



PAUL R. LEPAGE
GOVERNOR

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

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

COMMISSION DECISION
IN THE MATTER OF

Peter Lee

Findings of Fact and Decision

ZONING PETITION ZP 761

The Maine Land Use Planning Commission, at a meeting of the Commission held June 8, 2016, at Brewer, Maine, after reviewing the application and supporting documents submitted by Peter Lee for Zoning Petition ZP 761, public comments, agency review and staff comments and other related materials on file, pursuant to 12 M.R.S.A. Section 681 et seq. and the Commission's Standards and Rules, finds the following facts:

1. Petitioner: Peter Lee
671 Lafayette St.
Yarmouth, ME 04096
2. Date of Completed Petition: April 6, 2016
3. Location of Proposal: Freeman Township, Franklin County
Lot #37 on Freeman Tax Plan 01
4. Present Zoning: (M-GN) General Management Subdistrict
5. Proposed Zoning: (D-GN) General Development Subdistrict
6. Size of Area to be Rezoned: 1.42 acres (owned)

Background Information

7. The petitioner owns an approximately 91-acre lot along Freeman Ridge Road. The lot has approximately 417 feet of frontage along Freeman Ridge Road. There is an old stone foundation and a land management road located on the property. The lot is otherwise

undeveloped. The lot is predominantly wooded, except for an existing cleared area around the old foundation.

The petitioner's lot is bounded on the north by the Kingfield town line and on the east by the New Portland town line.

Proposal

8. The petitioner proposes to rezone 1.42 acres of his lot from (M-GN) General Management Subdistrict to (D-GN) General Development Subdistrict for the purposes of developing a recreational mountain bike facility available to the public for a fee. The area proposed for rezoning would accommodate a day lodge, maintenance shed, parking area and driveway to support the proposed recreational facility. The remainder of the property would be utilized for the recreational bike trail network, and would remain in (M-GN) General Management Subdistrict. The petitioner anticipates submitting a Development Permit Application for the first phase of development of the proposed mountain bike facility in the near future. The first phase would include the driveway, parking area and maintenance shed.
9. The area proposed for rezoning abuts the New Portland town line, and is located approximately 0.45 miles by road from the Kingfield town line, approximately 0.55 miles by road from State Route #27, and approximately 1.5 miles from downtown Kingfield.
10. The petitioner has submitted letters from the Town of Kingfield stating that it has the capacity and availability to accept solid waste from the proposed facility (via the Kingfield Transfer Station) and to provide rescue and fire protection services to the proposed facility. The petitioner has also submitted a letter from a private ambulance service stating that it has the capacity and availability to serve the proposed development. In addition, the petitioner provided letters from Franklin County Sheriff's Department stating that it has the availability and capacity to provide law enforcement for the proposed development; and from the County Road Commissioner stating that that Freeman Ridge Road could accommodate the increased traffic flow that would be generated by the proposed development.

Site Conditions and Surrounding Area

11. Soils at the site have been identified on the Natural Resources Conservation Service's soil survey as Adams Loamy sand, 0 to 8 percent slopes; Adams- Croghan Association, strongly sloping; and Colonel-Peru Association, 3 to 15 percent slopes, very stony.

The petitioner has submitted an application for a subsurface wastewater disposal system by Licensed Site Evaluator Elizabeth Flynn, designed for 184 gallons per day for the proposed recreational lodge, based upon a design flow of 10 gpd per seat for 16 seats and 2 employees at 12 gpd.

12. The petitioner states that the area within 1 ½ miles of the project site includes the following residential, commercial and industrial uses:
 - A. Approximately 30 year round residences (within 1 mile).
 - B. Approximately 5 seasonal residences (within 1 mile)
 - C. Commercial operations:
 - 1) Nestle water bottling plant (1/2 mile away). A 209,000 square foot facility employing approximately 70 people.
 - 2) Valley Gas & Oil (1/2 mile away). A propane distribution center and service center headquarters.
 - 3) Skyline Tree Service (1/2 mile away). A small custom logging business.
 - 4) Carrabassett Coffee Company (1/2 mile away). Distribution center and headquarters for the company.
 - 5) Norpine Landscaping (1 ¼ miles away)
 - 6) McClure's Tree Nursery
 - 7) Mountain View Bed and Breakfast.
 - D. Kingfield Town Center (approximately 1 ½ miles away)

Review Criteria

13. In accordance with Title 12, Section 685-A, Subsection 8-A of the Commission's Statutes, a land use district boundary may not be amended unless there is substantial evidence that:
 - A. The proposed land use district is consistent with the standards for district boundaries in effect at the time, the Comprehensive Land Use Plan and the purpose, intent and provisions of this chapter; and
 - B. The proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.
14. Under provisions of Section 10.21,C,1 of the Commission's Land Use Districts and Standards, the purpose of the (D-GN) General Development Subdistrict is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the Commission's intent to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the Commission's purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas.

Under provisions of Section 10.21,C,3,c(15) of the Commission's Standards, public or private recreation facilities including, but not limited to, parks, playgrounds, and golf courses, are an allowed use in a (D-GN) General Development Subdistrict upon issuance of a permit by the Commission.

15. The following are the relevant goals and policies regarding development within the Commission's jurisdiction under the Commission's Comprehensive Land Use Plan:

A. Location of Development:

Goal: Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.

Policies regarding the location of development on a jurisdiction-wide level:

1. Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
2. Guide development to areas near existing towns and communities and in other areas identified as appropriate development centers. Identify areas which are the most appropriate for growth when considering: (1) proximity and connectivity by public road to economic centers, organized towns and well established patterns of settlement; (2) compatibility of natural resources with development; (3) demonstrated demand for and public benefit from development; and (4) availability of public infrastructure, facilities and services.
3. Discourage growth which results in scattered and sprawling development patterns.

Policies regarding the location of development on a community or regional level:

4. In communities or areas without prospective zoning, encourage orderly growth within and proximate to existing, compatibly developed areas — i.e. existing development of similar type, use, occupancy, scale and intensity to that being proposed, or a village center with a range of uses for which the proposed development will provide complementary services, goods, jobs and/or housing.

B. Economic Development:

Goal: Encourage economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction's principal values.

Policy: Encourage economic development in those areas identified as the most appropriate for future growth.

C. Site Review:

Goal: Assure that development fits harmoniously into the existing communities, neighborhoods and the natural environment.

Policy: Require that provision be made for fitting development harmoniously into the existing natural environment, including:

1. Requiring the use of buffers, building setbacks, height restrictions, design and materials standards, lighting standards, and landscaping to minimize the impacts of land use activities upon one another and to maintain the scenic quality of shorelines, hillsides, ridgelines, and roadways;
2. Requiring that developments provide for adequate parking and traffic circulation; and
3. Limiting the number and size of signs in order to prevent undue visual impacts or hazardous conditions.

D. Forest Resources:

Goal: Conserve, protect and enhance the forest resource in a way that preserves its important values, including timber and fiber production, ecological diversity, recreational opportunities, as well as the relatively undeveloped remote landscape that it creates.

Policy: Support uses that are compatible with continued timber and wood fiber production, as well as outdoor recreation, biodiversity and remoteness, and discourage development that will interfere unreasonably with these uses and values.

E. Recreational Resources:

Goal: Conserve the natural resources that are fundamental to maintaining the recreational environment that enhances diverse, abundant recreational opportunities.

Policies:

1. Protect the values of the jurisdiction that provide residents and visitors with a unique array of recreational experiences, especially high-value natural resources and remoteness where they exist.
2. Encourage diverse, non-intensive and nonexclusive use of recreational resources and protect primitive recreational opportunities in certain locations.
3. Accommodate a range of recreational uses and facilities in appropriate locations, based on the level of use, size, scale and compatibility with existing recreational and non-recreational uses. Specifically (among other policies):
 - a. Direct intensive recreational uses and facilities to areas most appropriate for growth, and near existing services and infrastructure.

- b. Accommodate less intensive, nonexclusive recreational uses and facilities in other appropriate locations where such uses and facilities will not adversely affect existing uses and resources.

Petitioner's Response to Review Criteria

16. In response to the statutory criteria under Title 12, Section 685-A, Subsection 8-A as discussed under Finding of Fact #13, above, the petitioner states the following:

- A. The proposed rezoning is consistent with the Comprehensive Land Use Plan as follows:
 - 1) The proposed rezoning is consistent with the Commission's goals and policies regarding development in that the subject property is located proximate to an area of existing significant commercial development as described under Finding of Fact #12 above.
 - 2) The proposed rezoning is consistent with the Commission's goals and policies regarding economic development since the proposed recreational mountain bike facility would align well with Franklin County's and the western Maine regional area's focus as a destination for outdoor recreational activities. In particular, the proposed development would complement existing commercial uses in the area since guests of the proposed recreational bike facility would also patronize existing businesses in the area such as those providing lodging, groceries, fuel, medical services, and other recreational opportunities. Furthermore, mountain biking is a growing recreational activity in the area, and the Carrabassett region is becoming a destination for mountain bike riding in Maine and New England. The proposed facility would complement existing mountain bike trail systems being developed by the Town of Carrabassett, Maine Huts & Trails, and the Carrabassett Region Chapter of the New England Mountain Bike Association.
 - 3) The proposed rezoning is consistent with the Commission's goals and policies regarding site review in that the proposed recreational mountain bike facility would fit harmoniously into the existing community and natural environment as follows:
 - a) The proposed development would be located in an existing cleared and previously developed area of the petitioner's property to minimize the need for additional vegetative clearing and to minimize impacts to wildlife.
 - b) The existing vegetative buffer along Freeman Ridge Road would be allowed to continue to grow and so provide visual screening of the proposed development from Freeman Ridge Road.
 - c) Buildings would be constructed of natural building products to blend into the surroundings.
 - d) The area proposed for development is compact but of sufficient size to accommodate the necessary infrastructure for the proposed facility.

- e) Adequate provision for traffic flow and parking would be made through installation of additional signage along Freeman Ridge Road to direct traffic, and provision of on-site parking.
- B. The proposed rezoning and associated mountain bike recreational facility would not adversely impact existing uses in the area, and the proposal would be a benefit to the local area. Specifically, there would be no conflict between the proposed mountain bike facility and existing recreational snowmobile usage of the area since these two activities occur in different seasons. Potential conflicts between the proposed mountain bike facility and existing recreational ATV use in the area would be minimized by using signage to direct ATV users to trails for motorized use only, and mountain bikers to trails for non-motorized use only. Impacts to the scenic quality of the area would be minor since little additional vegetative clearing would be required for the proposed development. Impacts to existing residential uses would be minimized by limiting activities to day light hours.

Review Comments

17. The Maine Department of Inland Fisheries and Wildlife, Fisheries Division, states that it has no concerns with the proposal regarding fisheries and that it anticipates minimal impact to wildlife resources.
18. The Maine State Soil Scientist states that he has no objections to the proposal, and that based upon his site visit in November of 2015, the soils in the area are generally suitable for the proposed use.
19. In a letter submitted by the petitioner, the Maine Historic Preservation Commission states that no historic properties would be affected by the proposal.
20. In a letter submitted by the petitioner, the Maine Natural Areas Program states that it has no records of rare botanical features within the project site.
21. The facts are otherwise as represented in Zoning Petition ZP 761 and supporting documents.

Based on the above Findings, the Commission concludes that:

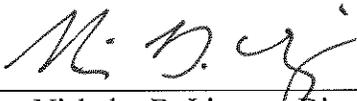
1. The proposed rezoning to a (D-GN) General Development Subdistrict is consistent with the purpose of that zone under the provisions of Section 10.21,C,1 of the Commission's Land Use Districts and Standards. Rezoning for the purposes of developing a recreational mountain bike facility would be consistent with the standards for development within a (D-GN) General Development Subdistrict under the provisions of Section 10.21,C,3,c(15).
2. The proposed rezoning would be consistent with the Commission's Comprehensive Land Use Plan as follows.

- a. The proposed rezoning would be consistent with the Commission's policies regarding development in that the project site is an appropriate area for growth given its proximity to the organized Towns of Kingfield and New Portland. Furthermore, the project site is located within one mile of existing commercial and residential development along Freeman Ridge Road and the Route #27 corridor as described under Finding of Fact #12 above, and would not result in a sprawling development pattern. Lastly, the proposed non-motorized recreational facility is compatible in type and scope with the existing commercial and residential uses of the surrounding area.
 - b. The proposed rezoning would be consistent with the Commission's policies regarding economic development under the Comprehensive Land Use Plan. Specifically, the proposed rezoning to allow for a recreational mountain bike facility would be compatible with, and complement existing commercial uses in the area as discussed under Finding of Fact #16.a(2) above. Furthermore, the proposed facility would be compatible with existing residential uses of the area, provided that activities are limited to daytime hours as proposed by the permittee, and other measures implemented as needed to mitigate any noise or lighting impacts in accordance with the Commission's standards.
 - c. The proposed rezoning would be consistent with the Commission's policies regarding site review. Preliminary information submitted by the petitioner indicates that adequate sewage disposal and off-street parking can be provided for the proposed facility. Any necessary provisions to address noise and lighting issues can be addressed during the development phase of the mountain bike facility, in accordance with the Commission's standards.
 - d. The proposed rezoning would be compatible with the Commission's goal and policies regarding forest resources in that development would be limited to a small area of the petitioner's lot, leaving the remainder of the forested property available for outdoor recreational use, and potential timber production.
 - e. The proposed rezoning would be compatible with the Commission's goal and policies regarding recreational uses in that it would expand opportunities for recreational mountain biking while largely conserving the subject forest land for that activity as well as the traditional recreational use of the areas for motorized recreation i.e., snowmobiling and ATV riding.
5. The proposed rezoning to a (D-GN) General Development Subdistrict would have no undue adverse impact on existing uses or resources provided that adequate provisions are made for traffic flow and parking, wastewater disposal, noise and lighting as part of the petitioner's development proposal to be submitted.
 6. The change is consistent with the standards for district boundaries, the Commission's Comprehensive Land Use Plan, and the purpose, intent, and provisions of Title 12, M.R.S.A., Chapter 206-A.

Therefore, the Commission approves the petition of Peter Lee to rezone 1.42 acres from (M-GN) General Management Subdistrict to (D-GN) General Development Subdistrict per the attached map.

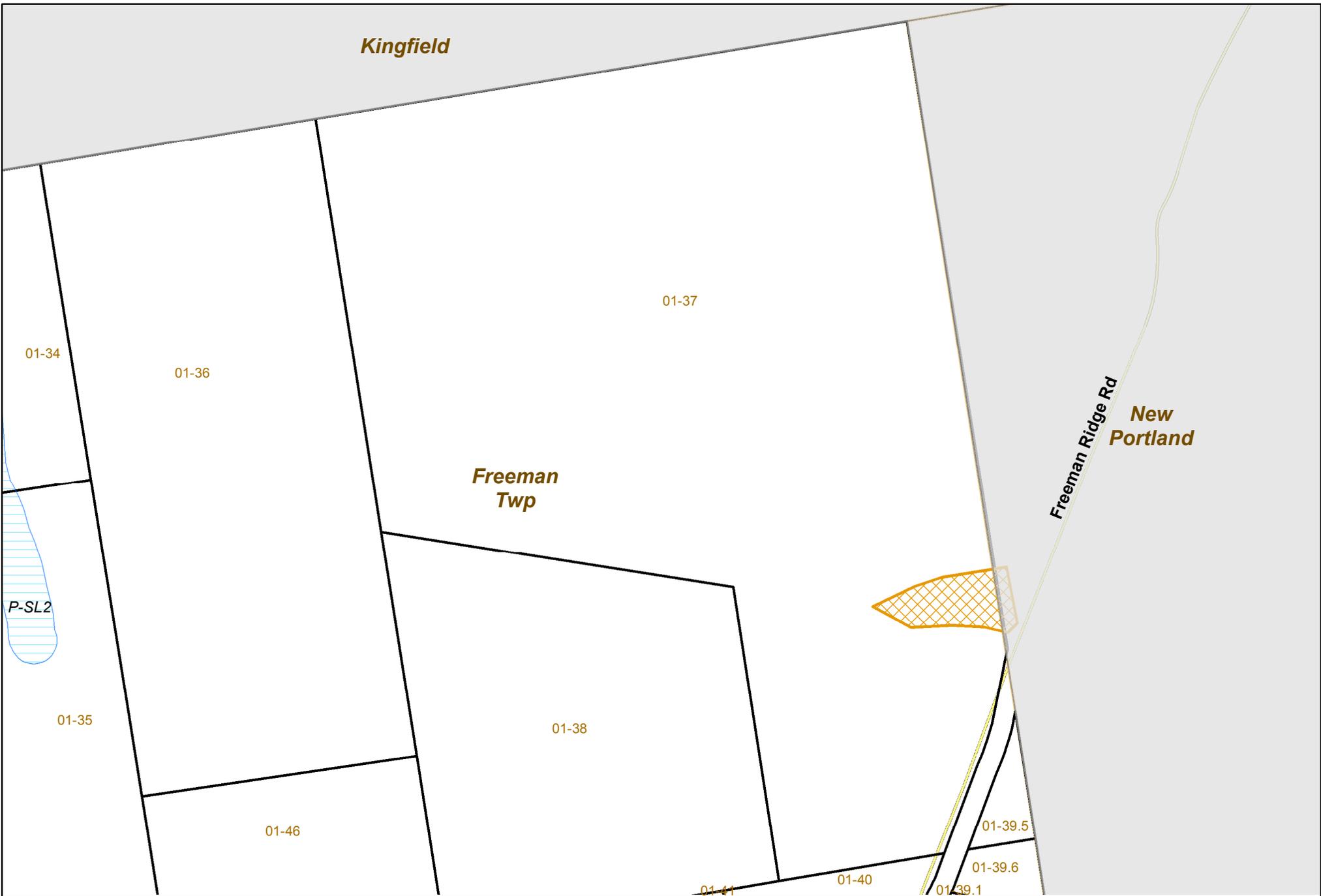
Any person aggrieved by this decision of the Commission may, within 30 days, request that a public hearing be held or may file an appeal with the Superior Court in accordance with 5 M.R.S.A. section 11002.

DONE AND DATED AT BREWER, MAINE THIS 8th DAY OF JUNE, 2016.

By: 

Nicholas D. Livesay, Director

This change in subdistrict designation is effective on June 23, 2016.



-  Proposed D-GN Zone
-  P-SL2: Shoreland - 75'
-  Parcel
-  E911 Roads

- Towns**
-  Unorganized
 -  Organized

Zoning Petition ZP 761
Proposed (D-GN) General Development Subdistrict
 Freeman Twp. - Franklin County

