

Land Use Planning Commission  
Application of the Adjacency Principle  
Staff Proposal – Parts One and Two Combined

**I. EXECUTIVE SUMMARY**

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The Commission is currently reviewing the adjacency principle, which is a policy that guides where new zones for development can be located. The purpose of the review is to find out if there are better ways to account for different situations when deciding where to encourage or allow new development. For example, good locations for a residential subdivision, a manufacturing facility, and a kayak rental business may be very different from one another.

In recent decades, the Commission has interpreted the adjacency principle to mean that areas to be rezoned for development must be within one road mile of existing, compatible development (2010 CLUP, pg. 62). However, the CLUP recognizes that refining the adjacency principle to account for different situations is desirable. The new system should achieve objectives that relate to supporting the economy and natural resources of rural Maine, and benefit rural Maine communities and the people who live, work, own property, and recreate there. In considering how to change the application of the adjacency policy, the Commission has done substantial research and outreach to potentially affected individuals and organizations, including a survey that garnered over 2,000 responses with excellent representation from residents and property owners in the area served by the Commission.

The proposal for refining the adjacency principle presented in this document would replace the one mile rule of thumb for all of the Commission’s service area. The proposal addresses the issue of adjacency, which is only about the location of rezoning for development. It does not change the law or rules regarding the development of single dwelling units on single lots. Adjacency has frequently been a major factor in rezoning, however, it is not the only factor. The other rezoning standards in statute will continue to apply, including consistency with law and with other portions of the CLUP. In conjunction with this adjacency proposal, revised subdivision regulations will also be proposed, as the two components must be used together to arrive at a rational and effective outcome regarding the location of this type of residential development.

Because of the extensive and detailed local input in the Rangeley prospectively zoned area that predate this adjacency effort, prospectively zoned areas will not be rezoned except as described in the rules and plans specifically adopted for those areas. Areas that have completed Community Guided Planning and Zoning should be considered when making decisions about this proposal.<sup>1</sup>

This proposal consists of (i) a set of general criteria in rule to guide the adjacency policy system and, (ii) more specific policies and regulations for certain types of uses. It emphasizes using proximity to public roads and populated areas that provide services to locate most types of residential subdivision and commercial activities. The goal of locating these uses near towns, townships and plantations with substantial retail activity (called “retail hubs” in this proposal) is to

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<sup>1</sup> The Commission intends to discuss with Washington and Aroostook Counties how best to mesh the proposal with the D-RB systems developed in recent Community Guided Planning and Zoning efforts.

provide services in a cost-effective manner and avoid the negative effects of development in distant areas. The negative effects of distant development include increased costs for services such as fire, ambulance, sheriff, solid waste, education, and roads; disruption in land needed for timber, agriculture and recreation economies; impacts to wildlife habitat; uncertain future private road access; and reduced viability of local communities that need a “critical mass” of people in the area to support hospitals, schools and other community services.

The proposal is to allow most residential and commercial uses in areas that are generally no more than 10 miles from a retail hub and 2 miles from a public road. Some subdivisions could be located up to 5 miles from a public road if a legal right of access and emergency services are available. These are referred to as primary and secondary areas. Most subdivisions would require rezoning, however, some subdivisions within one half mile of a public road and not on a lake would be allowed by permit. The proposal also considers rezoning for “low density” subdivisions that have lots in the 12-25 acre range, which is a substantial departure from past policy. This overall approach to development near retail hubs would result in about 2.4 million acres in the primary and secondary areas, however, a substantial portion of those areas would not be developed due to site conditions, conservation easements, or landowner intent.

Some uses would be regulated differently. Large commercial/industrial facilities that rely on three-phase power would be sited on a case-by-case basis using the general criteria that would be incorporated into rule. Home based businesses are also considered in this proposal, and would be regulated like today, but with some additional options to expand in size or to have farm stands in some places where they are not presently allowed.

Not all uses can locate “near town” in one of the areas within 10 miles of a retail hub: some uses are resource dependent. Examples include operations that process forest products to reduce bulk and make it cost-effective to transport, extraction of natural resources such as water and gravel, the rental of gear on-site for recreation in areas that are distant from town, trail centers that need certain kinds of terrain and a lot of open space to operate, and residential subdivisions that are tied to a recreational resource and would not exist but for the presence of that recreational opportunity. These resource dependent uses should be located in a manner that does not undermine the quality of the surrounding natural resources or unduly increase the demand for services. The proposal identifies types of locations for each use and establish criteria.

In particular, residential subdivisions near lakes and ponds that are distant from retail hubs need careful consideration. Outside of the primary and secondary areas, the proposal would limit adjacency for new subdivisions on waterbodies to only those waterbodies that already have a certain level of development, rather than waterbodies that are undeveloped or lightly developed.

Some problems could arise as a result of the proposal. Strip development, habitat impacts, loss of control over the pace of development in some places, and residential subdivisions in some areas that are distant from retail hubs are all risks that the proposal seeks to avoid through specific mechanisms in the application of the adjacency principle or in the accompanying subdivision rules.

The next steps are to hold a public comment opportunity at the April Commission meeting and to move to the formal rulemaking process over the late spring and summer.

## II. BACKGROUND AND GOALS

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The Commission is currently reviewing the adjacency principle, which is a policy that guides where new zones for development can be created. The purpose of the review is to find out if there are better ways to account for different situations when deciding where to encourage or allow new development.

The adjacency principle is one of the fundamental elements of the Commission's planning for development in the unorganized and deorganized areas of Maine (the UT). The Purpose and Scope section of the Commission's statute states that "it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State..." and goes on to describe some broad concepts that reflect these sound planning principles. The Comprehensive Land Use Plan (CLUP) describes the adjacency principle and how it should be applied (2010 CLUP, pg. 62).

The Commission has used the adjacency principle as a tool to guide new zones for development to locations that satisfy the sound planning and zoning principles articulated in the statute and in the CLUP. These principles can be thought of as objectives that need to be achieved when locating a new zone for development.

### *Objectives:*

- *Encourage appropriate residential, recreational, commercial and industrial uses*
- *Encourage well-planned and managed multiple uses, while discouraging intermixing of incompatible uses*
- *Support and encourage Maine's natural resource-based economy and strong environmental protections*
- *Promote economic health of development centers, and encourage and facilitate regional economic viability*
- *Ensure that the provision of public services matches the new development, or that any needed additional service capacity may be added efficiently and economically over time*
- *Minimize development near productive natural resource based activities*
- *Protect resources and values of the jurisdiction*
- *Ensure that the anticipated future development is in keeping with the character of the area*
- *Ensure orderly growth by pacing development*
- *Allow for incremental assessment of impacts from development (the resources and values of the jurisdiction may be better supported, and development may be better planned, by providing an opportunity for interim assessments of impacts because future phases of development can then consider those impact assessments)*

The Commission has interpreted the adjacency principle to mean that areas to be rezoned for development be within one road mile of existing, compatible development (2010 CLUP, pg. 62). However, the CLUP recognizes that refining the adjacency principle to account for different situations is desirable.

### III. PROPOSAL INPUTS

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The Commission has engaged in substantial research and stakeholder consultation, which is appropriate for an issue that is of significant consequence to the residents and landowners of the Commission's service area, as well as the citizens of Maine, and is tied to the Commission's core mission. Research has included analysis of the Commission's permitting data and targeted input from key stakeholders and experts in the region's economy, natural and cultural resources, and public services. The Commission also conducted an extensive survey that was advertised to property owners through a postcard mailed to the property tax address, as well as through networks of local officials and involved citizens. The survey garnered over 2,000 responses. The information from people who generously gave their time during the process has been invaluable and has shaped the outcome.

Staff have prepared periodic summaries, analyses and suggestions for overall policy direction for Commission review. As the Commission provided direction, staff continued to refine the ideas that emerged from the research and stakeholder process. In recent months, staff considered how best to operationalize the Commissioners' overall policy direction, and now have a proposal for how to refine the adjacency principle, including mechanisms in rule and guidance to implement the concepts.

### IV. PROPOSAL

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#### **Background on the Proposal to Refine Adjacency**

Applicability: This proposal would replace the one mile rule of thumb for all of the Commission's service area. However, prospectively zoned areas (e.g., the Rangeley area) will not be rezoned except as described in the rules and plans specifically adopted for those areas. It is important to note that in any rezoning, there are many considerations, including consistency with the statute, consistency with the subdistricts in Chapter 10, no undue adverse impact, and consistency with the CLUP overall. This proposal addresses the issue of adjacency, which is only about the location of rezoning for development. It has frequently been a major factor in rezoning, however, it is not the only factor. The other rezoning standards in statute will continue to apply, including consistency with law and with other portions of the CLUP.

Combined proposal: This document describes the entire proposal and is a combination of part one, that was presented at the February Commission meeting and part two, that was to be presented at the March Commission meeting. The March meeting was canceled due to inclement weather, so the part two information will be summarized at the April Commission meeting.

Subdivision rules necessary: This proposal also relies on revised subdivision rules and has been developed with those coming rule changes in mind. Staff are drafting revised subdivision rules and are targeting the June meeting for an initial presentation, once the adjacency proposal has received some preliminary discussion. The goals of the revised rules are to update the subdivision layout and design standards, account for lake type and existing development density when siting new subdivisions, address cumulative impacts of multiple small subdivisions and make other changes that were discussed during the stakeholder process.

## **Components of the Proposal to Refine Adjacency**

### **Component 1: General criteria for evaluating adjacency**

The Commission could use a set of general criteria, based on the objectives of the adjacency principle (see section I), to guide the Commission's decisions on location of rezoning for development. The general criteria would serve two purposes. This first purpose is to summarize in rule the locational principles that adjacency is meant to achieve. This can be used as a guide when developing rules and guidance that provide more details about rezoning decisions. The second purpose is to serve as a set of decision-making criteria for the location of rezoning for uses that are infrequent and therefore not described in detail in the rule. An example would be a manufacturing facility that requires three-phase power. The locational component of a proposed rezoning for a manufacturing facility would be reviewed based on the general criteria and the unique circumstances of the proposed facility. This is different than rezoning for residential subdivision, which would have greater specificity in rule. The general criteria would not be necessary in making decisions about individual rezoning petitions for residential subdivisions, as the specific rules will be consistent with the general criteria. Concepts proposed to be incorporated into criteria are:

- a.** Proposed commercial or residential development that is dependent on proximity to natural resources to produce, refine, or otherwise process goods or services, or to provide certain recreational experiences for residents or visitors, may locate near natural resources, provided that the location does not result in undue adverse impacts on existing uses or resources.<sup>2</sup>
- b.** To minimize potential impacts on the values and resources of the Commission's service area, and to limit development near productive natural resources, proposed commercial or residential development not dependent on proximity to natural resources shall be located near other existing development and infrastructure.
- c.** New development subdistricts shall be located to separate uses that may be in conflict and to co-locate compatible uses.
- d.** Establishment of new development subdistricts shall not unreasonably alter the character of the area, including but not limited to, negative impacts on traffic levels, scenic resources, or historical patterns of development.
- e.** New development subdistricts shall be located where fire and ambulance services can be provided by the County or nearby communities without adding additional capacity, unless a petitioner can demonstrate that additional capacity to provide services to the new development could be added efficiently and economically over time. The Commission may determine that emergency services are not necessary for some resource-dependent uses.

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<sup>2</sup>Many survey respondents drew a clear distinction between certain uses that should be located close to the resource versus much of the residential and commercial activity that they indicated should be close to roads and people

## Component 2: Types of uses addressed in the proposal:

- a. **Residential**, which is broken out by *resource dependency* and *density*.
  - A *high density residential* use would have small lots, relative to the UT expectations for lot size. They might be ½ acre to 2 acres, as an example.
  - *Moderate density residential* might average around 3-acre lots (with some larger and some smaller)
  - *Low density residential* might be in the 11 to 25-acre range.
  - A *resource dependent residential use* is a residential use that meets the criteria for resource dependency described in the “resource dependent location” section of this document. This proposal requires resource dependent residential uses to be of *moderate density*.
- b. **Commercial/industrial** consists of all commercial and industrial uses, and distinguishes between those that rely on three phase power and those that do not. An example of a use that relies on three phase power would be some manufacturing facilities that use energy-intensive equipment. This proposal also distinguishes between commercial and industrial uses that are resource dependent and those that are not.

Commercial and industrial uses that may be considered resource dependent are listed here:

- *Small-scale recreation supply*: permanent or temporary (and sometimes mobile), businesses that provide support to recreational users on a resource like a water body or permanent trail (e.g., equipment rental, or mobile food service). This includes gear rental, outfitting, and sale of pre-prepared food, but does not include restaurants, lodging, fuel sales, or other intensive activities.
  - *Recreation day-use facilities*: businesses that facilitate recreational activities that are primarily natural-resource based, depend on the presence of terrain features or waterbodies (e.g., trail centers for mountain biking or nordic skiing), and are not related to recreational lodging.
  - *Natural resource processing or retail on farms*: activities associated with changing an agricultural crop from its natural raw state into a product to be marketed either on, or off, site, as well as other commercial activities on farms beyond agricultural production (e.g., retail, agri-tourism, etc.).
  - *Natural resource processing to reduce bulk of raw materials for transportation*: activities associated with reducing forest or other natural resources through chipping or other means to facilitate efficient and cost-effective transportation to manufacturers or other buyers.
  - *Resource extraction* includes activities associated with extraction and transportation of raw materials for further processing or manufacturing off-site (e.g., bottled water extraction wellhead, gravel mining).
- c. **Home-based business** is currently called home occupation, and consists of commercial activity that is secondary to the use of the premises as a residence.

### Component 3: Locational factors used to describe the potential rezoning areas

- a. **Retail hubs.** (magenta outlines on maps or red squares on diagrams) These are towns, townships or plantations that have significant retail activity that serves the types of uses that are commonly found in the UT. The list of retail hubs currently exists in the recreational lodging portion of the Commission's rules. The list was determined based on sales tax data and the Commission's knowledge of the UT. Retail hubs are important because providing public services is more efficient and cost effective for the taxpayer near where the services originate, and keeping development near services helps to keep lands open for the timber, agriculture and recreation economies and for wildlife habitat. The measurements of distance from retail hubs are "as the crow flies" except that the measurement is not carried over a waterbody or interstate highway unless such areas are contiguous with another primary or secondary area. This approach is intended to account for situations where development on one side of a waterbody or interstate highway is effectively separated from a town on the other side because it is such a long way around.
- b. **Public road.** This is any road that is owned or operated by a public entity such as towns, plantations, counties or the state. The reasons for keeping development near public roads are similar to the reasons listed under retail hubs, above.
- c. **Availability of emergency services.** In some cases, if development is being proposed at a distance from a public road, it is important to determine if a residential subdivision can be served by fire and ambulance service. If it is unrealistic to expect services in resource-based locations, then existing and prospective lot owners should be made aware.
- d. **Right of legal access from a public road.** In some cases, if development is being proposed at a distance from a public road, it is important to determine if the future lot owners will have a legal right to access their subdivision lots. This can become important as land changes hands and new owners of the land between the subdivision and the public road may no longer want to allow access; or if expensive road improvements become necessary, for example if a bridge washes out.
- e. **Great ponds and flowing waters draining at least 50 square miles.** Waterbodies attract the majority of the residential development in the UT. Being careful to make good use of those shorelines and to protect water quality and lake character is important. Some types of development are more appropriate to be situated on a lakeshore than others.
- f. **Lake management classification.** The Commission's rules and the CLUP list a classification for each lake. The lake classification is an indication of the suitability for development of each lake. The classification system promotes the goal of maintaining a diversity of lake experiences – some more developed and some less so.
- g. **Location of three phase power lines.** Some commercial or industrial uses must locate near three phase power. This is an important consideration in thinking about future economic development.

- h. Natural or recreational resource.** Some types of development depend on proximity to natural resources such as waterbodies, forest or farm resources, or other resources naturally occurring in the Commission’s service area. The reason for this can be to reduce the cost of transporting raw materials or agricultural products for manufacturing or further processing at another location, or to provide a recreational experience based on the presence of a waterbody, permanent trail, or certain terrain.

**Using the Components to Identify four basic location types**

The proposal uses the factors that are listed above to create four types of locations in which rezoning for development could occur that would satisfy the adjacency principle. The proposal for these four locations would replace the one mile rule of thumb in all rezoning decisions. The four are *primary locations*, *secondary locations*, *three phase power locations* and *resource dependent locations*. Each type of location could be rezoned for certain types of uses, as indicated below. Home based businesses are treated separately and are not linked to a particular location.

**Location type one: Primary Locations** (Orange on diagrams and maps)

**a. Criteria identifying primary locations:**

- Based on retail hubs, towns, and plantations:
  - Up to 10 miles from the boundary of a retail hub or in a town or plantation; and
  - Up to 2 miles from a public road; or
- Based on management class 3 (MC3) lakes: Within 700’ of a MC3 lake, regardless of distance from retail hub or road, if water quality and soils are acceptable. (See CLUP discussion of adjacency for class 3 lakes. The distance is enlarged to 700’ to allow for good subdivision design.)

**b. Residential uses allowed:**

- Moderate or high density residential subdivision with rezoning to D-RS or D-GN.
- General management subdivisions by permit in M-GN up to 14 lots and within ½ mile of public road. These were previously called level 2 subdivisions. The proposed rules will modify the standards to reduce the clustering requirement and make other changes.
- Low density residential subdivision with rezoning to new zone if at least 2 miles from retail hub and ½ mile from great ponds and certain rivers and not on an island.

**c. Commercial/Industrial uses allowed:**

- Any commercial or industrial use. Siting within primary locations for commercial and industrial uses is flexible, therefore the general criteria will be used to ensure that specific rezoning proposals are compatible with the uses in the area. Usually this will mean rezoning to D-GN, D-CI, or D-RB.

**Prospectively zoned areas and primary locations:** This proposal does not change the rezoning requirements in the Rangeley prospective zoning area or D-RB eligibility in Washington or Aroostook Counties. In Washington County, rezoning for “rural business” uses would only be allowed in D-RB areas as established by the recent Community Guided Planning and Zoning (CGPZ) process. Other commercial and industrial uses not eligible within a D-RB would be

handled on a case-by-case basis under the general criteria. This should be discussed with the Washington County CGPZ group and the County Commissioners. The Aroostook County Commissioners and CGPZ group should be consulted about how to handle their commercial zoning. The current proposal would allow for the D-RB zones, plus other commercial development, in the primary locations in Aroostook County.

**Approximate acreage in primary locations:** 1.7 million acres gross land area. Not all of the land in the primary locations is available for development. For example, approximately 24% is in conservation as identified in the State's registry (e.g., conservation easement, public reserved land, national wildlife refuge). Additionally, landowners may choose to manage their property in a way that does not involve development, without the land being in conservation, or there may be site-specific reasons why land is not developable.

**Discussion of primary locations:** Primary locations are in areas that are closer to services and are less likely to cause problems with disrupting large areas for forestry, agriculture, recreation and habitat. Access from subdivisions and commercial establishments to public roads is likely to be worked out if the maximum distance is 2 miles. The measurement of 10 miles from the boundary of a retail hub was chosen because of feedback from public officials about realistic emergency services distances and cost-effective public service provision. Nearby organized towns with public facilities are likely to see a larger "critical mass" of customers for health care, education, retail and other services from residences in this area. Locating development in the primary areas should be encouraged.

General management subdivisions would be relatively low risk in these areas, given the proximity to roads and assuming good subdivision design standards. The proposal will provide significant additional area for these subdivisions without a rezoning and will modify the design standards to make it easier to use this option.

Low density subdivisions can use up large amounts of land quickly, and therefore should be excluded from shorefront areas, areas more suitable for dense development near retail hubs, and islands which have very limited area (for example Monhegan or Matinicus). However, low density subdivisions may work well for areas between 2 and 10 miles from retail hubs if the subdivision standards take into account the natural resource and recreation considerations.

**Location type two: Secondary locations** (orange hash marks on diagram and maps)

**a. Criteria identifying secondary locations:**

- In a town, township or plantation next to the boundary of a retail hub; and
- Between 2 and 5 miles from a public road

**b. Criteria for each rezoning proposal within secondary locations:**

- Location can be served by emergency services; and
- Legal right of access from public road

**c. Residential uses allowed in secondary locations:**

- Moderate or high density residential subdivision with rezoning to D-RS
- Low density residential subdivision with rezoning to new zone if at least 2 miles from retail hub and ½ mile of great ponds and certain rivers and not on an island

**d. Commercial/Industrial uses allowed in secondary locations:**

- Only resource-dependent uses

**Prospectively zoned areas and secondary locations:** This proposal does not change the rezoning requirements in the Rangeley prospective zoning area, and does not overlap with the D-RB in Washington or Aroostook counties

**Approximate acreage in secondary locations:** 0.7 million acres gross land area. Not all of the land in the secondary locations is available for development. For example, approximately 33% is in conservation as identified in the State’s registry (e.g., conservation easement, public reserved land, national wildlife refuge). Additionally, landowners may choose to manage their property in a way that does not involve development, without the land being in conservation, or there may be site-specific reasons why land is not developable.

**Discussion of secondary locations:** Secondary locations are in areas that are close, “as the crow flies,” to services and are somewhat likely to be located away from large contiguous areas for forestry, agriculture, recreation and habitat. However, the distance of 2-5 miles from public roads could create difficulties with legal road access and emergency service provision. Nearby organized towns with public facilities are likely to see a larger “critical mass” of customers for health care, education, retail and other services from residences in this area. Rezoning for development in the secondary locations areas should be allowed if the issues of road access and emergency services can be worked out for each rezoning proposal.

See the discussion of low density subdivisions in the primary location discussion, above.

**Location type three: Three phase power locations (dashed line on diagram)**

**a. Criteria:**

- Near a point of interconnection with three-phase power

**b. Residential uses allowed:**

- None

**c. Commercial/Industrial uses allowed:**

- Commercial or industrial uses that are dependent on three phase power and which meet the general criteria. An example would be a manufacturing facility that uses electricity-intensive equipment. Rezoning would be to D-GN or D-CI.

**Prospectively zoned areas and three phase power locations:** This proposal does not change the rezoning requirements in the Rangeley prospective zoning area.

**Discussion of three phase power locations:** Commercial and industrial uses that rely on three phase power are developed infrequently in the UT. However, they may be an important part of the UT's economic future. Three phase power may not always be available near to a service center, and it may not always be suitable to develop such a facility near a populated area. These uses would be considered on a case-by-case basis using the general criteria.

#### **Location type four: Resource Dependent Locations**

- a. Criterion for determining resource dependency:** the proposed development is dependent on a specific resource for raw materials or recreational experiences. This would be applied to each type of use as follows.
- *Resource-dependent residential development* is located near, integrated with, and dependent upon certain recreation resources as described below.
  - *Resource-dependent extraction, processing or retail* is intended to extract, or physically change, raw materials to reduce the cost of transportation of forest products, agricultural goods, or other natural resources.
  - *Resource-dependent recreation development* is intended to primarily support day-use recreational experiences dependent on access to water, permanent trails, or certain types of terrain.
- b. Different types of resource dependent uses and where they could locate:**
- 1. Resource dependent moderate density residential subdivision** with rezoning to D-RS or D-GN must be located near and integrated with permanent trails, existing access points to rivers, or certain lakes as described below. Subdivisions would not be allowed in connection with resources that are presently zoned P-RR. Eligible lakes are as follows:
    - Management Class 4, 5 or 7;
    - Minimum density of existing development: least one existing dwelling unit per half mile of shoreline, at least one existing dwelling unit per 50 acres of lake surface area, and a minimum of 5 existing dwelling units; and
    - Maximum density of existing and proposed development: generally does not exceed one existing or proposed dwelling unit per 400 feet of shoreline, or one existing or proposed dwelling unit per ten acres of lake surface area. If a proposal would exceed the maximum density for a lake, then a cluster or flex design that includes considerations for open space would be required at the permitting stage to ensure water quality and provide adequate space for wildlife movement. Landowner equity in assigning development potential around the lake will be considered.
    - Optional: Should all resource-based subdivision rezoning have to demonstrate legal right of access from a public road and availability of emergency services? Might such a provision not be practical in some resource-dependent situations? The Commission has identified access an important topic for discussion.

- 2. Resource-dependent commercial recreation.** All resource-dependent commercial recreation uses would be located near: water access points on Management Class 4, 5, or 7 lakes; water access points on rivers; or permanent trails. If co-locating with a trailhead or water access point, proposed development must not undermine, or conflict with, recreational use of the resource. In addition, day-use facilities would be allowed in areas when terrain features are necessary to support the day use facility. (e.g., compact patterns of trail construction that require a certain type of hilly terrain). No resource-dependent commercial recreation uses would be allowed in the P-RR subdistrict. Traffic, lighting, or noise generated by the facility must be appropriate for existing roads, and otherwise not have a negative effect on the character of the area.
- *Small-scale recreation supply* would be allowed with a rezoning to a new resource-dependent subdistrict. Small-scale, temporary recreation supply facilities may be located in the M-GN subdistrict with a permit, so long as the site meets current dimensional requirements, and issues surrounding sanitation, parking, and traffic can be addressed.
  - *Recreation day-use facilities* would be allowed with a rezoning to a new resource-dependent subdistrict.
  - *Optional for Commission consideration:* All rezoned areas must have a legal right of access from a public road (either temporary or permanent depending on the nature of the use), and available emergency services. In some cases, uses allowed by permit in the M-GN would make this demonstration as well.
- 3. Natural resource processing, manufacturing, and extraction:** All natural resource processing uses must be in locations at least ½ mile from dense patterns of residential development (as defined in the D-RS subdistrict description), and at least ½ mile from management class 1,2 or 6 lakes. A minimum distance from other classification lakes may be advisable to prevent clearing that facilitates future residential development. Traffic from the proposed use must be consistent with existing patterns in the area when considering the type (e.g., trucks or passenger vehicles), and hours of operation. Any requirements for legal right of access could be satisfied by temporary agreements if the nature of the use is temporary, which may often be the case for this type of use.
- Processing to reduce bulk of raw materials for transportation would be allowed with rezoning to a new development subdistrict. Some small-scale, or temporary, facilities would be allowed in the M-GN with a permit and in accordance with standards.
  - Natural resource extraction would be allowed with a rezoning to a new resource dependent subdistrict.
  - On-farm processing, retail, and manufacturing would be allowed with rezoning to a new resource dependent subdistrict when a facility gets bigger and more intensive than a home-based business. To reduce traffic, more than 50% of raw materials for processing, sale on-site, or production of goods for sale, should come from the same farm or the immediate area. Structural development on farms related to processing would be limited in scale, and some of that area

could also be used for retail. As an example of a limit on scale, facilities that process poultry would be limited to 20,000 or fewer birds annually.

**Prospectively zoned areas and resource dependent locations:** This proposal does not change the rezoning requirements in the Rangeley prospective zoning area or D-RB eligibility in Washington or Aroostook Counties. In Washington County, rezoning for “rural business” uses would only be allowed in D-RB areas as established by the recent Community Guided Planning and Zoning (CGPZ) process. Other commercial and industrial uses not eligible within a D-RB would be handled on a case-by-case basis under the general criteria. This should be discussed with the Washington County CGPZ group and the County Commissioners. Staff are scheduling a time to consult with the Aroostook County Commissioners and CGPZ group about how to handle their commercial zoning. The current proposal would allow for the D-RB zones, plus other commercial development, in the primary locations in Aroostook County.

**Discussion of resource dependent locations:** Some types of development depend on proximity to natural resources to reduce transportation costs, or to provide a certain recreational experience. However, sometimes being located near a natural resource may result in development that is more distant from public roads and services like fire and ambulance, and that may be close to sensitive habitat, high water quality lakes, or recreational resources. Due to the nature of the uses in the UT, some provision for commercial activity and limited residential subdivision activity outside of the primary and secondary locations (see part one proposal for a description of primary and secondary areas) is appropriate. However, the risks of excessive or poorly planned development in remote areas is significant. Any system for locating development beyond the primary and secondary areas should be carefully considered. This proposal includes concepts to minimize potential impacts to resources from commercial development, and to guide new residential development to suitable locations that are already developed and receive some services.

Residential development along lake shores in the Commission’s service area provides a certain type of recreational experience desirable to some property owners, or prospective owners. In the UT, some lakes are distant from public roads and services, but have a certain level of existing residential development, and may not be identified by the lake management classification system as particularly significant in terms of fisheries, scenic character, ecological or other recreational values. The staff proposal would allow for some additional residential subdivision outside of the Primary and Secondary Locations on MC 4, MC 5 or MC 7 lakes that meet minimum and maximum density requirements. These density limits are based on general guidelines in the CLUP and information obtained during the adjacency review process, and are intended to guide residential development to lakes that are already developed, and to reasonably limit the overall level of development for these waterbodies.

Some recreation supply, or recreation day use, businesses rely on a specific natural resource or certain terrain. Recreational supply or recreation day use facilities that depend on proximity to a specific resource may be located outside of the Primary Locations with a rezoning, or in some cases with a permit, and would be evaluated based on their potential to affect the expectations of recreational users of the resource. For example, a busy food truck located in a parking lot

next to a boat launch may be fine on developed lakes, but the same business would change the character of a lake that has little development.

Some resource-dependent uses could generate significant traffic impacts, such as trucks used to move raw materials from an extraction site to a manufacturing site. It is important to ensure that this type of traffic is minimized near neighborhoods and recreational resources, and that existing roads and other infrastructure can accommodate potentially heavy loads.

### **Home-based businesses – not linked to a particular location**

**Most home-based businesses** would be allowed either in accordance with standards, with a permit, or by special exception in most subdistricts. Home based-businesses that exceed the current standards could petition to rezone to a development subdistrict if located within the Primary Locations. If not located in a Primary Location, the business owner could apply for a special exception to expand up to a total of 2,500 square feet of space for a major home occupation, provided: the expansion would not change the character of the area (*e.g.*, warehouse building or noisy commercial operation in a neighborhood); the use would not generate traffic more intensive than current patterns in the area; and nuisance impacts could be adequately buffered from nearby existing uses.

**Farm-stands** would be permissible as home occupations in the M-GN so long as they are located at least 30 feet from a public road, primarily sell agricultural produce or products, and do not exceed 200 square feet in size. (Current clearing standards would not be reduced, so farms located on a public road which do not have existing roadside clearings would need to place any structures at least 50' from the road.)

**Discussion:** Home-based businesses that grow beyond the current limitations in the standards could result in nuisance impacts and generate traffic that creates problems for residential neighborhoods or near recreational resources. If a home-based business is in a Primary Location, and expansion would not result in undue adverse impacts, the owner could petition to rezone the property to a development subdistrict. If not located in a primary area, staff propose that some expansion should still be possible so long as noise, odors, and outdoor storage can be adequately buffered from other uses nearby, and if traffic generated is consistent with existing patterns in the area (*e.g.*, type of traffic is the same, and the overall volume is similar).

Farm stands would be permissible as home occupations. If a farm-based retail operation grew beyond the limits proposed for farm stands, a facility would have to rezone to a development subdistrict and meet all the locational criteria that apply.

### **Potential Problems and Solutions for all location types in the proposal:**

1. **Strip development:** One risk of the proposal is encouraging development along roads for 10 miles from the boundary of a retail hub. This could cause strip development, which has negative impacts on traffic management (public safety), character of the area and wildlife habitat. The proposed residential subdivision standards will contain provisions that address location of entrances to developments. They will also propose separation between groups

of structural development and vegetation buffers along roadways to provide wildlife corridors and maintain a rural character. Similar provisions will be proposed for rezoning for commercial development.

2. **Loss of shoreline character and water quality:** In some places, shorelines would become available for rezoning immediately as a result of this proposal. This would be true for lakes that are within the primary and secondary locations and some MC 4, 5 and 7 lakes outside those areas. Subdivisions, in particular, may be proposed along a shoreline that, under the one mile rule of thumb, would have been incrementally developed over time. To avoid overdevelopment of the shoreline, the Commission can take this opportunity to plan for appropriate development of the lake as a whole. The subdivision rules will propose mechanisms to help ensure the overall level of development is suitable in terms of maintaining water quality, shoreline character and appropriate levels of recreation pressure. This would be based, in part, on the management class of the lake and the current level of development. Overall density of existing development, and the target density for that lake classification would be important factors. Layout standards for shorefront subdivisions will also be important in conjunction with density targets. Despite the fact that shorelines within the primary and secondary locations, and some MC 4, 5 and 7 lakes outside those areas may become more heavily developed, there are shorelines in other parts of the UT that are farther from the retail hubs that would receive less development than under the one mile rule of thumb approach to adjacency, as a result of this proposal. Providing suitable regulations and encouraging subdivision close to retail hubs is preferable to more scattered subdivision development elsewhere.
3. **Habitat impacts:** Habitat impacts largely stem from scattered development, strip development, and inappropriate shoreline development. By dealing with these issues, as described above, the refined approach to adjacency and revised subdivision rules will also protect habitat. This was an issue that was of high importance to survey respondents and deserves attention. When the subdivision rules are proposed, they will contain standards that are specific to development along roadways and shorelines and density of development around lakes. The issue of scattered development is being addressed by the overall proposal of encouraging development close to retail hubs. Rezoning and permits for resource-dependent uses will still be reviewed for “no undue adverse impact” to existing resources, including habitat.
4. **Loss of control over pace:** One of the objectives of the adjacency principle is to pace development so that services, land use regulations and future development plans have time to adjust as each pulse of development takes place. The proposal removes much of the pacing mechanism inherent in the one mile rule of thumb. Because the proposal explicitly directs development to areas that are close to services, the risk of this effect is reduced; however, some amount of pacing is still desirable. This will be handled in three ways: 1) consulting closely with local government and service providers about the effects of proposed rezoning and denying any proposals that unreasonably overburden local capacity; 2) if large amounts of development are proposed in a short time frame, considering the likely effect on community character and approving only as much additional development

as the community can handle within the proposed timeline; and 3) conducting regular reviews of the quantity of development rezoning and making regulatory adjustments as needed.

5. **Residential subdivision in resource-based locations:** This proposal would result in residential subdivision on certain waterbodies in locations distant from a public road or retail hub, and which are accessed by traveling long distances on private roads that may be built and maintained for other purposes (*e.g.*, commercial forestry). This could make it difficult for lot owners to maintain permanent, reliable, access to their property. For the same reasons, it may be difficult for fire trucks or ambulances to reach residential development in these types of locations. Development in resource-based locations may also undermine certain recreational experiences dependent on remoteness. To address these issues, the proposal could require: 1) that resource-based residential subdivision include a legal right of access from a public road for each lot owner; 2) a disclaimer notifying potential buyers that their property does not come with a guarantee of emergency services; and 3) by guiding residential subdivision to certain lakes that are already developed.

## V. NEXT STEPS

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- A. **Discussion with property owners, public and stakeholders:** The Commission will take comments at the April meeting and staff will hold informal work sessions with property owners, stakeholders and the public to answer more detailed questions and work through any issues that arise.
- B. **Rule draft to post in May:** The Commission anticipates having a draft rule in May to post to formal public comment. The Commission will hold a brief business meeting for this purpose during a break from the Fish River Chain of Lakes concept plan hearing sometime on May 23, time TBD.
- C. **Subdivision regulations:** Staff anticipate that a draft of the subdivision regulations will be available prior to the June meeting so that the adjacency rules and the subdivisions rules can be viewed side-by-side since they are integrally related.
- D. **Schedule:** A more detailed schedule is attached at the end of the packet.