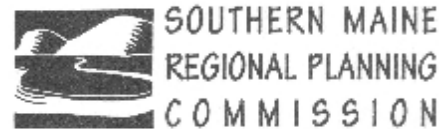


Another Round of State Planning Grants Coming Up

The State Planning Office will be running a typical grant round with a program statement coming out in February. They will offer the typical slate of grants: Comprehensive Plan, Implementation, and Comprehensive Plan Update. The Regional Challenge Grant round has been ongoing and will remain open until all FY06 funds are expended. A decision on FY07 funding for the regional challenge grant program has not yet been made. Municipalities planning to apply should be planning for match and authorization articles through their town meetings. Full details will be in the program statement, which will look very similar to last year's program statement.



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SOUTHERN MAINE REGIONAL PLANNING COMMISSION

Regional Newsletter

Development Issues

Homeowners Associations and Gated Communities

By J.T. Lockman, Planning Director

What Makes Planners Worry? - Homeowners Associations are the fastest growing kind of club in our region. In the last year, SMRPC staff reviewed nearly 100 subdivisions across our region, and almost every one had a private road, intended to remain private, and managed by a newly established Homeowners Association (HOA). Generally, Selectmen and Planning Board members are supportive of such new private roads, since no new maintenance costs will be picked up by the municipality. Developers don't mind either, since it is less complicated for them to turn over the road to the HOA when it's done, and they don't have to work with the extensive inspection regimen and documentation needed to offer the road to the Town Meeting.

When a development is new, there is typically a friendly, cooperative spirit in these HOA's. Because the road and drainage structures are new, the only costs are for plowing and sanding. But in the future, 25 years from now when extensive rebuilding is needed, and suddenly each homeowner needs to contribute thousands, it may not be easy to handle the conflicts. Also, many subdivisions are coming with cluster subsurface septic systems and underground stormwater storage structures, which will require expert maintenance.

Another emerging issue relates to expectations of privacy. In Kennebunkport recently, a subdivision was proposed with a gated entrance, the sort of project common in other parts of the US, but considered out of place around here. Everyone was pretty upset over it, but the basic problem remained, that if the developer was allowed to set up a private road, and not required to offer it to the Town for acceptance, the owners of that road then had the right to exclude others. If you and your planning board are in favor of "connectivity," or the concept that land use and transportation planning are better served if streets are connected rather than being set up on "lollipop" cul-de-sacs, a totally private road network of new streets will never achieve it. As long as the streets are privately owned, the owners can control or keep out those who aren't contributing to their upkeep.

Over time, some homeowners in the HOA may start complaining about double taxation. They pay fees to their association plus their taxes, and may live on an inferior road. The Town of course can't give them a discount on their taxes, even though they don't get town plowing or curbside trash pickup. One place in our area where some of this drama has started playing out is in the Town of Wells. For several years, residents on private roads were successful in passing a road acceptance ordinance at Town Meeting, which contained provisions for the Town to cost share with HOA's to bring private roads up to town standards, so they could be offered for acceptance. This was on the books for several years, but is now repealed. I would suspect this won't be the last word on this issue.

Some Sunbelt states, like Nevada, are passing legislation regulating HOA's but Maine and its Planning Boards are "babes in the woods," in this area. We would encourage those of you involved in your Town's policymaking to think about depending on so many private clubs to take on the historic town functions of road clearing and maintenance, as well as keeping up all of the stormwater drainage facilities. What seems like a great cost-savings today, could grow to a big headache down the road.

Notice of Omissions

In *Planning and Land Use Laws for 2006*, there were two changes made to the state statutes that were not included in the latest booklet. Title 30-A Section 4324(8) is a recent change in the statutes that allows shorter public notice for second, third, etc. public hearings on a comp plan. Additionally, Title 30-A Section 4404(20) addresses provisions for lands subject to liquidation harvesting.

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Executive Director's Column

As many folks in the region know, this agency been funded primarily through the York County Budget for over 25 years. The funds we receive through this process go towards matching state and federal contracts, running our cooperative purchasing program, making our hourly rate for service more affordable and working on sub- regional or regional projects. These funds – \$50,000 annually – while greatly valued, have not increased to any degree over time. A few years ago we began asking local communities to also contribute through their local budget process. All told, we raise \$70,000 a year in dues and local contributions. This amount pales compared to other similar regional planning organizations. In most cases, it is a third to half the amount those organizations raise in dues.

This year, the initial York County Budget, as proposed by the York County Commissioners did not include any funding for this agency. As this occurred, the Executive Committee of SMRPC decided it was necessary to directly request our full amount of dues from the towns. With the York County Budget Committee now addressing the County Budget, we have proposed that SMRPC, in a phased manner might begin to reduce their requests from the county while continuing to seek funding from the towns we serve. In this way, we can continue to provide our same level of service to our members, and possibly reduce our reliance on the county budget process. We are not clear at this time how this will all work out, however we are encouraged by the support we have received from many of the public officials and communities we serve. We have a lot on our plate for the upcoming year such as, establishing our own Economic Development District; continuing to advocate for changes to the growth management act; continuing to help towns with their growth and development issues; acting as a catalyst for regional planning projects and continuing to provide the necessary technical assistance to the municipalities in the fastest growing part of the state. We are also looking at reductions in revenues from state and federal agencies for programs on which towns have come to rely (such as the CDBG technical assistance and DOT planning funds).

We will keep everyone up to date on the status of the budget process and will likely be seeking your input over the next few months as how to most appropriately fund this organization. Feel free to call and discuss these issues and any others that may arise.

- As an update to an effort many of you have asked about – we are preparing to submit an application for federal economic development district status to the Economic Development Administration in the next few weeks. We appreciate your support.

Paul Schumacher

Implementation of New Significant Habitat Protections by DEP

By J.T. Lockman, Planning Director

New rules that we described in the last two SMRPC Regional Newsletter, Chapters 335 and 375, have now been adopted by DEP. These rules will extend the jurisdiction of the Natural Resources Protection Act to currently unmapped vernal pools, as well as to deer wintering areas, habitats of endangered or threatened animal species habitats, and other significant habitats. Typically DEP protection of such resources has been covered during Site Law permit processes for big projects – but not usually for small subdivisions or development of individual homes or small commercial projects. Copies of these new rules are available at the SMRPC website, www.smrpc.org.

At first read the rules seem simple enough, but our staff is concerned about how permitting will be managed. For instance, there may be significant delays while landowners go through new procedures to identify habitats and determine significance, which may only be field checked for a few weeks out of the year, in the case of vernal pools. In general, the DEP will require projects to be modified and land disturbance to be curtailed within 250 feet of these resources. It will be interesting in the coming months to see how this new program is “rolled out.”

Southern Maine Transportation

By Josh Mack, Transportation Planner

Transportation Financing Woes for Southern Maine — Although it has gone virtually unnoticed by the press, recent events relating to transportation finance have resulted in several setbacks for southern Maine’s transportation infrastructure. The recent passage of the federal transportation bill, SAFETEA-LU, became one of the largest earmarking bills in the country’s history. Although the state of Maine did well in receiving its proportion of the earmarks (ranked 13th highest among the 50 states for earmark funds per capita), the SMRPC region (York County, Southern Oxford County and Baldwin) received only one earmark. Given the state’s high level of earmarks, Maine was disqualified for a major federal transportation bill budget source, called “Minimum Guarantee” funds. Compounded with inflating construction costs, limited highway funds and other factors, Maine DOT was required to cut approximately \$130 million worth of transportation projects across the state, an estimated 20% of the projects slated for its original Maine DOT’s 2006-08 Biennial Work Plan. SMRPC is actively working with Maine DOT and our congressional delegation to improve southern Maine’s situation, which will require your local support. For more information, or to become more involved in our efforts please contact our Transportation Director, Tom Reinauer, on this important matter.

New Route 1 Corridor Committee Effort Launched — Municipal officials and other stakeholders met on January 17th to discuss a proposal by the Kittery Area Comprehensive Transportation Study (KACTS) Metropolitan Planning Organization to launch a regional collaborative action plan for the Route 1 Corridor from Kittery to southern Biddeford. Given the diverse land development and transportation needs of this corridor, KACTS invited HNTB Transportation Planner, Paul Godfrey, to discuss the challenges and successes he has experienced helping Maine DOT manage the currently active “Gateway 1 Project,” a comprehensive U.S. Route 1 corridor transportation/land use planning process involving over 100 miles of highway and 21 communities from Brunswick to Prospect, Maine. A follow-up meeting for a southern Route 1 initiative is tentatively scheduled for the middle of February. Visit our website for upcoming meeting dates, meeting notes, the Gateway 1 presentation and other information at www.smrpc.org/transportation.htm

Managing Overlimit and Overdimension Trucks on Route 236 — A January 11 meeting with the Maine State Police concluded an ongoing public effort by the Route 236 Corridor Implementation Committee and the KACTS MPO to work with state officials and the trucking industry to openly discuss truck safety concerns on that route. Aside for the Maine Turnpike, Route 236 is one of the major entry/exit routes in southern Maine for commercial and overlimit vehicles. A result of the meeting is that local police forces on the route will be requesting additional truck enforcement training and enforcement authority from the Maine State Police. The series of public meetings have also resulted in greater public awareness and education of the trucking industries needs, the commercial vehicle permitting process, the Maine Turnpike Authority’s infrastructure limitations for overdimension vehicles, and the permitting and safety records of vehicles on the route. More information and action items resulting from this process can be accessed by visiting the Route 236 Corridor Implementation Committee website at www.smrpc.org/236b.htm.

Evaluation of the Growth Management Act

By J.T. Lockman, Planning Director

February 1, 2006 is the Legislature's deadline for SPO to submit an evaluation of Comprehensive Planning in Maine (See last newsletter's article on L.D. 286). Some of our readers took part in a two-day summit at Orono this past August, as well as being interviewed by Market Decisions this fall, which were parts of a very serious effort by SPO to gather information on how the program has been working. While the full report is not ready yet, here are some of the key findings that SPO has shared with us:

A. Comprehensive Planning has had little effect on growth patterns

Most of the evidence shows that growth is not being directed to "designated growth areas", as specified in local plans. In two fast growing towns for example, comprehensive plans call for 70% of growth to occur in a designated growth area. After 10 years, one of these towns reports 7% of growth has occurred in growth area, in the other 2%. In another fast growing town, after 10 years, an approved comp plan was still not implemented. State planners say that on average, about 70% of the growth in the last fifteen years has occurred in rural areas. It should also be noted here that the vast majority of recent growth in Maine has been single homes, not subdivisions, and that subdivisions receive far more regulatory scrutiny than single home development. At present, there is no program—local, regional or state—that measures reliably how growth and changes in land use are occurring.

B. Our current comprehensive planning program is too focused on writing plans

Most of the focus of the current Growth Management Program is on meeting the technical requirements of comprehensive plans, not on developing public policy for managing growth. Data, inventories and analyses are carefully assembled by each town and reviewed by the state. The State Planning Office estimates that local and state planners spend between two-thirds and three-quarters of their time (and funding) on the technical aspects of comprehensive plans. This emphasis is a reflection of what is required by the current Growth Management Act and rules. The Act requires that each town conduct its own data gathering, inventory and analysis. Twenty state programs offer preferences (mostly bonus points for grant funds) to towns that have written (but not necessarily implemented) a comprehensive plan.

C. Implementation of comprehensive plans is weak

The central challenge of planning is implementation. "Implementation" has two phases: *developing* local growth policy ("strategies"), and *following through* with ordinances, capital spending and other actions that support those policies. Implementation asks a community to make difficult choices. In order to affect growth, a town needs to agree on a vision and make decisions about where growth should and should not occur. Inherent in this task is a conflict between what people want for the community and what people want—or don't want to give up—individually. The most often cited example is a community that wants to preserve its local character, but rural land owners who don't want restrictions placed on how their land can be developed. These conflicts are what make planning inherently difficult. Resolving these kinds of conflicts requires strong leadership, skills in consensus building and clear state or regional goals for growth management.

D. There is a strong desire for improved tools and assistance for local planning

There was strong consensus that better tools and assistance for local planning and implementation are needed. Pre-packaged data and maps, model plans for different types of towns, menus of implementation strategies, graphics and software to show grow-out scenarios, and more personal contact with professional planners from the state or regional councils were all cited as important and needed improvements. We also heard a need for facilitation: skilled assistance with visioning, consensus building and conflict resolution would help towns to build more meaningful plans and strategies. In addition to planning assistance, fast growing towns cited a need for more staff to help review development proposals.

E. There is strong, statewide support for regional land use planning

All of our research showed strong support for regional land use planning. In every focus group, participants raised this issue spontaneously, before a question was asked about it. Further evidence of support is the number of regional planning projects that are now underway. These include a regional plan initiative at Greater Portland Council of Governments, a project on Mt. Desert Island to bring together four towns to coordinate their planning, the Sagadahoc Initiative in southern Maine and DOT's Gateway 1 project, which involves a coordinated approach to planning for 22 towns.

(continued page 5)

Evaluation of the Growth Management Act (continued from page 4)

Research also showed strong agreement that certain topics would be better planned at a regional level. Topics commonly cited for regional planning were: transportation, economic development, housing and natural resource protection. Finally, we found that in order for regional planning to succeed, regional plans must have "teeth", meaning that they must have some meaningful authority and be supported by towns in the region. Regional plans on topics such as housing and economic development have been developed in the past, but have been largely ignored, because there has been little authority or local support for them.

F. There is need for the state to establish state and regional priorities

Research participants indicated a desire for clearer state and regional goals. At the same time, participants had strong consensus that the state should be less involved in local issues. Towns don't want to be told what local issues are important to them and most felt that the current law does this. While the distinction between what is a state or a local issue needs to be clarified, examining these two positions together suggests that the state needs to shift its focus from scrutinizing local plans to more clearly communicating to towns on matters of state and regional significance. Further, our research showed a general understanding that state investments—particularly transportation, but also subsidized housing, economic development and land conservation investments all affect local planning. Many participants cited a lack of coordination and priority-setting at the state level that made it difficult for towns to do good planning. One participant put it this way: "if the state can't get its act together, how can we expect to resolve these issues at the local level?" Some said that state incentives and strategies sometimes seem to be at odds with each other, giving examples of school siting and economic development zones being at odds with goals in the Growth Management Act.

G. There is a call for a regional planning approach to large capital projects with regional impacts

Casinos, LNG terminals and the Plum Creek proposal have raised local awareness that Maine will continue to face large scale developments that have regional impacts. While regional environmental impacts are thoroughly reviewed, there is no similar regional review for economic, land use or other regional impacts. Nor are there any requirements to compensate for or mitigate the effects of regional impacts. Our research showed strong interest in pursuing legislation that would provide a framework for much broader regional review of large capital projects.

H. State oversight is an important tool in managing growth

National research shows that programs that have some form of state oversight of growth management are far more effective than programs that do not. (cite research) However, a majority of participants in this project disliked the way the state currently reviews comprehensive plans. At the same time, there was support for the state to play a more active role on planning issues of statewide and regional significance. In moving forward it will be important to balance these elements.

I. While most agree that affordable housing is a problem, there was no consensus on what to do about it

Research responses to a question on affordable housing indicated that more work is needed to develop a solution on this issue. While almost everyone agreed that there wasn't enough affordable housing, a number of focus group participants indicated that they had no intention of acting on the affordable housing strategies they had written into their plans. Others said affordable housing wasn't a regulatory (zoning) issue, but a question of needing more housing subsidies. Still others were unclear on what "affordable housing" means. Clearly there is a need for more in-depth discussion and dialogue on how to move forward on this issue.

J. In some areas, local planning, zoning and appeals boards are overwhelmed

In faster growing areas, volunteer boards are struggling to keep up with the volume of proposals for development. Despite their best efforts, these boards are unable to meet comprehensive plan goals to "preserve open space and rural character". A variety of tools could be helpful, including software that illustrates "grow out" in a town, more model ordinances and more professional staff assistance. Still others have suggested restructuring these boards as regional entities with local representation. While a bit beyond the scope of this project, this is a significant finding that needs to be addressed.

(continued page 6)

Evaluation of the Growth Management Act (continued from page 5)

Key Points from SPO's Preliminary Evaluation of Comprehensive Planning:

- I. Enhance Local Planning and Build on the Successes of the Growth Management Act.**
 - a. Provide Towns and Regional Agencies with Better Tools, Data and Assistance
 - b. Shift Emphasis from Plan Writing to Implementation
 - i. State review
 - ii. Existing incentives
 - c. Track Growth and Monitor Progress
- II. Move Towards Regional Planning**
 - a. Create Regional Planning Districts Based on Labor Market Areas
 - i. Develop Regional Plans using a SWAT team approach: a coordinated effort with state agencies, regional councils and towns working together to create a regional plan
 - ii. Pilot Two Regional Plans to start, if pilots succeed, cycle through 2-3 Regional plans each year
 - b. Coordinate State Investments based on Regional Plans
 - c. Give Regional Plans Some "Teeth"
 - i. Local support and compliance
 - ii. Incentives
 - d. Implement a Broad Model for Reviewing Large Capital Projects with Regional Impacts
 - e. Create an affordable housing study group to develop recommendations to tie-in with regional planning as described above

What About Growth Caps?

By J.T. Lockman, Planning Director

1. Many communities in our region have "Rate of Growth Ordinances," as defined by State Law, but we commonly refer to them as "Growth Caps." L.D. 1535, which was "carried over" from the last session of the Legislature, is the bill to watch if your community has, or is considering adopting, a growth cap. On Wednesday, January 11th, the Community Preservation Advisory Committee (CPAC) made the following recommendations to the Natural Resources Committee, regarding this bill: Municipality-wide rate of growth ordinances may be enacted for up to 3 years.
2. Any renewal of a municipality-wide rate of growth ordinance after the initial 3 years must put a differential rate of growth ordinance in place.
3. Municipality-wide rate of growth ordinances must meet the following requirements:
 - a. The number of permits can be no less than 105% of the 10 year median number of permits granted.
 - b. Affordable housing must be exempt from the permit limitation.
 - c. Permits requested within 5 years of the creation of a lot that was exempt from subdivision review under Title 30-A, section 4401, subsection 4.D-4 are exempt from the permit limitation.
 - d. Towns may create additional exemptions.
4. The transition for municipalities with existing municipality-wide rate of growth ordinances will occur as the ordinances come up for local renewal under the existing requirement for such review every 3 years.

A work session on this bill is scheduled for January 19th. For a latest copy of the text, and bill status, contact J.T. Lockman at jlockman@smrpc.org, or the State website at <http://janus.state.me.us/legis/LawMakerWeb/search.asp>

Looking Beyond the Shipyard: Economic Development Challenges of Southern Maine and Seacoast New Hampshire

By Chuck Morgan, Economic and Community Development Director

Southern Maine Regional Planning Commission received a grant last winter from the federal Office of Economic Adjustment to complete an overall economic diversification plan in response to the regions' dependence on federal defense related expenditures. This study had two project components: the first project component was an examination of issues related to a possible closure of the Portsmouth Naval Shipyard, and the second project component was the completion of an economic diversification plan in response to the region's dependence on defense related employment. The first component has been completed and is not really relevant at this time, as the Shipyard was not placed on the federal closure list. The second project component is in the process of being completed and is of great interest to communities and economic development professionals in Maine and New Hampshire.

SMRPC contracted with Charlie Colgan of USM to complete a study titled "Looking Beyond the Shipyard: Economic Development Challenges of Southern Maine and Seacoast New Hampshire". This study is the first to provide an analysis of the economic impact of the Portsmouth Naval Shipyard on the economies of Maine and New Hampshire. In addition, this study provided a multi-state cluster analysis of York County, Maine and seacoast, New Hampshire. A key component of the study was to make suggestions as to what can be done on both sides of the southern Maine border to diversify the greater regional economic base.

A group of local and regional economic development and business professionals has met with professors Charlie Colgan (USM) and Ross Gittell (UNH) to discuss ways to utilize the results of the study to work on multi-state projects and activities to strengthen and diversify the regional economy. There was broad agreement that on some issues, projects and activities a multi-state effort made sense and offered the best solution to some problems.

Professors Colgan and Gittell have agreed to review the existing economic data and studies they collectively have on York County and seacoast New Hampshire. Using this review they are going to identify 3 or 4 issues or projects that would be the best candidates for multi-state efforts and projects (e.g. a regional technology business incubator). These results will be presented to the working group for initial comment and review. The final product will be presented at a meeting of federal, State, regional and local leaders and professionals that will be invited to attend the event. The meeting will be held something this spring. The desired result of the meeting is to choose one or two projects or activities that will be the top priority for a multi-state effort that is coordinated by regional economic development professionals and organizations.

If you would like a copy of "Looking Beyond the Shipyard: Economic Development Challenges of Southern Maine and Seacoast New Hampshire" or would like to further discuss the Summit, please either call us at 324-2952 or email Chuck Morgan at cmorgan@smrpc.org.

Community Development Block Grants

There are still a number of open dates to submit applications to the Maine CDBG Program. Application assistance is available from SMRPC at no cost to the municipalities. These services are financed through a contract with the Department of Economic and Community Development made possible as a result of your annual dues payment. We are able to meet with you to explain the types of activities eligible under the various grant programs, match the grant programs to your community's economic development needs, or assist in the development of an application. Information on the various CDBG programs, including application deadlines, funding amounts, program descriptions and the Final Statement, is available at the Office of Community Development: www.meocd.org or contact Chuck Morgan.

PROGRAMS & DEADLINES

Downtown Revitalization— February 10, 2006

Community Enterprise— February 10, 2006

Non-Profit Development Grants— February 10, 2006

Housing Assistance— March 3, 2006

Public Service— March 31, 2006

Community Planning— April 21, and August 4, 2006

Urgent Need— 1st come basis beginning March 3, 2006

Interim Financing Program— Open

Economic Development Program— February 10, May 12*, and August 11, 2006 *

*Subject to available funds.