



## Memorandum

**To:** Select Board

**From:** Town Manager Waltz

**Re:** ReCode Path

**Date:** March 16, 2026

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On March 12, 2026, the Topsham Planning Board recommended by a 6-1 vote that the Town no longer proceed with the ReCode process (“the Comprehensive Process”) and alternatively ask the Comprehensive Plan Implementation Committee (“CPIC”) to identify a number of items (exact number to be determined) that they believe the comprehensive plan seeks to have accomplished and make suggestions to change the current zoning code for those items only (“the Alternative Process”).

The ReCode project has been ongoing for over five years. Commencing in the summer of 2021, CPIC began a public engagement process and comments were solicited. Opportunities for input included drop-in sessions, written comment and developer workshops. Public input resulted in a number of changes and drafts. The third draft was prepared last spring. Last summer it was turned over to the planning board to begin workshopping it with the intention that the planning board would make suggestions for revisions so that final draft would be one that it supports. A number of chapters appeared to have garnered consensus, but the review process is (or was) still ongoing. Among the significant issues left to have the planning board weigh in on is the proposed use table. To date, over \$110,000 has been spent on consultant fees in connection with the ReCode. Countless staff and volunteer hours have been spent on the process to date.

By Town ordinance, the planning board has an obligation to hold public hearings and make recommendations on zoning ordinances. The planning board does not have an obligation to work on drafting zoning code revisions, and if it does not want to continue with the current process of having the proposed ReCode presented to them for review, comment and drafting input, it does not have to.

The Select Board is now being asked to decide how ReCode should proceed. Three possible options appear to be:

1. Continuing the Comprehensive Process of taking comments and making revisions with (or without) the involvement of planning board and then turning it over to the planning board to have hearings and make a recommendation once those involved with the drafting effort conclude it is ready. The planning board would then hold hearings and make a recommendation as required by ordinance. The select board

would then decide whether the ordinance gets put before a town meeting at the end of the planning board process.

2. Proceed with the Alternative Process suggested by the planning board and ask CPIC to identify some items from the Comprehensive Plan and then have specific language drafted to include those items in our current code. As with the first option, there needs to be a public hearing process and recommendation from the planning board on the proposed amendments, and the Select Board would make the decision as to whether the amendments should be put on a town meeting warrant.
3. End the ReCode process altogether.

### **Staff Recommendation**

The ReCode not only contains an attempt to implement the Comprehensive Plan in the denser areas of town, but it contains changes to address dozens of items that CEO Lister has identified over his career where our current code is confusing, not clear or leaves items to his discretion with no guidance. The proposed draft code is also formatted in a much more user-friendly manner so that someone with no familiarity with zoning is expected to find it easier to engage with. For these reasons, it is staff's recommendation that the Comprehensive Process continue to be workshopped and that it is not discarded. Staff would like the planning board to be engaged in the process but acknowledge that they cannot be forced to be engaged. Similarly, CPIC would need to be engaged in the Alternative Process and they cannot be forced to engage in it.

With the exception of one planning board member, Vice Chair Libby who stated prior to voting that he supports continuing to work on the Comprehensive Process draft but would in good faith work on the alternative path if it was chosen to be pursued, we do not know if the rest of the planning board members would be willing to continue to engage in the Comprehensive Process if requested by the select board and it is not known whether CPIC members would be willing to engage in the Alternative Process if requested by the select board. For this reason, it is recommended that the select board inquire of the planning board whether members are willing to continue to work on the Comprehensive Process and of CPIC as to whether members are willing to work on the Alternative Process. All of this information is crucial for you to determine a path forward. I recommend that the decision on which path is to be pursued be tabled until early May so that this information can be obtained and the process of preparing the town meeting warrant (which takes up most of your April meetings) is concluded.

### **Proposed Motion:**

***Move to table this item until a May meeting and in the interim, direct the Town Manager to inquire of the Planning Board as to whether any/all of its members are willing to continue to engage in the current process of reviewing the proposed comprehensive ReCode and of CPIC as to whether any/all of its members are willing to engage in the alternative process proposed by the planning board.***