MEMORANDUM

To: Board of Selectmen, Town of Raymond

From: Linda Krause, Planner

Date: 6/13/2013

Subject: GPCOG/Stephanie Carver Comments on Krause memo of 4/20/13

I appreciate the review of my 4/20/13 memo by GPCOG Senior Planner Stephanie Carver and defer to her expertise in your local land use and shoreland zoning ordinances. I certainly have no intention of debating the finer points of planning with my fellow professional, especially in her own back yard. I do, however, have several points in response to Ms. Carver's comments, which are as follows:

1. I am in complete agreement with Ms. Carver that the ordinance language issues involved in this matter are complex. As one who has drafted many land use ordinances, I know how difficult it is to foresee the situations that arise which were not anticipated when the ordinance was adopted.

   In Raymond's Land Use Ordinance, an accessory use or building is defined as "a use or structure on the same lot with and customarily incidental and subordinate to the principal use of building." While parking is not specified as an accessory use, the entire section concerning off-street parking (Article 9.C) presumes a principal use. To the best of my knowledge, parking is commonly considered as an accessory use unless otherwise stated (for instance, in connection with a commuter lot). In Article 9.C 3, the zoning ordinance permits satellite parking <u>off-site</u> (which implies that it is related to the principal <u>on-site</u> use).

   Especially relevant to the Frye Island proposal is a further qualification – it must be located on an "adjacent" parcel and is allowed "so long as it is within 300 feet of the principal building, structure or use". The proposed parking area is beyond the 300 foot limit, and while the term "adjacent" is not defined in the Land Use Ordinance, I have never seen it used to refer to property which is located on the other side of a public street. Usually, the requirement that such parking be on an adjacent property is included so that it is not necessary to cross the street to get from the use to the parking, thereby creating a potential traffic hazard. Obviously, the language of the ordinance is subject to interpretation, and it is necessary to consider what the intent of that language is (or was).

2. Ms. Carver points out that when the ordinance is silent on the number of required (or allowed) parking spaces for a proposed use, the applicant is required to submit a parking study. I agree that this should be done. Unfortunately, the ordinance does not specify what information is required in the study. It would be a good idea for the Town to specify what information it needs and not leave that up to the discretion of the applicant. If Frye Island truly evaluates the parking required to alleviate congestion at the ferry, the number of spaces may be far greater than anticipated.

3. I agree with Ms. Carver that it would be best to clarify the definition of "municipal" within the current definition of "town or municipality" in the Raymond Land Use Ordinance, which states that "municipality" means the Town of Raymond. By suggesting it within the Shoreland Ordinance, I was trying to avoid the need to modify both the Land Use Ordinance and the Shoreland Ordinance.

4. I am not familiar with the use of negotiation and mediation to establish limits on land use when such limits are not contained in the land use ordinances. While my family has owned property in Raymond for 56 years, I have earned my living for almost 40 years as a planner in another state where "contract zoning" is not a legal regulatory tool. If it is available in Maine, I concur that it would be worth an effort to reach a mutually acceptable limit for use of the Cape Road property now owned by Frye Island.

   To that end, I would advise parties interested in the outcome of such negotiations to make sure that such a MOU or master plan for the site is legally binding for the long term. One problem with a negotiated agreement, however, is that the results are much more unpredictable than if the Land Use ordinance is used, in that zoning outcomes can be anticipated based on written guidelines.

Note: I am currently serving as the Executive Director of the Lower Connecticut River Valley Council of Governments (located in Essex, CT), serving a region of 17 towns of a mostly rural nature, interspersed with historic village centers. I have written regulations and reviewed development proposals over my 40 year career for 22 different jurisdictions. I freely acknowledge that I have borrowed elements of the Maine Shoreland Zoning regulations for use down here. I hope that I have not misinterpreted any of the laws, customs or commonly accepted practices that guide planners in Maine.

Thank you for your consideration.