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

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COMMISSIONER

Memorandum

To: Commissioners

From: Samantha Horn Olsen, Planning Manager
Stacie Beyer, Senior Planner
Eric Larsson, Senior Planner

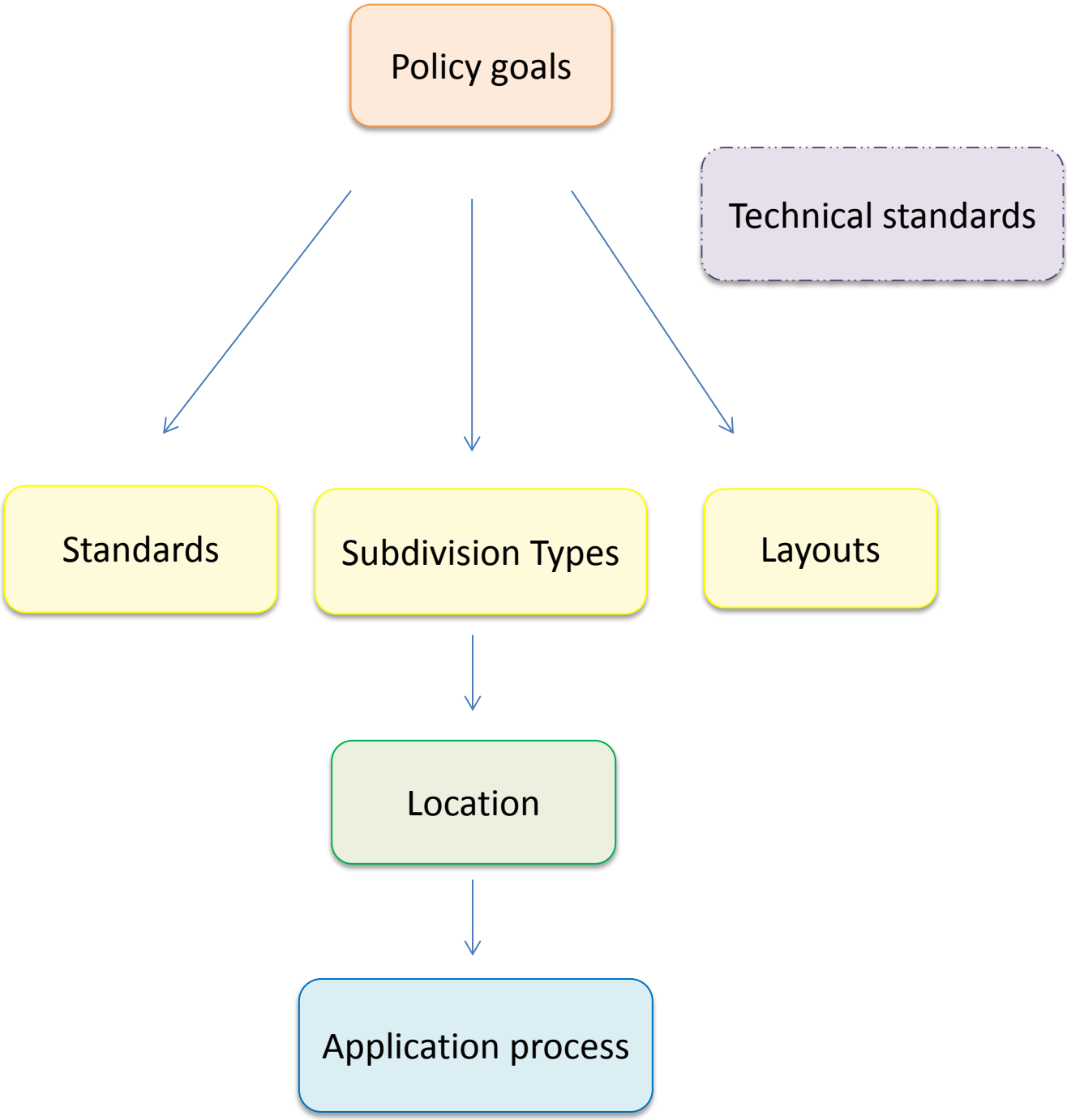
Date: August 7, 2015

Re: Subdivision Rule Review, Policy Issues Update

I. **Introduction and Process Outline:** The Commission is currently evaluating and rewriting its subdivisions standards. Background on the prior steps in this effort is contained in an attachment to this memo. More recently at the May 5, 2015 meeting, and following the conclusion of the facilitated stakeholder process made possible by the contribution of the Sewall foundation, staff proposed a general framework for working through the long list of issues raised by stakeholders. (The framework is illustrated in the figure on page 2.) The Commission discussed the proposal, endorsed the overall framework recommended by staff, and asked staff to think about how input could be solicited from a broader public than the current stakeholder group. Since that meeting, staff has fleshed out the framework, developing a strategy to efficiently and effectively prepare a meaningful rulemaking package. Staff has begun implementation of this strategy, including conducting targeted research, analyzing available data, and interviewing knowledgeable individuals in the real estate, planning and engineering fields.

The body of the memo outlines the strategy and process developed to complete the subdivision rule review and contains an update of progress to date. Attachments provide information on the research on subdivision layouts and list questions being used in interviews. In addition, the presentation at the Commission meeting will include some preliminary findings and discussion of what we have learned since May 5, as well as the next steps in this review and rulemaking process.

Proposed Subdivision Rulemaking Process



In response to the Commission's charge to consider public input, the staff have done some thinking about methods and timing. It is challenging to involve the general public in some of these issues, because the issues tend to be somewhat technical. The staff's best advice at this time is to work on building our "toolbox" of subdivision *types*, possible *standards*, and possible *layouts*. At the time we start bringing those "tools" together, particularly in the discussion of location of future subdivisions, we would then reach out to members of the public, especially through organizations such as County Commissions, Boards of Assessors and Select Boards, professional and nonprofit organizations, and our general notice lists. It may be possible to provide more content to interested individuals by using new techniques for electronic town meetings, webinars, and the like. This thinking is reflected in the process outline that staff presented at the May 5 meeting, and that the Commission endorsed. That outline (above) provides the organizing structure for the remainder of this memo. We are currently working on the three yellow bubbles: Standards, Subdivision Types, and Layouts.

One further note on the organization of this process is that stakeholders have, on several occasions, expressed an interest in speaking directly to the Commission. Staff suggest that when there are preliminary results on the three yellow bubbles, the Commission reserve time on the agenda (most likely October) to hear directly from stakeholders about progress to date and their thoughts about where the process is heading.

II. Types of subdivisions

a. Summary of the issue: The stakeholder process revealed a concern that the current rules may not allow the creation of lots to meet market demand. To better evaluate this concern, staff is conducting an analysis of the market for subdivided lots. The analysis of the market for subdivided lots will not directly result in any rulemaking but is intended to inform other elements of the review and rulemaking process including any proposed rule changes relating to the location of subdivisions and their layout and design.

   The research should identify the features or characteristics of marketable lots including waterfront, water views, water access, access to recreation, and access to jobs or services. The research will also look at the market for various sizes of lots, including so-called large lot subdivisions with lots greater than 10 acres. In

addition, research will examine the distribution of existing lots and sales of lots in selected organized municipalities that are proximate to the UT, and with otherwise similar characteristics. To the extent possible, the research will also look at the demographics of buyers, and investigate whether there is unmet demand for particular types of lots such as kingdom lots or homestead lots, and whether the demand comes from buyers seeking to construct primary residences or seasonal homes. The research and analysis will be both quantitative and qualitative. The quantitative research will examine the existing distribution of parcels and sales data for lots in the UT and in comparable areas of the OT. Qualitative research will focus on interviews of selected realtors with expertise in land sales in the UT. The research and analysis will be an iterative process involving planning staff, permitting staff, expert brokers, and stakeholders. The development of analyses and a report covering the market for subdivided lots in the UT does not offer much opportunity to engage the public beyond the group of identified stakeholders. Public comment on the final report discussing subdivision types in connection with the identification of areas that are suitable for subdivision will, however, be important.

b. Process for evaluation: The process for researching and summarizing subdivision types includes the following steps:
    i. Develop topic summary and outline
    ii. Conduct initial analysis of existing parcels
    iii. Conduct interviews with real estate brokers experienced in the sale of undeveloped lots in the UT to better understand market conditions.
    iv. Analyze sales data for undeveloped land
    v. Draft preliminary report
    vi. Conduct internal staff review including Permitting and Compliance staff
    vii. Request stakeholder review and comment
    viii. Finalize report

    The first step been completed and step ii is substantially complete. Staff has completed five interviews in step iii and is scheduling the remaining interviews for completion in August. Staff has also begun work on the analysis of sales data, and is seeking improved access to the Multiple Listing Service to complete this step. Some preliminary information gained from the interviews to date will be presented at the Commission meeting.

c. Presentation of research from online and printed sources: Staff will prepare a report presenting the parcel and sales analyses and a discussion of the broker interviews. The report will be shared with stakeholders and presented to the commission at a future meeting.
d. Next steps: Complete interviews with real estate brokers, complete analysis of land sales, prepare draft report, complete staff review, conduct stakeholder outreach, prepare final report.

III. Subdivision layout and design

a. Summary of the issue: Current LUPC layout and design standards focus on a community centered design concept as a way to ensure subdivisions fit harmoniously into the natural environment by avoiding linear placement of lots along roadways and shorelines. Larger level 2 subdivisions and certain subdivisions located on Management Class 4 or 5 lakes also have to meet cluster development standards. During the facilitated stakeholder meetings, participating stakeholders indicated that the current LUPC subdivision layout and design standards were a high priority for review and possible revision. Highest priorities relating to subdivision layout included the appropriateness of the layout and design standards for the area served by the Commission, incorporating more flexibility, and allowing more design options for different areas/ regions of the UT.

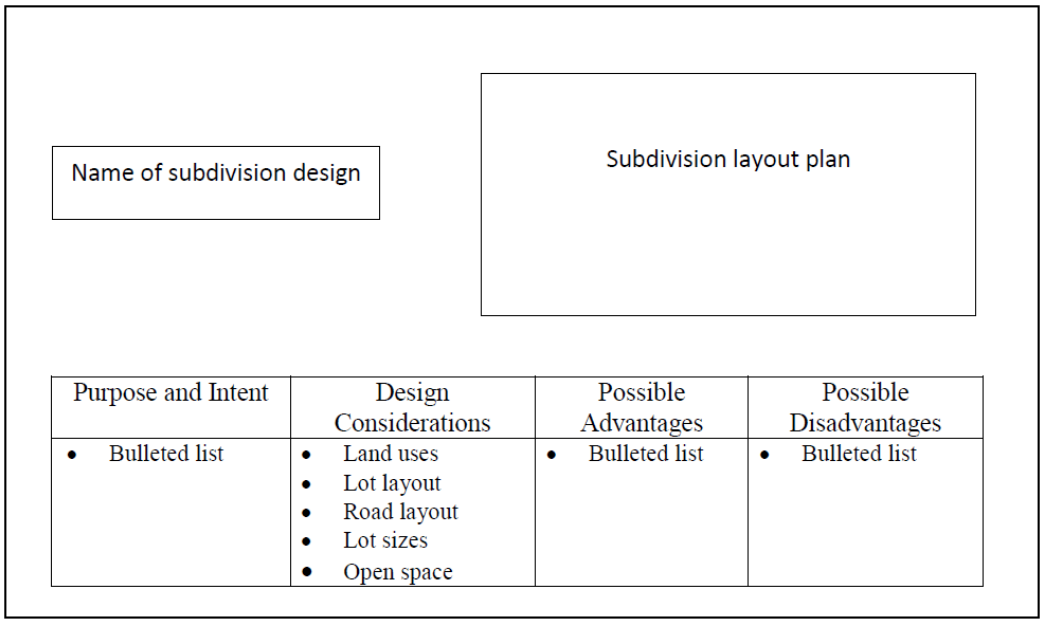
   Under the topic area Subdivision Layout and Design, staff will identify and describe different layout and design options that have been used by design professionals, as well as the purpose and intent, design considerations, and advantages and disadvantages for each option. Staff will also review the site analysis design for subdivisions, describing what this design option entails and how it could work in the UT. The Commission has some information on conventional and clustered subdivision design. More in depth research will be needed on other alternatives such as conservation subdivisions and site analysis designs. To date, staff has completed initial background research on layout and design options, primarily internet based, and has begun an interview process with design professionals as a check to see if all layout and design concepts have been identified and properly characterized.

b. Process for evaluation: The proposed process for researching and evaluating options for subdivision layout and designs includes the following steps:

i. Develop topic summary and outline
ii. Conduct initial research on subdivision layout and design
iii. Develop preliminary topic pages for each option identified, including a layout plan and summary table
iv. Draft a preliminary outline for the report on the site analysis alternative
v. Request design professional input on preliminary topic pages, report outline, and other possible layout and design options
vi. Update preliminary materials
vii. Conduct internal review with assigned staff
viii. Request stakeholder review and comment
ix. Finalize topic pages and report

The first four steps have been completed. Staff has set up a series of interviews with design professionals. Two interviews will be completed before the August Commission meeting. The remaining interviews will be finished by the end of August.

c. Presentation of research from online and printed sources: The presentation of background content for this topic area will be formatted in two separate reports, Subdivision Layout and Design Options, and the Site Analysis Alternative Report. The Subdivision Layout and Design Options will include topic pages on each layout and design option, using the following template:



For the Site Analysis Alternative Report, the following outline will be used to organize the research:

i. What is a site analysis subdivision design?
ii. Benefits of this approach
iii. How does the process work?
iv. Examples of municipal ordinances using this approach
v. Examples of conventional and site analysis design projects

Preliminary conceptual drafts of each of these reports are attached.

d. Sample or preliminary results from design professional interviews: Staff is in the process of scheduling and conducting interviews with design professionals including landscape architects, professional engineers, and land use planners. We hope to complete six to nine interviews in total. The list of preliminary questions for these interviews is attached. By the date of the August Commission meeting, we expect to have completed the first two interviews and will share the preliminary results at the meeting.

e. Next steps: Next steps for this topic area include: requesting additional design professional input on the preliminary topic pages, report outline, other possible layout and design options, and resources; updating the preliminary materials; conducting an internal review with the assigned staff; and requesting stakeholder review and comment on the draft reports. After the presentation content is complete, the information will be used to inform further discussion on subdivision standards, subdivision locations and the application process.

IV. Subdivision standards

a. Summary of the issue: Chapter 10 includes subdivision standards, in particular Level 2 Subdivisions (10.25,Q,2); Level 1 Subdivisions(10.25,Q,3); Clustering (Section 10.25,R); Open Space (10.25,S); and subdivisions on semi-remote lakes (10.23,F,3,g). Many stakeholder suggestions and issues focused on particular provisions, or suggested ways to make small subdivisions more viable to permit. The topics in this grouping are diverse, however, they all are “nuts and bolts” aspects of how a subdivision is permitted and how it functions within its setting. The goal is to recognize the reality that the current pattern of small subdivisions is likely to continue, and plan ahead to create meaningful requirements and incentives to minimize incremental costs to the public and resource impacts,

while also recognizing that the development of small subdivisions cannot support high costs associated with design, permitting, infrastructure and mitigation. Items that are included here are, generally:

i. Base requirements: Specific requirements for permitting level 1 and level 2 subdivisions - examples include maximum land area in a level 2 subdivision and revised road setbacks;
ii. Alternatives to Community Centers or required open space: Add opportunities to use aggregated or existing off-site conservation or infrastructure instead of each subdivision having a small amount of conservation or infrastructure;
iii. Clustering: Revision of some mechanical aspects of cluster and open space provisions; and
iv. Cumulative Impacts: Mechanisms to plan ahead for cumulative impacts from multiple small subdivisions and address them early – examples include road connectivity and water access needs.

b. Process for evaluation: We will separate these into two groups:
    i. Cumulative impacts analysis and opportunities for off-site provisions of infrastructure and common facilities. We are early in the research process; however, an outline of possible items to address is presented below. We will continue to flesh this out and then convene focus groups of stakeholders for further discussion.
    ii. Specific standards. We have begun the process of identifying specific standards that may need to be rewritten or relocated. A sample list of possible revisions is attached to this memo, but it is by no means complete and it is not fully in rule revision format. Staff will continue to work on the technical aspects and then circulate it for stakeholder comment. This list will change as further discussions occur and as decisions are made on subdivision types and layouts.
c. Examples of Subdivision elements that might, in some circumstances, benefit from coordination among small subdivisions or consideration of off-site solutions:
    i. Infrastructure
        1. Storm water
        2. Roads
            a. Maintenance and plowing
            b. Connectivity for general traffic flow
            c. Escape routes – minimize single egress/ingress

d. Traffic volume and location – changes in character of area, noise and visual impacts

3. Utilities
4. Well/ septic system contamination (density, proximity)
5. Aquifer capacity (especially islands)
6. HOAs – can they be expandable for neighboring future subdivisions? Is this wise?

ii. Common facilities (if needed)

1. Recreation access
2. Open space and habitat areas, connectivity, wetlands
3. Water access

iii. Community (for some types?)

1. Gathering place (could be nearby town or on-site)
2. Pedestrian access to surrounding area
3. Effects on privacy, effects of lighting

iv. Services

1. Schools
2. EMS/ Fire
3. Waste disposal

d. Next steps: Staff will continue to work through the technical aspects of this topic and then convene stakeholders in small groups and/or circulate draft materials for review.

V. Conclusion

The project continues to move forward, with staff conducting research in preparation for additional stakeholder input. If the Commissioners have any questions or additional direction for staff at the August 12, 2015 meeting, there will be an opportunity to discuss the ongoing work and to make adjustments as needed.

Attachments:

Questions for real estate brokers: Subdivision markets
Subdivision Layout and Design Options
Site Analysis Alternative Report Outline
Questions for Design Professionals, Layout and Design
Questions for Design Professionals, Road Setbacks
Sample Standards for Possible Revision
Background

Questions for real estate brokers: Subdivision markets

I. Market summary

1. How would you describe the strength of the current market for undeveloped lots?

2. Does the market differ between the OT and the UT?

3. What types of buyers are in the market for undeveloped lots (e.g. seasonal, year round, retired, family, in-state, out-of-state)?

4. What types of lots are buyers looking for?
    a. What size lots?
    b. What locations?
    c. What features?

5. Are you aware of unsold/undeveloped lots in subdivisions created in the past 10 years?
    a. How long have lots gone unsold?
    b. How long have sold lots gone undeveloped?

6. Describe the formula for subdivision success and failure?

7. What are common features of subdivisions that have built out?

8. What if any are the community effects of successful/unsuccessful subdivisions?

9. Are there particular designs or layouts that make subdivided lots more or less marketable?

10. Does deeded water access improve marketability of backlots?

11. Which is more important: water access or water views?

12. How do you see the market for undeveloped lots changing in the next several years?

13. Describe the most marketable subdivision you can imagine for the UT:
    a. What size(s) would the lots be?
    b. What features would it have?
    c. Where would it be located?
    d. How would you price it?

II. Sales data

14. How many lots have sold in (defined area) in the past 12 months?

15. How many were waterfront lots? (may break out lake/pond and river/stream)

16. Provide parcel size and sale price.

17. What are popular key word search terms?

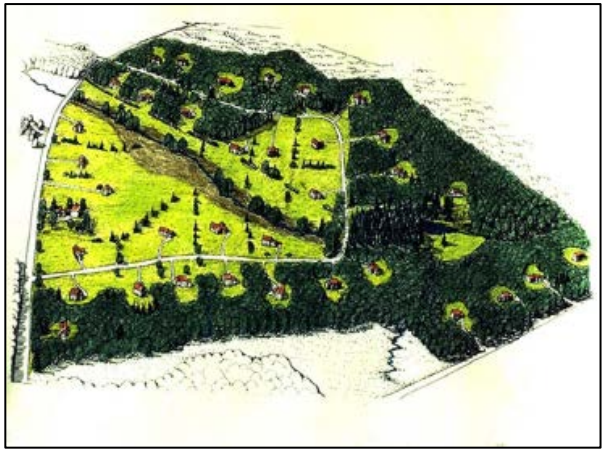
Maine Land Use Planning Commission

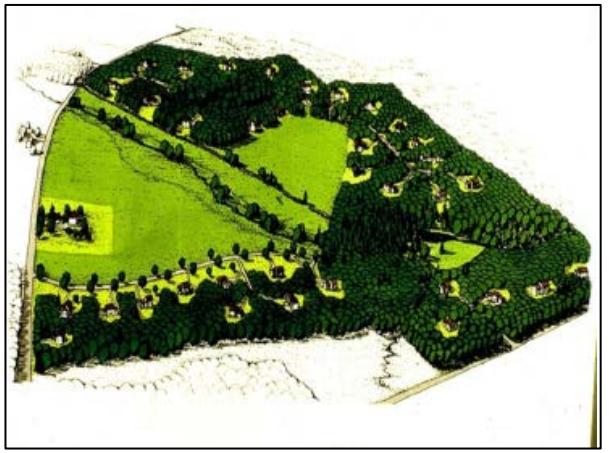
Subdivision Rule Review

Policy Issues: Subdivision Layout and Design Options

July 20, 2015 Draft

This report was developed by the Commission to serve as a reference on and comparison of layout and design options that have been developed and used for subdivision projects in the United States. The report does not intend to convey a preference for any particular option or suggest that all options are appropriate for use in all areas of the unorganized territories of Maine. Seven options are presented. Other layout and design options, or variations of the options presented may be practicable as well. The next steps in the process will consider which design options may be suitable for particular areas.



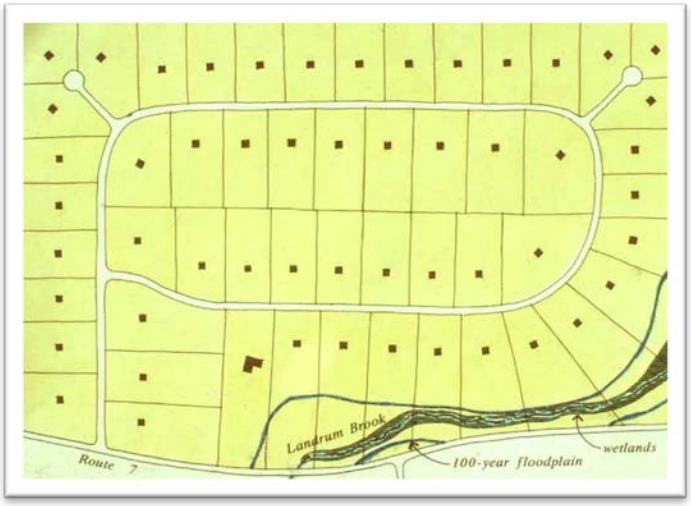


Source: Fred Snow: *Open Space Subdivisions, A Primary Tool for Protecting Quality of Place*, Kennebec Valley Council of Governments, 2010

Layout and Design

Option 1:

Conventional Subdivision



Source: LandChoices and Randall Arendt, *Conservation Design for Subdivisions, Island Press,* 1996

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Simple layout and design process • Provide for open space on individual lots[3] • Maximize privacy • Provide for individual onsite sewer and water[3]	• Single use, homogenized lots[8] • Lots spread uniformly across the parcel[8] • Gridiron street pattern (~20-25% of parcel)[12] • Low to moderate density development[8] • No or low amount of common open space	• Quick design process and less upfront cost • Ease of surveying and construction[13] • Private open spaces • Market demand	• Uses land quickly and contributes to sprawl • Auto-oriented,[21] higher traffic • Lacking in context and distinction as a unique community[21] • Habitat fragmentation and loss[15] • Higher amount of land area in roadways and ROWs [8] • Higher risk of accidents[14]

Layout and Design

Option 2:

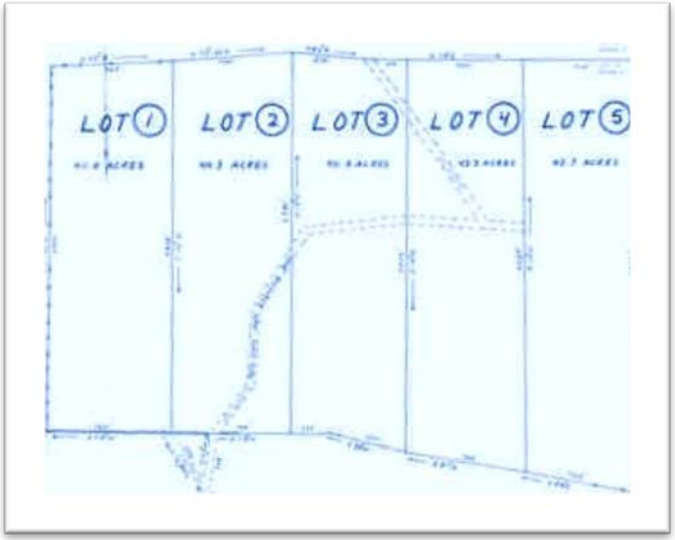
Coving Subdivision

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Eliminate monotony and improve curb appeal[14] • Free-form approach to lot sizes and shapes, setbacks, and building envelopes[13] • No two houses look directly into the windows of any other[13]	• Single family residential development[14] • Free-form placement of lots and homes[13] • Meandering streets[13] • Variety of lot sizes[13] • Little or no open space[14]	• Compared to conventional design, improved scenic character[14] • Reduced road lengths[13] • Reduced construction costs[14] • Easier road maintenance[13] • Improved pedestrian safety[14] • More privacy than other designs[13]	• More difficult to design, computer software used for complex surveying [14] • Auto-oriented • Some lots less desirable[13] • Low density, larger lots [14] • Reduced walkability and connectivity[14] • Minimal consideration for natural features and sensitive areas

Layout and Design

Option 3:

Large Lot Subdivision



Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Sufficient land area to allow for small woodlot or farm • Simple layout and design process • Provide for open space on individual lots • Maximize privacy	• Residential and forestry, agriculture or recreational uses • Lots spread uniformly across the parcel • Roadway layout varies • Low density development • No common open space	• Private open spaces • Large useable land area for lot owners • Market demand • Quick design process and less upfront cost • Ease of surveying and construction	• Uses land quickly • Habitat fragmentation and loss[15] • Lacking in context and distinction as a unique community[21] • Auto-oriented • Long distances between residences, increased cost of transportation

Layout and Design

Option 4:

Traditional Neighborhood Subdivision

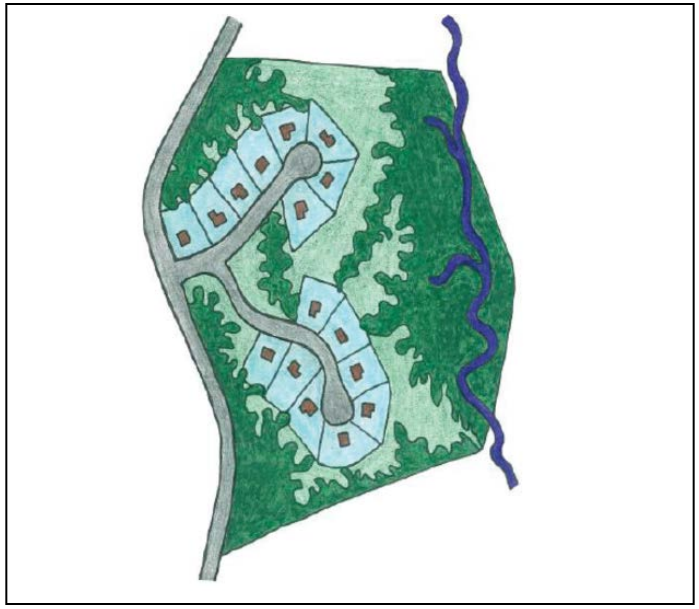
Source: Terrence J. DeWan & Associates, *The Great American Neighborhood*, Maine State Planning Office, GrowSmart Maine, Kent Associates, June 2014

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Create a neighborhood of mixed uses[19] • Provide for a range of housing types[18] • Focus on pedestrians[20] • Convey a sense of place[20] • Improve economy and efficiency in land use[21] • Provide for useful open space[19]	• Mixture of residential and commercial land uses • Community center design[20] • Hierarchy of street types and walkways[20] • Smaller, compact lots[19] • Moderate amount of parks and greens (10-20% [21]) • Reduced road setbacks and narrower roadways[21]	• Convenience and accessibility • Improved connectivity and walkability[18] • Cohesive community[21] • Diverse housing market • Lower infrastructure and maintenance costs[21]	• Requires proper marketing[21] • Reduced privacy • Smaller lots

Layout and Design

Option 5:

Cluster Design Subdivision



Source: *Plan Olathe Comprehensive Plan*, City of Olathe, Kansas, 2010

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Preserve common open space for recreation, forestry and agriculture • Protect sensitive areas[1] • Encourage cost savings on infrastructure and maintenance[1]	• Single family or condominium residential development • Grouping of residential lots or structures • Extensive use of cul-de-sacs[1] • Small, compact lots • Moderate common open space (30% of gross parcel area)[11]	• Open space preservation • Better setting for community building[1] • Possible local food production[1] • Improved stormwater management[6] • Improved recreational opportunities[7 8] • Lower construction and maintenance costs	• Shared areas can be a source of increased conflict • Common improvements result in maintenance responsibilities and costs for lot owners • Reduced privacy • Low market demand • Need sufficient lot size for onsite sewer and water[1]

Layout and Design

Option 6:

Conservation Design Subdivision

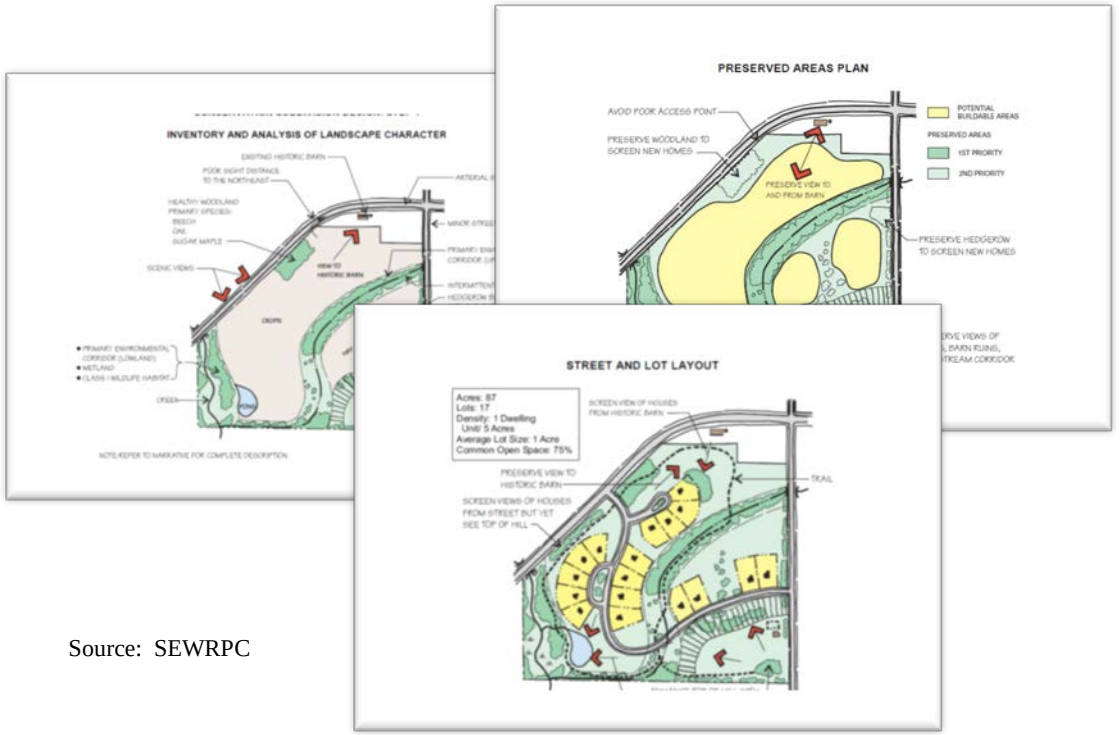
Source: LandChoices and Randall Arendt, *Conservation Design for Subdivisions*, Island Press, 1996

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Conform to natural features and topography[2] • Preserve sensitive areas[3] • Preserve community character[3] • Establish a high standard for the quantity, quality and configuration of open space[10] • Maximize views of open space • Minimize non-point source pollution[1]	• Single family residential development • Groupings of higher density lots • Natural and cultural resources identified first[8] • Looped roadways[9] • Flexible lot sizes[17] • High amount of net buildable land preserved in interconnected open space (~50%)[8]	• Increased amount and connectivity of open space • High level of protection for scenic character and natural resources[8] • Increased outside recreational opportunities • Lower construction and maintenance costs • Optimal stormwater management[1] • Reduced traffic speeds[4]	• Shared areas can be a source of conflict[1] • Common improvements result in maintenance responsibilities and costs for lot owners • Reduced privacy • Higher upfront costs • Need sufficient lot size for onsite sewer and water[1]

Layout and Design

Option 7:

Site Analysis Design Subdivision



Source: SEWRPC

Purpose and Intent	Design Considerations	Possible Advantages	Possible Disadvantages
• Freedom to fit development to the land • Provide for development in harmony with natural features and consistent with historic land use patterns[11] • Protect high value natural and cultural features • Allow flexibility and variety in layout and design • Maintain the character of the community	• Single use or mixed land uses • Lot layout varies depending on site specific conditions • Roads fit to existing topography and features • Variation in lot sizes • 3-4 step process, conservation areas for natural features and constraints delineated first	• Design will fit harmoniously with existing natural environment • Ultimate flexibility in layout and design • Network of protected areas and open space	• More steps in the process • Less predictability in regulatory review • Higher upfront costs

END NOTES:

1. "Residential Cluster Development," 17 July 2015 < https://en.wikipedia.org/wiki/Residential_cluster_development>.
2. Town of Wilmington, Massachutsetts, Conservation Subdivision Design Bylaw, 17 July 2015 <http://www.google.com/url?url=http://www.town.wilmington.ma.us/Pages/WilmingtonMA_Planning/bylaw.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=jC6UVdKYKsLFsAWZoIPIDQ&ved=0CCMQFjAC&usg=AFQjCNHXTVf1FZJCDvReQ_cgOEOhKSFdeA>.
3. Moore County Government, North Carolina, "Planning & Community Development," 17 July 2015, <http://www.moorecountync.gov/index.php/en/subdivisions>.
4. Georgia, Department of Community Affairs, "Conservation Subdivision Ordinance," 17 July 2015 <http://www.google.com/url?url=http://www.dca.state.ga.us/intra_nonpub/Toolkit/Guides/ConsSubOrd.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=jC6UVdKYKsLFsAWZoIPIDQ&ved=0CDkQFjAG&usg=AFQjCNG_RDBa2xKBFnSpdw-L7zwP1ZRZHg>.
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11. Kennebec Valley Council of Governments, Model Open Space Subdivision Ordinance, (KVCOG: July 2009) 17 July 2015 <http://maine.gov/dacf/municipalplanning/docs/Open_Space_Subdivision_Ordinance_model_with_commentary_KVCOG_7_09.doc>.

END NOTES cont.

12. The Indiana Planning Association, “Indiana Citizen Planner's Guide”, 17 July 2015 <http://www.google.com/url?url=http://indianaplanning.org/wp-content/uploads/2012/Files/5.3k_Subdivision_Control_Ordinance.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=akiVVejsGYeayQS9tIHgAg&ved=0CEAQFjALOAo&usg=AFQjCNFqAUMRRnZE7jM3AAoosgFWMy5wgg>.

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16. SEWRPC, “The Conservation Subdivision Design Process,” 17 July 2015 <http://www.google.com/url?url=http://www.sewrpc.org/SEWRPCFiles/CommunityAssistance/ConservationSubdivisions/conservation_subdivision_design.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=GVyVVZqiDtWvyAS7kpe4BA&ved=0CCgQFjAE&usg=AFQjCNHVgbEO6Z7ncfLRbpp-hOArn2WxrA>.

17. North Carolina State University, North Carolina Cooperative Extension Service, “Conservation Subdivision Handbook,” 17 July 2015 <http://www.google.com/url?url=http://content.ces.ncsu.edu/conservation-subdivision-handbook.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=siaVVcj3NMSoyATCkpuIDw&ved=0CDAQFjAH&usg=AFQjCNEzS6bhO1dusj0t2q9HL5psU2HU0w>.

18. “Traditional Neighborhood Development,” 7 July 2015 <https://en.wikipedia.org/wiki/Traditional_Neighborhood_Development>.

19. Brian W. Ohm, “2. Traditional Neighborhood Design.” Guide to Community Planning in Wisconsin , 17 July 2015 <http://www.lic.wisc.edu/shapingdane/resources/planning/library/book/chapter05/chap5_2.htm>.

20. Ulster County, New York, “Planning Ulster, Traditional Neighborhood Design, Lessons and Best Practices,” 17 July 2015 <http://www.google.com/url?url=http://ulstercountyny.gov/sites/default/files/documents/tnd_guide.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=CY-VVZ3UOseHyAT_0IPYDA&ved=0CCkQFjAH&usg=AFQjCNHMwxd-g07xd3m9ipOf6h4r1pGuBA>.

21. Massachutsetts, “Smart Growth/ Smart Energy Toolkit, Traditional Neighborhood Development,” 17 July 2015 <http://www.mass.gov/envir/smart_growth_toolkit/pages/mod-tnd.html>.

Acknowledgements

The Land Use Planning Commission sincerely appreciates the following design, planning and engineering professionals for their assistance in the development of this document:

Land Use Planning Commission
Subdivision Rule Review

Site Analysis Alternative Report (outline draft 7/17/15)

1. What is a site analysis subdivision design?
   a. Design strategy for subdivisions
   b. Focus is on process
   c. Land to be conserved is identified first
   d. Lot lines are drawn last

2. Benefits of this approach
   a. Ultimate flexibility in layout and design
   b. Design intended to fit harmoniously into the existing natural environment
   c. Improved protection of existing uses, scenic character, and natural and cultural resources
   d. Design can provide for a network of protected areas and open space

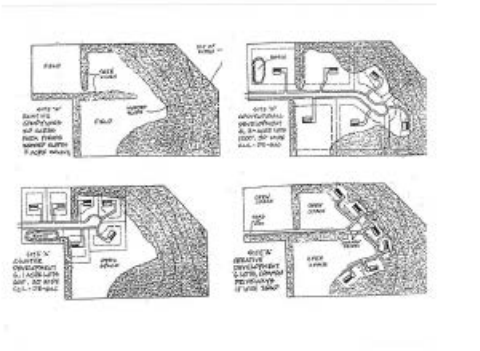
3. How does the process work?
   a. Step 1, identify conservation areas by completing an environmental inventory[1]
   b. Step 2, select building locations to complement the location of open space[1]
   c. Step 3, connect the dots by drawing in a network of streets and trails[1]
   d. Step 4, draw in the lot lines

4. How will the LUPC process work?
   a. Landowner completes Step 1 and submits a site inventory and analysis plan to the LUPC
   b. LUPC reviews the plan using existing published data and State resource agencies as needed
   c. The LUPC schedules/ conducts a pre-application meeting and field visit
      1) LUPC reviews inventory method, identified conservation areas, and site conditions
      2) The focus of this review will be primarily on the location of open space[2]
   d. Landowner completes Steps 2, 3, and 4, and submits proposed site plan to the LUPC
   e. LUPC completes preliminary review for completeness and compliance (where possible)
   f. The LUPC schedules a presubmission meeting to discuss preliminary findings and application submittals with the Landowner
   g. Landowner submits application for formal LUPC review

5. Examples of municipal ordinances using this approach
   a. Town of Holden
   b. Town of Freeport
   c. Town of Falmouth
   d. Maine Open Space Subdivision Model Ordinance
   e. New Hampshire Conservation Subdivision Model Ordinance

6. Examples of site analysis design projects

a. Illustration of Different Types of Subdivisions[3]



b. Mill Stream Subdivision, Freeport, Maine[3]

c. Mitchell Farm Subdivision, Freeport, Maine[3]

d. Crabapple Creek Subdivision, Bremen Maine [3]

End Notes:

1. North Carolina State University, North Carolina Cooperative Extension Service, "Conservation Subdivision Handbook," 17 July 2015 <http://www.google.com/url?url=http://content.ces.ncsu.edu/conservation-subdivision-handbook.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=siaVVcj3NMSoyATCkpuIDw&ved=0CDAQFjAH&usg=AFQjCNEzS6bhO1dusj0t2q9HL5psU2HU0w>.

2. Town of Holden, Subdivision Ordinance, Amended December 19, 2011, 17 July 2015 <http://www.google.com/url?url=http://www.holdenmaine.com/vertical/sites/%257BF485F62D-81A7-489A-ACF6-6CF5E665D80F%257D/uploads/20120419155443818.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ei=NT-VVfqkOYipyAST9oXQAQ&ved=0CBoQFjAB&usg=AFQjCNHzukkz0gYq9d69fkq-HB-DGoGRsw>.

3. Kennebec Valley Council of Governments, "Open Space Subdivisions Presentation," Oct. 7, 2010, 17 July 2015 <http://maine.gov/dacf/municipalplanning/docs/Open_Space_Subdivisions_presentation_2010_10_07_withnotes.pdf>.

Subdivision Layout and Design Questions for Design Professionals (draft 7/2/15)

1. Are there other subdivision layout and designs that haven't been captured on the topic pages? If yes, what should be added?

2. Are there design modifications that should be captured on a topic page?

3. Are each design types properly characterized? What should be added or revised?

4. Is there another way to get better visuals of the layout and design options?

5. What types of buyers would be interested in each of the design options?

6. What is the market reaction to each of the design options?

7. What considerations go into designing for lot size?

8. Any other suggestions to ensure we have all the development options and factors covered?

9. Are there other layout and design resources that we should review or professionals we should consult for this project?

Questions Regarding Road Setbacks in Subdivisions (draft 7/9/15)

What is(are) the primary purpose(s) of a road setback?

Are road setbacks an essential element of subdivision design and layout?
If so, describe the relationship.

Is the appropriate setback related to the type of road?
If so, describe the relationship.

What else, if anything, is important when establishing a road setback?

Subdivision Policy Issues:
Sample Standards for Possible Revision

DRAFT – Examples Only - DRAFT

The following sample amendments indicate additions in underline and deletions with a ~~strikethrough~~. Text that is proposed to be relocated is illustrated with double underline to indicate the proposed location and ~~double strikethrough~~ to indicate the existing location.

Revisions in this document generally include:

- Sample items in response to 2014/2015 LUPC Subdivision Stakeholder process, focusing on the "Standards" group of topics:
- Clerical corrections for proper citation of statutory provisions;
- Assorted revisions to clarify and simplify existing standards; and

DEFINITIONS

201. Subdivision:

Except as provided in 12 M.R.S.A. §682-B, "subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term "subdivision" also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period. 12 M.R.S.A. §682(2-A)

Refer to Section 10.25,Q, "Subdivision and Lot Creation" for additional criteria on types of lots that are included or are exempt from this definition.

Level 1 subdivision: Any subdivision that does not meet the criteria of a level 2 subdivision, or a maple sugar processing subdivision, is considered a level 1 subdivision.

Level 2 subdivision: Any subdivision that meets the criteria of Section 10.25,Q,2 is considered a level 2 subdivision.

Maple sugar processing subdivision: Any subdivision that meets the criteria of Section 10.25,Q,4,___, is considered a maple sugar processing subdivision.

Comment [TB1]: The listed types of subdivisions may need to be revised based on any new options proposed.

EXPIRATION OF PERMIT

10.17 EXPIRATION OF PERMIT

Comment [SHO2]: This section is being reviewed

If a development or use requiring a permit is not substantially started within the time period specified in the permit conditions of approval, or is not substantially completed within the time period specified, the permit lapses and further development or activity is prohibited thereafter unless and until a new permit is granted, or the Commission otherwise specifically authorizes.

Except in special flood hazard areas or as otherwise authorized by the Commission, uses authorized under a permit must be substantially started within 2 years of the effective date of the permit and substantially completed within 5 years of the effective date of the permit; provided that, with respect to permits issued prior to July 1, 2003, that do not specify any expiration date, that date shall be October 1, 2004. In special flood hazard areas a permit must be substantially started within 180 days of the effective date of the permit and substantially completed within 5 years of the effective date of the permit.

For the purpose of these rules, "substantial start" shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements in special flood hazard areas, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Also for the purpose of these rules, "substantial completion" shall mean completion of all permit conditions of approval.

CLUSTERING REQUIREMENT: MC 4 & 5 LAKES

A. COMMERCIAL INDUSTRIAL DEVELOPMENT SUBDISTRICT (D-CI)

…

3. Land Uses

…

g. Management Class 4 Lakes (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

(1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

(a) area and shoreline length;
(b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
(c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

(2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

h. Management Class 5 Lakes (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

Revise each subdistrict that currently requires subdivisions on Management Class 4 or 5 lakes to meet the clustering provisions of Section 10.25,R. Specifically, accomplish the same change as reflected in 10.21,A,3,g and h above in sections 10.21,A,3; 10.21, B,3; 10.21,C,3; 10.21,D,3; 10.21,I,3; 10.21,J,3; 10.21,K,3; and 10.21,L,3

Comment [TB3]: Revise this section based on modifications to the layout and design provisions of Section 10.25,Q.

Comment [TB4]: Note that Section 10.25,R,1,c provides the means for the Commission to waive this requirement.

Comment [TB5]: Some stakeholders suggest elimination of the requirement to cluster. [Page 8 and 11]

M-GN Revisions

10.22 MANAGEMENT SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following management subdistricts are established:

B. GENERAL MANAGEMENT SUBDISTRICT (M-GN)

1. Purpose

The purpose of the M-GN subdistrict is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.

2. Description

These are areas which are appropriate for forest or agricultural management activities and that do not require the special protection afforded by the protection subdistricts or the M-NC or M-HP subdistricts. Also included within M-GN subdistricts shall be areas which do not qualify for inclusion in any other subdistrict.

3. Land Uses

…

d. Special Exceptions

…

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

(1) Maple Sugar Processing Subdivision in accordance with Section 10.25,Q ~~Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:~~

(2) ~~The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided[1];~~

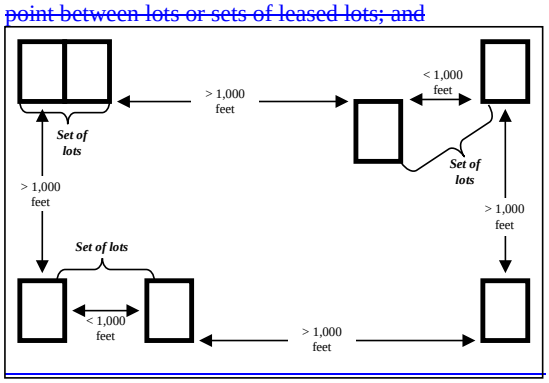
(3) ~~The maximum size of each leased lot shall be no more than 4 acres;~~

(4) ~~Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;~~

Comment [SHO6]: This text would be moved to section 10.25,Q as one of the types of subdivision. However a use listing must remain here.

[1] ~~Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.~~

(5) ~~Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and~~



(6)

(7) ~~Figure 10.22,A-1. Leased lots in maple sugar subdivisions.~~

(8) ~~Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.~~

(9) …

P-GP2

10.23 PROTECTION SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following protection subdistricts are established:

…

F. SEMI-REMOTE LAKE PROTECTION SUBDISTRICT (P-GP2)

…

3. Land Uses

…

c. Uses Requiring a Permit

(16) Subdivisions: Level 1 subdivisions, in accordance with Section 10.23,F,3,g, for uses permitted in this subdistrict;

…

g. Allowed Densities

Parcels within the P-GP2 subdistrict that are in existence as of January 1, 2001 and that have more than 200 feet but less than 400 feet of shore frontage shall be allowed one dwelling unit provided that other applicable requirements are met.

All parcels within the P-GP2 subdistrict that have more than 400 feet of shore frontage may be further developed subject to the following requirements:

(1) Maximum density of building units. Overall density within each lot shall be no greater than 1 dwelling unit, principal building, or rental cabin for every 400 feet of shoreline up to a maximum density of 13 units per mile of shoreline.

If physical constraints restrict the development potential of more than 50% of the shore frontage of a parcel, the maximum allowable number of building units per mile of shoreline shall be reduced to one per 200 feet of shoreline that is not constrained. Constraints shall include slopes greater than 15%; wetlands; wildlife habitat such as deer wintering areas, eagle or loon nesting areas; habitat for rare or endangered plant and animals; unique natural communities and natural areas; and historic and archeological resources.

(2) Building units and density. For the purpose of determining density the following structures shall count as individual building units:

(a) single family seasonal dwelling units;

(b) rental cabins associated with campgrounds, sporting camps, or other commercial recreational facilities;
(c) sporting camp lodges or other commercial recreational base lodge facilities containing three or fewer rental rooms; and
(d) campgrounds.

Individual campsites, public and private trailered ramps, permanent docking facilities and water-access ways, and non-commercial structures for scientific, educational and/or nature observation purposes shall not count as building units for the purposes of calculating allowable densities. Each set of up to three additional rental rooms, at sporting camp lodges or other commercial recreational base lodge facilities with more than three rental rooms, shall count as an additional unit.

(3) Phosphorous control. All development shall be designed in accordance with the most current version of the Department of Environmental Protection's "Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development." Development density shall conform to the requirements of this manual.

(4) Extent of shoreline to be conserved. Within subdivisions, at least 50 percent of a landowner's ownership on a shoreline shall be conserved to a depth of 500 feet or the depth of the lot, whichever is less, and set aside as open space according to the provisions of Section 10.25,S. The area to be conserved shall be located so that it will create large and contiguous blocks of open space and/or to conserve sensitive resources and areas used traditionally by the public. This conservation of shoreline shall not affect the amount of development allowed under the maximum density provision above.

Comment [TB7]: Some stakeholders suggest allowing nearby land to be set-aside as an option. [Page 21]

(5) Build-out rate. No more than 20 individual units may be constructed in any ten-year period per lot of record as of the date of adoption of these rules, except that credit for unbuilt units may be carried over to the following time period where a maximum of 40 building units in any 10-year period may be developed.

(6) Required buffer. No structural development shall be allowed within a ¼ mile radius of any commercial sporting camp, campground, or group of rental cabins associated with a commercial sporting camp or campground. Individual campsites are excluded from this buffering requirement.

The buffer shall extend from the edge of the principal building, dwelling unit, rental unit, or campsite that is closest to any adjacent use.

h. Other Development Considerations

(1) Campground, campsite, and rental cabin management. All such facilities offered for rent shall be managed and supervised by an attendant who provides regular and routine oversight.

SUBDIVISION USE LISTINGS:

- Revise for uniform use listings. Revise each subdistrict that currently, or is proposed to, allow subdivision as a Use Requiring a Permit or Uses Allowed by Special Exception. Specifically, list the use as "Subdivision" with each applicable type of subdivision allowed as a sub-listing. For example:
  "(#) Subdivisions, in accordance with Section 10.25,Q, for uses permitted in this subdistrict:
  (a) Level 1 Subdivision – Residential, Commercial, Industrial;
  (b) Level 2 Subdivision – Residential;

Revise each subdistrict that currently, or is proposed to, allow subdivision as a Use Requiring a Permit or Uses Allowed by Special Exception. Specifically, list the use as "Subdivision" with each applicable type of subdivision allowed as a sub-listing. For example:

"(#) Subdivisions, in accordance with Section 10.25,Q, for uses permitted in this subdistrict:
(c) *Level 1 Subdivision – Residential, Commercial, Industrial;*
(d) *Level 2 Subdivision – Residential;*
(e) *Maple Sugar Processing Subdivision; and*
(f) *Subdivisions for commercial uses, provided that the commercial subdivision is integrated with the community center and designed to promote pedestrian access"*

In the case of subdistricts that apply only in prospectively zoned areas (D-ES, D-GN2, D-GN3, D-RS2, D-RS3, and P-GP2) no new subdivision types will be added, but the use listing will be revised to conform to this structure.

Comment [TB8]: This should be discussed.

10.21,A. Commercial and Industrial Subdistrict (D-CI)

3. Land Uses

c. Uses Requiring a Permit

(#) Subdivisions, in accordance with Section 10.25,Q, for uses permitted in this subdistrict:
(a) Commercial and Industrial ~~subdivisions for uses permitted in this subdistrict~~

[Accomplish the same change as reflected in 10.21,A,3,c above in sections 10.21,A,3,c; 10.21, B,3,c; 10.21,C,3,c; 10.21,D,3,c; 10.21,J,3,c; 10.21,K,3,c; 10.21,L,3,c; 10.22,A,3,c; 10.22,A,3,d; 10.23,F,3,c;

Other subdistricts: Depending upon the approach, "Large Lot Subdivisions" may need to be added as a use allowed in a new subdistrict or a number of existing subdistricts. Related revisions would need to be made in Section 10.25,Q.

10.25 Q SUBDIVISION STANDARDS

- Reorganize Section 10.25,Q. Revise Section 10.25,Q for improved organization of provisions (*e.g.*, types of subdivisions, design options/requirements, etc.)
- Add any subdivision types that are needed.
- Revision of all citations to specific subsections of Section 10.25,Q.
- Clerical corrections. Minor revisions to conform with proper statutory citations and provisons.
- Maple Sugar Processing Subdivisions. Relocate the criteria from the use listing in Section 10.22,A,3,d (M-GN Subdistrict, uses allowed by Special Exception) to Section 10.25,Q as a more appropriate organization of subdivision types. However, an appropriate use listing should remain in the M-GN.
- If Level 2 subdivisions remain as a type, revise certain standards. One example:

> 10.25,Q,2,e: Is located wholly on land within an M-GN subdistrict or within a development subdistrict where level 2 subdivisions are allowed, except that up to 10 percent of the aggregate land area may be designated or identified as a flowing water or wetland at the time of the filing of a subdivision application; and

Comment [SHO9]: One proposal is to increase this to 20%

- Revise certain other standards such as shared driveways and standards for plats. Examples include:

10.25,Q,3. Layout and Design for All Subdivisions….

c. To the extent practicable, subdivisions shall be designed to reduce the number of driveway access points onto roadways through the utilization of shared driveways and interior roads. Notwithstanding Section 10.26,C, the Commission may reduce the minimum road frontage for individual lots within subdivisions with shared driveways by up to 50 percent, as long as the Commission finds that reducing road frontage will not adversely affect resources or existing uses or that reducing road frontage will prevent the loss of important natural features.

Comment [SHO10]: Some stakeholders commented that this requirement should be eliminated.

d. Building envelopes shall be marked and identified on the subdivision plat for each proposed lot in accordance with the following requirements:

(2) Building envelopes shall identify all areas within each subdivision lot where structural development may occur;

(3) Building envelopes shall be arranged to conform with the minimum water body, road and property line setback and maximum lot coverage requirements, as provided in Section 10.26; and

(4) Where practicable, building envelopes shall be arranged so as to avoid the placement of structures and driveways along ridge lines, on agricultural land, wetlands, slopes greater than 15%, or any other important topographic and natural features.

Comment [SHO11]: Technical Subdivision Rulemaking includes this provision; update accordingly.

(5) Building envelope corners shall be identified on the plat with lat/long coordinates, or marked on the ground, where: (i) a lot involves multiple building envelopes; or (ii) …

CLUSTER DEVELOPMENT

C. CLUSTER DEVELOPMENT

1. Applicability.

a. The cluster development standards set forth below must be met for all portions of subdivisions located within 250 feet of the normal high water mark of a Management Class 4 or 5 lake, and for all level 2 subdivisions comprised of more than 5 lots or more than 5 dwelling units.

b. Other subdivisions located on land that could be developed under normal applicable standards may also be clustered, or portions of the subdivision may be clustered, if the subdivisions provide for the efficient use of land and the protection of a significant amount of open space, in accordance with the standards of Section 10.25,R and Section 10.25,S.

c. The cluster development standards may be waived for subdivisions located within 250 feet of the normal high water mark of a Management Class 4 or 5 lake, where the Commission finds that cluster development is clearly inappropriate due to physical site limitations. Such site limitations may include, without limitation, the presence of soils that are unsuitable for high density development or the size and configuration of a parcel that does not lend itself to clustering.

2. Cluster Development Standards.

a. Cluster subdivisions shall provide for a reasonable balance between development and conservation. Specifically, cluster subdivisions shall reserve no more than 50% percent of net developable land for development and, within shorefront subdivisions, shall reserve no more than 50% percent of net developable ~~shore frontage~~shorefront for development.

(1) For the purposes of this section, "net developable land" is the area of a parcel which, as determined by the Commission, is suitable for development. The area shall be calculated by subtracting the following from the total acreage of the parcel:

(a) Portions of the parcel subject to rights-of-way and easements for vehicular traffic; and

(b) Unbuildable land which includes, without limitation, land that has a low or very low soil potential rating, in accordance with Section 10.25,G, or contains sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

(2) For the purposes of this section, "net developable shorefront" is land that:

(a) Meets the minimum water body setback requirements of Section 10.26,D and is within 250 feet of the water body;

(b) Does not have a low or very low soil potential rating, in accordance with Section 10.25,G; and

Comment [TB12]: Report: pages 8, 11, 21

Comment [SHO13]: Clustering provisions to be located with other design criteria, if retained.

Comment [SHO14]: Some stakeholders suggest decreasing this metric or including undevelopable land.

Comment [SHO15]: This one as well.

Comment [TB16]: Technical Subdivision Rulemaking includes this provision; update when available.

Comment [SHO17]: One possible clarification.

(c) Contains or is part of land area at least 40,000 contiguous square feet in size that is not comprised of sensitive areas such as slopes exceeding 15%, water bodies, flowing waters, or wetlands.

b. Cluster subdivisions shall be designed to protect developable land as open space through (1) clusters of dwellings on commonly-owned land; (2) creation of individual lots with reduced lot size, reduced road frontage or, within shorefront subdivisions, reduced shore frontage as permitted under these rules; or (3) a decrease in the number of individual lots that meet dimensional requirements.

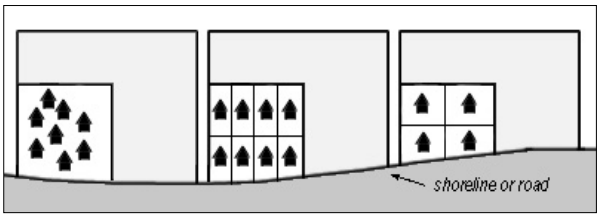


Figure 10.25,R-1. From left to right, (1) clustering on a commonly-owned parcel, (2) clustering on individual parcels with reduced lot size and frontage, and (3) clustering on individual parcels without reduced lot size or frontage.

c. Open space within cluster subdivisions shall be preserved and maintained in accordance with Section 10.25,S.

d. The Commission may reduce lot size, road frontage, or shore frontage for individual dwellings or lots in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development.

e. Notwithstanding Section 10.25,R,2,d, the Commission may waive the provision that dimensional requirements for individual dwellings or lots in a cluster development be met, in the aggregate, where the following conditions are satisfied:

(1) Dimensional requirements, in the aggregate, are not waived by more than 50~~%~~ percent;

(2) Site conditions are suitable for more concentrated development on some portions of a site and such concentrated development will not adversely affect resources; and

(3) The specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.

f. No individual lot or dwelling unit for which road frontage has been reduced shall have direct vehicular access onto an existing roadway, unless the individual lot or dwelling unit uses a shared driveway.

Comment [SHO18]: Technical subdivision Rulemaking includes this provision; update accordingly.

Comment [SHO19]: Should road setback be added here?

Comment [SHO20]: Based on our past experiences, consider clarifying.

OPEN SPACE

S. OPEN SPACE

Comment [TB21]: Report: pages 8, 11, 12, 21

The standards set forth below must be met for all cluster subdivisions and other land area designated as open space.

1. **Preservation and Maintenance of Open Space.** Open space may be owned, preserved and maintained as required by this section, by any of the following mechanisms or combinations thereof, listed in order of preference, upon approval by the Commission:

a. Conveyance of open space to a qualified holder, as defined under Section 10.25,S,2.

b. Dedication of development rights of open space to a qualified holder, as defined under Section 10.25,S,2 with ownership and maintenance remaining with the property owner or a lot owners association.

c. Common ownership of open space by a lot owners association which prevents future structural development and subsequent subdivision of open space and assumes full responsibility for its maintenance.

d. Any other mechanism that fully provides for the permanent protection or conservation of open space and that is acceptable to the Commission.

e. Ownership by a single landowner, provided that deed covenants are recorded that are sufficient to ensure the purposes of Section 10.25,S.

Comment [TB22]: Report page 22.

2. **Qualified Holders.** The following entiti~~t~~es are qualified to own, preserve and maintain open space:

a. "A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or

b. A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property." 33 M.R.S.A. §476, sub-§2

3. Open space may be usable for low-intensity non-commercial recreation or for purposes intended to conserve land and preserve important natural features of the site. Uses within the open space may be limited or controlled by the Commission at the time of approval, as necessary, to protect natural resources and adjacent land uses. Specifically, open space lots are subject to subdivision and other permit conditions prohibiting residential, commercial, industrial or other structures and uses.

4. If any or all of the open space is to be reserved for common ownership by the residents of the subdivision, the bylaws of the proposed lot owners association shall specify responsibilities and methods for maintaining the open space and shall prohibit all residential, commercial, industrial or other structures and uses.

5. Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation thereof to indicate that no further subdivision or conversion of use is allowed.

Subdivision Rule Review
Policy Issues Update
Background to the Process

At the direction of the Commissioners, staff have undertaken a process for reviewing and ultimately revising the subdivision rules. As a first step, staff conducted a survey of a small group of stakeholders in April 2014. This survey identified issues that might come up in the process. At the July 2014 Commission meeting, staff presented a detailed review of existing subdivision rules and the Commissioners directed staff to proceed with a stakeholder process. Using a grant from the Sewall Foundation, the Commission retained Mark Eyerman to facilitate this stakeholder consultation process. In September 2014, the Commission conducted an online survey to reach out to a broader group of stakeholders to collect suggestions about how the Commission's subdivision rules could be improved. In October of 2014, the Commission held a stakeholder workshop with a panel of experts to discuss what makes for good subdivision rules. Issues that were identified in the surveys and the workshop were incorporated into a list of issues and recommendations. Following up on the surveys and workshop, the Commission hosted a series of four additional stakeholder meetings to refine the list of issues, prioritize issues that were identified, and discuss ways the rules might be revised to address these issues. The final stakeholder meeting was conducted on April 1, 2015. The draft report from that meeting was circulated to stakeholders, and final edits were made. The final report is now available on the Commission's web site, and a notice of the final report was sent to the email list of persons interested in this project.

The staff would like to again acknowledge that funding for this project was provided by the Sewall foundation. Their generous support made the facilitated process possible. Since the last Commission meeting, a final grant report, including the final report of the stakeholder process, was submitted to the Foundation.