

**MAINE LAND USE PLANNING COMMISSION**  
Department of Agriculture, Conservation & Forestry  
22 State House Station, Augusta, Maine 04333-0022  
TEL (207) 287-2631 FAX (207) 287-7439

**DRAFT MINUTES**

**REGULAR MONTHLY MEETING**

In-person/Virtual - via Microsoft Teams  
December 14, 2022; 9:30 am Start Time

**COMMISSIONERS PRESENT**

Everett Worcester, Chair	Gwen Hilton	Lee Smith	Leo Trudel	Bill Gilmore
Betsy Fitzgerald, Vice-Chair	Perry Ellsworth	Peter Pray	Millard Billings	

**STAFF PRESENT**

Stacie Beyer, Executive Director	Stacy Benjamin, Acting Chief Planner
Ben Godsoe, Acting Planning Manager	Ruby Goodmen, Environmental Specialist
Audie Arbo, P&C Manager	Ellen Jackson, Programmer Analyst
Debbie Kaczowski, Regional Supervisor	

**OTHERS PRESENT**

Caleb Elwell, AAG  
Amanda Beal, Commissioner, DACF  
Judy East, Bureau Director, BRILUP

*Note: Commission votes are recorded in the following order:  
number voting in favor of a motion – number voting against a motion – number abstaining – number absent*

**ADMINISTRATIVE MATTERS**

**Introductions:**

Introductions were made by members of the Commission board.

**Commission Meeting Minutes**

Commissioner Fitzgerald moved to approve the December 14, 2022, minutes; Commissioner Ellsworth seconded

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Abstain; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye

**8-0-1-0**

**Executive Director Nomination and Confirmation:**

Commissioner Trudel moved to approve the nomination of Stacie Beyer as the LUPC Executive Director; Commissioner Fitzgerald seconded

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye  
**9-0-0-0**

**Election of Officers:**

Commissioner Trudel moved to approve Everett Worcester as Chair and Betsy Fitzgerald as Vice Chair; Commissioner Pray seconded

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye  
**9-0-0-0**

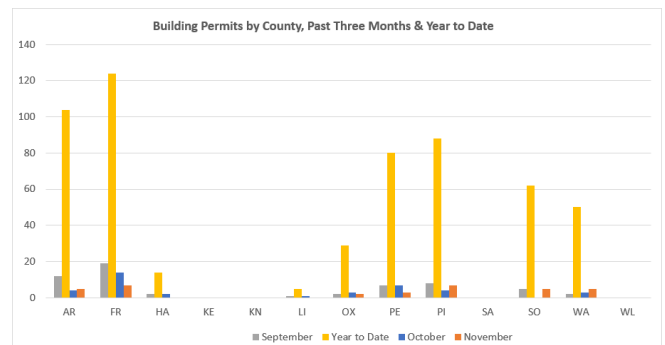
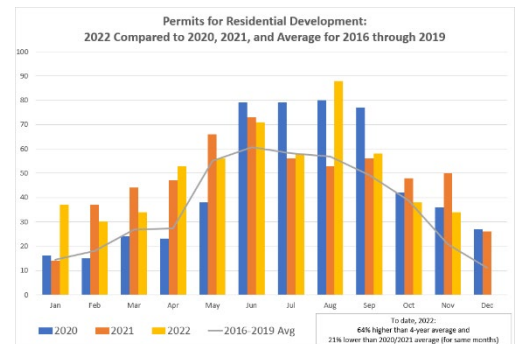
**DIRECTOR'S REPORT**

**Staff Updates**

- The LUPC still has multiple staff hiring efforts underway, but Stacie reported on several staff promotions:
  - o Kelly Shores has accepted a full-time, permanent Senior Planner position, and will be working out of the LUPC Downeast Regional Office. Kelly has worked for the LUPC for three years as an Environmental Specialist (ES) II and more recently as an ES III serving the East Millinocket Region.
  - o Karen Bolstridge has accepted the ES IV Southern Regional Supervisor position and has started transitioning into that role. Karen has 15 years of service with the LUPC, including as an ES II and an ES III in the Downeast Region, and will continue to work out of that office.
  - o Rachel Hauber has accepted the ESIII position in the Western Region. Rachel has worked for the LUPC since January of 2022 and has held the ES II position in the Western Region since May of 2022.
- Stacie congratulated all three on their new positions. When more staff positions are backfilled, Stacie agreed to share an updated organizational chart with the Commission, so Commissioners can see where everyone is.
- With the three positions filled, LUPC now has two ES III positions and two ES II positions to fill. Staff are preparing to post the ES III positions and one ESII position and are preparing to make an offer on the ES II position for Greenville. Staff have also reposted the part-time Senior Planner position for the third time.

**Permitting and Enforcement**

- Building Permit activity tracking shows that the number of building permits across the service area in November of 2022 was above the 2016-2019 average, but lower than the last two Novembers and trending down. The number of building permits by County continues to show that the highest number of building permits for this year are being processed for Aroostook and Franklin Counties, with Franklin exceeding Aroostook in the year-to-date numbers, with over 120 total building permit applications.
- There were 85 active enforcement cases in November, up one from October. However, the potential enforcement cases have decreased by .5% to 219 potential cases. The number of potential cases that have been resolved increased by 13% now at 151. Stacie recognized staff for the increase in number of potential enforcement cases resolved last month, particularly in the LUPC's Northern and Moosehead Regions.



**Significant Projects**

- The LUPC updated Geographically Oriented Action Tracker database went “live” on December 7. There were a few glitches relating to the digital payment portal and some test data still

showing, but overall, the roll-out went well. Stacie expressed, on behalf of LUPC staff, appreciation for all the work that Chris Halstead, the Maine Geological Survey's Earth Resources Director, and Ellen Jackson, LUPC's Programmer Analyst, put in to make the new version of this database available for staff.

Regarding the upcoming calendar, the LUPC has potential agenda items for-

- January, including:
  - o Niboban Camps- A request for permit revocation
  - o White Mountain National Forest Resource Plan- A project overview
  - o Annual Performance Report to the Legislature- A summary of the report
  - o Location of Development 2022 Annual Report- A summary of the report
  - o Enforcement Work Plan- Update
  - o Training- Forestry/Forest Fires
- February
  - o BP-13111-A, Rangeley Plt., Appeal of staff decision
  - o Prospective Zoning Plan for the Rangeley Lakes Region- An update next steps
- March
  - o Attean Concept Plan- Posting replacement zoning to public notice
  - o Short-term Rental Policy Considerations
  - o Rulemaking- Delegation of authority for wetland boundary changes and FEMA map adoption, and other miscellaneous changes to Chapter 4
  - o Rulemaking- Miscellaneous changes to chapters 2 and 10

## **ENFORCEMENT MATTERS**

### **EC 22-43, MCR Properties, LLC, Beaver Cove - Ruby Goodman**

Ruby Goodman presented the recommendation for an administrative settlement agreement for Enforcement Case EC 2022-43 with MCR Properties, LLC (MCR) for violations associated with its property on Moosehead Lake in Beaver Cove Twp., Piscataquis County, Maine. The property is further identified as part of Maine Revenue Service Map PIP01, Plan 01, Lots 1.1 and 1.2 (the subject parcel). The activities conducted causing the enforcement case were the removal of vegetation within an approximate 14-21 foot wide by 100-foot-long cleared area located 0 feet of the normal high water mark of Moosehead Lake in violation of the Commission's rules and regulations and the conditions of approval for Building Permit BP 16923. In addition, MCR graded and removed, or caused the grading and removal of topsoil within a 14-foot-wide area between 0 and 20 feet of the lake, with no erosion control measures in place and in violation of the Commission's Filling and Grading Standards and the conditions of approval for Building Permit BP 16923. A review of the Commission's records indicated that MCR did not first obtain a permit for this development. Staff recommended that the Commission direct staff to continue settlement negotiations with MCR for 30 days. If the Settlement Agreement is not signed within 30 days, staff requested the Commission allow the matter to be referred to the Office of the Attorney General for enforcement in court.

Commissioner Gilmore asked if there had been any soil stabilization between the time the violations were discovered and the time that the enforcement case was presented to the Commissioners. Ruby answered that the last time on-site, nothing had been done.

Commissioner Fitzgerald asked how long Ruby had been having a conversation with them to have a consent agreement. Ruby answered, it had been months. Commissioner Fitzgerald then asked, this has been going on for months and nothing has changed on the site? Ruby answered nothing has changed.

Chairman Worcester asked who discovered the violation, what caused staff to check on this property, were they putting in a permanent foundation, and are inspections of locations occurring before construction begins? Ruby answered that she and

Debbie Kaczowski discovered the violations while out in the area and, since a permit was recently issued, decided to see if everything was in compliance. Stacie Beyer, Executive Director, stated that it is a policy to look at permanent foundations during construction, but staff are unable to look at all of them.

Commissioner Smith then commented that the civil penalty seems as though it should be much higher. A 6,000-dollar fine is nothing compared to an 800,000 dollar house. Commissioner Trudel agreed and added that the fines just seem like the cost of doing business. He added that, until fines make an impact on the return-on-investment landowners are looking for, then it is just going to continue as the status quo. Debbie Kaczowski stated that it is part of the enforcement work plan to look at current policies and the current penalty matrix to see if we need to increase the matrix fees, but, at this point, we use the penalty matrix that we have.

Commissioner Billings questioned if the respondents were asked to stabilize soils while onsite. Debbie Kaczowski stated yes, when we were originally on site, they were asked to use additional erosion control. They did have some bark mulch but needed to add more to a small area. No sedimentation had been occurring at that time.

Commissioner Pray asked if the camper and propane tank were at an appropriate distance from the lake and if the camper had an appropriate waste management plan. Ruby stated yes, the camper was back beyond 100 feet from the lake and it was authorized under the permit. The record includes a statement from a facility that is willing to accept the wastewater from the camper. Commissioner Pray then asked if the temporary docks would be removed and the path would then be revegetated. Debbie Kaczowski answered that revegetation was part of the settlement agreement and would allow one 6-foot wide path.

Commissioner Billings agreed with other Commission members that the fine should be higher. He was very concerned that the Notice of Violation took too long to be issued. Also, that there shouldn't be permits issued to properties or applicants that have current enforcement cases on their property. Chairman Worcester and Commission Smith agreed. Director Beyer stated that once we receive a permit application, a permit decision must be issued. However, the LUPC must make a finding on technical ability and one of the considerations for that finding is whether there are any violations. Staff are looking at that language more carefully. Staff have told applicants with ongoing violations that they cannot make a positive finding on technical ability and discussed resolution of violations in that context. Commissioner Smith stated that staff seems reluctant to even consider holding an application hostage while the applicant resolves the current violation. If there is a violation on the property, then there should be no reluctance in holding the application. Director Beyer stated there must be due process. Staff need to make a decision, but it could be a denial, because the applicant doesn't have technical ability. Caleb Elwell, AAG, agreed. He stated that when a permit is submitted to the Commission and an applicant shows that they have met all the standards, legally, the permit must be granted. However, looking at the technical ability standard is a potential option. Commissioner Trudel asked if a permit could be revoked if conditions of a permit are not followed. Caleb Elwell responded that is generally true but to revoke a permit you would have to go to court. Once a permit is granted, that person is granted certain rights that are a bit onerous to take away.

Commissioner Smith commented that we now live in a world with excessive amount of money and wealth. People building dwellings in the UT aren't constructing small camps; they are building huge homes, so the fines should reflect the amount of money the applicant has.

Commissioner Gilmore commented that the violations were as blatant as he'd seen in his involvement with this Commission and the Commission needs to address it more aggressively or this is going to set a bad example for other big developers.

Commissioner Ellsworth noted there is minimal staff for the area in which they must cover. A 6,000-dollar fine is a pittance. Municipalities have stop work orders and have the ability to work quickly. The LUPC staff are doing what they can and following the procedures that they have but those procedures need to change because we are moving backwards by not punishing violations more severely.

Commissioner Billings asked if staff have the red stop work order tags like local code enforcement officers do, and if they do, why aren't they issued. Everett Worcester added that stop work orders should be considered. Caleb Ewell explained that it

might require a legislative change because the Commission only has a limited stop work order authority when there is a public health or safety issue. Chairman Worcester spoke to the cost of revegetating and Commissioner Hilton followed by asking what kind of professional is required to create a revegetation plan and what is the average cost. Ruby stated a licensed forester or other qualified licensed professional is required. Commissioner Trudel added that he thought the cost of hiring a professional was irrelevant and that most people are aware of the actions they are taking so the additional cost shouldn't be a part of the penalty equation.

Chairman Worcester asked if anyone was present from MCR Properties. At that time, their lawyer, Tim Pease, came forward to explain his client's position on the matter. Attorney Pease cautioned the Commission that the actions are allegations right now, they have only heard one side of the story, and they made some assumptions that there's eight-foot trees involved and that this property is a return on investment. He asked the Commission to hold their judgement. Further stating that the landowners have been working diligently to correct the situation, there are a number of action issues they still need to work on, and, hopefully, this case can get settled. If not, this case goes to court and gets settled there.

Commissioner Gilmore asked the lawyer if he was familiar with the shoreland zone regulations to which the lawyer stated he was not comfortable answering the question as it was asked. Chairman Worcester then asked if the lawyer was in fact contesting what the staff had recommended to the Commission because they believed that they may not be in violation. Attorney Pease stated they were still developing the facts to establish what was legally in existence and already cleared. Chairman Worcester then asked if there are historical photos to provide evidence of whether this opening was existing before or not. Attorney Pease stated that was the type of information he wanted to look for and it is a difficult time of year to do that. Commissioner Worcester stated the Commission is getting ready to vote on a 30-day timeline here.

Commissioner Trudel asked if the settlement agreement could be amended by the Commission with a higher penalty amount. Counsel stated it would require a new draft settlement agreement and would require additional time and negotiations.

**Commissioner Trudel moved to accept staff recommendation; Commissioner Hilton seconded**

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Nay; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye

**8-1-0-0**

**EC 22-36, Raymond Ormsby, TA R10 WELS - Ruby Goodmen**

Ruby Goodmen presented the recommendation on a settlement agreement for unauthorized activities that occurred on Raymond Ormsby's leased property, Lease #00012710-RC13-2, which is located on the property owned by Cassidy Timberlands, LLC identified as Maine Revenue Service Map PI016, Plan 01, Lot 1 in TA R10, Piscataquis County, Maine. Mr. Ormsby constructed a 22-foot by 106-foot private trailered ramp 0 feet from the normal high water mark of Upper Jo-Mary Lake on the subject property. The installation of the ramp additionally resulted in filling and grading within 4 feet of the lake, removal of vegetation within 100 feet of the lake, a cleared opening greater than 250 square feet in the forest canopy, and excavation and destabilization of an approximately 15-foot by 5-foot section of a natural berm located 0 feet from the normal high water mark of Upper Jo-Mary Lake. The destabilized section of the natural berm had not been repaired. Furthermore, a 7-foot by 30-foot area located 70 feet from the lake to the south of the dwelling, was filled and graded in excess of the Commission's filling and grading standards. A review of the Commission's records indicated that Mr. Ormsby did not first obtain a permit for this development. The staff recommended that the Commissioners ratify the settlement agreement which would require Mr. Ormsby pay a civil penalty of three thousand thirty dollars (\$3,030) within 30 days of the date of signature of the agreement by all parties, submit to the Commission the recording fee by check or money order for recording the agreement in the Piscataquis County Registry of Deeds, and submit photographic evidence to the Commission providing documentation that the revegetation and riprap stabilization plans have been completed as required by the terms of those plans.

Commissioner Hilton asked for clarification regarding the respondent's efforts to implement the shoreland stabilization project, how they put more rip-rap upland than required, and who was responsible for planting and ensuring the vegetation is planted

to standard. Ruby responded by explaining how the respondent placed rip-rap too far upland, but it was done with good intentions, and that the respondent will be removing more in the spring. Commissioner Hilton then asked who created the standards for the plan. Ruby responded that a forester created the plan for the revegetation, the landowner must implement it, and the LUPC is responsible for making sure the standards are met.

Commissioner Fitzgerald asked for clarification as to who owned the land because she was under the impression the respondent was also the landowner, which would have been an unusual case of self-reporting. Ruby clarified that the land is actually leased and that Prentis and Carlisle who manages the land and representing the landowner, contacted the LUPC to conduct a site visit.

Commissioner Smith asked how long the lease had been active and Ruby answered that the current leasee has been present on the lot for at least 15 years.

Commissioner Ellsworth asked about the size of the trees required to be replanted and who is in charge of making sure the revegetation plan is done correctly. Ruby responded that the licensed forester is the individual who created the revegetation plan using the Commission's revegetation standards and that the forester will accompany the staff in the spring on a site visit to ensure the trees are the correct size. Chairman Worchester added that implementing a minimum tree size might be a good addition to the revegetation plan. Commissioner Ellsworth commented that he was unsure as to why the shoreland areas around ponds and lakes in the UT and the organized areas aren't comparable. Shoreland areas in the UT are just as valuable as the land in the other parts of the State. Executive Director Beyer responded that the LUPC standards and the DEP standards are comparable; both use a point system when assessing tree removal within the shoreland zone. Commissioner Smith then asked if the revegetation standards are comparable. Executive Director Beyer was unaware of whether DEP has standards for revegetation, but the LUPC does have standards. Staff can look further into that further.

Commissioner Trudel asked what length of time the trees are monitored for to ensure they haven't been pulled or intentionally killed. Ruby responded that, at the end of five years, staff will conduct a site visit to see what percentage of the trees have survived and, if less than the required survival percentage is found, staff will require more trees be planted.

Commissioner Ellsworth commented that the trees in the Ormsby's revegetation plan are not going to be 4 inches DBH for a decade. He stated that the standards between the organized municipalities and the unorganized territories must be the same, which would require respondents in the UT to plant larger trees at a larger expense by a professional landscaper. Debbie commented that staff is still working with the respondent to ensure the trees planted will meet the revegetation standards.

**Commissioner Pray moved to accept staff recommendation; Commissioner Fitzgerald seconded**

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye

**9-0-0-0**

**Enforcement Work Plan – Debra Kaczowski and Audie Arbo**

Debbie Kaczowski presented a draft, conceptual Enforcement Work Plan for the Commission's consideration which outlines the Enforcement Work Plan under development and its priorities to strengthen regulatory compliance. The primary focus of the work plan will be on four key program areas: administrative, compliance monitoring, public education/outreach, and enforcement response. Each key program area focused on planned improvements, goals, and measures of success.

The Enforcement Work Plan will include baseline information from which the Commission will be able to measure results, including:

- a. Analysis of current compliance and enforcement trends by jurisdiction, region, and type.
- b. Statistics on the number of compliance inspections completed, the current rate of compliance inspections, the number of active and potential enforcement cases, and the average time for completing inspections, responding to complaints, and resolution of potential and active enforcement cases.
- c. Analysis of permitting trends (residential & non-residential) in the Commission's jurisdiction.
- d. Analysis of available technology for public outreach, training, and public information.

Chair Worcester asked whether the roughly 85 outstanding violations, were known violations or suspected violations. Debbie answered that they are known violations. Chair Worcester then asked counsel if we've identified a known violation could we have a page on our website that lists the owner, parcel with book & page, and what the violation is. Caleb Elwell stated that what the Commission believes or alleges to be a violation, is technically not a violation until a settlement agreement is reached or the court makes a finding as to the violation.

Commissioner Hilton asked whether there is a declaration form that the landowner has to fill out prior to the sale and do realtors automatically call to inquire about violations. Deb answered that not all realtors contact the LUPC prior to sales.

Commissioner Billings thought it was time that a plan was implemented, based on the number of violations being seen. Commissioner Billings also referred to the DEP's mandatory certification for contractors working in the shoreland zone and the WISH list that realtors deal with (Water, Insulation, Septic, & Hazardous Materials) which does not include any violations. Commission Billings asked, of the pending violations how many are in the shoreland zone? Debbie replied that could not be answered at this time and data analysis of violations will be part of the work plan.

Audie Arbo, P&C Manager, stated the next step outside of enforcement, would be to look at the possibility of coming more into line with the erosion and sedimentation control program that DEP has, including their statute, which requires certification to work in the shoreland zone and which doesn't apply in the LUPC's service area. This has been identified and is on staff's to-do list but is a bigger process that is separate from this work plan. Staff's hope is to model DEP's certification and somehow tie into DEP's certified contractors list. When that happens, enforcement is a little bit easier because, if a contractor violates Commission standards or permit conditions, enforcement mechanisms can include a requirement that the contractor retake the certification course.

Commissioner Hilton asked, what are the next steps; is staff going to do some research on the data that they have? Debbie stated that yes, the first steps are to analyze the data and look at current policies to see if they are adequate.

## **PLANNING MATTERS**

### **Solar Rule Revisions, Phase I – Ben Godsoe**

Ben Godsoe summarized Phase I of an anticipated two-part rulemaking effort to address different scales of solar energy generation facilities. Phase I includes proposed rule amendments to help improve efficiency and clarity in siting, evaluating, and permitting solar energy generation facilities. Key changes in this rulemaking include the creation of defined size classes for solar energy generation facilities in Chapter 2 and specifying which land use subdistricts will allow solar energy generation facilities in Chapter 10. Revisions also clarify existing definitions and standards related to solar energy development qualifying as accessory structures. The Commission posted the proposed rule language to a 30-day public comment period and a 7-day rebuttal period this fall. Ben summarized the comments received during the comment period, staff responses, and recommended actions.

Commissioner Gilmore asked for clarification about the use of the term "site design" in the context of solar and agricultural dual use. Also, are Commission staff looking down the road to see what sorts of technological advances, or regulatory changes, may be coming for solar? The Commission staff anticipate looking at design standards in a potential Phase II solar rulemaking, including topics such as decommissioning, wildlife-friendly designs, and siting solar in areas not optimal for farming (e.g., contaminated soils, disturbed areas, etc.). The staff are following statewide rulemaking and legislation on this topic closely to see if the Commission's rules may have to change to be responsive to the current thinking about solar development. Commissioner Hilton followed up by commenting that there are at least two bills before the legislature, and will potentially be more this session, that affect solar development.

Commissioner Worcester commented that there may be pushback on all the solar development occurring. Commissioner Gilmore added that solar development isn't necessarily a bad thing, but the Commission must be cautious about where it is

located and how. One of the standards on the list for consideration during Phase II regards decommissioning, and it may be possible to add more specificity to the requirements currently in the law.

Commissioner Trudel commented that most solar farms have a 20-year life span. There will likely be other energy sources that also become viable in the future. Commissioner Trudel asked for clarification on what the Commission could potentially do to protect prime farmland soils, which will become increasingly important. Currently, the Commission permits solar development on prime farmland soils by special exception provided the developer can restore the site so that it could actively be used for agriculture once the solar project is finished. Director Beyer added that while the current rulemaking addresses use listings and the definitions of different sized solar facilities, it does not address protection of prime farmland soils. If the Commission initiates a second phase of rulemaking on this topic, the staff would research potential policy options for consideration. Commissioner Trudel commented that if solar is more lucrative than farming, than it's likely that farmers will choose to pursue solar development, putting prime farmland soils at risk. Director Beyer commented that solar and agriculture do not necessarily have to be separate, and dual use of the same area is potentially feasible. The staff need to research what this would look like, and to think through ways to incentivize designs that minimize potential impacts to soils.

Commissioner Worcester noted that dual use may sound good but may not be practical in reality. Decommissioning is important and the USDA soil mapping may be helpful. In response to comments received, the staff reviewed the available soil mapping for "prime farmland" and "soils of statewide significance." If the Commission decided to add "soils of statewide significance" to the special exception criteria, the area within which it would apply would be much larger than is the case now. Phase II would likely include additional GIS modelling and consultation with the Department of Agriculture on the potential implications.

Commissioner Hilton commented that the staff should also keep in mind that some developers are interested in building stand-alone battery storage facilities and some of those may end up on farmland. These facilities would be treated as a commercial development and would need to be in a development subdistrict. It is also likely that some battery storage will be located within or very close to large-scale solar development.

**Commissioner Smith moved to accept staff recommendation; Commissioner Fitzgerald seconded**

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye

**9-0-0-0**

### **Moosehead Regional Planning Project – Stacy Benjamin and Ben Godsoe**

Stacy Benjamin presented the staff-initiated petition to implement the recommendations included in the revised Moosehead Regional Planning Package. The presentation provided a brief background on the Moosehead Regional Planning Project, an overview of the prospective zoning portion of the Moosehead Regional Planning Package and staff recommendation, and an overview of the proposed rulemaking portion and the staff recommendation. The Package is the culmination of a two-year regional planning process that was initiated when the Concept Plan for the Moosehead Lake region was terminated in 2020.

Zoning Petition 791 proposes to rezone six areas in four minor civil divisions (Beaver Cove, Big Moose Twp, Long Pond Twp, and Taunton & Raynham Academy Grant) to development subdistricts. These locations are proposed as either General Development (D-GN) or Residential Development (D-RS) subdistricts and comprise a total of approximately 1,036 acres.

Staff reported that public notice for the comment period for the rezoning was provided as required, as well as requests for review by resource agencies, and that 28 written comments were received in response to the public comment period from September 28-November 7, 2022. Staff summarized the comments received as follows:

Topic: Prospective Zoning Locations



- Location A: Two commenters opposed the inclusion of Location A in Long Pond Township. In addition, the Maine Historic Preservation Commission commented that a Phase II archaeology survey is required before any development proposal can be submitted for this location due to the presence of potentially significant archaeological resources.
- All Locations: The U.S. Fish and Wildlife Service noted federal activities occurring at any of the six locations may require Section 7 consultation for the federally listed species that may occur there.

Commissioner Smith ask for clarification regarding what constitutes a federal activity. Staff responded that any activity requiring a permit from the U.S. Army Corps of Engineers, or that involves federal funding would trigger National Environmental Policy Act provisions and potential consultation.

Commissioner Gilmore asked if we had any communication from the landowner about the proposed zones. Staff responded that no comments were submitted by Weyerhaeuser.

Topic: Comments Regarding Additional Protections

- Multiple commenters expressed a desire for more protections for fish and wildlife in the region.
- Commenters also noted the economic importance of keeping the northern forest intact for recreation and tourism, and the impact inappropriately located development could have on the region's dark skies.

Topic: Comments Generally Supportive of the Package

- Multiple commenters expressed support for the prospective zoning proposal and the Moosehead Regional Planning Package as a whole.

No changes to the prospective zoning component were proposed in response to comments received.

Staff then presented a general overview of the key statutory and regulatory review criteria for rezoning including consistency with the CLUP, no undue adverse impacts to uses and resources, consistency with the standards for district boundaries, and consistency with 12 M.R.S. CH. 206-A. To address the consideration of no undue adverse impact, staff noted that a phase II archaeology survey is required prior to considering any development proposals for Location A, and that any future development projects proposed will be reviewed by resource agencies per LUPC permitting procedures.

Staff concluded that the proposal met the relevant criteria for amending a land use district boundary and recommended approval of the rezoning proposal.

**Commissioner Gilmore moved to accept staff recommendation; Commissioner Fitzgerald seconded**

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye; Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye

**9-0-0-0**

Staff then presented the companion amendments to Chapter 10 Section 10.08-A proposed to provide for adjustments to the Location of Development criteria, both in the future and specifically for the Moosehead region. Future adjustments must result from a regional planning process that addresses the location of development through a balanced and comprehensive process, such as prospective zoning or community guided planning and zoning as described in the Comprehensive Land Use Plan and applicable Commission guidance documents. For the Moosehead project in particular, the proposed rule changes provide for the removal of Primary and Secondary Locations from ten townships and the removal of Primary Locations around all or portions of Indian Pond, Long Pond, and Brassua Lake (all Management Class 3 lakes).

Staff summarized the required notice that had been provided regarding the proposed rulemaking and reported that multiple commenters had written in support of the changes, and none were opposed. Staff recommended that the Commission adopt the rule revisions to refine the location of development criteria and revise Primary and Secondary Locations in the Moosehead Lake Region and the associated Basis Statement.

**Commissioner Fitzgerald moved to accept staff recommendation; Commissioner Smith seconded**

**Vote:** Betsy Fitzgerald: Aye; Millard Billings: Aye; Bill Gilmore: Aye; Gwen Hilton: Aye; Perry Ellsworth: Aye; Peter Pray: Aye;  
Lee Smith: Aye; Leo Trudel: Aye; Everett Worcester: Aye  
**9-0-0-0**

**COMMISSIONERS COMMENTS:**

None

**ADJOURN:**

Meeting adjourned at approximately 12:15 pm