

# Report of Stakeholder Meeting #1 Subdivision Rule Review Process Maine Land Use Planning Commission

## Introduction

The Land Use Planning Commission (LUPC) has initiated a project to review and potentially revise the portions of the Commission's rules that govern the process of creating subdivisions in the unorganized territory (UT). As part of this project, the Commission is holding three meetings to provide stakeholders an opportunity to participate in the review process.

The first stakeholder meeting was held on October 29, 2014 at Jeff's Catering in Brewer. The meeting began at 9:00 AM and finished about noon. The focus of the meeting was on identifying the issues with the subdivision rules that should be the highest priority for review.

Eighteen stakeholders including representatives of both the regulated community and statewide organizations participated in the meeting. The sign-in sheet is attached as Appendix A. In addition, four members of the commission (Betsy Fitzgerald, Durward Humphrey, Mike Theriault and Everett Worcester) attended the meeting as observers. Representative Jeffery Gifford attended and participated in the meeting, but did not "vote" in the priority setting activity. Also, a number of LUPC staff attended and participated in the meeting but did not "vote" in the priority setting activity. Mark Eyeran and Sarah Curran from Planning Decisions, Inc. facilitated the meeting.

## Preliminary Master Issues List

Prior to the first stakeholder meeting, LUPC staff developed a Master Issues List (see Appendix B). The list was intended to be a starting point for the rule review process to assure that all possible issues with the current subdivision rules were identified at the outset of the process. The Master Issues List was divided into two categories of issues, technical and procedural issues with the current rules, and policy issues with where and how subdivisions can occur in the UT.

LUPC staff developed the Master Issues List using a number of sources of information:

- In the spring of 2014, the staff surveyed a small number of stakeholders in both the regulated community and statewide interest groups about issues with the subdivision rules. The findings of this survey were summarized by LUPC staff in Subdivision Rule Revision Memo – Attachment D Summary of Issues Likely to be Raised in the Facilitated Process. This document was an attachment to a memo sent to the Commissioners in July of 2014 about the subdivision rule revision process.
- In September of 2014, the staff developed an on-line survey about issues with the subdivision rules. A link to this survey was emailed to 200+ stakeholders who are on the list of people interested in the subdivision rules. A total of 26 surveys were completed to some extent. The results of the surveys were organized and issues identified.
- On October 8, 2014, as part of their monthly commission meeting, LUPC conducted a workshop on subdivisions. The workshop included presentations by four panelists about issues with subdivisions and the current subdivision rules in the UT and a small group activity involving the commissioners, panelists, and other attendees at the meeting. In this activity, small groups were charged with developing a subdivision design for a hypothetical waterfront parcel. The panel presentations and small group activity raised additional issues about the subdivision rules.

Using the information about issues developed through these three activities and their collective knowledge about issues with the current rules, LUPC staff developed the Master Issues List to serve as a starting point for discussion at the October 29<sup>th</sup> meeting. Staff emailed the Master Issues List to everyone on the interested parties list together with the agenda for the first meeting.

## Meeting Organization

The stakeholder meeting on October 29<sup>th</sup> was divided into two parts after a brief introduction by Nick Livesay on the purpose for the morning's activities. The first part involved the review and revision of the Master Issues List while the second part used the revised issues list to identify priorities for the review process.

In the first part, stakeholders were asked to first individually review the Master Issues List. Then they were asked to complete two worksheets to identify any issues that they felt should be added to the list and/or any issues that needed to be clarified. Once everyone had completed their individual worksheets, Mark Eyerman led the group

through the two types of issues (technical/procedural and policy) and the master worksheets were edited to reflect this input.

In the second part of the meeting, stakeholders were asked to go through the revised issues lists and assign each issue a high, medium, or low priority. Once everyone had done this individually, Mark Eyerman led the group through a group “voting” exercise to create a tabulation of the group’s priorities. The results for the individual issues were entered into a projected spreadsheet and a priority score calculated based on weighting high priority votes as three, medium priority votes as two, and low priority votes as one. After some group discussion, it was decided that individuals could choose not to vote to indicate that the issue was not a priority or that they did not have enough information to assign it a priority.

## Results of the Meeting

During the first part of the meeting, stakeholders reviewed the Master Issues List and suggested additional issues that should be added to the list. They also suggested some clarifications to the issues on the Master List. The following identifies the changes made to the Master List as a result of stakeholder feedback (these changes are shaded in blue in Appendix C and Appendix D):

### **Technical/Procedural Issues**

- An issue dealing with the calculation of phosphorous export from road construction was added
- An issue regarding reviewing the provisions for regulating exterior lighting was added
- The issue addressing long term maintenance of common infrastructure was divided into two issues, one for public safety related improvements and the second for improvements that do not involve public safety

### **Policy Issues**

- An issue suggesting that all of the criteria for Level 2 Subdivisions should be reviewed was added
- An issue addressing setbacks for development of lots in subdivisions was added (Note: There was discussion that review of setbacks for all development is outside of the scope of the subdivision rule review process)
- An issue dealing with standards for permanent docks was added to the issues list
- An issue was added asking if there should be a Level 3 Subdivision created for small, almost “permit by rule” kind of development

During the second part of the meeting, the stakeholder group identified priorities for the issues on the Technical/Procedural and Policy lists. The issue-by-issue results of the Technical/Procedural Issues priority setting is attached as Appendix C and for the Policy Issues in Appendix D. The following discussions group the issues into high, medium, and low priorities. The priority score for each issue is shown in parenthesis.

### **Technical/Procedural Priorities**

The following are the Technical/Procedural issues that scored the highest in the prioritization activity (a score of 30 or more):

- The level of soil survey information required for subdivisions (40)
- Allowing small subdivisions (e.g. 5 or less lots) to submit less information or less detailed information as part of an application (39)
- Road crossing standards such as bridges and culverts (37)
- A process for submitting a conceptual plan for the entire subdivision and then getting detailed approvals on a phased basis (37)
- The number of soils test pits required on a lot – one or two (34)
- The maximum sustained grade for Class 1 roads (30)

The following Technical/Procedural issues scored a medium priority in the prioritization activity (a score of 20 to 29):

- Allowing development on steeper slopes with adequate provisions for erosion control (29)
- Provision for the calculation of phosphorous loading from road construction (28)
- The level of site inventory and analysis required for a pre-application meeting (23)
- Use of appropriate building materials so that a dwelling fits harmoniously with the existing environment – exterior reflectivity, etc. (21)
- Revised standards to be consistent with DEP subdivision standards (20)

The following Technical/Procedural issues scored a low priority in the prioritization activity (a score of 6 to 19):

- Ways to help applicants anticipate review time (17)
- Reducing the setback from internal roads within the subdivision (14)
- Requiring a mandatory pre-application conference between LUPC staff and the property owner or developer (12)
- Revision of the clearing standards to allow reduced buffer strips along roadways or reduce other clearing limitations (12)

- Steps to insure better long term maintenance of non-public safety related common infrastructure (10) and public safety related infrastructure (7)
- Changes in the public notice provisions to ensure adequate public participation (9)
- Clarification for when a subdivision permit vests (9)
- Creating additional standards to address vegetative clearing for hillside development (7)
- Review of title, right, and interest review (6)

## **Policy Priorities**

A significant number of the policy issues on the Master Issues List scored highly in terms of priority for review (see Appendix D). Among those that are a high priority (a score of 30 or more), there were clusters of issues around a few key topics including Level 2 Subdivisions and Subdivision Layout and Design. The following discussions group the issues into high, medium, and low priorities. The priority score for each issue is shown in parenthesis.

Here are the high priority Policy issues with respect to Level 2 Subdivisions:

- Encouraging Level 2 Subdivisions in areas already approved for this use (42)
- Considering additional areas of the UT where Level 2 Subdivisions should be allowed (40)
- Revised standards for Level 2 Subdivisions that create more beneficial development without causing undue adverse impact (36)
- Changing the criteria for Level 2 Subdivisions – criteria c and d (36) and all criteria (34)
- Considering the appropriate number and size of lots in Level 2 Subdivisions (34)

Here are the high priority Policy issues relating to Subdivision Layout and Design:

- The appropriateness of the layout and design standards for the area served by the commission (41)
- Making the standards clearer while incorporating more flexibility (41)
- Allowing more design options for different areas/different regions of the UT (39)
- Where should community-centered design or the grouping of lots be required (36)
- Provisions for the creation of large lot subdivisions to meet market demand (34)
- Treatment of back lots or shared water frontage – encouraged or required (30)

Other high priority Policy issues identified by the stakeholders include:

- When should open space be required and could off-site mitigation such as a mitigation bank or in-lieu of fees be an appropriate substitute (43)
- Increased flexibility for the internal road design standards in rural areas and small subdivisions (39)
- When should clustering of subdivision lots be required and where incentivized (39)
- The method for calculating the amount of open space in a cluster subdivision (33)
- The creation of a Level 3 Subdivision for small, permit-by-rule kind of development (33)

The following Policy issues scored a medium priority in the prioritization activity (a score of 20 to 29):

- Allowing the placement of linear lots in certain places or situations (29)
- Improvements to the permit amendment process to allow for changes that occur during construction (29)
- Improvements to reduce the cost and processing time for subdivision permits (28)
- Revised mechanism by which holders of open space assume control or assist in the management of these lands (27)
- Standards for the cumulative impact and carrying capacity in the review of subdivisions (23)
- Requirements for shared access roads or driveway access (22)
- Setbacks for development of lots within a subdivision (20)

The following Policy issues scored a low priority in the prioritization activity (a score of 7 to 19):

- Are there ways to create incentive based standards that would be beneficial (19)
- Should clustering be discouraged in certain areas/regions of the UT (16)
- Should an applicant be required to demonstrate a legal right to use the proposed access to the subdivision if it is not directly from a public road or recorded public easement (9)
- Special considerations for condominium developments or multiple units on a commonly owned lot (7)
- The method for expressing or calculating waivers of dimensional requirements (7)

Appendix A  
Stakeholder Sign-In Sheet  
October 29, 2014 Stakeholder Meeting

10/29/14	Please sign in	
	Name	email
1	STEVE HOWELL Soil Solutions	showellsoil solutions@ gmail.com
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20		

# Appendix B

## Master Issues List

### Subdivision Rule Review Master Issues List October 2014

The Commission distributed a written survey to a small group of stakeholders in April of 2014 to determine what issues may be raised during a review of the rules governing subdivision development in the unorganized territories. In September of 2014, the Commission posted an online survey reaching out to a larger group of stakeholders for input on what improvements are needed to its subdivision rules. The results of these surveys, together with information gathered in a workshop held by the Commission in October of 2014, have been consolidated in this master issues list. Further refinements to this list are expected as the process moves forward.

The issues identified to date have been organized into two categories: broader policy issues and more detailed technical/ procedural issues, as outlined below. It is important to note that some issues identified in the process so far may not be represented on this list. These issues were not included because they related to statutory requirements that cannot be changed in a regulatory proceeding, were not related directly to the Commission's subdivision requirements, or have been or would be better addressed in a separate regulatory review process such as issues relating to natural resource protection standards. All comments submitted in the surveys and the workshop will be kept on file and considered as appropriate in future Land Use Planning Commission proceedings.

At the first stakeholder meeting in Brewer on October 29th, the participants will: look at the list of issues; see if anything needs to be added to it; refine the issues as necessary; and establish priorities for addressing them.

#### **Technical/ Procedural Issues**

##### **Motor Vehicle Circulation, Access Management and Parking Area Layout**

- \* Should the Commission establish a minimum per lot parking space requirement for subdivisions?

##### **Road Design and Construction**

- \* What changes to the standards are needed, if any, to ensure safety for emergency vehicles, school buses and pedestrians?
- \* Should the road standards be revised to allow a maximum sustained grade for a class 1 road of 12% instead of the current 10%?
- \* Should provisions for snow removal be required?
- \* Should MDOT be more involved in review of subdivision road designs?
- \* What changes are needed to improve the current road crossing standards?



## **Subdivision Layout and Design**

- \* Can development be allowed on steeper slopes with adequate provisions for erosion control?
- \* What standards need to be revised or added to allow for sufficient clearing of defensible space around homes for fire safety?
- \* Are standards needed regarding placement of utilities, above or below ground?
- \* What standards are needed to ensure the appropriate use of building materials so that dwellings fit harmoniously with the existing environment?
- \* Should the vegetation clearing standards be revised to allow reduced buffer strips along roadways or reduce other clearing limitations?
- \* Should there be additional standards to address vegetative clearing for hillside development?
- \* What standards need to be revised to improve consistency with DEP subdivision standards?
- \* Should setbacks from internal roads be reduced?

## **Title, Right and Interest**

- \* How should the commission review TRI?

## **Common Infrastructure Maintenance**

- \* What steps should be taken to ensure better long-term maintenance of common infrastructure?

## **Process for the Preparation, Submission, and Review of an Application**

- \* Should the pre-application process include a mandatory pre-application meeting between LUPC staff and the property owner or developer and his/her representatives?
- \* If so, who should attend the pre-application meeting - just LUPC staff or other agency staff that may be involved in the review?
- \* What level of site inventory and analysis should be required for the pre-application meeting and for the application process?
- \* Should there be a process for an applicant to submit a conceptual plan for the entire subdivision and get detailed approvals on a phased basis?
- \* If so, what information is needed for a meaningful conceptual plan?
- \* What changes to public notice provisions are needed to ensure adequate public participation?
- \* Should small (e.g. 5 or less lots) be allowed to submit less information or less detailed information as part of the application and if so, what information can be omitted?
- \* What level of soil survey should be required for subdivisions?
- \* Is one test pit per lot sufficient to review the adequacy of soils on subdivision lots for the long-term?
- \* Can the Commission develop and maintain a database of road ownership?
- \* Should the Commission have a role in improving communication between E911 Addressing Officers and subdivision developers?
- \* What is the best way to help applicants anticipate review time?
- \* Should annual reports of progress be required as a condition of subdivision approval?
- \* Would more follow-up inspections by Commission staff be beneficial?
- \* Should follow-up inspections by the design engineer be required?
- \* Should the Commission develop a certification process for design professionals?
- \* Is clarification needed for when a subdivision permit vests?

## **Policy Issues**

### **Motor Vehicle Circulation, Access Management and Parking Area Layout**

- ✦ What provisions for access management should be required for water access only subdivision lots?

### **Road Design and Construction**

- ✦ How can the Commission's standards be revised to increase flexibility for internal subdivision road design in rural areas and for smaller subdivisions?
- ✦ Are multiple ingress /egress points needed for emergency access?

### **Level 2 Subdivision Standards**

- ✦ Would revised standards for Level 2 subdivisions create more beneficial development without causing undue adverse impact?
- ✦ How can more Level 2 subdivisions be encouraged in areas already approved for this use?
- ✦ Are there additional areas of the UT where Level 2 subdivisions should be allowed? If so, which ones?
- ✦ What is the appropriate number and size of lots for Level 2 subdivisions?
- ✦ Should the Level 2 criteria in 10.25,Q,2,c and d, relating to distance from public roads and to location near compatible development, be changed?

### **Subdivision Layout and Design**

- ✦ Are the layout and design standards for subdivisions appropriate for the areas served by the Commission?
- ✦ Should the standards allow for more design options for different areas/ regions of the UT (waterfront vs. back lots, hillside properties, developed vs. rural areas, etc.)?
- ✦ How can the standards be made clearer while incorporating more flexibility?
- ✦ Where should community-centered design or grouping of lots be required?
- ✦ Should back lots or shared water frontage be encouraged or required?
- ✦ Are there places or situations where the linear placement of lots should be allowed? If so, where?
- ✦ Should the standards be revised to allow the creation of large lot subdivisions to meet market demand?
- ✦ If yes, what standards should apply to large lot subdivisions and where should they be allowed?
- ✦ Where should shared access roads or driveway access be required?
- ✦ Should the Commission encourage sharing of temporary docks for water access in subdivisions?
- ✦ Does the Commission need standards that consider cumulative impact and carrying capacity in its review of subdivisions?
- ✦ Are special considerations needed for condominium developments?

### **Cluster Subdivision Standards**

- ✦ Where should clustering of subdivision lots be required and where should it be incentivized?

- ✦ Should clustering be discouraged in certain areas /regions of the UT? If so, where?
- ✦ Where clustering is used, how should the method for calculating the amount of required open space, currently calculated as 50% of the net developable land, be revised?
- ✦ Should the provisions for waiving dimensional requirements be expressed or calculated in a different way?

### **Open Space Standards**

- ✦ Where should open space be required, and could off-site preservation be an appropriate substitute?
- ✦ What revisions are needed to the mechanism by which holders of open space assume control or assist in management of these lands?

### **Title, Right or Interest**

- ✦ Should an applicant be required to demonstrate a legal right to use the proposed access to the subdivision if it is not directly from a public road or recorded public easement?

### **Incentive-based Standards**

- ✦ Are there ways to create incentive-based standards that would be beneficial?

### **Common Infrastructure Maintenance**

- ✦ Should performance guarantees be required for certain subdivision projects?

### **Process for the Preparation, Submission, and Review of an Application**

- ✦ What improvements can be made to reduce the cost and processing time for subdivision permits?
- ✦ What changes are needed to improve the permit amendment process for changes that occur during construction?
- ✦ Should the Commission play a role in use of impact fees?

## Appendix C

### Technical/Procedural Issues Priorities Scoring Tabulations

Identified Issues	Priority			
	High	Med	Low	Score
<b>Motor Vehicle Circulation, Access Management and Parking Area Layout</b>				
Should the Commission establish a minimum per lot parking space requirement for subdivisions?	0	0	2	2
<b>Road Design and Construction</b>				
What changes to the standards are needed, if any, to ensure safety for emergency vehicles, school buses and pedestrians?	0	0	0	0
Should the road standards be revised to allow a maximum sustained grade for a class 1 road of 12% instead of the current 10%?	6	6	0	30
Should provisions for snow removal be required?	0	0	0	0
Should MDOT be more involved in review of subdivision road designs?	0	0	0	0
What changes are needed to improve the current road crossing standards? Bridges and culverts	9	5	0	37
Calculation of phosphorous export from road construction	5	6	1	28
<b>Subdivision Layout and Design</b>				

Can development be allowed on steeper slopes with adequate provisions for erosion control?	4	8	1	29
What standards need to be revised or added to allow for sufficient clearing of defensible space around homes for fire safety?	1	0	1	4
Are standards needed regarding placement of utilities, above or below ground?	0	0	0	0
What standards are needed to ensure the appropriate use of building materials so that dwellings fit harmoniously with the existing environment? (exterior reflectivity, etc.)	4	1	7	21
Should the vegetation clearing standards be revised to allow reduced buffer strips along roadways or reduce other clearing limitations?	3	1	1	12
Should there be additional standards to address vegetative clearing for hillside development?	1	2	0	7
What standards need to be revised to improve consistency with DEP subdivision standards?	2	6	2	20
Should setbacks from internal roads be reduced?	0	5	4	14
Should we review provisions for regulating exterior lighting	0	0	3	3
<b>Title, Right and Interest</b>				
How should the commission review TRI?	0	3	0	6
<b>Common Infrastructure Maintenance</b>				
What steps should be taken to ensure better long-term maintenance of common infrastructure? Public safety related	0	0	7	7

What steps should be taken to ensure better long-term maintenance of common infrastructure? Non public safety	2	1	2	10
<b>Process for the Preparation, Submission, and Review of an Application</b>				
Should the pre-application process include a mandatory pre-application meeting between LUPC staff and the property owner or developer and his/her representatives?	1	4	1	12
If so, who should attend the pre-application meeting - just LUPC staff or other agency staff that may be involved in the review?				NA
What level of site inventory and analysis should be required for the pre-application meeting and for the application process?	4	4	3	23
Should there be a process for an applicant to submit a conceptual plan for the entire subdivision and get detailed approvals on a phased basis?	11	2	0	37
If so, what information is needed for a meaningful conceptual plan?				NA
What changes to public notice provisions are needed to ensure adequate public participation?	3	0	0	9
Should small (e.g. 5 or less lots) be allowed to submit less information or less detailed information as part of the application and if so, what information can be omitted?	11	3	0	39
What level of soil survey should be required for subdivisions?	12	2	0	40
Is one test pit per lot sufficient to review the adequacy of soils on subdivision lots for the long-term?	10	2	0	34
Can the Commission develop and maintain a database of road ownership	0	0	0	0

Should the Commission have a role in improving communication between E911 Addressing Officers and subdivision developers?	0	0	0	0
What is the best way to help applicants anticipate review time?	4	1	3	17
Should annual reports of progress be required as a condition of subdivision approval?	0	0	0	0
Would more follow-up inspections by Commission staff be beneficial?	0	0	0	0
Should follow-up inspections by the design engineer be required?	0	0	0	0
Should the Commission develop a certification process for design professionals?	0	0	0	0
Is clarification needed for when a subdivision permit vests?	2	1	1	9

## Appendix D

### Policy Issues Priorities Scoring Tabulations

Identified Issues	Priority			
	High	Med	Low	Score
<b>Motor Vehicle Circulation, Access Management and Parking Area Layout</b>				
What provisions for access management should be required for water access only subdivision lots?	0	0	1	1
<b>Road Design and Construction</b>				
How can the Commission's standards be revised to increase flexibility for internal subdivision road design in rural areas and for smaller subdivisions?	11	3	0	39
Are multiple ingress /egress points needed for emergency access?	0	0	0	0
<b>Level 2 Subdivision Standards</b>				
Would revised standards for Level 2 subdivisions create more beneficial development without causing undue adverse impact?	12	0	0	36
How can more Level 2 subdivisions be encouraged in areas already approved for this use?	10	6	0	42
Are there additional areas of the UT where Level 2 subdivisions should be allowed? If so, which ones?	12	2	0	40
What is the appropriate number and size of lots for Level 2 subdivisions?	9	3	1	34



Should the Level 2 criteria in 10.25,Q,2,c and d, relating to distance from public roads and to location near compatible development, be changed?	12	0	0	36
Should all of the level 2 criteria be reviewed?	10	2	0	34
<b>Subdivision Layout and Design</b>				
Are the layout and design standards for subdivisions appropriate for the areas served by the Commission?	13	1	0	41
Should the standards allow for more design options for different areas/ regions of the UT (waterfront vs. back lots, hillside properties, developed vs. rural areas, etc.)?	13	0	0	39
How can the standards be made clearer while incorporating more flexibility?	13	1	0	41
Where should community-centered design or grouping of lots be required?	12	0	0	36
Should back lots or shared water frontage be encouraged or required?	6	6	0	30
Are there places or situations where the linear placement of lots should be allowed? If so, where?	7	4	0	29
Should the standards be revised to allow the creation of large lot subdivisions to meet market demand?	9	3	1	34
If yes, what standards should apply to large lot subdivisions and where should they be allowed?				NA
Where should shared access roads or driveway access be required?	4	5	0	22

Should the Commission encourage sharing of temporary docks for water access in subdivisions?	0	2	0	4
Does the Commission need standards that consider cumulative impact and carrying capacity in its review of subdivisions?	7	0	2	23
Are special considerations needed for condominium developments? (Multiple units on a commonly owned lot)	1	1	2	7
Should setbacks for development of lots in subdivisions be reviewed?	2	7	0	20
Should we review standards for permanent docks?	0	1	1	3
<b>Cluster Subdivision Standards</b>				
Where should clustering of subdivision lots be required and where should it be incentivized?	11	3	0	39
Should clustering be discouraged in certain areas /regions of the UT? If so, where?	2	4	2	16
Where clustering is used, how should the method for calculating the amount of required open space, currently calculated as 50% of the net developable land, be revised?	9	3	0	33
Should the provisions for waiving dimensional requirements be expressed or calculated in a different way?	1	2	0	7
<b>Open Space Standards</b>				
Where should open space be required, and could off-site preservation be an appropriate substitute? (such as mitigation bank, fee in lieu of)	13	2	0	43
What revisions are needed to the mechanism by which holders of open space assume control or assist in management of these lands?	7	3	0	27

Title, Right and Interest				
Should an applicant be required to demonstrate a legal right to use the proposed access to the subdivision if it is not directly from a public road or recorded public easement?	3	0	0	9
Incentive-based Standards				
Are there ways to create incentive-based standards that would be beneficial?	5	2	0	19
Common Infrastructure Maintenance				
Should performance guarantees be required for certain subdivision projects?	0	0	0	0
Process for the Preparation, Submission, and Review of an Application				
What improvements can be made to reduce the cost and processing time for subdivision permits?	6	5	0	28
What changes are needed to improve the permit amendment process for changes that occur during construction?	9	1	0	29
Should the Commission play a role in use of impact fees?	0	0	0	0
Stakeholder Added - Small Subdivisions				
Should there be a level 3 subdivision for small, permit by rule kind of development?	11	0	0	33