what is marketable. So additional rezoning will not necessarily solve the perceived problem.

Large Employers: There seems to be agreement that the availability of jobs in the region is the biggest issue today. If a large employer were to require a rezoning, and could otherwise meet the rezoning criteria, the Commission may want to carefully consider whether the present jobs issue warrants recognition as unanticipated circumstances. Several respondents distinguished this, however, as being different from adding more development potential for residential subdivisions, which does not generate long-term employment despite potential short-term economic activity.

Plan performance overall: Respondents seemed to fall into two camps – either they felt the plan was working relatively well, especially with recent changes to streamline permitting, or they felt that private landowner rights were too restricted, and that rezoning for the purposes of subdivision should be available to all landowners. This is a frequent topic of discussion in the Commission's work, as well as in other jurisdictions. The plan was adopted with general support in the community and consistent with directives in the statute to implement principles of "sound planning, zoning, and development." However, there is a general awareness among the respondents of the issue of fairness between landowners and most want to see that promoted as much as possible.

Conservation/Development balance: The general consensus of commenters is that additional conservation is not needed at this time, however, as described above, there was a difference of opinion as to whether additional lands should be made available for development.

Permitting and rule Issues: There are a number of suggestions that seem very valuable. Most of these can be considered during the subdivision rule review that is scheduled to begin this year.

CONCLUSIONS

If the Commission is satisfied that the Rangeley Plan is not yet in need of a full update, the Commission could decide to take no further action at this time. Alternatively, based on the information collected, the Commission could elect to begin work on selected issues. Work could begin on the following:

- 1) Prepare a full-fledged five year evaluation and progress report. Although the development trends appear to be holding steady, it is important to complete the analysis to be certain.
- 2) Study the obstacles preventing previously approved subdivisions from taking greater advantage of their existing development potential and make recommendations to ensure a user-friendly and efficient process to amend underperforming subdivision plans. Note that this may be a jurisdiction-wide issue that is particularly acute in the three adjacent Plantations in the Rangeley region. As such, these concerns could be dealt with as part of the planned revisions to the Commission's subdivision rules.
- 3) Discuss and document the factors that could lead the Commission to find that a development proposal by a large employer would meet the "unanticipated circumstances" rezoning criterion. Lack of long-term jobs in the area was cited by respondents as a prime concern.
- 4) Include specific strategies that were suggested by respondents, such as incentives for groups of lots to share phosphorous management strategies, or incentivizing the use of certified contractors, in the process planned for later this year to review the Commission's subdivision regulations.

The results of a five year evaluation and progress report and further study of subdivision issues may give the Commission a basis for deciding on other courses of action in the future, whether in the context of continued owner-initiated rezoning proposals (such as the one recently denied by the Commission) or in the context of future prospective zoning.

If the Commission feels that more information about the needs and opinions of the community is important in determining if a full plan update is warranted, the staff could design a larger-scale, broader public input process for the Commission's consideration. Such a process will, of necessity, occupy significant staff time and at least some financial resources.

Finally, if the Commission feels that a full update of the plan is warranted, based on the review conducted to date, the staff can prepare a discussion of those options for a future Commission meeting.

APPENDIX A

Maine Land Use Planning Commission
January 2014

Re: Report on Rangeley Prospective Zoning Plan status
Preliminary survey questions

Dear [stakeholder / respondent], the highlighted questions below are the ones we would like you to focus on, given your knowledge of [development / local impacts / the economy in] the Rangeley region as a [realtor / builder / contractor / developer / business owner / regional planner / Town or Plantation official]. However if you have the time or inclination to respond to other questions that would be appreciated as well.

1. How familiar are you with the Rangeley Prospective Zoning Plan adopted in 2001? How is the Plan working in your opinion?
2. Have the Plan's subdistricts functioned well in general over the last 14 years?
3. What about today? Are the Plan's subdistricts meeting the needs of the community now?
4. Is there a shortage of land zoned for Development?
 - a) If yes, then what specifically has led you to draw that conclusion? How does it affect you?
 - b) if no, then what signs of such a shortage should trigger more rezoning in the future?
5. With regard to new residential development in particular, is the ratio of primary residences to second homes / camps changing? If yes, then which way is that ratio moving?
6. What do you hear local people saying about the Plan lately?
7. How would you describe the current balance of development and conservation in the region? Would you like to see this balance change? If yes, then in which direction would you like to see it change?
8. To what extent does economic activity in the Town of Rangeley drive the location of development in the surrounding townships and plantations?
9. Have you noticed a difference in the level of demand for public / emergency services as between primary residences on the one hand and second homes / camps on the other?

Which type of residential use generates higher service demand? How much higher?
10. Where are these communities headed? What is the keystone to the region's future economy? Has this changed since 2001?
11. Does the Plan support the region's future economic drivers? Why or why not?

APPENDIX B

New zoning subdistricts created by the 2001 Rangeley Lakes Prospective Zoning Plan (the Rangeley Plan):

Development

- 1) Community Center (D-GN2): "It sets a firm limit on the size of commercial structures and specifies the types of uses permitted in community centers."
- 2) Rural Settlement (D-GN3): "It is smaller in scale than a community center and does not allow subdivision."
- 3) Extended Settlement (D-ES) "It will rationally locate high impact uses."
- 4) Community Residential (D-RS2) "Limited mixed use... People in rural areas live where they work and work where they live."
- 5) Residential Recreation (D-RS3) "... conserves the tranquility of high value resource areas"

Protection

- 1) Semi-Remote Lakes (P-GP2) "...limits development to seasonal recreational uses and allows subdivision"

Management

No new Management subdistricts were created by the Rangeley Plan.