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PUBLIC COMMENTS RECEIVED FOR  
ADJACENCY & SUBDIVISION REVIEW PROCESS: PART THREE OF THREE

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

This is **part three of three documents that include compiled written comments** about the Adjacency & Subdivision Review submitted between December 19, 2018, and January 22, 2019.

**Parts one & two** are available for review on the [adjacency rules webpage](#).

The **audio recording of the January 10, 2019 public hearing** is available on the Commission's [Calendar and Meeting Materials webpage](#).

**Rebuttal Comments:** Four timely filed comments in this part three document were posted on the website on January 25, 2019. One additional comment, which was delayed in transmission, was added on January 28, 2019. Anyone interested in filing a rebuttal to these five comments, and who needs additional time, may do so until February 1, 2019. Rebuttal comments will be posted on the adjacency rules webpage following the close of the rebuttal period.

## Godsoe, Benjamin

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**From:** Triandafillou, Peter <p.triandafillou@huber.com>  
**Sent:** Friday, January 11, 2019 10:48 AM  
**To:** Godsoe, Benjamin  
**Subject:** [EXTERNAL SENDER] Testimony  
**Attachments:** LUPC Adjacency Testimony P Triandafillou 011019.pdf

Ben,

Thanks for the chance to speak about the proposed adjacency changes. I was asked to provide written comments, so I've attached them here.

Please feel free to give me a call if you have any questions.

Have a good weekend.

Peter

## LUPC Adjacency Testimony 1/10/19

Members of the Commission and staff, my name is Peter Triandafillou. I live in Orono, and I work for Huber Resources Corp in Old Town. Huber manages about 500,000 acres in Maine. Almost all is in the Unorganized Territories, and most of it is in the interior. We have managed much of this land for over four decades.

I commend the staff and the Commission for their hard work and good efforts to reach out to various parties during this process. I believe that the proposed changes to adjacency and subdivision are a net positive for areas near service centers and organized towns. These communities are in desperate need of economic development, and the proposed changes should help.

In the interests of brevity, let me state that I concur with the detailed comments provided by Sarah Medina and Hannah Stevens of 7 Islands Land Company.

One measure of economic health is new building permits. I looked at new building permits in the Unorganized Territories (UT) within a mile of an organized town or public road. The average over the past five decades in this area is 195 permits per year. This activity peaked in the late 1980s, and has since dropped precipitously to a current rate of 40 per year. This isn't healthy, and it shows when one looks at the economic condition of communities that abut the UT. The new rules will help direct development towards these towns. The rules need some changes to make them easier to work with, but overall, they make sense. It would be a great outcome if in the future, there was enough economic activity for a few UT towns near service centers to organize!

However, for owners in the interior, like Huber, the proposed changes are a net negative. Just because we've chosen not to develop many lakes doesn't mean we should have that frontage value eliminated in one stroke (the proposed changes would prohibit development on most undeveloped lakes). This isn't fair – and it will result in valuation reductions which is a very bad message to send to investors. A broad coalition of the forest products industry, the University of Maine, Maine's Federal delegation and Maine's legislative and executive branch are working on a blueprint called FORMaine to grow our industry and create jobs. Productive timberlands are the foundation of our industry, and it would be unwise to send a negative market signal by arbitrarily and unnecessarily reducing land value.

I believe that we need to keep adjacency in the interior. In addition, I recommend that LUPC develop a simplified, streamlined lake concept plan process. The current process may be fine for big projects, but it is unwieldy and too expensive for small projects. Trading some development in the interior for permanent protection nearby is a win-win for the public and landowners.

I do not think that this proposal would tax LUPC or result in lots of development. Many landowners only want the certainty of valuation for some development, and the rate of new building permits in the interior is much, much lower than the fringe. The average there has been 14 permits per year for the past five decades. Like the fringe, the rate peaked in the late '80s, and is currently about 3 new building permits per year. To put this in context, the average is approximately equivalent to 1 building permit per township per decade. The current rate is 0.2 permits per decade.

Thank you for your time and attention. I appreciate your hard work and invite you to ask me questions at any time.

## Godsoe, Benjamin

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**From:** Lone Steader <lonestead@hotmai.com>  
**Sent:** Monday, January 14, 2019 4:00 PM  
**To:** Godsoe, Benjamin  
**Subject:** [EXTERNAL SENDER] LUPC Adjacency Commentary

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Benjamin Godsoe, Senior Planner  
Maine Land Use Planning Commission  
22 State House Station  
Augusta, ME 04333

Dear Mr. Godsoe,

I am writing to convey and document my serious doubts and concerns on the current adjacency development proposal of your agency (LUPC). Kindly enter this communication into the record.

I am a full-time resident of the general North Woods area of Maine. I have 15 years of land use planning experience. And, I cherish Maine's outdoor expanse as a personal participant and as a supporter of sustainability - environmentally, socially and economically. Maine's nature is its greatest promise to present and future generations, not to mention the landscape itself and its wild inhabitants.

The current proposal is akin to a very broad brush and threatens that about which I and many others care. The risk is cancerous strip-type and speculative development.

Development doors to wild places must not be thrown down. They must be opened with deliberated purpose, caution and reserve.

We have witnessed countless times across America wherein wild lands, especially forests with their evolution to corporate ownership, have become targets of short-term profits for stockholders and the like. The notion of renewability and patient, long term management and benefit has become an old idea, yet most certainly not obsolete. Even in smaller private interests, subdivision and speculative recreational development becomes a situation of "loving to death" our best environments by literal and figurative human footprints. The traditional notion of dominion so often cited is about responsibility rather than domination and exploit.

I implore you to step back and rework the adjacency strategy of LUPC for the benefit of Maine, Mainers and its visitors currently and into the future. I further would appreciate your kind acknowledgment of receipt.

Most sincerely,

Brian B. Burger  
33 S Mill Brook Rd  
Moro Plantation, ME 04780-6060  
207.889.7408

cc: Janet T. Mills, Governor

Sent from portable device with necessary brevity.

## Godsoe, Benjamin

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**From:** Roberta Scruggs <rscruggs@maineforest.org>  
**Sent:** Tuesday, January 22, 2019 12:54 PM  
**To:** Godsoe, Benjamin  
**Cc:** Pat Strauch; Susan McCarthy  
**Subject:** [EXTERNAL SENDER] MFPC comments in favor of the proposed adjacency rule revisions  
**Attachments:** MFPC comments in favor of the proposed adjacency rule revisions 1-22-2019.pdf

Ben,

I've attached the Maine Forest Products Council's comments.

Please contact me if there are any concerns or questions.

Thanks,

Roberta Scruggs  
Communications director  
Maine Forest Products Council  
535 Civic Center Drive  
Augusta ME 04330  
207-622-9288 (office)  
207-689-6401 (mobile)



# Maine Forest Products Council

*The voice of Maine's forest economy*

## Companies represented on the MFPC Board

American Forest Mgmt.  
Baskahegan Co.  
BBC Lands LLC  
Cross Insurance  
Family Forestry  
Farm Credit East  
Fontaine Inc.  
Hancock Lumber  
H.C. Haynes  
Huber Resources  
Innovative Natural  
Resource Solutions  
J.D. Irving  
JM Cote Co.  
Katahdin Forest Mgmt.  
Key Bank  
LandVest Inc.  
Limington Lumber  
Louisiana Pacific  
Maibec Logging  
Nicols Brothers  
Pingree Associates  
Pleasant River Lumber  
Prentiss & Carlisle  
ReEnergy  
Richard Wing & Son  
Robbins Lumber  
Sappi North America  
Southern Maine Forestry  
Stead Timberlands  
TD Bank  
Timber Resource Group  
Timberstate G.  
Verso Paper  
Wadsworth Woodlands  
W.T. Gardner & Sons  
Wagner Forest Mgt.  
Weyerhaeuser

**DATE:** Jan. 22, 2019

**TO:** Everett Worcester, chair, Land Use Planning Commission

**CC:** Nick Livesay, Executive Director, Land Use Planning Commission

**FROM:** Patrick Strauch, Executive Director, Maine Forest Products Council

**RE:** Comments in favor of the proposed adjacency rule revisions

The Maine Forest Products Council (MFPC) represents our state's diverse forest products community, including logging contractors, sawmills, paper mills, biomass energy facilities, pellet manufacturers, furniture manufacturers, and the owners of more than eight million acres of commercial forestland in Maine (*See map, Page 5*).

The Council appreciates this important and long overdue review of the adjacency principle. Although there are recommendations below about needed revisions, we strongly support LUPC's efforts to conduct modern planning in the unorganized territory (UT), just as towns do in organized sections of Maine. Although the jurisdiction is unique, we hope opportunities can be created on the edges so that residents, including our current and future employees can live, work and enjoy a good quality of life.

So it was disappointing, though not surprising, to hear opponents at the Jan. 10<sup>th</sup> hearing focus on unjustified fears of sprawl in an attempt to discourage the commission from modernizing the adjacency principle. It isn't sprawl we should be worried about, but the fact there is so little development in the UT that it's becoming difficult for anyone to live, work or even recreate there. Without a serious effort to encourage economic development, the already alarming decline in the region will only get worse.

On December 26, 2018, voters in Magalloway Plantation approved deorganization and a bill to allow it will be introduced this legislative session. Municipal officers of Winterville, a community with a 2017 estimated population of 142,<sup>1</sup> recently requested a deorganization packet. Winterville completed a school withdrawal in 2014.

County officials are making preparations for Atkinson to join the UT on July 1, after the community voted 187-19 (nearly 91 percent) at the November referendum to deorganize. Codyville Plantation residents did the same, voting 7-0. Residents of Cary Plantation, population 189, voted 105-4 in November to deorganize, citing the town's dwindling numbers and increasing municipal costs.

In the past century, 50 communities have voted to deorganize, five since 2000. Other towns, including, Cyr Plantation, Seboeis Plantation and Brighton Plantation have considered or are considering deorganization.

*"What do you do, what does the town do, when they can't pay their bills? Do we go bankrupt? Do we lose our homes?" Diane Cassidy of Cary asked in a 2016 New York Times story. "There was no answer, other than deorganization."*<sup>2</sup>

<sup>1</sup> U.S. Census Bureau, American Fact Finder.

<sup>2</sup> <https://www.nytimes.com/2016/01/17/us/in-maine-local-control-is-a-luxury-fewer-towns-can-afford.html>

The Council believes there **must be** another answer. As Rebecca Graham of the Maine Municipal Association testified Jan. 10, “*While the LUPC generally works with the deorganized communities, such decisions do not function in a vacuum or without impacts on adjacent towns and cities. Land use planning in deorganized regions can have an enormous effect on the surrounded organized communities who struggle to provide services like public safety with in their existing tax base and could bear increased burdens associated with development adjacent to their communities. Additionally, development may also provide expanded opportunity to increase student enrollment and local economic activity.*”

Speaking of student enrollment, it was 1,033 in the UT in 2008-09, but has **dropped 22 percent** since then, to 805 in 2018-2019-2018. Another clear sign of the need for economic development is the enormous drop in building permits, pointed out by Peter Triandafillou of Huber Resources, when he testified Jan. 10. He has studied decades of statistics on UT building permits within a mile of an organized town or public road.

*“The average over the past five decades in this area is 195 permits per year. This activity peaked in the late 1980s, and has since dropped precipitously to a current rate of 40 per year,” Triandafillou said. “This isn’t healthy . . . The new rules will help direct development towards these towns. The rules need some changes to make them easier to work with, but overall, they make sense. It would be a great outcome if in the future, there was enough economic activity for a few UT towns near service centers to organize!”*

Those who want to defeat any meaningful review of the adjacency principle have resurrected buzzwords from decades past, such as “kingdom lots.” But development in the UT peaked in the late 1980s, has been dropping steadily ever since, and, as of the last five years, is 90 percent less than the peak.

When one looks at the heart of the industrial forest in the UT— a mile beyond an organized town or a paved public road – the average rate of development as measured by LURC /LUPC permits for new dwellings is about **one dwelling per township per decade. That’s 10 new dwellings per 24,000 acres per century. Many townships in the UT have seen no development at all over the past 50 years.**

In the meantime, new and traditional landowners have sold conservation easements (*See map, Page 6*) on about 2.25 million acres – an area slightly larger than Yellowstone National Park (2,221,766 acres). Development is no longer allowed and the ability to subdivide is very limited. These are not the actions of entities seeking non-forestry uses of forestland. The lands that were sold remain working forests that supply wood to consuming mills. Many were sold with supply agreements that run for decades and most are actively and sustainably managed.

Just look at the acres enrolled in Maine’s Tree Growth program, which have remained essentially unchanged over the past two decades. The peak acreage occurred in 1990 at 7,586,723 acres and the low in 1997 at 7,525,312 acres. The acreage reported for 2017 is only a few thousand acres – about 0.04 percent – less than 1990.

Although some have raised the specter of reduced public access, there has been no significant change in access policy throughout the north woods. The public is still welcome to recreate on this vast landscape. In addition, North Maine Woods, a non-profit, landowner-owned recreation management, continues its nearly 50-year tradition of providing campsites, maps and other facilities for recreation visitors on 3.5 million acres. That’s larger than Death Valley National Park, the largest national park in the continental U.S., which stretches 3,372,402 acres in California and Nevada.

So Maine’s unique mix of job creating, working forests with public access remains alive and well.

The Council strongly supports many of the proposed rule revisions, including adjustments to the adjacency principle that will benefit the UT’s residents, businesses and economy, but some concerns emerged in a meeting last month of MFPC’s Landowner Committee, including:

1. **Elimination of the adjacency rule throughout the jurisdiction.** While it is an archaic rule, the effort to modify adjacency was thought to be restricted in the areas of greatest development pressure (the edges of the jurisdiction). Eliminating adjacency in the interior without a zoning option replacement is not accepta-

ble. Without the one-mile rule remaining in the rest of the area, there is an issue of fairness. Some landowners have little or no area within the proposed new areas, yet lose potential subdivision options in other areas.

2. **Visual standards for scenic values.** Now referred to as “*Natural Character and Cultural Resources*,” this category has been expanded to include not only visual vantages from roads, but also from major water bodies, coastal wetlands, permanent trails or public property. There are no distance limitations and there is a requirement to screen views with no-cut buffers.
3. **Subdivision rules.** Items referring to soils restrictions, open space requirements are prohibitive and not appropriate for jurisdictions remote forested nature. Publicly available soils data, in particular, is broad and imprecise for determining development suitability in the rezoning phase. Rezoning should occur before landowners have invested in soils for design, etc.
4. **Concern about creating expectations around trails.** LUPC defines “permanent” trails (owned, managed and maintained by an organization or public entity), but there is public confusion about ownership and permanency. (Note a legal trail is a second means of egress on Page 57).
5. **There should be an exemption opportunity** for landowners who negotiated conservation easements based on development location options within the adjacency rule. The same goes for large lot development.
6. **We initially proposed that adjacency be considered** met when the proposed project is within a three-town radius (~18 miles) of a service center or recreation hub. LUPC eventually proposed a 10-mile distance and designated hubs. After public comment, the distance was reduced to seven miles and several communities/recreation hubs were dropped.

Our page-by-page concerns with the current proposals are:

- Page 27: “Exceptional recreation resources” is not defined, How would the commission determine whether a resource is exceptional?
- Page 33 2. a. (1): Exclude gravel pits. Gravel is scarce and typically found near water
- Page 29 and 36: This proposal requires harvesting and road permits in both D-LD low density and D-RD resource dependent zones, simply because they are D zones. There are D zones where such uses are anticipated, however, so harvesting and land management roads should be allowed by standards in D-LD and D-RD, Page 35 and 46: c. (3) in both zones allows for limited natural resource processing and recreation supply facilities in D-RD and M-GN. One might question why, if it is allowed in D-RD, this is needed in D-GN? The difference is a D-RD requires a zone change. A small footprint/ impact use should be allowed in an M-GN, and if a larger impact/footprint (20,000 sq. ft./ 10 acres) is required it would require rezoning to D-RD.
- Page 57 subdivision standards: Two means of egress are proposed if road is >1/4 mile long. The reason is for safety and fire reasons, but it would require more land converted to road and inordinate expense. Given the likelihood of an emergency, and people’s resourcefulness, this is over regulation. Municipalities don’t even require two means of egress.
- Page 59 scenic character – 2.a.(2): This is far too wide-reaching. Strike all of this language.
- Page 70: 500 feet of common space required, but 330 feet is an accepted standard in some literature. For example, a ~25 acre lot with 1000 feet of road frontage and 1100 feet of depth would need a 500’ corridor reserved – that’s half the lot!
- Page 93 traffic f. (2.): How far reaching is road “network?” LUPC should not be regulating private logging roads.

- Page 93: Natural resource processing with structural development is limited to 4,000 sq. ft. of gross floor area and site size of 3 area. We propose this apply to M-GN, but that the limits be increased for a D-RD, particularly to lots of 10 acres.

In summary, the Council is concerned about attention to trails, the vagueness around natural character and scenic impacts, subjectivity and interpretations of some language, and data limitations (i.e. soils, slopes) for planning subdivisions.

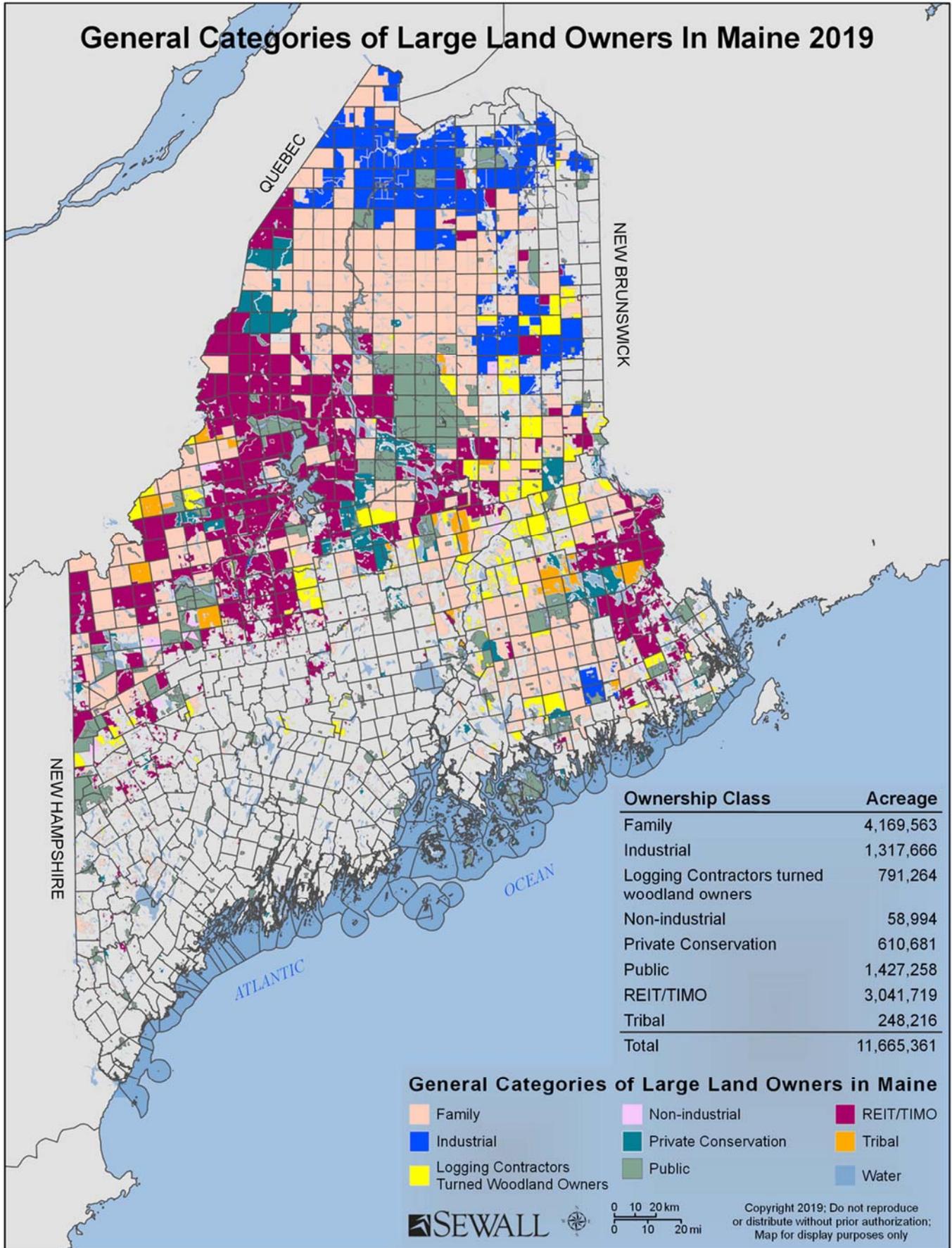
We are in favor of changing the adjacency rules to allow more flexibility to develop, particularly on the “fringes of the big woods,” close to services. That would naturally channel development to least remote areas. As we have said consistently, landowners want to:

- Increase areas where subdivisions are an allowable use
- Deem that, in these areas, adjacency is met
- Create flexibility to design types and size of lots to meet market demand and landowner objectives
- Have LUPC function similarly to rural Maine municipalities’ planning boards.

Maine’s \$8 billion forest products will need workers as it continues to modernize. So we strongly endorse and encourage policies that support the people who live – or want to live – in Maine’s rural regions.

The Council looks forward to working with the LUPC staff to improve the proposed adjacency rule revisions, use modern planning strategies and build healthier communities.

# General Categories of Large Land Owners In Maine 2019



**SEWALL**

0 10 20 km  
0 10 20 mi

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# Maine Conservation Lands 2019

## Legend

-  Conservation Easement
-  Conservation Fee Ownership
-  Conservation Fee Ownership with Easement as well

## CONSERVATION OWNERSHIP

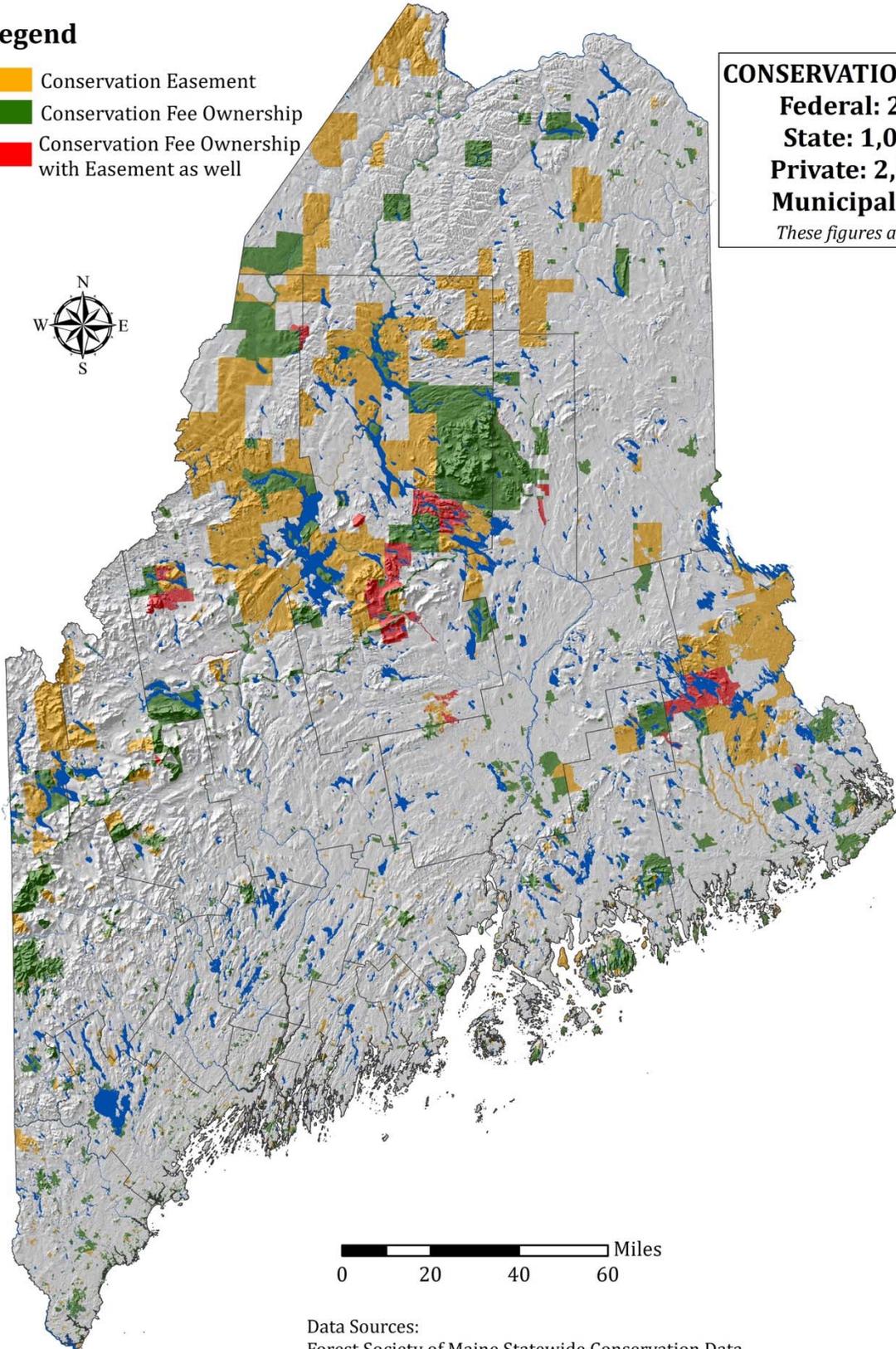
**Federal: 273,000 ac**

**State: 1,076,000 ac**

**Private: 2,578,000 ac**

**Municipal: 57,000 ac**

*These figures are approximate.*



Data Sources:  
Forest Society of Maine Statewide Conservation Data  
Maine Office of GIS



**FOREST  
SOCIETY  
of MAINE**

Map: 1/8/2019

## Godsoe, Benjamin

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**From:** Godsoe, Benjamin  
**Sent:** Tuesday, January 22, 2019 4:34 PM  
**To:** Horn, Samantha; Beyer, Stacie R  
**Cc:** Livesay, Nicholas  
**Subject:** Staff Comments on proposed adjacency and subdivision rule revisions  
**Attachments:** StaffComments\_Memo.docx

Hi all,

Attached, please find a memo with staff comments on the proposed adjacency and subdivision rule revisions. Here is a [link](#) to the same document on the network. Let me know if you have any questions.

Ben

**Ben Godsoe**

Senior Planner, Land Use Planning Commission  
22 State House Station, Augusta, Maine 04333-0022  
Phone (Direct): (207) 287 - 2619; Fax: (207) 287 - 7439  
Email: [Benjamin.Godsoe@maine.gov](mailto:Benjamin.Godsoe@maine.gov)



JANET T. MILLS  
GOVERNOR

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

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

## Memorandum

**To:** LUPC Commissioners  
**From:** Commission staff  
**Date:** January 22, 2019  
**Re:** Staff comments on the proposed adjacency and subdivision rule revisions

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Commission staff reviewed the proposed adjacency and subdivision rule revisions and recommend the following changes:

1. Add a definition of "Shoreland with Heavy Development" to aid readers in understanding Table 10.25,Q-1. Similar text already exists as a footnote.
2. Revise Section 10.25,D,4,d,(4),b "If a lot owners' association..." to "If an association..." to account for lease lot subdivisions. Also revise rule language to reflect that use of the term "owner" includes "lessee," unless stated otherwise.
3. Revise the title and sections in Section 10.25,E to match the wording in Section 10.24,C and statute; both use the wording scenic character and historic resources. Consider using scenic character and historic resources in Section 10.25,E.

## Godsoe, Benjamin

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**From:** John <jmwld@aol.com>  
**Sent:** Tuesday, January 22, 2019 8:50 AM  
**To:** Godsoe, Benjamin  
**Subject:** [EXTERNAL SENDER] Proposed changes to adjacency rules

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Benjamin,

I am writing to voice my opposition to the proposed rule change, which would alter and change the current adjacency rule.

I have been in business in the Moosehead Region for 50 years. I am a licensed forester, licensed master Maine guide and commercial floatplane pilot. During my career I was fortunate to have owned over 11,000 acres of timberland in the region in addition to that I have owned and still operate The Birches on Moosehead Lake. I have applied for and received approval for a Lake Concept Plan on my land as well as a subdivision. I currently own about 700 acres of timberland in the region.

The current rule absolutely works fine from my perspective. It allows development closer to existing development and provides remote recreation experiences away from developed areas.

I have stated at at least one LUPC meeting that I think the current rule works very well. I do not understand where the push to change the rule is coming from, because the testimony in hearings is overwhelmingly against changing this rule.

The Concept Plan method allows landowners to set aside public use land in return for some development. In my case there were 14 miles of beautiful lakefront on Brassua Lake and a whole pond (Baker Pond) preserved forever. That is a route that any large landowner can pursue to develop their land which waives the adjacency rule.

If it works don't change it. I believe that the current rule has worked very well as written for the past many years.

We need to keep the traditional North Maine Woods unbroken and relatively unspoiled for future generations to enjoy. The unique nature of our Maine Woods will be threatened if too much scattered development is allowed. I take hundreds of people for flights in the region and they always are impressed with the remote feeling of the region. This remoteness helps our special brand of tourism to thrive. Guests come from around the world to enjoy the beauty and quiet of our woods.

Just as a note, Weyerhaeuser, formally Plum Creek still has approximately 1,000 building lots and several resort areas approved but not yet developed in the Moosehead area. What happens if this new rule goes in? There could be another 1,000 lots, presto just like magic.

There is no need for outfitters to have remote canoe and kayak rental shops and food trucks in remote regions of the North Maine Woods, as this rule change would allow. That is ludicrous and unnecessary.

I believe the current rule is a safer bet than an unknown new rule. It absolutely works.

Thank you.

John Willard  
The Birches Resort  
Moosehead Wildlands