



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

Memorandum

To: LUPC Commissioners
From: Tim Beaucage, Senior Planner
Date: December 26, 2012
Re: Recreational Lodging – progress report and update

Introduction

Over the course of several years, it became apparent to the LUPC staff and Commissioners that the Commission's regulations have not kept pace with changing market demands for recreational services, particularly lodging. In the last 18 months, staff conducted numerous visits to sporting camps and other recreational lodging facilities to speak with the business owners and better understand the particular issues they were having and how the Commission could create a more efficient, meaningful regulatory structure to encourage well-sited recreation businesses.

On April 6, 2012, staff presented to the Commission a set of issues associated with a range of recreational uses – commercial sporting camps, campgrounds, group/youth camps, rental cabins, campsites, and back-country huts. In general these issues exist because the Commission's rules are out of sync with industry practices. This effort to review and revise the Commission's rules has been referred to as the "Recreational Lodging" initiative, but also encompasses some other recreation-related issues. In April, the Commission confirmed that the known issues are a priority and directed staff to work with stakeholders and to focus on the most urgent and achievable solutions within the 2012 calendar year. This memo describes progress to date.

Process

Staff determined that due to the complex issues, broad range of interests, and compressed timeline, a facilitator would be critical to an efficient and productive process. As a result, last summer and fall staff focused on securing funding, contracting with a facilitator, and preparing for the stakeholder process.

Staff developed a stakeholder process that involved one full-day meeting each in September and October, and one half-day stakeholder meeting in December. Each meeting included some aspect of LUPC staff providing information, though most of the meeting time focused on stakeholders providing their perspective on the known issues and industry challenges, as well as identifying and discussing possible solutions. During each session the facilitator produced 'emerging conclusions' and a detailed meeting report – products which were instrumental for stakeholders that were not able to attend and for attendees in reflecting upon the lengthy and detailed discussions. Between each meeting staff considered the stakeholders' feedback and prepared 'staff responses' to issues and ideas – working to bring ideas and solutions forward with each step.

While the facilitated process has concluded, staff continues to work with stakeholders to refine solutions. Within the next month or two, staff will be presenting to the Commission a set of draft rule revisions to consider posting to public comment and/or public hearing later this winter. In the interim, for those Commissioners who were not able to attend the facilitated discussions, we wish to begin to familiarize you with the issues we will ask you to consider when we bring forward the draft rules. Please see the remainder of this memo for a summary of the issues and some materials from the facilitated process.

Next Steps

Staff continues to work with stakeholders to refine solutions. In the coming months, staff will be presenting to the Commission a set of draft rule revisions to consider posting to public comment and/or a public hearing process later this winter

Issues

While staff started this process with a set of known issues, stakeholders expanded and refined the list of issues to generally include:

- Incomplete use listings
 - o The Commission's use listings and rules do not fully address the range of uses that are becoming more common (*e.g., back-country huts, resorts, youth or group camps, rental cabins, etc.*). As a result, many uses are either not allowed without significant rezoning efforts or are shoehorned in to be permitted as a commercial sporting camp (a practice that among other implications, serves to diminish the value and tradition of commercial sporting camps).
 - o Many facilities include aspects that are reasonable yet are not technically allowed by LUPC rules (*e.g., camp store and incidental sales of fuel*)
- Outdated standards
 - o Current square footage limits for commercial sporting camps that were endorsed by the industry at one time have become limiting, due in large part to consumer demands for increased amenities
 - o Setbacks for campsites are commonly impractical for those campsites within a campground
 - o Use listings and standards do not appropriately distinguish between campsites for commercial or public use versus a campsite for private use
- Limited subdistrict options
 - o When a recreational lodging proposal requires a site to be rezoned, most of the Commission's subdistricts are not well suited to the unique needs and challenges of recreational lodging uses
 - o Demonstrating that sufficient existing development exists, and is 'compatible' with a recreational lodging facility (a fundamental element of any rezoning for development and commonly referred to as meeting the adjacency criterion) can be uniquely problematic since many recreational lodging facilities must be located away from existing development to be attractive to visitors

Emerging Conclusions

The stakeholder process included significant discussion which is reflected in the three meeting reports, which are available on the LUPC web site. However, the facilitator also captured his reflection of the group sentiment at that time in what he calls Emerging Conclusions and Emerging Guiding Principles. These summary documents prepared by the facilitator are attached. The following represents the overarching themes:

- *Categorize facilities based on impact and location (e.g., how they impact the resource and how they impact traditional uses). In order to categorize recreational lodging facilities for regulatory purposes, the LUPC should consider the following prioritized factors in light of the environmental conditions and resource protection goals where a facility exists:*
 - *Overnight occupancy capacity – number of beds / pillows / campers*
 - *Type of use (i.e., motorized or not, group activity or not, managed or not, on-site vs. off-site, and resource dependency)*
 - *Footprint of buildings*
 - *Noise / Intensity of use*
 - *Proximity to other facilities*
 - *Amount of on-site use area*
 - *Visibility*
 - *Square footage of living area*
 - *Management structure (on-site oversight)*
 - *Setback from water*
 - *Solid waste disposal*
 - *Footprint of clearing*
- *Provide predictability AND flexibility AND simplicity*
 - *Allow flexibility and trade-offs between activities and uses that result in more or less impacts*
 - *Within categories, allow for easy changes seasonally, short-term, or permanently; do not confuse with conversion*
- *Relax and update regulations in light of new technology, new customer demands, and other realities, yet balance regulatory changes with protecting resources and traditional uses*
- *Preserve the tradition of sporting camps and incentivize those traditional facilities*
- *It's really helpful when LUPC staff have an attitude of "we're here to help you plan" rather than "we're here to regulate you."*

Maine Land Use Planning Commission
Recreational Lodging Facilities Stakeholder Input
Emerging Guiding Principles
Wednesday, September 12, 2012, Lincoln, Maine

These Emerging Guiding Principles were written on the spot by Craig Freshley. They are not a reflection of the complete discussion, have not been reviewed for accuracy, and have not been approved by the group. They simply reflect Craig's best reflection of group sentiment, in the moment.

- Categorize facilities based on impact.
 - How they impact the resource and how they impact traditional uses.
 - Look at:
 - Overall size
 - Number and type of buildings
 - Amount of use (number of people)
 - Type of use
 - Location
 - Consider looking at performance-based impact rather than regulated-use-impact, with specific attention to human impact (number of people)
- Facilities should be regulated based on impact (bullet #1 above) AND where they are located (Development, Management, or Protection zone)
- Provide predictability AND flexibility
 - Assess impact by looking at a facility's long range development plan
 - Allow flexibility and trade-offs between activities and uses that result in more or less impact
 - Within categories, allow for easy changes
 - Fewer restrictions on private facilities than public facilities
- Relax regulations in light of new technology, new customer demands, and other realities, yet balanced with protecting the resource and traditional uses
 - Relax the 10,000 square foot maximum cap
 - Simplify and improve the fairness of how it's counted
- Preserve the tradition of sporting camps by allowing them to rebuild on traditional sites and consider separately regulating their non-traditional uses
- It's really helpful when LUPC staff have an attitude of "we're here to help you plan" rather than "we're here to regulate you."

Maine Land Use Planning Commission
Recreational Lodging Facilities Stakeholder Input
Emerging Conclusions
Wednesday, October 17, 2012, Lincoln, Maine

These Emerging Conclusions were written on the spot by Craig Freshley. They are not a reflection of the complete discussion, have not been reviewed for accuracy, and have not been approved by the group. They simply reflect Craig's best reflection of group sentiment, in the moment.

How to Categorize Facilities - Emerging Conclusions

In order to categorize recreational lodging facilities for regulatory purposes, the LUPC should consider the following prioritized factors in light of the environmental conditions and resource protection goals where it exists.

1. Overnight occupancy capacity - number of beds/pillows/campers
2. Type of use (such as)
 - a. Motorized or not
 - b. Group activity or not
 - c. Managed or not (guided or led)
 - d. Onsite vs. off site
 - e. Resource dependency
3. Footprint of buildings
4. Noise / Intensity of Use
5. Proximity to other facilities
6. Amount of on-site use area
7. Visibility
8. Square footage of living area
9. Management structure (onsite oversight)
10. Set back from water
11. Solid waste disposal
12. Footprint of clearing



Conceptual Solutions – Emerging Conclusions

- A. Commercial Sporting Camps
 - a. Relax the square footage cap
 - i. Consider raising the cap to 20,000 in areas where appropriate but not in all areas. The cap should be different in different areas, sensitive to local factors.
 - ii. The max applies to the most developed areas and not all areas
 - b. Specify how to calculate
 - i. General agreement with the proposal
 - ii. Consider counting “non-principle” “accessory” buildings if over a certain size.

- c. Consider the zone in which each facility exists, adjacency, and sensitivity of the resource
 - d. Allow existing, traditional uses to continue
- B. Outpost Cabins and Self Contained Cabins (item C.)
 - a. Outpost cabins traditionally used by existing, traditional sporting camps should be able to be rebuilt no matter how far from the main lodge
 - b. Outpost cabins should not count toward square footage if they are ½ travel time (by foot, road, water) from the main lodge
- D. Change of Use
 - a. Changing to allowable uses within the zone and for your category of facility, should be allowed
- E. Conversion
 - a. Changing use that causes the facility to be in a different category, requires a conversion
 - b. Consider listing “incentivized uses” in advance where conversion would be more streamlined
 - i. Recognizing that incentives would be fairly minor
- F. Accessory Uses
 - a. Allow incidental retail and define it along the lines proposed
 - b. Clarify that this would apply to sporting camps and campgrounds
 - c. Need to be careful that retails stays “incidental” and not a primary activity
- G. Transient Occupancy
 - a. The current 120 day standard should stay in place and apply to campgrounds
 - ii. Trailers/campers need to move off a particular campsite after 120 days
 - 1. Alternative 1 - the trailer/camper may stay elsewhere on the property for longer
 - 2. Alternative 2 - the trailer/camper must leave the property after 120 days
 - b. Ask campgrounds about standards

Maine Land Use Planning Commission
Recreational Lodging Facilities Stakeholder Input
Meeting Three Highlight Notes

Thursday, December 13, 2012

Penobscot County Courthouse (3rd floor), 97 Hammond Street, Bangor

These Highlight Notes were written on the spot by Craig Freshley during the meeting. They do not reflect the complete discussion, have not been reviewed for accuracy, and have not been approved by the group.

Overall Project Objective

At the end of the entire project, including stakeholder input, rule making, and Commission approval, our objective is to have in place a set of rules that efficiently and effectively regulate recreational lodging in LUPC's jurisdiction for the benefit of facility owners, visitors, and Maine residents, striking an appropriate balance between private enterprise and resource protection.

Meeting Three Objectives

1. Shared understanding of LUPC's role with regard to recreational lodging facilities and of this stakeholder input process.
2. Shared understanding of the emerging proposal for new rules intended to regulate recreational lodging facilities.
3. Stakeholder input on categorization of facilities with particular attention to the following questions:
 - a. Is the general categorization framework reasonable?
 - b. Is the list of factors to be used appropriate? If not what needs to change?
 - c. What should the details/parameters for each factor and category be? Are we in the right ballpark, if not what is?
4. Stakeholder input on any other aspects of the Meeting Three Discussion Items document of December 6, 2012.

Clarifications

- A facility's "highest factor" determines its category.
- These rules will apply to LUPC regulation of recreational lodging facilities, but other regulations apply to such facilities also. Other permits can also be applied.
- New sub-districts are proposed in order to accommodate cases where less impact can be demonstrated.
- Clarified that bunkhouses should not have plumbing (running water including an outside faucet).
- LUPC wants to make sure that traditional sporting camps are protected yet there is flexibility for sporting camps and others.
- There are currently provisions for reconstruction of non-conforming structures and conforming structures.
- If a sporting camp get condominium-ized, it would not constitute a change of use.
- There are no size limits on either of the two new proposed sub-districts. Size is up to the applicant to propose.

Comments

- Consider allowances (allowed to do something on the “next category”) for seasonal or one-time activities.
- More flexibility for fuels sales.
 - Perhaps allow level B and level C facilities (perhaps all facilities) to do incidental fuel sales
 - Consider a distinction between propane and gas/diesel
- Like the way fuel sales are currently handled in the table, but mindful of location.
- Sea plane access should be allowed for all categories of facilities.
- LUPC should consider exceptions to the rules in cases where the applicant can demonstrate no additional “impact.”
- Set backs are important for visual impact, water quality, and wildlife habitat.
- Clarify that “cabins” in the definition of Commercial Sporting Camp facilities include housekeeping and other types of cabins.
- Consider have a separate regulatory category for traditional sporting camps.
- Outpost cabins should be much farther away from the Main lodge than proposed.
- Consider being open to performance-based standards in more instances IF the burden is on the applicant to develop, defend, and monitor such standards and activity, AND the standards are replicable.
- Consider requiring conservation balance and conservation considerations in the newly proposed D-PR sub-district.
- If you have categories, allow some gray areas between each category.
- It would be good if there were some parts of the jurisdiction where some things weren’t allowed.
- We shouldn’t allow “big resorts” such as Disney Land, The Balsams, the old Kineo House in the jurisdiction.
- The new sub-districts should be not allowed everywhere.
- There should not be limits on what types of facilities should be allowed in certain areas.
- There should be more limits on new developments than existing developments.
- Consider protections of traditional travel routes.
- There was general approval and encouragement of the categorization framework.

Additional Way to Provide Feedback

E-mail or Call LUPC staff members Tim Beaucage, Hugh Coxe, or Samantha Horn-Olsen with questions or comments by December 31, 2012.