



# HOUSE OF REPRESENTATIVES

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AUGUSTA, MAINE 04333-0002

**Melanie Sachs**

84 Kelsey Ridge Road

Freeport, ME 04032

[Melanie.Sachs@legislature.maine.gov](mailto:Melanie.Sachs@legislature.maine.gov)

(207) 287-1400

TTY: MAINE RELAY 711

November 14, 2023

*Testimony of Representative Melanie Sachs, in support of  
LD 1976, "An Act to Update the Growth Management Program Laws"  
Before the Joint Standing Committee on Housing*

Senator Pierce, Representative Gere, and the esteemed members of the Joint Standing Committee on Housing:

Thank you for allowing me to present LD 1976 "An Act to Update the Growth Management Program Laws" to you today. This is a comprehensive piece of legislation before you this morning, so I thought it might be helpful to break it down to the "Who, What, When, Why, and How" components of this important bill.

**Let's start with the "WHY":**

Pieces of the current Growth Management Program in Title 30-A were instituted in 1989 and 1991. Program evaluation, mandated by the law to occur every four years, has not been completed since 2011 for a variety of factors. In 2021, the Legislative Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, which many of you served on, held hearings and issued a report that focused on housing and zoning. During the course of those hearings, a review of Title 30-A, the Growth Management Act (or GMA as I will refer to it moving forward) was referenced as a bigger piece of work that should be undertaken. The Municipal Planning Assistance Program of the Department of Agriculture, Conservation and Forestry (DACF) in late 2022 did a survey seeking public input on three aspects of the GMA: development tracking, local and regional planning activity, and the state's financial commitment to the GMA (Spoiler alert: it is not perceived as enough.) It did not make recommendations for statutory change but did compile information that has been useful to inform this legislation.

We have a 34-year-old statute that is not meeting the moment. As this Committee has recognized, inclusive, thoughtful planning is critical for communities to meet their land use goals, which may include housing, conservation, development, recreation, and other elements. The Legislature and the State have goals and interests laid out in the statute that encourage good planning, community conversations, and collaboration, while of course preserving home rule and flexibility. These municipal comprehensive plans are often put together by a group of concerned citizens – almost all volunteers – in a community. These groups want to have a conversation and thoughtful process around what their community looks like now, and what they would like their community to look like in the future. Mainers deserve a statute that gives a meaningful structure or framework to the process, without being overly prescriptive. It should not be a

three-year process just to gather data that is required for a state checklist that will never be used, with little capacity or facility left for implementation, as we heard often during this process. This is the foundational WHY we are bringing this bill forward.

**“WHO” has been involved in drafting this bill?**

Build Maine and GrowSmart Maine, two organizations dedicated to thoughtful, inclusive planning and development, joined forces in an open and dynamic policy process, involving hundreds of people and communities small and large from across the state. Policy Action 2023 began in Spring 2022 with a series of brainstorming sessions about ways to help support municipal work and direct development to the right places. Eight working groups emerged out of this process, one of which focused on the Growth Management Act. I have attached a comprehensive list of the extensive work, including the outreach, work sessions, meetings, and community presentations. Drafts of the legislation were shared frequently with several state agencies, including GOPIF and DACF. Municipal officials, regional planning organizations, interested citizens, environmental groups, planners, and developers were all engaged, and email updates were sent frequently. We all recognize there will always be folks who will state they did not know about the bill, or who state things are moving too fast, or who frankly did not choose to be engaged until this public hearing. But it is important to note that this legislation has had almost two years of transparent, robust work.

**“WHAT” will these changes to the statute do?**

I will go through a VERY high-level look at the changes proposed in this statute, and how it provides a meaningful, flexible, and integrated statutory framework for comprehensive planning processes for municipalities of all sizes.

Section 1 addresses definitions. The definitions currently in statute are overly broad and unclear, especially for concepts such as “growth” and “transitional areas”. Communities often place all leftover areas into the “rural areas” catch-all bucket, which fails to recognize or understand rural conditions or context. Growth areas are drawn as large circles that don’t relate to conditions on the ground. This results in development that may not be in line with local community goals.

This bill provides a much more fine-grained menu of conservation areas, rural areas, placetypes, and suburban areas. This menu is based on commonly seen and experienced places in Maine that most people can recognize and can understand. It is a menu – not every community will have every element. Some definitions were updated to reflect the current language in statute, such as working waterfront. Others utilize typical legal language used to define these placetypes. The robust definitions give planning committees and residents a specific and understandable foundation to have those conversations about their community.

Even after this bill was printed, we have continued to get feedback on definitions. The rural section comes to mind. In one wildly untrue statement, for example, it was said by the state that this proposal would put farms in growth areas. There has been instead an effort in this bill to recognize the importance of rural areas, including rural economies, by including definition and intention around thinking about these critical places, and helping communities make decisions. This contrasts with the current rural “catch-all” category. I welcome these ongoing conversations, and you will hear some constructive suggestions today that could be helpful for the work session.

Section 2 outlines the Legislative and State goals. The Legislative goals were modified to emphasize regionalization, which was part of the feedback from the DACF survey. The State goals have been updated to encourage smart growth principals in planning, such as siting housing and services near existing infrastructure. Rule making is now proposed to be major substantive, given the scope of the changes being proposed and the importance of GMA to the work of committees such as this one.

Section 4 discusses the public process in developing a comprehensive plan. While the existing statute has again very broad language around public engagement, this section of the bill updates that process with

clear language. It encourages communities to have a robust public process as stated in the legislative intent (under G—“to encourage the widest possible involvement by the citizens of each municipality... in order to ensure that the plans developed by the municipalities have had the benefit of citizen input). It also adds key factors such as the importance of including “historically underrepresented people.”

Section 6 is at the heart of the changes to this statute. Municipalities are currently required to gather a long checklist of data and data analysis, which may or may not inform their work. For over 20 years, the mandates of this section have not resulted in usable plans. The survey I alluded to earlier in this testimony by DACF indicated that municipalities want a streamlined process and less burdensome requirements. Currently municipalities, regardless of size, have to submit data to the state for every element (Items A-N of Section 6 in the statute). This one size fits all approach takes towns multiple years to prepare, and when consultants or regional councils are hired, can cost \$30,000 or more.

Instead of requiring a checklist approach, where the data points are not integrated into community plans and identified placetypes, LD 1976 asks municipalities to identify what is important to their community. From the beginning, it asks them to tie into or inform regional efforts.

The only data requirement is a foundation of environmental systems data. From there, municipalities have the option of bringing in data which is relevant to their communities (A-N). We have not removed much of the statutory language – we just made it optional to have to include. This will serve to decrease an enormous amount of irrelevant busywork for all municipalities, but particularly for our smallest and most rural communities.

DACF is beginning to work on systems that would make data easier for municipalities to access. The working group welcomes that development, and it will indeed help streamline the process for communities who wish to access that data. Fundamentally, the working group believes that a growth management program focused only on mandated data collection will continue to fail us as a state.

Section 8 demonstrates why this shift is critical. It moves the emphasis from top down (state) to bottom up (community level) in planning. This framework asks communities to lay a foundational framework, using the environmental systems data. From there, they identify and map their placetypes, using the definitions in Section 1. They have conversations about what that means for their policies and current land use regulations. They talk about where they specifically want significant new development. They use data from Section 6 to inform their work. This framework has emerged from the experience of communities across the state of all sizes. This is based on tested ideas that have garnered strong support at town meetings, as noted by the planners who were involved in writing this legislation.

The focus moves from gathering data for the sake of a checklist, to the harder and more meaningful work of planning and implementation in service of outcomes. If a community has had a robust discussion of needing more housing, for example, this process will help them – what type of housing is needed? Where do we all agree it should be located? These conversations will lead to more successful implementation, and a shared understanding of goals so that when development is proposed, that process may be less controversial. Others who have experienced this thoughtful approach who testify after me will be able to speak to this further.

We have continued to have helpful feedback for this bill in this section as well. For example, communities without zoning do not have Neighborhood Standards. While this is implied in Sections 8 and 10, it should be made more explicit that the development of Neighborhood Standards applies only to communities with zoning. I look forward to the work session to continue to make tweaks and improvements.

Note that we do not truly revise sections 17-20, which discusses certification of comprehensive plans by the state. As the DACF report notes, “certification” of comprehensive plans used to be tied to financial incentives from the state. With the dismantling of the State Planning Office in 2011 and little to no funding allocated, many communities are choosing not to submit plans for review. The statutory revisions proposed in this bill provide a framework and flexibility for municipalities, to inform their process and

encourage integrated and thoughtful growth management for their communities. LD 1976 provides the critical policy reform. There are several bills that address funding and incentives for planning which are currently before the Legislature, through either enhanced support for regional planning organizations, for example, or consideration of State Planning Office functions. I anticipate further conversations for these sections in the work session.

**“HOW” is this approach different than the current GMA statute:**

- Emphasizes planning for the future, not the present and the past, with an emphasis on outcomes-based planning.
- Lifts the burden of comprehensive planning on communities small and large by eliminating the exhaustive inventory checklist.
- Gives municipalities the time and flexibility to focus on visioning and to more deeply explore issues of utmost importance to the community.
- Provides a tighter, leaner, faster process for working through a local comprehensive plan.
- Focuses inventory activities on critical natural systems and environmental systems mapping as the basis for local planning and conservation work.
- Creates a more nuanced and meaningful set of definitions for rural areas to help better protect working lands and critical natural areas.
- Redefines “growth areas” with recognizable placetypes such as rural centers, villages, neighborhoods, downtowns, and high-impact corridors. This updated framework better helps communities meet local goals and provides the foundation for effective policy and implementation.
- Expands the public process by suggesting creative and effective engagement tools for increasing public participation.

**IMPACTS: Why does it matter?**

- **Transportation Safety and Choice:** The new planning framework gives municipalities better tools for effectively directing housing and other development into places that are walkable, bikeable, and transit ready.
- **Climate Action:** Current definitions result in oversized growth areas that encourage costly, low density development patterns, eroding tax base and increasing CO2 emissions. This update gives communities more tools for fine-grained planning and critical implementation.
- **Fiscal health:** The updates will give municipalities the time, resources, and energy for important local conversations about how and where to grow, and the impact of those choices on the financial health of the community.
- **Quality of Life:** Having a plan that clearly describes what a municipality wants is the foundation for creating new housing, addressing climate needs, and achieving other important economic, financial, and quality of life goals.
- **Equity:** The engagement process broadens outreach to allow more people to participate.

I am excited that this bill is being heard by the Joint Standing Committee on Housing, as this is, in my view, the 10,000 foot summary of the work you are trying to do this session.

**“WHEN” is NOW**

The time is NOW to tackle the GMA. You may hear today that some would prefer to slow the process down and engage in yet another year of conversation. DACF came before this committee in May asking to combine LD 1976 with another bill on subdivisions, or alternatively engage in rulemaking, with changes to the statute to follow the rules. This Committee chose instead to hear LD 1976. For that, I thank you. Unfortunately, despite that decision, and even though on page 16 of their GMA survey report in January DACF noted that “statutory changes that may be adopted in...the 131<sup>st</sup> Legislature will likely have resultant rule changes” and noted that bills such as this one were pending, the department did choose

to open rule making July 2023 on the statute (which was just revealed to this working group in October 2023, despite many opportunities to let us know this, as documented on the outreach outline.) As the outline indicates, we have consistently attempted to engage with the DACF team. As I noted in my testimony, their desire to provide data more efficiently and to promote regional planning organizations are helpful. However, it is simply not enough. This bill seeks to fully streamline and revise the process and help communities of all sizes in Maine make thoughtful, integrated community planning decisions.

That is the Who, What, When, Why, and How of LD 1976. Thank you to the amazing working group, and many, many interested parties who have been part of the transparent, collaborative process bringing forward this legislation. I am also grateful for this Committee's time today. I am available for the work session and am happy to answer questions.

## LD 1976 POLICY ACTION OUTREACH HISTORY

- March 15, 2022 Open call for people to join 3 virtual policy brainstorm sessions, advertised to mailing lists and on social media
- April 19, 2022 Open call for people to join 2 remaining virtual policy brainstorm sessions, advertised to mailing lists and on social media
- May 17, 2022 Open call for people to join final virtual policy brainstorm sessions, advertised to mailing lists and on social media
- Raw results of brainstorming exercise:  
[https://miro.com/app/board/uXjVOGiZJvQ=?share\\_link\\_id=779074641160](https://miro.com/app/board/uXjVOGiZJvQ=?share_link_id=779074641160)
- Synthesized results of brainstorming work, distilled down to 8 topics / working groups:  
[https://static1.squarespace.com/static/52c4aeebe4b09b80f5617ae9/t/635e56a94b4eb724d43a6c03/1667126958534/2022\\_10\\_11+Policy+Action+2023+-+FINAL.pdf](https://static1.squarespace.com/static/52c4aeebe4b09b80f5617ae9/t/635e56a94b4eb724d43a6c03/1667126958534/2022_10_11+Policy+Action+2023+-+FINAL.pdf)
- May 20, 2022 In person meeting at Winslow Park with Kara Wilbur, Build Maine, Judy East, Bureau Director, Resource Information and Land Use Planning, DACF; Vanessa Farr, planner and lead for LD 1976, and Samantha Horn of Nature Conservancy, to discuss GMA and other topics. Discussed need to reform comprehensive planning, with examples from successful comp plans
- June 8, 2022 Present 8 draft working groups at Build Maine conference, posted on walls for additional input.
- [https://www.dropbox.com/scl/fi/kzhlj9hodsj3pwz3collf/2022\\_06\\_07-Policy-Action-2023.pdf?rlkey=zvsqs146ksim41kvf51g275wh&dl=0](https://www.dropbox.com/scl/fi/kzhlj9hodsj3pwz3collf/2022_06_07-Policy-Action-2023.pdf?rlkey=zvsqs146ksim41kvf51g275wh&dl=0)
- July 20, 2022 Eblast and social media posts sharing out results of brainstorm sessions and inviting people to join working groups
- September 9, 2022 Meeting with Kara Wilbur, Build Maine, Judy East of DACF, Vanessa Farr, lead planner, and Nancy Smith, GrowSmart, related to the Growth Management Act. Discussed high level strategy and goals of a rewrite
- October 25, 2022 GMA working group meeting

November 8, 2022	Summary to discuss policy priorities from all 8 working groups <a href="https://static1.squarespace.com/static/52c4aeebe4b09b80f5617ae9/t/635e56a94b4eb724d43a6c03/1667126958534/2022_10_11+Policy+Action+2023+-+FINAL.pdf">https://static1.squarespace.com/static/52c4aeebe4b09b80f5617ae9/t/635e56a94b4eb724d43a6c03/1667126958534/2022_10_11+Policy+Action+2023+-+FINAL.pdf</a>
November 9, 2022	Send Judy East, DACF, GMA redline document.
November 14, 2022	Call with Judy East, Kara Wilbur and Vanessa Farr to review draft red lines.
November 15, 2022	Email back Judy revised red lines with edits from call incorporated.
November 15, 2022	GMA Working group meeting
November 22, 2022	GMA Working group meeting
November 23, 2022	Update on sponsor (Melanie Sachs)/status GMA bill, communicated out to working group, DACF, and interested parties
November 29, 2022	GMA working group meeting
December 2, 2022	Teams call with Judy East, Emily Horton (DACF), Nancy Smith, Vanessa Farr, and Melanie Sachs
December 6, 2022	Email outreach from Vanessa Farr to planning community asking them to participate in DACF GMA survey and invite them to be part of the GMA working group
December 6, 2022	GMA working group meeting
December 8, 2022	Sent Judy, Nancy, Vanessa updated working draft of GMA redlines
December 12, 2022	Zoom meeting with Brian Hubbell, Sarah Curran, Hannah Pingree (GOPIF) to share Policy Action draft bills

December 13, 2022 Call with Steve Walker (formerly IF&W, now LMF) to discuss mapping and feedback on redlines

December 13, 2022 GMA working group meeting

December 19, 2022 Email from Sally Stockwell, Maine Audubon sharing written comments from Steve Walker on GMA redlines

December 19, 2022 Meeting with Kate Dufour, Maine Municipal Association to discuss Policy Action proposed bills, including GMA

December 20, 2022 GMA working group meeting, focused on editing definitions for critical natural areas, etc.

January 3, 2023 Meeting with Troy Jackson and Speaker Talbot-Ross to share Policy Action bills

January 5, 2023 Call with Judy East and Emily Horton (DACF), Nancy, Vanessa, and Melanie

March 2, 2023 Last Eblast with following update: Over 100 people have participated in this initiative to help shape sixteen bills in Augusta that will affect housing affordability and choice, transportation safety and choice, climate action, fiscal health, economic strength, equity, and quality of life for everyone who calls Maine home. Join GrowSmart Maine and Build Maine for a free, live discussion via Zoom on March 3 at 1:00pm (ET). Your input is critical!

Shared draft of 16 bills prepared by 8 working groups

<https://www.dropbox.com/s/k2oqzkk3814vbx/Policy%20Action%202023%20-%20Legislative%20Proposals%20LINK.pdf?dl=0>

Shared video overview of 16 bills, narrated by working group leaders.

<https://www.youtube.com/watch?v=B7epMIzjFtU>

March 3, 2023 Zoom presentation and live discussion (including questions and ways to become involved) of Policy Action 2023 bills, including LD 1976.



April 12, 2023 Send out draft bill summary to listserv and on social media asking for feedback

May 5, 2023 Second live Zoom presentation and discussion (including questions and ways to become involved) of Policy Action 2023 bills, including LD 1976.

May 15, 2023 Call with Judy East, DACF

May 24, 2023 Conversation with Judy East re: DACF proposal to combine GMA (LD 1976) and LD 1787 -Subdivisions (not endorsed by GMA working group.). Shared with Judy link to Google doc with revised GMA text.

May 26, 2023 Joint Select Committee on Housing votes to carry over GMA and not merge with LD 1787, as suggested to Housing Committee by DACF.

July 27, 2023 Judy East, DACF unable to meet until September 20, per email.

September 20, 2023 Judy East, DACF cancels call.

October 3-5 2023 Melanie had Zoom with Judy East and Emily Horton at DACF; Additional Zoom held with Judy East, Vanessa Farr, Nancy Smith; DACF reveals does not support the bill, and prefers rule-making instead. Follow up email by DACF states that Oct 5th that rule-making began last summer.

October 16, 2023 DACF emails comments on draft bill at 8:47 pm for meeting on 10/18/23

October 18, 2023 2.5 hour Zoom call with Judy East and members of DACF staff, Vanessa Farr, Kara Wilbur, and Melanie Sachs to discuss comments on LD 1976.

October 25, 2023 Follow up Zoom with DACF

October 30, 2023 Follow up Zoom with DACF

November 2, 2023

Meeting with Kate Dufour, MMA and members of MMA Legislative Policy group

Growth Management Act Email List - generated via signs ups and active solicitation. All GMA meeting invitations and additional communications sent to this entire list.

Vanessa	Farr	Principle	vanessa@principle.us
Claire	Luning	GPCOG	claire.luning@gmail.com
Abe	Dailey	GPCOG	abraham.dailey@gmail.com
Ben	Smith	North Star Planning	bsmith@northstar-planning.com
Tim	Wells	SJV Properties	Welmaurya@gmail.com
Rob	Weisman	Realtor	rob@realpropertyteam.com
Robyn	Stanicki	KVCOG	rstanicki@kvkog.org
Hannah	McMullen	Realtors	hannah@mainerealtors.com
Jennifer	Brewer	Community member	jennifer.brewer@unh.edu
Nancy	Smith	GrowSmart Maine	nsmith@growsmartmaine.org
Anne	Gass	Grey resident, and consultant	agass@maine.rr.com
Judy	East	BRILUP/DACF	mccresilience@gmail.com
John	Clark		jclark@yrmo.net
Katherine	Cook	City of Auburn	kcook@auburnmaine.org
Kara	Wilbur	Build Maine	karawilbur@gmail.com
Elizabeth	Frazier	MEREDA	efrazier@pierceatwood.com
Kate	Dufour	MMA	kdufour@memun.org
Paul	Linnet	3i Housing of Maine	paul@3iHoME.org
Galen	Weibley	City of Presque Isle	gweibley@gmail.com
Anne	Krieg	City of Bangor	anne.krieg@bangormaine.gov
Laura	Mitchell	MAHC	lmitchell@mainehousingcoalition.org
Jennifer	Curtis	Bowdoinham	planning@bowdoinham.com
Charles	Tetelman	City of Portland	ctetelman@portlandmaine.gov

Rob	Wood	The Nature Conservancy in Maine	robert.wood@tnc.org
Kerri	Withee	The Nature Conservancy	kerri.withee@tnc.org
Eli	Rubin	City of South Portland	eli.joel.rubin@gmail.com
Sally	Stockwell	Maine Audubon	sstockwell@maineaudubon.org
Chelsea	Gazillo	American Farmland Trust	cgazillo@farmland.org
Ania	Wright	Sierra Club Maine	ania.wright@sierraclub.org
Elena	Piekut	City of Ellsworth	epiekut@ellsworthmaine.gov
Minot	Weld	Self	minotweld@mac.com
Amy	Clearwater	City of Biddeford	amyclearwater@gmail.com
Kim	Cook	Government Strategies	kcook@gsmaine.com
Thatcher	Carter	Maine Farmland Trust	tcarter@mainefarmlandtrust.org
Cole	Cochrane	Maine Youth Action	colelondon295@gmail.com
Natalie	Thomsen	Town of New Gloucester	townplanner@newgloucester.com