

LPAC Meeting Minutes: February 26, 2009

Members Present: Hugh Smith (Chair); Hugh Coxe; Karen Farber; Kurt Klebe; Jim Thibodeau; David Chase

Members Absent: Lissa Robinson

Council Liaison: Joe Wroblewski

Staff Present: Ethan Croce; Amanda Stearns

Election of LPAC Chair

The committee discussed electing a new chair for the upcoming year.

Hugh Coxe suggested that an “LPAC +” member may have an interest in becoming chair.

Hugh Smith said one drawback of choosing an ad hoc committee member would be their lack of institutional memory. Perhaps an ad hoc member would be appointed to be a permanent LPAC member next year when his term is up however.

David said he does not have any interest in being chair due to the fact that he does not support undertaking an update of the Comprehensive Plan at this time.

Jim echoed David’s sentiments.

Hugh Smith said the Council is asking LPAC to address compact development and transfer of development rights among other issues. There are issues other than development activity that could drive the need to update the comp plan.

David does not see the need for the Town to spend a lot of money right now on another town-wide survey. He thinks the current comp plan may be adequate as is. This update process will likely take two years to complete and he does not see the need for the Town to spend lots of staff time and tens of thousands of dollars on this project right now.

Hugh Smith said that the project is open-ended and that LPAC does not have an official charge from the Council right now. He will ask for a defined charge, however, if he remains chair. One idea would be for LPAC to have a workshop discussion with the Council to bounce some ideas off them regarding how the process might work. Hugh said he will remain as Chair since no one else from the group appears to be interested, but he reminded the committee that he will be off the committee at the end of this year.

Karen said there is a range of feelings on LPAC about updating the comp plan, feelings ranging from ambivalence to opposition. She is not sure anyone else needs to step forward as chair or vice chair at this time.

Kurt suggested the possibility that the new members who will be augmenting LPAC might step forward as chair in the future.

Joe thinks it would be productive for LPAC to meet with Theo since he will play a big role in any comp plan update. He believes people will be looking at Theo to see how the new committee dynamic will work. Joe thinks it would help to have LPAC present concept ideas to the Council for how the process might work.

Jim wondered where the idea came from to add six ad hoc committee members.

Joe said that came out of the re-draft of LPAC's charge. It was thought that seven LPAC members would not be enough to move things along for a comp plan update. A greater number of members could allow for the creation of subcommittees to divide up the work. Joe's preference would have been to wait until appointing "LPAC +". Theo had suggested the possibility of breaking the comp plan update up into discrete steps so that committee members are not always up at the "30,000 foot level" for sustained periods of time. Some other councilors took hold of that idea.

Hugh Coxe heard today that GPCOG recently had a meeting to talk about creating a regional comprehensive planning process, which SPO is apparently also supportive of.

Joe said GPCOG was before the Council last month, but the discussion was about developing a regional business plan and not comp planning.

Public Hearings

Hugh Smith opened the public hearing on the zoning amendment related to expanding parking for 234 Middle Road. There was no public comment. The public hearing was closed.

Hugh Smith opened the public hearing on the proposed amendment to the Shoreland Zoning Map pertaining to changing, from Limited Residential to Limited Commercial, certain portions of the Tidewater Master Planned Development District. There was no public comment. The public hearing was closed.

Natural Resource Ordinance Review

Amanda mentioned that there have been changes made to the Development Design Process, formerly the Four Step Design Process. The list of resources listed in Section 5.1.1 has been reduced and narrowed down to only reflect resources that are actually regulated. Section 5.1.4 dealing with the timing of surveys has been refined to reference the time ranges published by DEP as opposed to naming specific dates.

Under Section 5.1.4.C, Kurt suggested distinguishing between the Town and the State when referencing the "permitting authority".

With respect to Subsection E "Exemptions", David asked if drainage swales or fire ponds created as part of a subdivision can become vernal pools regulated under this section.

Ethan said yes, if the subdivisions are created after the date of this ordinance's adoption and if it's a significant pool.

Joe thinks the ordinance should do more to exempt smaller projects from the proposed vernal pool regulations and he has proposed some new language. He thinks the ordinance should focus on trying to capture major alterations to natural resources and that smaller projects should simply be required to follow best management practices.

David agreed with Joe's suggestion and supports relaxing the regulations. He re-iterated that it appears as if the current ordinance draft would prohibit a subdivision's firepond to be dredged for maintenance/upkeep purposes if it became a significant vernal pool.

There was discussion regarding whether the committee wants to exempt approved stormwater management facilities and fire ponds approved by the Planning Board.

Joe suggested that small projects that do not require Planning Board approval be generally exempt from Section 5 with the exception of having to follow the Development Design Process and follow BMPs.

Kurt wondered how the average citizen will know what this process entails.

Joe said that it will be the responsibility of the CEO to educate and explain the process to applicants. He thinks applicant for smaller projects should be able to rely on existing published data and not have to hire a design professional. The parameters of this could be outlined in the revised Development Design Process, which could outline different processes based on a project's scope.

Hugh Coxe thought the committee was headed in that direction with the policy. The CEO is the surrogate for BMPs anyway.

Hugh Smith asked if staff can craft some language to that effect in the next draft.

Amanda said the list of things you can do on a property is neither confining nor expansive. She wondered what projects would qualify as being "small projects". If you want to put in a garden, for instance, there is no permit required and it will take some thought to exempt certain activities from the regulatory process. Permits are also not required for structures under 100 square feet.

The committee returned to the discussion about whether to exempt, under Subsection 4, man-made facilities that turn into vernal pools.

Joe thought if you exempt all man-made vernal pools it could be a slippery slope.

Karen felt the committee had conversations about this and thought that the important consideration was the function of the resource. She thinks the committee might be taking a step backward in trying to differentiate between natural and man-made vernal pools. She believes it should not matter how the pool was created.

Joe thinks the committee is trying to consider function and whether or not the improvement is still active/in use and working as it was intended. An exemption should not apply to abandoned farm ponds however.

Amanda said the language will be revised and limited to exempting improvements that were designed and maintained for the above-stated purposes.

David suggested that irrigation ponds/agricultural ponds be exempt too.

Jim suggested including an exemption for man-made skidder tracks.

The committee believed those alterations would not be exempt if they were significant vernal pools.

Ethan asked if under Subsection E.6 the intent was to exempt only lots where there was an existing residential use, or if it was also meant to exempt lots that are currently vacant but get proposed for a residential use in the future.

Joe said the alteration would be exempt if it was related to a residential use at some point in the future as well.

Jim requested a revision to Section 5.1.5. The wording should be amended to reflect a distance of 250 feet from wetlands and 750 feet from significant vernal pools.

The committee agreed that Section 5.16.2 needs further refinement. In 5.16.2.B.5, the intent was to allow the permitting authority to make a judgment on allowing alterations in excess of 25% if it makes sense from a resource protection standpoint. Ethan said this is consistent with DEP's position based on a recent vernal pool seminar he attended.

Joe expressed concern that Section 5.1.8.A.1 "Preservation" could result in a shell game being played.

Hugh Coxe suggested putting in a provision that would prohibit applicants from double-dipping for open space that is required to be set aside in subdivisions anyway.

Joe thinks the Council will be looking at LPAC or staff for guidance on how to establish the compensation fee.

Amanda said the Compensation section is still being worked on.

Next Steps

LPAC intends on reviewing the revised Section 3.13 and the Development Design Process at their next meeting and re-visit the final draft of Section 5 on the 26th. Staff will try to create schematics per Joe's request if time permits.