

approved the process document, and Judy is still recruiting small landowners and residents to fill out the planning committee roster. Judy also spoke about the partnership WCCOG has established with the University of Maine at Machias to have student GIS projects make a substantial contribution to the planning effort. The Washington County TIF from wind development is funding the CGPZ initiative – total cost is \$80,000, some of which will be subcontracts.

Commissioner Underwood asked if Judy anticipated issues in tidal waters. Judy indicated that water quality can affect shellfish harvesting, and so future development location or infrastructure upgrades could be some of the planning recommendations that would impact tidal waters. Commissioner Underwood asked about tidal power. Judy indicated that some energy issues are likely to be discussed, but with wind and tidal, this may not be the process to have much of an impact. Similarly, transportation can impact land uses, but there is already a transportation corridor plan in place, and so this process will not need to reinvent that wheel and the existing transportation plan can inform this CGPZ process.

Staff recommendation was to approve the proposed process document.

Commissioner Dunphy motioned to approve staff recommendations; Commissioner Underwood seconded; Vote: 7-0-0-2 Unanimous

Community Guided Planning and Zoning, update on Aroostook County CGPZ; Hugh Coxe

The Aroostook County Community Guided Planning and Zoning (CGPZ) Committee has been meeting since October 2013 to develop ideas and proposals for this project. The committee is now preparing the final recommendations for a new subdistrict and expects to complete this phase of their work before autumn. The Northern Maine Development Commission (NMDC) Executive Board expects to consider the proposal in early autumn and vote whether to approve it for submission to the LUPC. If NMDC approves the proposal, staff will develop a draft rulemaking packet for the Commission's consideration and possible posting for public comment. This presentation is for the purpose of familiarizing the Commission with the broad concepts and key provisions of the proposed D-SB (small business development subdistrict) concept in advance of the NMDC executive board's consideration of the D-SB proposal and prior to drafting proposed rule language for chapter 10 revisions.

The purpose of the proposed subdistrict is to encourage a range of small business development - typically larger than a permissible home-based business, but not large-scale - in rural areas near major transportation routes and services. These businesses would be compatible with natural resource-based land uses and at a scale and intensity appropriate for rural areas. Examples include farm buildings, agricultural and forestry related equipment maintenance facilities, small stores, and moderate sized storage facilities.

The subdistrict would have three categories of types of business based on factors such as the size of the building and the site, the traffic generated by the business, the types of vehicles and equipment parked or stored on site, and other exterior effects from the activities of the business. The proposal identifies about 30 towns, plantations and townships in which the subdistrict could locate based on whether it contains a major public road, the amount of population, whether it is located in close proximity to a service center and/or a retail hub, and the amount of land parcelization.

Commissioner Gilmore asked how this would protect a business that is successful and may outgrow the zone they locate within. This subdistrict allows more than would be currently allowed but still has a limit on size and impact. The Category three business locations provide for opportunity for substantially more than is allowed under current M-GN zoning.

Commissioner Humphrey inquired about the designation of public roads and whether a new public road could be included. The proposal contemplates existing public roads but could allow for the inclusion of new roads.

Commissioner Worcester asked what organization in Aroostook would be responsible for proposing any future amendments to the subdistrict. The committee is proposing that there be some framework for regional planning in Aroostook beyond this immediate process.

Commissioner Dunphy asked about the protection zones on the maps. These are the existing protection zones from the LUPC zoning.

Other provisions allow existing small businesses to expand in place when site conditions allow and new small businesses to utilize existing buildings of any size if proposed development meets all other requirements. Rezoning to this subdistrict would not require a finding of adjacency and development within the subdistrict would not create adjacency for other subdistricts.

ADMINISTRATIVE MATTERS

Minute Approvals; June 10, 2015 Minutes

Commissioner Underwood motioned to approve the minutes; Commissioner Dunphy seconded;

Vote: 7-0-0-2 Unanimous

DIRECTOR'S REPORT

Nick Livesay provided the director's report. He:

Welcomed Phil Curtis to the Commission;

Summarized the outcome and adoption of LD 828, the wind power legislation that provides an opportunity for residents of the UT to petition to remove areas from the expedited permitting area; he discussed the steps staff are taking in response to the legislation and the role the Commission will play when the new law goes into effect on January 1, 2016;

Noted the AMC settlement agreement require AMC to undertake, participate in, or help fund a stream enhancement project; the Blackstone Brook project in Blanchard Twp., Piscataquis County has been selected; he summarized the project and fish habitat benefits; and

Provided an overview of the anticipated calendar.

Ouellette (BP15320), appeal of partial denial of building permit, ratification of revised decision document; T17 R3 WELS, Aroostook County; Nicholas Livesay

Nick noted that at the prior Commission meeting the Commission heard the Ouellette's appeal of the staff's partial denial of BP 15320. Both Mr. Ouellette and his attorney presented new information and new arguments at that meeting that had not previously been provided to the Commission. After consideration of all the information the Commission denied the Ouellettes' appeal. Nick presented the written decision document, denying the appeal and prepared to reflect the information considered and decision made by the Commission, to the Commission for consideration and approval.

Commissioner Dunphy motioned to approve the decision document; Commissioner Underwood seconded;

Vote: 6-0-0-3 Unanimous (Commissioner Humphrey was also absent for the vote.)

PLANNING AND RULEMAKING MATTERS

Chapter 10 Subdivision Rule Review; discussion of revisions to technical standards; consideration of posting for comment; Stacie Beyer

Samantha introduced this item by recapping the overall framework for the subdivisions standards review and particularly described which components of the bubble chart on page 2 of the memo were the subject of that day's discussion. She also reviewed the recommendations on page 3 of the memo about public input into the process.

Stacie then presented proposed revisions to Chapter 10 for the Subdivision Technical Issues rulemaking and a recommendation to post the proposed rule revisions to public comment. The presentation covered a summary of proposed changes, key stakeholder comments, and staff's recommendation. During the subdivision rule review stakeholder process, a list of technical issues was identified and prioritized, and a preliminary report was prepared. From those, staff drafted possible rule revisions to address the issues. The preliminary report and rule revisions were sent to stakeholders for review and comment thru the GovDelivery system. After consideration of the comments received, Staff prepared a rulemaking package for the Commission's consideration. The technical issues were divided into 4 topic areas: soils investigation and mapping, maximum road grade, subdivision layout and design, and the application process. Proposed rule revisions address the first three topic areas. During the meeting, Stacie reviewed some of the key changes proposed for each of those topic areas. Regarding changes for maximum road grade, Commissioner Worcester asked how we determine what is an adequate separation distance for steep slope sections on Class 1 roadways. Stacie replied that the actual proposed language in the draft rules uses a separation distance of 150 feet that was derived from research staff did on road design standards for fire equipment and required stopping distances.

Stacie continued by outlining the process for and comments received during the preliminary stakeholder review of the draft rules, including comments on the waivers that allow for the use of published soil mapping, the complexity of the phosphorus control standards, requiring deed restrictions for buffer protection, how the phosphorus treatment standards for impervious area were derived, and one of the cluster development standards. She noted changes that were made in response to the preliminary comments. Staff recommended that the Commission post the proposed rules for the Subdivision Technical Issues to a 30 day public comment period.

Commissioner Underwood asked what types of soils would preclude suitability for subdivision development. Stacie replied that the current LUPC rules for soil suitability indicate that where soils are rated as having low or very low potential for low density development, staff would have concerns, but the rules allow for a developer to present information on how any soil limitations identified for the site will be overcome. Commissioner Dunphy made a motion to post the rules to public comment, but expressed concern for changing steep slopes to 20%. Stacie asked if he was concerned that 20% would be too steep. Commissioner Dunphy replied that 20% is too steep, and noted the potential for soil erosion, especially with extreme rain events. Commissioner Underwood commented that new technologies are being developed that can address soil suitability concerns, specifically referencing construction on much steeper slopes in Oregon. He further commented that if a project is designed right, the technologies are capable. Commissioner Dunphy asked if builders would use the technologies without a building code, and Commissioner Underwood replied that they would have to if they develop on steep slopes. Commissioner Gilmore indicated that slopes for buildings are one thing, but slopes for septic systems are another. That is where we could run into trouble. He stated a belief that there are no municipal services for sewage in the UT. Commissioner Underwood stated that there is in Sinclair. Commissioner Gilmore indicated that, nevertheless, we want to be careful not to exaggerate the soil limitations to a point where we can't control them.

Commissioner Theriault commented that he wanted to make sure in these discussions at some point that we bring the public into the conversation. He stated that he wants to make sure that all the people that have spent time in the process get a chance to comment once or even twice on these things in a personal manner directly to the

Commission, and that he believes it is essential to the success of the rulemaking process. Samantha asked whether he meant these particular technical rules or the bigger picture policy issues rulemaking. He replied that he is thinking of all of it. He understood the point that it may not be needed as much for the technical issues. However, he would hate to see the stakeholders that have been at the meetings not be involved in this part of it. He expressed concern that e-mails are not the same as a direct opportunity to comment to the Commission. Samantha suggested that the Commission could postpone the rulemaking to allow time for an informal discussion on the rules, or amend the motion to hold a public hearing on the proposed rules. She further explained that the staff recommendation is for a written public comment period, because the stakeholders have had input in the development of the proposed Subdivision Technical Issues rules, but there is no reason why the Commission couldn't have a public hearing. Director Livesay offered a third alternative. If five or more members of the public request a public hearing, the Commission would be required to hold one. Commissioner Theriault agreed that the stakeholders should have the opportunity to request a hearing. Commissioner Worcester asked Samantha if she was suggesting that the Commission could post the rules to public comment and during that period hold a public hearing. Samantha agreed that there were a couple of options. The Commission could post the rules to a written public comment period, and if five or more people request a hearing, schedule one. Alternatively, the Commission could today decide to hold a public hearing for the rulemaking. Commissioner Dunphy suggested that a public hearing be scheduled for the next meeting.

Commissioner Humphrey asked if Commissioner Dunphy is changing his motion to include a public hearing. Commissioner Dunphy agreed to amend the motion. Samantha clarified that we may not be able to hold the hearing in September due to the tight time frame. Commissioner Dunphy asked that it be scheduled as soon as possible. Commissioner Worcester restated the motion to be moving forward with posting the draft rules to public comment with a public hearing as soon as possible. Samantha commented that the Commissioners should be aware that it will likely cause a 2 month delay in the adoption date. Commissioner Theriault pointed out that there were stakeholders including Steve Howell and Ken Lamond in the audience that were involved in the process, and asked if the Commission could ask for their input on the question of a public hearing. Commissioner Worcester agreed to request the input.

Ken Lamond addressed the Commission and explained the concern that he raised on the preliminary draft of the rules. His concern related to moving forward on the technical revisions without addressing the issue of how the standards will apply to large lots. His question is if the Commission goes ahead with this rule change, will the Commission also do another rulemaking for large lots? Will the Subdivision Technical Issues rulemaking prohibit some changes being proposed for policy issues later in the process? Commissioner Dunphy indicated it was his understanding that the Commission is going to do another rulemaking process for the larger policy issues. Mr. Lamond asked if they were going to have two rulemaking processes for technical issues. Director Livesay clarified that the LUPC does not consider the large lot issues technical issues. A second rulemaking process will be done to consider the whole range of bigger policy issues, and the issues around large lots would fall under that process. Mr. Lamond indicated that a related technical issue for large lots is that a landowner should be allowed to do one test pit that indicates there is a buildable site. The proposed rules envision more in depth soil information in the building envelope. He believes, that for large lots, you don't know where someone will want to build. That technical issue won't be addressed by this rulemaking process. Director Livesay indicated that the hope is once we have a better idea on how the large lot policy piece will be addressed, then we can tailor the technical piece to it. Mr. Lamond believes that addressing large lots is the most important part of the process and is concerned about moving forward to a rulemaking before that is addressed. Commissioner Dunphy asked for his definition of a large lot. Mr. Lamond commented that most lots in the UT are between 3 and 5 acres and on waterfront. He indicated that a landowner can't really do back lots because the process has been so in depth and so expensive. He said large lots have typically been 40 acres to 200 acres in size. During the stakeholder meetings, it was suggested that they be something over 10 acres so the landowner could continue to have some land in tree growth on the lot. He envisions the size to be from over 10 acres to no limit. Director Livesay responded that this is the kind of discussion

that is planned for the policy piece of the process. Commissioner Worcester indicated that this is a really difficult issue for the Commission. That is why the Commission is trying to separate it out for discussion. There are a lot of issues with large lots. The Commission is going to need to think hard on it. There is a lot of opposition for making that road easy. The Commission is trying to be accommodating on the technical issues as quickly as they can while recognizing that there will need to be a separate discussion on large lots. Mr. Lamond asked that the Commission recognize that there are technical issues that are unique to large lots that are not covered in the Subdivision Technical Issues rulemaking. Commissioner Worcester said that as long as we can nail down what large lots are and where they will be allowed, the technical issues will be easy. Commissioner Humphrey asked if Mr. Lamond thought there should be a public hearing on the technical issues. Mr. Lamond indicated that he is not suggesting that the Commission hold the process up, just recognize that there are technical issues unique to large lots that are not covered by the rulemaking. There needs to be a mechanism somewhere along the line to address those issues. The Commission should consider what the path forward should be for dealing with those issues. He doesn't have any objection to the standards for small lots. Commissioner Humphrey asked if there was a public hearing would he testify. Mr. Lamond said yes.

Steve Howell also addressed the Commission on the subject of a public hearing. He indicated that his main area of emphasis was on the soils. He felt that on the small lots that his concerns were really well taken care of in the preparation of the draft rule. Suggestions that he and others made were incorporated into the proposal. He felt that he has put his two cents in and that everything that he was concerned about was covered. There may be others that don't feel that way, so having the option of a hearing isn't a bad thing. Personally, he doesn't have a need for one.

Commissioner Worcester asked if Commissioner Dunphy wished to keep the motion as is, posting to public comment with a hearing, or use the option of only scheduling a hearing if there are requests for one. He indicated that we are hearing from those stakeholders at the meeting that there really isn't a need for a hearing. If there are 5 people that do want a hearing, they can petition the Commission to have one. Commissioner Humphrey indicated that he heard one of the stakeholders wants a hearing and one that doesn't. There may be others that want one. Commissioner Worcester restated the motion on the table and Commissioner Humphrey seconded it. Commissioner Underwood stated that the revisions for the technical issues will be standards that will be imposed on large lots in some fashion; at least in the building area. Director Livesay clarified that the Subdivision Technical Issues rulemaking is a way of addressing some of the low hanging fruit, improving our standards for individuals who are interested in pursuing subdivision applications in the near future. With regard to large lots, once we tackle what those are and where they are going to be, necessarily we will also need to address the technical standards that are appropriate for them. Many of the concepts that we have in the technical standards may carry over there, but a one-size fits all may not work. How you handle a large lot versus a small lot might be different. The LUPC fully recognizes that. What we want to do with the technical standards is address the smaller lots. We are not tying our hands by saying that the standards will apply to large lots even if that doesn't make sense. We will need to make them all fit together. Staff recommendation is that the Subdivision Technical Issue rulemaking can be a standalone process and it will be beneficial to landowners to do it that way. It is up to the Commission; the Commission could table them and address all the changes at once. The Commission could also have a public hearing. Director Livesay stated that comments received at a public hearing may well address the policy issues that will come up later in the process, and not the technical standards. The technical standards group has been working collaboratively to this point and the concepts have been pretty well vetted. If we are wrong about that and there are those that want a public hearing, they can request one.

Commissioner Dunphy motioned to approve staff recommendations with a Public Hearing in the near future; Commissioner Gilmore seconded; Vote: 7-0-0-2 Unanimous

The meeting resumed after a break for lunch.

Commissioner Theriault moved to reconsider the prior vote to hold public hearing on the technical subdivision rules; Commissioner Dunphy seconded; Vote: 7-0-0-2 Unanimous

Commissioner Humphrey motioned to post the Technical Standards Subdivision Rulemaking for public comment without a public hearing; Commissioner Dunphy seconded; Vote: 7-0-0-2 Unanimous

Chapter 10 Subdivision rule Review, presentation and discussion of materials associated with policy issues; Eric Larsson; Samantha Horn Olsen and Stacie Beyer

Eric presented a summary of the work he was conducting to review the market for various types of subdivision lots and available sales data.

Stacie Beyer presented an update on the subdivision layout and design portion of the process. As background, she outlined the current rules for subdivision design and the priority issues that stakeholders raised on this topic including the appropriateness of the current design standards for the UT, the need for more flexibility, and the need for design options for different regions. She also outlined the background research that is underway, and summarized how two reports will be prepared describing layout and design options and the site analysis design alternative. Interviews have been scheduled with design professionals using a list of prepared questions. The key takeaways from the first two interviews involved recommendations on ways to improve the reports, including making better comparisons, using illustrations relevant to the UT, and adding photos; the importance of fitting subdivisions with existing character; the need to consider privacy; the importance of useful and interconnected open space; and the need for a sketch plan step in the review process. Commissioner Underwood asked for a definition of long-distance recreation. Stacie responded that the use of the term includes multi-use trail opportunities, such as snowmobile trails and horse riding trails; something that could not be accommodated on a 10 or 40 acre lot. Stacie explained that the next steps for the layout and design portion of the project include completing interviews with design professionals, updating the preliminary reports, conducting internal and stakeholder reviews of the reports, and finalizing the reports that will be used to support further thinking as the process moves forward. Commissioner Underwood asked if the proposed new design options would be available to existing subdivisions if the landowner would like to modify their design. Samantha replied that if subdivision owners would like to change their layout, they can apply for an amendment and the amendment would be subject to the standards that are in effect at the time of application. If someone wanted to file for an amendment, the new design standards would be available.

Samantha discussed the subdivision standards portion of the package that was attached to the agenda. There were no Commissioner comments or questions. She then outlined the approach going forward. She anticipated more materials for the October meeting, and also a stakeholder comment period at that time. Samantha also asked for the Commission to comment on the proposal for public input that was suggested earlier in the meeting. Chair Worcester indicated he was comfortable with the proposed actions, and the other Commissioners generally indicated their agreement.

RULEMAKING MATTER

DACSS Designation, consideration of designating Grand Lake Stream boathouses as an area of cultural or special significance; Ben Godsoe

This agenda item included a proposed rule revision that would allow the Commission to designate the Grand Lake Stream Plantation Boathouses and Waterfront as the first Designated Area of Cultural or Special Significance (DACSS) in the jurisdiction. The proposed rule would facilitate reconstruction of legally existing, nonconforming structures destroyed in a recent fire in Grand Lake Stream Plantation.

On June 25th the Commission posted the proposed rule for public comment and received one written comment during the official public comment period. The comment was generally supportive of the designation and did not recommend any changes to the proposed rule language.

Supporting evidence suggests that the proposed Grand Lake Stream Plantation Boathouses and Waterfront DACSS (see Attachment A for a depiction of the proposed area) meets the three criteria described in the DACSS rule in Chapter 10, Appendix G, Section 1,a(1) - (3). The proposed area exhibits characteristics described in the cultural, historic, and unique geographic location or neighborhood factors listed in Chapter 10, Appendix G, Section 1,b,(1) - (2), & (4). The supporting evidence is summarized in the attached Basis Statement and Summary of Public Comments (Attachment B), along with a list of specific sources.

**Commissioner Dunphy motioned to approve staff recommendation; Commissioner Underwood seconded;
Vote: 7-0-0-2 Unanimous**

REZONING MATTER

Katahdin Forest Products, Co. (ZP 755); consideration of zoning D-CI subdistrict for log storage at Lumber Mill; Garfield Plantation, Aroostook County; Billie MacLean

Billie MacLean presented the zoning petition. KFP proposes to rezone their entire 20 acres property from General Management (M-GN) to Commercial Industrial Development (D-CI). The lot is adjacent to their lumber mill in the Town of Ashland.

The project is located in Garfield Plantation, just west of Ashland and on the north side of the Machias River. It is accessed from a privately owned land management road (known as the American Realty Road) that comes off the Garfield Road just before the mill. In 2004, Development Permit DP 4684 was issued to the prior owner for log storage of up to an acre. The pile down area is currently 11 acres.

Soil Suitability data was submitted by the petitioner after consultation with the Maine State Soil Scientist and was found to generally be in line with the Soil and Water Conservation District Mapping and suitable for this type of development with a few issues that could easily be addressed in a stormwater management plan. The petitioner is currently working with the Department of Environmental Protection to obtain a Stormwater License for their entire facility.

The facility is near a number of commercial and industrial facilities, a major trucking road, and existing public services. Noise would be limited to trucks unloading and forklifts. The facility is not visible from the Machias River, which is about 400 feet away.

Staff concluded that the proposal is consistent with the standards for districts boundaries, the CLUP, purpose, intent, and provision of Title 12, Chapter 206-A; and will not have an undue adverse impact on existing use or resources. Staff recommended that the Commission approve the petition.

Commissioner Gilmore asked whether this zoning change would have any adverse effect on the land along the river front, would it lose any land value or is it even developable? He further asked if there was potential for a subdivision. Staff indicated the abutting landowners were notified of the petition and that it is not known whether the lot is developable, but that the lot was 400 feet deep. The applicant is responsible for mailing the notice and it may not have been sent return receipt. Director Livesay clarified that the rules do not require that notification to abutters be sent certified mail.

Commissioner Worcester commented that the reality of it is that the mill is there now and they are just piling logs. Staff confirmed that this activity has been going on for at least 5 years.

Commissioner Gilmore questioned the need for rezoning and Director Livesay clarified that the facility had expanded, required an after-the-fact permit for that expansion, and needed rezoning to permit the expanded activity.

Commissioner Underwood commented that there are 4 to 5 businesses nearby in the industrial park and the issues of being near commercial development will remain, regardless.

Finally, staff clarified that a residential subdivision would not be allowed in the P-RT and likely could not be rezoned. Commissioner Gilmore followed up asking if a residence could be build there. Staff answered that a residence could potentially be built there but uses were limited. Staff also looked at whether the proposed rezoning would be an adverse effect on a special river segment and felt the project was far enough away and well screened so not to have an effect.

**Commissioner Dunphy motioned to approve staff recommendations; Commissioner Humphrey seconded;
Vote: 7-0-0-2 Unanimous**

PERMITTING MATTER

Gartley, consideration of variance request to reconstruct dwelling; Northeast Carry Township, Piscataquis County; William Galbraith

LUPC staff person, William Galbraith, gave a brief presentation of the circumstances surrounding the application for Amendment A to Building Permit BP 13845 by Variance, submitted by Carl and Karol Gartley, to allow for the reconstruction of their pre-Commission camp that was destroyed by fire in 2012 and to construct a small generator shed.

After the presentation, Commission Gilmore asked how the original camp got expanded from its original dimensions. Mr. Galbraith responded that the applicants obtained a permit from the Commission staff to expand the camp; the camp was expanded and then burned. The applicants are now seeking a permit to reconstruct the expanded camp with a small change in dimensions to further expand the camp.

Commissioner Humphrey asked where would we be today with regard to a staff decision if on July 21st the applicant had reached the staff and submitted an application prior to the two year window elapsing. Mr. Galbraith answered that had the staff received the application in a timely manner, staff would have likely approved the reconstruction with perhaps some minor modifications to the setbacks or other relevant factors. Commissioner Humphrey followed up asking who is responsible for not making the deadline if someone attempts to contact LUPC staff, but doesn't reach anyone for a couple of weeks and then misses the deadline. Mr. Galbraith answered that the applicant is still responsible for submitting a timely application. Commissioner Humphrey then stated that he had a real concern with applicants being held responsible for missing a deadline when he/she attempted to contact staff. He further stated that the situation at hand was caused by an act of God, and that he personally understands this because he lost his camp to a fire. He indicated that the applicant may not have been thinking clearly at the time.

Commissioner Humphrey said that he has thought for a long time that the Commission's rules should not penalize an applicant for an act of God situation. He indicated that this situation was a matter of a few weeks, not months or years, and that should be taken into consideration by staff. He said that a variance may not be the right answer, but that some other mechanism should be found to make the applicants whole.

Chair Worcester invited the applicants to speak to the Commission, and Carl and Shane Gartley came to the presentation table. Shane Gartley, son of the applicants, Carl and Karol Gartley, spoke on behalf of his parents. He indicated that the camp was built in the 1960's by his father and grandfather, and that the property had been a place that the family went to for decades. As background, Mr. Gartley told the Commission that years ago his parents sold everything in order to buy a sailboat. However, the sailboat was damaged and they lost interest in sailing, so his parents decided to spend their summers on Moosehead Lake. His parents submitted a permit application to expand the original 24 foot by 24 foot camp, and the camp additions were completed, but then the fire destroyed everything. His grandparents had moved many of their furnishings and heirlooms to the camp prior to the fire, and the fire destroyed everything. Mr. Gartley indicated that for some time his parents were not in a state of mind to think about coming in for a permit, and that they were unaware of the two year time limit. He indicated that the family unsuccessfully attempted to contact LUPC staff on July 21st and kept calling the LUPC Greenville Office after that until on August 18th they finally got hold of LUPC staffer Keith Smith. Mr. Smith was not in the office at the time of contact, so the Gartleys visited the Greenville Office as soon as Mr. Smith was back in the office. Mr. Gartley said that at that time they were informed that the paperwork that they had prepared was not the current application form. He feels as though because of this, they were only two weeks late in filing the application. The Gartleys tried to get the proper applications filed as soon as possible. Mr. Gartley went on to say that the subsurface sewage disposal system was designed by a licensed site evaluator, and that it is located where it has to be and cannot be relocated. He further stated that the garage has been in existence since before the fire destroyed the camp. He said that to meet the Commission's minimum setback requirement from the lake would require removing a significant amount of vegetation, which provides a dust and runoff barrier from the road. He indicated that with respect to their proposal to reconstruct blocking views of the neighbors, this was impossible as there was existing vegetation between the neighbors and the Gartleys' lot, and many of the neighbors are located closer to the lake than where the Gartleys have proposed to build.

Commissioner Dunphy asked where the original camp was located. Mr. Gartley responded by saying that it was located in the same location as the camper trailer in the photo that was depicted on the screen. Mr. Gartley went on to say that the family originally had a 24 foot by 24 foot camp, to which they got permit approval to construct a 10 foot by 20 foot porch and a 10 foot by 20 foot addition. When designing the proposed camp, the Gartleys simply added small rectangles to the corners of the prior camp, to square off the dimensions into a regular rectangle, but didn't expand the footprint. He said that the applicants are willing to be flexible, in terms of reducing the footprint, moving the camp further back if necessary, if that would make a difference in the decision. Carl Gartley interjected that they need to leave enough room for a septic tank pumper to get between the proposed camp and the existing garage to allow for clean out. Shane Gartley continued that the garage is a long way from the septic tank, making connection to it difficult, and that the proposed camp would be closer. He went on to say that he thought that the Gartleys are the type of people that LUPC wants to have at Moosehead Lake. They have been going to the site for generations. Mr. Gartley personally cleans trash off of the beaches, has cleaned up oil spills from logging operations, and participates in the loon count every year. They love and take care of the place. He said that the Gartleys were looking for a two week variance, that they were in Keith Smith's office on August 18th, and were devastated to learn of the two year deadline for filing an application. They would be losing everything for being two weeks late. Mr. Gartley said in conclusion that the family was pleading for the opportunity to rebuild the camp, and reiterated that they would be flexible in terms of setback, size of the building, etc. He said that he thought that their situation was in keeping with the spirit and intent of the chapter.

Commissioner Gilmore asked Mr. Gilbert how come it took 23 months to check in with the LUPC. Mr. Gilbert replied that because of the fire, 2013 was the first year in decades that the family did not go to Moosehead Lake. They had no place to stay, did not have enough money to start rebuilding, and didn't know about the deadline. The family was processing its options in 2013. In 2014, they bought a camper and returned to Moosehead Lake and starting planning to rebuild.

Chair Worcester invited others to speak, and (Alger?) Yanush came to the table. Mr. Yanush indicated that he was representing a Mr. Russell Denison, who was a neighbor to the Gartleys on Lot #5. Mr. Yanush said that he spends most summers in the area, from April into December, and that prior to filing for a variance the Gartleys had not been to the site for 3 years. He said that although the applicants indicate that they are residents of Rockwood or Northeast Carry, he thinks that they spend more time in Mississippi than anywhere else. Mr. Yanush said that Mr. Denison indicated that his camp is setback 100 feet from the lake as per LUPC requirements, and that while he is not saying that the Gartleys should not be allowed to rebuild, he doesn't like the setback of 53 feet. Mr. Denison further indicates that the LUPC made the laws and rule and that they should be enforced. Commissioner Theriault then asked Mr. Yanush if he had something in writing that confirmed the concerns of Mr. Denison, and Mr. Yanush presented Commissioner Theriault with a letter from Mr. Denison.

Mr. George Allen then came to the presentation table and indicated that he was the owner of nearby lots 10 and 11. He indicated that he was not concerned with the time limit that the Commission established, but that everyone is required to live up to the rules. He said that he had been turned down by LUPC several times for proposals of his own. He is also concerned about stakes in the ground that he observed at the Gartley property, which appear to show the camp as being larger and not in the same location or size as the old building. Concerned that the Gartleys may be trying to trick the Commission and put the building where they want it to be. He wants the Commission to be looking out for making sure that everyone lives up to the rules that are in place.

Director Livesay then asked a clarifying question of staff member William Galbraith. He asked whether or not Mr. Galbraith was familiar with the setbacks of the camps in the area and how many may be set back 100 feet from the lake. Mr. Galbraith answered that he was not familiar with the setbacks of the other camps in the area except through viewing photographs, which clearly depicted some as clearly not being 100 feet from the lake. Director Livesay then asked Mr. Gartley if the family was not present at the property for the past 3 years, to which Mr. Gartley answered that 2013 was the only year that the family has not visited the property.

Chair Worcester asked Mr. Gartley what was the size of the garage. Shane Gartley responded that it was 14 feet by 26 feet. Chair Worcester asked if the Gartleys would consider converting the garage to a seasonal camp if the Commission figured out a way to allow the garage to be expanded, say by 14 feet or so toward the lake. Mr. Gartley indicated that he would consider anything. Chair Worcester said that he did not think that the Gartleys' application met the variance criteria, but if the Commission took into consideration the extenuating circumstances to allow for an expansion of the garage and conversion to a camp. Mr. Carl Gartley interjected, asking where would they put the garage, to which Shane Gartley replied, that they wouldn't have one. Shane Gartley continued saying that it would be a tough situation to go without the garage; that what was left of their belongings after the fire had been stolen. Chair Worcester said that the laws aren't the Commissions, but were passed by the state legislature; that the purpose of such laws controlling nonconforming structures was to get camps back away from the water because of pollution. He indicated that a compromise was better than nothing, and that he was leaning towards allowing an increase in the size of the garage if it were converted into a seasonal camp.

Commissioner Humphrey asked staff William Galbraith what could have been allowed if the application had been filed in time. Before anyone could answer, Shane Gartley interjected that the stakes that Mr. Allen was referring to were to mark the property lines; that the property lines had been moved when the leased lots were sold, and he was just confirming the location of those lines. Director Livesay, then answered Commissioner Humphrey's question by saying that when addressing legally existing non-conforming structures, one turns to Section 10.11 of the Commission's standards. Section 10.11,C,2 says that legally existing nonconforming structures may be replaced provided an application is filed within 2 years of damage or destruction, and went on to cite the language from the rule. The reconstructed structure must meet setbacks to the maximum extent possible, taking into consideration extenuating factors such as size of the lot, slope, existing structures, existing sewage disposal

systems, etc. In this instance, placement of the garage and the sewage disposal system are factors to consider in whether or not the proposed camp can be moved further back from the lake. Director Livesay stated further however, that the applicants must meet the 2 year window for filing of the application, and if they missed that deadline, then they need a variance to be able to reconstruct. He said that the variance criteria are exacting requirements. Part of the question before the Commission is, are we looking at the right part of the rule, and have the applicants met those parts of the applicable statute and rule.

Commissioner Humphrey then said that he thought that the LUPC should allow July 21st to be the date that the process of submitting an application started and to let the permit be issued under the grandfathered status. He indicated that he did not think that the applicants qualified for a variance, that their application does not meet the criteria for a variance. He said that the LUPC must take some responsibility for not getting back to the applicants in a timely manner.

Commissioner Dunphy made a motion to deny the need for a variance and remand (the application) back to staff and direct them to treat the application as having been timely filed within the 2 year window because the applicant had contacted staff within the timeframe and would have filed an application in time if offered a timely response. Commissioner Theriault seconded the motion.

Assistant Attorney General Lauren Parker questioned whether there is a mechanism in rule to extend the deadline for considering lack of outreach or unusual circumstances. She noted a court could look at matter and decide that the 2 year window had lapsed. Commissioner Dunphy responded that if the applicants did contact the staff within the 2 year allowance and could have filed the application in time, he is assuming that they would have filed within the 2 year time frame.

Commissioner Humphrey indicated that he could submit an application to LUPC in 2 hours. The application may not address everything, but the application doesn't need to be approved within 2 years, it just has to be on file. Ms. Parker noted that the application must be completed.

Commissioner Underwood asked Shane Gartley how long it took to clean up the debris after the fire, to which Mr. Gartley answered that he only had 72 hours to clean up due to an order from the fire department. Everything was put into a dump truck and hauled away.

**Commissioner Dunphy motioned to deny the need for a variance and remand the application back to staff and direct them to treat the application as having been timely filed within the 2 year window because the applicant had contacted staff within the timeframe and would have filed an application in time if offered a timely response.; Commissioner Theriault seconded;
Vote: 5-2-0-2 Passed (Commissioners Worcester and Curtis opposed.)**

ENFORCEMENT MATTER

Day, consideration of settlement agreement; Grand Lake Stream Plantation, Washington County; Karen Bolstridge

LUPC staff person, Karen Bolstridge gave a brief presentation on the proposed Settlement Agreement for Enforcement Case EC 1997-035 for Roger Eugene and Elizabeth Ann Day. There was no discussion.

Commissioner Underwood motioned to ratify per staff recommendations; Commissioner Humphrey seconded; Vote: 6-0-0-3 Unanimous (Commissioner Theriault was also absent for this item.)

OTHER MATTERS

Commissioner Comments – N/A

ADJOURN

Meeting adjourned at approximately 3:15pm.