

The Adjacency Principle

Background

Within the Commission's service area, most existing development zones contain little or no land zoned for future growth, so most new development requires a zoning change. Zone changes are generally done on a case-by-case, property owner-driven basis and must be consistent with the Comprehensive Land Use Plan (CLUP), just as municipalities require that their zoning be consistent with their comprehensive plan.

In general, areas to be rezoned are required to be within one road mile of existing compatible development.¹ This policy, known as adjacency, is intended to encourage lower tax burdens, keep land available for forestry, agriculture and recreation, and promote the health of existing communities. Adjacency is a tool that the Commission uses to help plan for where new development can occur.

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 (12 M.R.S. §681). The Commission's task - to plan for an area that has importance to local residents and also has statewide economic and environmental importance - is a challenging one, but the legislature set out priorities, and some type of planning for location of development is essential in meeting those expectations.

The objectives the adjacency principle seeks to achieve are based on the Commission's statute and the CLUP, and are summarized below:

- Ensure that any additional service capacity that may be needed due to new development be added efficiently and economically over time;
- Encourage well-planned and managed multiple uses while reducing conflicts;
- Maintain areas for forestry, agriculture, recreation, tourism, and other natural resource based industries important to our economy;
- Promote economic health of development centers; and
- Ensure that the anticipated future development is protective of the values of the jurisdiction and is in keeping with the character of the area.

An important value of the "no more than a mile" interpretation of adjacency is that it provides a high level of predictability for landowners, applicants, and the public as to when the adjacency principle will be satisfied and helps to ensure equal treatment of petitioners. However, it is too blunt a tool. The unorganized and deorganized areas of the State are a big place with widely varied activities, economies, traditions, and landscapes. These areas have diverse land use planning needs. The adjacency principle fulfills the broadly stated sound planning principles identified in the Commission's statute, but the 1-

¹ The CLUP further describes compatible development: "...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 service, goods, jobs and/or housing." (2010 CLUP, pg. 62)

Adjacency Background Information

mile rule of thumb interpretation the Commission historically has applied is too simplistic a tool to account for every circumstance.

Some identified issues with the Adjacency Principle

Regional differences

While the planning principles embedded in adjacency are applicable throughout the Commission's service area, application of the adjacency principle through the 1 road mile rule-of-thumb does not always account for the unique characteristics of each sub-region. For example, in Northern Maine residents are used to driving long distances to get to jobs, access services or recreation activities. In other regions, residents may not be used to driving such long distances to access the same ranges of services and activities.

Differences between uses

Locating commercial or industrial development near other similar types of facilities may not be the most important consideration in siting this type of development. For example, some locations may be appropriate for commercial development because they provide a needed amenity or service such as equipment repair and processing facilities near a high concentration of farms, or recreation support businesses that rely on nearby resources such as trailheads or waterbodies. Similarly, it may be more important to locate industrial facilities near infrastructure such as utilities, ports, rail or other transportation networks, than within 1 mile of other similar types of facilities.

Limiting impacts of dispersed development

The adjacency principle sometimes is not effective in limiting the negative effects of dispersed development. Each new development zone can serve as a basis for future re-zonings up to 1 road mile away. Development zones were originally drawn based on existing development, and as a result are fairly dispersed. The adjacency principle has the potential to sanction a "leapfrogging" effect, where each new development can potentially become the basis for another rezoning. Consequently, the adjacency principle does not prevent the leading edge of development from advancing into undeveloped areas.

Flexibility

Application of the 1 road mile rule-of-thumb provides desired predictability, but sometimes has not allowed enough flexibility for proposals to account for existing natural resources and site constraints such as poor soils, wetlands, steep slopes, habitat, or waterbodies, which may suggest alternative sites beyond 1 road mile from other comparable development in order to achieve a good design.

Similarly, a strict interpretation of the 1 road mile measurement may incentivize the foreclosure of certain areas to uses that otherwise might be well, or even better, suited for the area. For example, requiring the location of new residential development next to existing residential development can result in a development pattern that shuts out opportunities for locations to be used for recreational access, commercial uses, or agricultural or forest management activities, without consideration of

Adjacency Background Information

whether allowing the residential development more than 1 road mile away might allow for a more desirable use of resources and preferable land use patterns in the area.

Conclusions

Flexibility in applying the adjacency principle, as opposed to rigid adherence to the 1-mile rule of thumb, can lead to sound planning results. There is an opportunity for the Commission to refine its application of the adjacency principle to provide greater flexibility – by better accounting for the variety of development types and location characteristics within the unorganized and deorganized areas when planning for the location of development.