
COMMENTS RECEIVED FOR PROPOSED CHAPTER 10 RULE REVISIONS OF THE
AROOSTOOK COUNTY COMMUNITY GUIDED PLANNING AND ZONING PROCESS:
RURAL BUSINESS DEVELOPMENT SUBDISTRICT

Maine Land Use Planning Commission
Maine Department of Agriculture, Conservation and Forestry

Published Date: December 24, 2015

Public Comment Deadline: January 22, 2016

Comments Submitted:

Pingree Associates Inc., Alexander R. Ingraham

Land Use Planning Commission, Staff

Natural Resources Council of Maine, Eliza Donaghue

Maine Audubon, Jennifer Burns Gray

Seven Islands Land Company, Sarah Medina

Rebuttal Comment Deadline: February 12, 2016



PINGREE ASSOCIATES, INC.

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January 18, 2015

Land Use Planning Commission
C/O Ben Godsoe
22 State House Station
18 Elkins Lane, Harlow Building
Augusta, Maine 04333-0022

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LUPC - AUGUSTA

Dear LUPC Commissioners and Staff,

Thank you for the opportunity to submit comments on the Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process for a Rural Business Development Subdistrict. The concept of a rural business development subdistrict is a necessary step in increasing Aroostook County's ability for economic growth. As constituted this subdistrict will allow for small business growth and expansion in previously restricted zones. The Pingree family, as landowners in Aroostook County, is dedicated to expanding the economic potential of the region and expand its current uses. The Rural Business Development Subdistrict is an opportunity to address the needs of the community. While the proposed rule addresses the overall intent of implementing a rural business zone, there are several areas that we feel need to be considered in order to create a zone that achieves the economic development opportunities of Aroostook County.

One of the limitations of the proposed new subdistrict is that the maximum square footage of 20,000 for Category 3 businesses would exclude any form of medium to large primary manufacturing of wood products or the formation of other larger scale enterprises that could be located in these zones. Most mill and manufacturing buildings exceed 20,000 square feet and would not meet the specifications of a Category 3 business if the zoning was reclassified under this new subdistrict. The vast acreage of timberland and agricultural lands in Aroostook County provide substantial opportunity for the expansion of natural resource and agricultural business related processing and manufacturing. Some of the townships listed for applicability of this new subdistrict would be prime candidates for expansion of these enterprises. However, limiting them to such a small footprint in this zoning structure would eliminate the possibility of utilizing this new zone as a means for growth of these businesses. Either a new category of business needs to be allowed under this subdistrict or the 20,000 square foot restriction needs to be removed or drastically expanded.

Another issue that will arise is the allowance for expansion of future existing rural businesses once formed in the D-RB subdistrict. As current LUPC rules stand there is no viable method for a Category 3 business to expand past the initial 20,000 square foot limitation. As previously covered in this letter the square footage amounts are far too limiting, but not being allowed to expand past that amount if a business is successful could force the business to relocate and

incur further costs. Some businesses would be hesitant to take advantage of the D-RB because of the potential for future limitations on expansion. Regardless of square foot limitations there needs to be a method for business expansion beyond the current confines of the regulation.

Other restrictions to Category 3 businesses would also limit the opportunity for certain businesses to form in the new subdistrict. For example, a logging contractor would find it difficult to meet the limitation of 8 or less pieces of equipment at its facility at one time. Due to the proximity of this new subdistrict to vast acreages of timberland it could be an attractive location to contractors who could have both off-road and paved road access to their business. This subdistrict could provide a great opportunity to contractors, but not with the current equipment limitation. With off-highway equipment the effects on traffic would be negligible, and the locations that would be most attractive would generate little to no "level of nuisance-type impacts." The equipment restriction would also put limits on the amount of equipment a manufacturing facility could utilize that could be prohibitive to the formation of new business opportunities.

The Rural Business Development Subdistrict is a positive and a necessary step to further economic revitalization in Aroostook County. The scale and scope of Category 1 and 2 businesses appear to be appropriate but the limitations on Category 3 businesses would inhibit growth. If the Land Use Planning Commission wishes to see the successful economic expansion of Aroostook County through the D-RB subdistrict we encourage the commissioners and staff to expand the allowances for businesses under the Category 3 structure.

Sincerely,



Alexander R. Ingraham





PAUL R. LEPAGE
GOVERNOR

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

Memorandum

To: Maine Land Use Planning Commission

From: Hugh Coxe, Chief Planner

Date: January 22, 2016

Re: Proposed Chapter 10 Rule Amendments: *Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict*

The proposed rule revisions are intended to implement the policy recommendations developed by the Aroostook Community Guided Planning and Zoning Planning Committee. Specifically, the rule amendments create a new development subdistrict and include relevant definitions, subdistrict purpose and description, locational criteria, and use listings. The proposed rule also provides standards for categorizing types of rural businesses, expanding existing businesses, utilizing existing buildings, and buffering. While the committee's recommendations and the proposed rules are limited to Aroostook County, staff drafted the proposed rule revisions so that they would be consistent with existing rule provisions that apply to all regions of the Commission's jurisdiction.

As Commission staff have had further opportunity to consult with each other and consider how the proposed rule revisions would work with existing rule provisions, staff identified some proposed rule revisions that would benefit from changes in the wording of the provision for clarity or for consistency with existing rules. Because these provisions are not likely to be specifically addressed in public comment, the staff wish to present this information so that it may be considered by the public during the rebuttal period and subsequently by the Commissioners.

Description: Eligible Locations (Section 10.21,I,2,b(2) and Sections 10.21,I,3,c(2)&d(2))

The proposal of the Aroostook Community Guided Planning and Zoning Planning Committee included provisions to modify the locations of each category of business beyond the designated distance from a public road. As drafted, the proposed rule requires the D-RB subdistrict must be within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations. Section 10.21,I,2,b,(2) of the proposed rule then provides for modification of that distance by up to five percent "to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines." The requirements that Category 2 rural businesses be within one quarter mile of a public road, and that Category 3 rural businesses be within one half mile of a public road, are contained in the use listings (Land Uses, Sections 10.21,I,3,c(2)&d(2)). The use listings do not include a provision for modification of that distance by up to five percent for Category 2 and 3 rural businesses.

In order for the rule to implement the intent of the Aroostook Community Guided Planning and Zoning Planning Committee's proposal to allow for the five percent locational modification for all categories of business, staff suggest that Section 10.21,I,2,b,(2) be revised as follows:

(2) Modification of Locational Criteria. The depth of this subdistrict, and the distance a Category 2 and Category 3 rural business may be located from a public road, may be extended further from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road, and the distance a Category 2 and Category 3 rural business may be located from a public road, by more than five percent.

and Sections 10.21,I,3,c(2)&d(2) be revised as follows:

c. Uses Requiring a Permit

(2) Commercial and industrial:

(a) Rural Business in conformance with the requirements of Section 10.27,R:

i. Category 1; and

ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2).

d. Special Exceptions

(2) Commercial and industrial:

(a) Rural Business in conformance with the requirements of Section 10.27,R:

(i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2);

Land Uses (Section 10.21,I,3)

Use listings in the proposed rule revisions were drafted to largely match the use listings in the M-GN and D-GN subdistricts. In doing so, a provision excepting gravel extraction less than 5 acres in size was inadvertently included under uses requiring a permit. This provision is in the M-GN subdistrict where that use/activity is designated as a use regulated by the Maine Forest Service, and thus is an allowed use. In the D-RB the Maine Forest Service will not regulate any uses so the exception in the draft has the effect of prohibiting gravel extraction less than 5 acres in size.

In order for the rule to implement the intent of the Aroostook Community Guided Planning and Zoning Planning Committee's proposal, staff suggest that Sections 10.21,I,3,b,(12) and 10.21,I,3,c(11) be revised as follows:

b. Uses Allowed Without a Permit Subject to Standards

(12) Mineral extraction operations, less than 5 acres in size, ~~except for gravel extraction less than 5 acres in size;~~

c. Uses Requiring a Permit

(11) Mineral extraction operations, ~~except for gravel extraction less than 5 acres in size,~~

(a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;

(b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and

(c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;

Subdivision Conditions. (10.27,R,4)

In order to promote consistency and clarity in the Chapter 10 rules, the Commission often cross-references related provisions. This helps to ensure that any future rule revisions do not inadvertently create conflicting provisions. In order to promote consistency in the rules staff suggest that Sections 10.27,R,4 be revised as follows:

As required by Section 10.25,Q,6,e, aAll subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.

Definitions (Section 10.02)

In order to clarify the meaning of the definitions staff recommends Sections 10.02 be revised as follows:

Category 1 Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, ~~certain~~ natural resource extraction, or commercial outdoor recreation.

Category 2 ~~Retail, restaurants, offices, and similar small businesses that are m~~Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses.

Category 3 ~~Manufacturing, construction, service, and similar businesses that are l~~Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses.

Activity Specific Standards (Section 10.27,R)

In order to clarify the meaning of the following provisions staff recommends Sections 10.27,R,1,a(6) be revised as follows:

Vehicles and Equipment. A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or ~~pieces~~ pieces of heavy equipment is not permitted.

In order to clarify the meaning of the following provisions staff recommends Sections 10.27,R,1,c(6) be revised as follows:

(6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks and semitrailers and/or ~~pieces~~ pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned vehicles or pieces of heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible as long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.



Natural Resources Council of Maine
3 Wade Street • Augusta, Maine • 04330

Ben Godsoe
Land Use Planning Commission
22 State House Station
Augusta, Maine 04333

January 22, 2016

Dear Mr. Godsoe:

Thank you for the opportunity to provide comment on proposed amendments to Chapter 10 Land Use Districts and Standards regarding a proposed new subdistrict developed for certain areas in Aroostook County through the Land Use Planning Commission's Community Guided Planning and Zoning program. We offer the following comments:

- (1) Section 10.21, I, 2, a of the proposed rules state that the "D-RB subdistrict is not designed to facilitate strip development along highways." It is unclear how the proposed rules would prevent this type of development, which would degrade the character of the unorganized territories. We recognize that, under the proposed rules, the subdistrict "shall [not] serve to satisfy those requirements for redistricting surrounding areas to development subdistricts" (Section 10.21, I, 1), however, the proposed rules do not prevent the rezoning of multiple, adjacent D-RB subdistricts along highways.

Existing LUPC rules only serve to prevent strip development if the proposed development is subject to subdivision review. See Section 10.25, Q, 3, b, in which the Commission's subdivision layout and design standards direct that "subdivisions shall be designed to avoid linear placement . . . along roadways or shorelines." Due to the remote character of the MCDs where D-RB subdistricts would be allowed, this standard does not offer adequate protection. To date, commercial and industrial subdivisions are only allowed in subdistricts that are located in areas appropriate for "intensive development [where] other land values and community standards are not adversely affected" (10.21, C (D-CI)) and where there are "existing patterns of development" (10.21, C (D-GN)). The areas where this commercial and industrial development is proposed are purposefully more remote, distant from existing development, and therefore have greater potential to negatively impact recreational uses, natural character, wildlife, and wildlife habitat.

Furthermore, future commercial enterprises in the proposed D-RB subdistrict may not be subject to the Commission's existing layout standards: The placement of three or more commercial structures on a single parcel within a five-year period is not subject to subdivision review (See Comment 3). Also, businesses may freely stack up along highways so long as their development occurs within the "two in five" rule.

Thus, in order to truly avoid strip development, we recommend adding the following language:

D-RB subdistrict boundaries shall be designed to avoid linear placement of more than three D-RB subdistricts along a 1,320 foot stretch of highway, unless such placement is not practicable. Additionally, subdistrict boundaries shall be configured in such a manner that the linear placement of three D-RB subdistricts within a 1,320 stretch of highway is separated from additional D-RB subdistricts by at least two miles of highway.

This, or similar language will serve to protect against strip development along highways in certain areas in Aroostook County as stated in proposed Section 10.21, I, 2, a. However, this language does not address a scenario in which a D-RB subdistrict exists along a stretch of highway every half mile, for example. This scenario would also significantly detract from the character of the unorganized territories. We encourage LUPC staff to consider additional rule changes that address this, and similar, scenarios.

- (2) Under the proposed rules, Category 2 and 3 businesses are not natural resource-based. Because Category 2 and 3 businesses do not directly rely on natural resources, we recommend that their location be limited to MCDs that are adjacent to organized towns and are directly connected to an organized town by a highway. Specifically, we recommend removing T15 R6 WELS, Oxbow Plt., Macwahoc Plt., and Reed Plt. from the list of MCDs where Category 2 and 3 townships are allowed. The MCDs adjacent to organized towns are more likely to provide the infrastructure, population, and general economic activity needed to sustain such businesses and because such businesses are not natural resource-based, it is not necessary that they extend into the heart of the unorganized territories.
- (3) In reviewing these proposed rules (specifically, Section 10.21, I, 3, c, 21), it occurred to me that there exists a loophole in which commercial and industrial subdivisions could avoid subdivision review. The definition of subdivision includes the “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) (emphasis added). Because a business does not fall within the definition of dwelling unit (Section 10.02, 55), an applicant could avoid subdivision review by placing or constructing 3 or more structures used for commercial purposes on a single tract or parcel. In other words, the proposed rules should be modified to more strongly protect against strip development, which could easily occur through this loophole. See Comment 1. Furthermore, we recommend that the LUPC actively pursue statutory and rule changes (see Section 10.25, Q, 1, b) that would close this loophole, which could negatively impact the entirety of the jurisdiction.
- (4) In order to more accurately measure the potential impact of businesses in the proposed subdistrict on the rural character of the unorganized territories, including visual and natural resource impacts, we recommend including “footprint of clearing” in the standards of each category of rural business. Specifically, we recommend the following additions:

Proposed Section 10.27, R, 1, a, 2:

(c) Up to 18,000 square feet of clearing.

Proposed Section 10.27, R, 1, b, 2:

(b) Up to 12,500 square feet of clearing.

Proposed Section 10.27, R, 1, c, 2:

(b) Up to 90,000 square feet of clearing.

The size of the clearing is modeled after the clearing sizes used to determine recreational facility levels, which, like the proposed rural businesses, are located in remote locations where the potential for negative impacts on visual and natural resources is greatest. See 10.27, Q, 1.

Thank you once again for the opportunity to provide comment. If you have any questions, do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Eliza P. Donoghue". The signature is written in black ink and is positioned above the typed name.

Eliza Donoghue, Esq.
North Woods Policy Advocate



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www.maineaudubon.org

January 22, 2016

Ben Godsoe
Land Use Planning Commission
22 State House Station
Augusta, ME 04333

RE: LUPC Proposed Chapter 10 Amendments

Dear Mr. Godsoe:

On behalf of Maine Audubon and our 20,000 members and supporters, I am offering comments on the proposed amendments to Chapter 10 Land Use Districts and Standards. We have reviewed the comments offered by the Natural Resources Council of Maine (NRCM) and support them.

We support LUPC's Community Guided Planning and Zoning efforts and understand that the new subdistrict encompassed in the proposed amendments is the result of the Aroostook County Community Guided Planning and Zoning process. However, the amendments, as proposed, do not sufficiently limit the type and location of development that could undermine the rural character of the region. The suggested changes offered by NRCM are sensible and would still allow additional development to occur as desired by the region. In addition, NRCM's proposed changes would close a potential loophole in subdivision review. We also request that you move forward with pursuing statutory and rule changes as proposed.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Burns Gray".

Jennifer Burns Gray
Staff Attorney and Advocate



Seven Islands Land Company

January 21, 2016

Land Use Planning Commission
22 State House Station
Augusta ME 04333-0022

Dear Commissioners and Staff,

Thank you for the opportunity to comment on the proposed Rural Business Development Subdistrict for Aroostook County. I participated in the CGPZ process undertaken by NMDC and LUPC. At the outset there were many issues landowners hoped would be addressed. For various practical reasons, the scope was narrowed and the result is this proposed R-BD intended to facilitate natural resource based businesses and other businesses appropriate to rural areas. Everyone participating in the CGPZ process agrees the D-RB is good fit for Aroostook County. Natural resources have long been the backbone of The County and will continue to provide opportunity for economic development.

Seven Islands Land Company supports adoption of the D-RB Subdistrict in the geographic areas proposed. The CGPZ steering committee winnowed down the townships and roads and distances as to where the three categories of development could occur. We compromised considerably to arrive at a proposal a diverse group found acceptable. It is important that the list of towns/locations not be further reduced. Given soil suitability, site characteristics, protection zones, ownership, landowner intent and other factors, very little of the one-quarter to one-mile corridor in designated towns/townships is likely to actually be available for development.

The D-RB zone is one step in furthering economic opportunity in Aroostook County. It should not, however, be assumed that Aroostook County zoning is done. As stated in "Lessons Learned: "The Steering Committee recommends that some form of process continue into the future and has suggested several topics for further consideration." In-woods processing, infrastructure/utility corridors, and boundary settlements are some of the things the CGPZ process necessarily left unaddressed. It would be wise to proactively plan for larger scale processing and manufacturing, residential/recreational development, utility corridors and service hubs such as St. Pamphile. Further, the D-RB and applicable locations should be reviewed periodically to make sure they are serving the intended purpose and adjusted if necessary to meet needs.

One potential result of a Category 3 business being established in a D-RB is that the business is so successful it needs to expand beyond the maximum 20,000 square feet allowed in a D-RB. Without adjacency, rezoning cannot be requested, so there would be no option for expansion. LUPC should

develop a mechanism to at least allow consideration of expansion, provided the expansion is not incompatible.

The specifics of the D-RB Subdistrict may need to be revisited after LUPC has time to gauge whether the zone is effective. For example, are the designated areas where the demand is? Is one mile + 5% a suitable distance for Category 3, or should it be +10 or 15% to add flexibility and allow more opportunity? Running power lines for that distance will be economically limiting enough for small businesses.

In conclusion, I urge the Commission to adopt this D-RB proposal as a package, as proposed. Monitor its application over time and be open to adjustments as the need arises. Develop a mechanism to consider expansions and accommodate larger scale natural resource processing. It is extremely important to continue to seek opportunities for planning and zoning that enhance economic opportunities.

Thanks to the NMDC board and staff and LUPC commission and staff for seeing this process through.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Medina".

Sarah J. Medina
Land Use Director