



JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER
JUDY C. EAST
EXECUTIVE DIRECTOR

Memorandum

To: LUPC Commissioners
From: Naomi Kirk-Lawlor, Senior Planner
Date: February 3, 2020
Re: Atkinson Deorganization – Land Use Guidance Map Adoption Decision

Background

The Town of Atkinson officially deorganized and became Atkinson Township on July 1, 2019. Statute requires the Commission to adopt zoning for the township within one year of the effective date of deorganization (30-A M.R.S. § 7205(5)). The adoption of new zoning for Atkinson is proceeding under the established zoning petition process, in which the Commission is the petitioner. The draft zoning map was developed using information about existing natural resources and current land uses, and with the help of residents.

At the Commission's November meeting, staff presented the draft zoning map and the Commission voted to submit the staff initiated zoning petition for review. Public notice of the zoning petition and the draft Atkinson Township Land Use Guidance Map was posted on the LUPC website, and published in the Bangor Daily News and the Piscataquis Observer on November 22, 2019.

Comments and Response to Comments

The LUPC did not receive any public comments on the draft map. The Maine Geological Survey and the Department of Inland Fisheries and Wildlife both provided information about Atkinson Township, however, neither had any specific comments about the proposed zoning.

As described in the draft decision document, the Maine Natural Areas Program recommended that known natural areas including peatland ecosystems and upper floodplain hardwood forest ecosystems be zoned as P-WL1 subdistricts. Peatlands and wetland ecosystems within areas inundated by 100-year flood events (floodplains) both fit the description of the P-WL1 subdistrict. Therefore, these suggested changes were made to the draft zoning map.

Staff Recommendation

Staff recommend that the Commission review the draft zoning petition decision document, along with the draft Atkinson Township Land Use Guidance Map, make any needed changes, and then vote to adopt the map and approve the zoning petition.

Attachments:

Draft Zoning Petition Decision Document

Draft Atkinson Township Land Use Guidance Map



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DRAFT COMMISSION DECISION
IN THE MATTER OF

Establishment of Zoning in Atkinson Township as a result of Municipal Deorganization

Finding of Fact and Decision

ZONING PETITION ZP 778

The Maine Land Use Planning Commission (the LUPC or Commission), at a meeting of the Commission held on January 8, 2020 in Orono, Maine, after reviewing the petition and supporting documents submitted by staff (the petitioner) for Zoning Petition ZP 778, review agency and public comments, and other related materials on file, pursuant to 12 M.R.S. Sections 681 et seq. and the Commission's rules, finds the following facts:

1. Petitioner: Commission Staff (attention: Naomi Kirk-Lawlor)
Maine Land Use Planning Commission
22 State House Station
Augusta, ME
04333
2. Date of Completed Petition: 11/19/2019
3. Proposal Location: Atkinson Township, Piscataquis County
4. Acres to be Zoned: ~25,000
5. Affected Waterbodies: Piscataquis River, Alder Stream, Smith Brook, Levenseller Brook, Brown Brook
6. Present Zoning: None
7. Proposed Zoning:
General Management Subdistrict (M-GN)
General Development Subdistrict (D-GN)
Residential Development Subdistrict (D-RS)
Commercial and Industrial Development Subdistrict (D-CI)
Unusual Areas Protection Subdistrict (P-UA)



Flood Prone Area Protection Subdistrict (P-FP)
Shore Land Zoning Protection Subdistrict (P-SL1 and P-SL2)
Wetland Protection Subdistrict (P-WL1, P-WL2, and P-WL3)

Administrative Background

8. Atkinson residents voted in favor of deorganization in 2015 and a committee of citizens began working to develop a deorganization procedure. The deorganization procedure was submitted to the Maine Commission on Municipal Deorganization and formally accepted in May of 2016.¹ The 128th legislature approved deorganization of the Town of Atkinson, as described in Private and Special Law 2018 Chapter 14 (L.D. 1484).² Residents of Atkinson issued final approval for the town to deorganize through a vote of 187 to 19 on November 6, 2018. The effective date for the deorganization of the Town of Atkinson was set as July 1, 2019. In accordance with 30-A M.R.S. §7205(5), the Commission has one year from the effective date of deorganization to adopt a land use zoning map for Atkinson.
9. Commission staff attended the Atkinson Town meeting in February of 2019 to introduce the agency and describe its role in the unorganized and deorganized areas of the state. Commission staff hosted informal drop in hours at the Atkinson Town Office on April 10, 2019. During drop in hours, staff answered questions that residents or property owners had about how the zoning map process would unfold and how permitting would work once deorganization was effective.
10. A public informational meeting was held on April 24, 2019 and included an introduction to land use services provided by the Commission as well as an overview of the prospective zoning process.³ Participants had a chance to review a series of maps depicting natural resources and existing non-residential development in Atkinson. Residents were able to provide information about businesses that had not yet been inventoried. Commission staff discussed likely zoning based on existing natural resources and current land use with residents.
11. A draft zoning map³ was developed based on the information depicted in a series of resource maps and based on the land use inventory completed by Commission staff with the help of residents. During drafting, it became clear that several proposed P-WL subdistricts, which were proposed based on the National Wetlands Inventory data, overlapped or were very close to existing structural development. In these locations, the Commission staff proposed to work closely with property owners and consultants to gather better information about existing wetlands at each site and more accurately delineate the boundaries of mapped wetlands.
12. Another public meeting was held on August 8, 2019 and focused primarily on reviewing the draft zoning map,³ which had been posted on the Commission's website prior to the meeting. Participants were able to see the map, ask questions, and make comments. About 20 people attended the meeting. During the meeting, the Commission staff received only positive comments about the draft zoning map.
13. Wetland delineation field work was done on July 30 and September 3, 2019 with the assistance of the consultant, FB Environmental. Once the P-WL subdistrict boundary edits were finalized, based on the consultant's report,⁴ those changes were incorporated into the draft zoning map. After the

¹ The Deorganization Procedure for the Town of Atkinson is included as Exhibit L in the application materials for ZP 778.

² L.D. 1484 is included as Exhibit O5 in the application materials for ZP 778.

³ Community meeting materials, agendas and summaries are included as Exhibit O4 in the application materials for ZP 778.

⁴ FB Environmental's wetland delineation report is included as Exhibit G3 in the application materials for ZP 778

second public meeting was held, one proposed D-GN subdistrict on Range Road was eliminated because no commercial activity was occurring there.

Public Notice

14. Notice of the proposed zoning petition was properly made to appropriate parties and the public as required under Chapter 4 of the Commission's rules. Notice of the public community meetings was sent by mail to all property owners based on contact information provided by the town. Additionally, posters advertising the meetings were posted in a public, visible place in Atkinson. Over the course of the project, staff regularly corresponded with property owners who could not make it to meetings but wanted to ask questions or make comments.

Project Information

15. The petitioner (Commission Staff) propose to establish management, development and protection subdistricts within the township of Atkinson. Establishment of zoning would extend sound principles of planning, zoning, and development to Atkinson Twp. as it joins the deorganized and unorganized areas of the State and comes under the jurisdiction of the LUPC.
16. The Commission prospectively zones Municipal Civil Divisions (MCDs) that become part of the Jurisdiction after deorganizing. Prospectively zoning an entire township entails: identification of existing natural resources, which ultimately are included in protection or management subdistricts; and identification of existing development and appropriate locations for future growth, which form the basis for establishing development subdistricts.

Commission staff developed a series of maps, based on existing data, that describes existing natural resources and existing development in Atkinson. These maps represent the best available data for the new township and are described below:

- A. *Water Resources*. This map shows the location of hydrologic features such as streams, rivers and waterbodies, wetlands depicted in the National Wetlands Inventory (NWI), watersheds, and 20-foot contours.⁵ There are no mapped significant sand and gravel aquifers in Atkinson.

Atkinson Twp. is an area rich in wetlands and that is reflected in the map. Alder Stream flows through the township, as well as the smaller Smith, Levenseller, and Brown Brooks. To the north, the township is primarily bounded by the Piscataquis River.

The Maine Rivers Study (Maine Dept. of Conservation, 1982) identified the Piscataquis River in Atkinson as a Level B River, exhibiting some outstanding characteristics of statewide significance. These unique or significant river resource values include: ecological resources, scenic resources, fishery resources, whitewater boating resources, and historic resources.⁶

- B. *Soil Resources and Flood Prone Areas*. This map shows the locations of different soil profiles in the township according to the National Cooperative Soil Survey's Soil Survey of Piscataquis County, Maine, Southern Part. Alluvial soils, identified by the State of Maine Soils Catena Key,

⁵ The Water Resources map is included as Exhibit G1 in the application materials for ZP 778

⁶ An excerpt of the Maine Rivers Study is included as Exhibit O6 in the application materials for ZP 778

are indicated in orange on the map.⁷ They exist primarily in the floodplain of Alder Stream and the Piscataquis River. FEMA has produced a Flood Insurance Rate Map for Atkinson.⁸

- C. *Other Natural Resources Map.* This map shows the locations of the Department of Inland Fisheries and Wildlife mapped Inland Waterfowl Wader Habitat (IWWH) and Deer Wintering Areas.⁹ The mapped IWWH areas largely coincide with wetland areas mapped in the NWI. The Deer Wintering Areas mapped in Atkinson are not based on field data that meet the criteria for the establishment of a Fish and Wildlife Protection Subdistrict (P-FW).
- D. *Conserved Lands.* This map shows the conservation lands GIS layer compiled by the state.¹⁰ More than half of the acreage in Atkinson is in conservation and in the Open Space taxation program.
- E. *Non-residential Land Use Inventory.* This map shows the location of non-residential land uses in Atkinson Twp.¹¹ Land use in Atkinson is dominated by conservation, forestry and agricultural land uses. Residences are located throughout the township, predominantly along roads. In some areas, homes are relatively close to one another (four homes within a 500-foot radius). There are eight cemeteries in Atkinson, two former school buildings, a church, and the former Town Hall, which also served as a school in decades past. Businesses and commercial activity are relatively abundant in Atkinson, compared with many locations in the unorganized and deorganized areas of the State. Existing businesses include: two hand-built canoe businesses, auto shops, dairy farms, horse boarding and riding lessons, snowmobile and chainsaw shop, junk yard or auto recycling, and home businesses such as gun repair, heating fuel, and a gift shop.
- F. *Tax Parcels.* This map shows the parcelization of Atkinson Twp.¹² The parcels show the recent digitization of town maps done by the company CAI Technologies as part of the deorganization procedure.

Proposed New Zoning

- 17. New proposed zoning is based on existing natural resources, existing development, input from property owners, and appropriate resource agencies.¹³ The following subdistricts would be appropriate in Atkinson, given the existing resources and development. Each proposed zone would conform to the subdistrict description in Chapter 10 Land Use Subdistricts and Standards, Sections 10.21 – 10.23.
 - A. General Management Subdistrict (M-GN): The General Management Subdistrict is intended to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required and development

⁷ The Soil Resources Map and associated materials are included as Exhibits E1, E3, and E3 in the application materials for ZP 778

⁸ The FEMA Flood Insurance Rate Map for Atkinson is included as Exhibit E4 in the application materials for ZP 778

⁹ The Other Natural Resources Map is included as Exhibit G2 in the application materials for ZP 778

¹⁰ The Conserved Lands Map is included as Exhibit O3 in the application materials for ZP 778

¹¹ The Non-Residential Land Use Inventory Map is included as Exhibit O1 in the application materials for ZP 778

¹² The Tax Parcel Map is included as Exhibit O2 in the application materials for ZP 778

¹³ The proposed Land Use Guidance Map for Atkinson Twp. is included as Exhibit A in the application materials for ZP 778

zones are not beneficial or necessary. Low density residential development is also common in areas zoned M-GN.

In Atkinson, the M-GN subdistrict is proposed for much of the township. These areas are currently low density, dispersed residential development, or actively managed for agricultural, conservation, or forestry activities.

- B. General Development Subdistrict (D-GN): The D-GN subdistrict is intended to allow for commercial development at a scale compatible with residential development. The zone is proposed in locations that recognize and promote existing patterns of development in appropriate areas and encourages future growth centers adjacent to areas of current development, where appropriate. In Atkinson, D-GN zones are proposed to accommodate current commercial activities. In the case of the proposed D-GN zone at the main crossroads in town (North Stagecoach Rd., South Stagecoach Rd., Range Rd., and Maple Rd.), the zone is also intended to accommodate future development. Explanations for the reasoning behind each D-GN zone are given below.
- I. The 'Crossroads D-GN' is intended to encompass the old Town Hall building, which may be used for offices and community gatherings, the chainsaw and snowmobile shop, and the auto repair shop. It is also intended to provide enough commercially zoned area should someone want to start a new business in town. The scale of the D-GN was determined by walkability.
 - II. The Range Rd. D-GN is intended to accommodate a hand-built canoe business. This will be a special exception use listing "light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet." D-GN is more appropriate here because of nearby residential dwellings than D-CI, which could also accommodate the manufacturing. The use is sufficiently buffered from nearby residential uses (it meets the special exception criteria).
 - III. The South Stagecoach Rd. D-GN is intended to accommodate the Atkinson Church. Institutional places of worship are an allowed use in the D-GN and since this lot is adjacent to a proposed D-CI zone, D-GN is more appropriate than D-RS zoning.
 - IV. The Sweet Cemetery Rd. D-GN is intended to accommodate future plans for an art center or location for outdoor skills classes. There are two buildings in this zone that have been used in the past for an arts center and to have people attend classes on traditional skills. Because they may charge fees for these classes, D-GN zoning was requested by the landowner. The proposed zoning includes a reasonable area around the structures for parking or future accessory structures. This area is not adjacent to any of the major roads in Atkinson.
 - V. The D-GN located on South Stagecoach Rd., south of Levenseller Rd., is intended to accommodate a hand-built canoe business. This will be a special exception use listing "light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet." D-GN is more appropriate here because of nearby residential dwellings than D-CI, which could also accommodate the manufacturing. The use is sufficiently buffered from nearby residential uses (it meets the special exception criteria).
 - VI. The D-GN located on Maple Rd., south of Powerline Rd., is intended to accommodate a business that provides horse stabling and horse-riding lessons.

- C. Commercial and Industrial Development Subdistrict (D-CI): The Commercial and Industrial Development Subdistrict is intended to encompass areas having existing commercial or industrial structures or uses that are not compatible with residential uses. The purpose of the D-CI subdistrict is to allow for intensive commercial or industrial uses and development that are separated from residential uses to prevent conflicts between nearby uses. There are two proposed D-CI zones in Atkinson.
- I. The Range Rd. D-CI is intended to accommodate a legally existing junk yard and automobile recycling business. There is also a residential use on the property, however, the predominant use is the business. The proposed zone extends north away from the road to include all areas used for storage of vehicle stock.
 - II. The South Stagecoach Rd. D-CI is intended to accommodate a future manufacturing use, perhaps a butchery and/or a commercial kitchen, at the former, mid-century school. The location is adjacent to the Atkinson Church. Manufacturing activities are unlikely to occur at the same time as worship or other religious activities.
- D. Residential Development Subdistrict (D-RS): The Residential Development Subdistrict is intended to set aside certain areas for relatively dense residential development and maintain these areas as residential in character by not allowing commercial development to locate there. For example, neighborhoods with four or more residences within a 500 ft radius would be consistent with the description of the D-RS zone in rule. Residential subdivisions are also zoned D-RS regardless of whether homes have yet been built.
- I. The proposed D-RS zone on Maple Rd., south of Pleasant Pond Rd., is a legally existing residential subdivision and therefore must be zoned D-RS. Presently, only one of the subdivision lots is developed with a dwelling.
 - II. The remaining seven D-RS zones were proposed based on the density of current residential development. They represent areas where four residences are located within a 500-foot radius:
 - D-RS zones (2) on Dyer Rd.
 - D-RS zone at the far southern end of Maple Rd. near the town line
 - D-RS zone on Range Rd.
 - D-RS zones (2) on Maple Rd. near the crossroads
- E. Unusual Area Protection Subdistrict (P-UA): The Unusual Area Protection Subdistrict is intended to protect areas of significant natural, recreational, historic, scenic, scientific, or aesthetic value that are susceptible to degradation by human activities. The zone allows flexibility in development activities and uses if they are not detrimental to the resource the zone is intended to protect.

In Atkinson Twp., the proposed P-UA zone on South Stagecoach Rd. is intended to protect the historic school house, which has been recently refurbished. The school house is known to be a historic building and cultural resource by the residents of Atkinson. The building currently contains one apartment dwelling, which is an allowed use in the P-UA, as long as it “will not detract from the values of the resources protected by the P-UA subdistrict.”

- F. Flood Prone Area Protection Subdistricts (P-FP): The purpose of the Flood Prone Areas Protection Subdistrict is to regulate in all flood prone areas certain land use activities in order to minimize the human, environmental, and financial costs of floods and flood clean-up programs.

In areas where there exist FEMA Flood Insurance Rate Maps, such as Atkinson, the Zone A areas identified by the FEMA map are incorporated into Flood Prone Areas Protection (P-FP) subdistricts by definition in Chapter 10; however, they are not expressly shown on the LUPC Land Use Guidance Map. Other areas that are known to be areas of special flood hazard are also included in the description of the P-FP. In Atkinson, these areas were identified as soils formed on alluvial deposits based on the National Cooperative Soil Survey. These soils are shown in Exhibit E1 and are located mainly on the floodplains of Alder Stream and the Piscataquis River. The proposed P-FP zones derived from the soils data are shown as mapped zones on the draft Land Use Guidance Map.

- G. Wetland Protection Subdistricts (P-WL1, P-WL2, and P-WL3): The purpose of the Wetland Protection Subdistricts is to conserve coastal and freshwater wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions which they perform. Proposed wetland protection subdistricts include: significant wetlands protection (P-WL1); scrub-shrub wetlands protection (P-WL2); and forested wetlands protection (P-WL3).

P-WL subdistricts are proposed around resources identified in the National Wetlands Inventory (NWI). In a few instances, mapped wetlands overlapped existing structural development. In these locations, P-WL boundaries were further refined based on wetlands delineations performed by the consultant FB Environmental (Exhibit G3).

- H. Shoreland Protection Subdistricts (P-SL1 and P-SL2): The purpose of Shoreland Protection Subdistricts is to regulate certain land use activities in certain shoreland areas in order to maintain water quality, plant, fish, and wildlife habitat, and in order to protect and enhance scenic and recreational opportunities.

The P-SL1 subdistrict is proposed in areas within 250 feet of the normal high-water mark of flowing waters that drain more than 50 square miles. The P-SL2 subdistrict is proposed in areas within 75 feet of the normal high-water mark of flowing waters that drain 50 square miles or less, and around standing bodies of water 10 acres or less in size that are fed or drained by flowing waters. In Atkinson Twp., all the mapped rivers, streams, and brooks have associated P-SL1 or P-SL2 zones proposed.

Review Criteria

18. Under 12 M.R.S. § 685-A(8-A) of the Commission's Statutes, and Section 10.08 of the Commission's Chapter 10, Land Use Districts and Standards, "A land use district boundary may not be adopted or 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.”
19. The purposes of the proposed district boundaries are summarized above in findings 17, A through 17, H of this decision document. The subdistrict purposes and descriptions are set out in rule in sections 10.21, 10.22, and 10.23 of the Commission’s Chapter 10, Land Use Districts and Standards and included as review criteria here as reference.
20. As stated above in finding 18,A, the proposed rezoning must be consistent with the Comprehensive Land Use Plan (12 M.R.S. § 685-A(8-A)(A)). The Commission’s 2010 Comprehensive Land Use Plan (the CLUP) provides goals and policies that pertain to this proposal, which include:
- A. Broad Goals of the Commission (CLUP, pg. 5). “Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine and property owners and residents of the unorganized and deorganized townships, to ensure the separation of incompatible uses and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.”
 - B. Location of Development Goal (CLUP, pg. 6). “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.”
 - C. Location of Development on a Jurisdiction-wide Level Policy (CLUP, pg. 6). “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, which includes a working forest, integrity of natural resources, and remoteness.”
 - D. Location of Development on a Community or Regional Level Policy (CLUP, pg. 6). “Undertake prospective zoning within certain areas of the jurisdiction where there is a need to achieve balance between expected development pressures and high resources values in order to provide greater regulatory predictability.”
 - E. Water Resources Goal (CLUP, pg. 18). “Preserve, protect and enhance the quality and quantity of surface waters and groundwater.”
 - F. Wetland Resources Goal (CLUP, pg. 19). “Conserve and protect the ecological functions and social and economic values of wetland resources.”
 - G. Cultural Resources Goal (CLUP, pg. 13). “Identify and protect unique, rare and representative cultural resources to preserve their educational, scientific and social values.”
21. A rezoning petition may not be granted unless the proposed land use district is consistent with the purpose, intent and provisions of Title 12, Chapter 206-A. 12 M.R.S. § 685-A(8-A)(A). Section 685-A(1)

establishes the Commission's zoning authority: "The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that shall fall into land use districts and designate each area in one of the following major district classifications: protection, management and development." Section 685-C(1) required the Commission to develop the CLUP and establishes: "The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter." Section 681 states the Legislature "finds that it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State" to, among other things, "encourage appropriate residential, recreational, commercial and industrial land uses."

Resource Agency Review Comments

22. Maine Natural Areas Program (MNAP) submitted comments related to known natural area features within Atkinson. MNAP recommended that the two large peatland ecosystems (an Unpatterned Fen at Alder Stream and a Raised Level Bog at the Bud Levitt Wildlife Management Area) be zoned as P-WL1 along with any overlapping protection zones, such as P-FP. These wetland complexes were proposed to be mapped as P-WL1, P-WL2, and P-WL3. There is an isolated area within the Unpatterned Fen that was proposed to be mapped as M-GN; MNAP recommends this area be mapped as P-WL1 as well. MNAP provided updated shapefiles for the extent of these peatland ecosystem features based on available aerial photography. The MNAP defined features largely follow the National Wetlands Inventory lands categorized as wetlands.

MNAP further recommends that three Upper Floodplain Hardwood Forest ecosystems within the floodplain of the Piscataquis River be zoned as P-WL1.

MNAP notes that there is a Special Concern plant, American Chestnut, mapped along Crosby Road in Atkinson. The location is under conservation easement and located in an ecological reserve. The landowner is aware of the feature and there are specific management terms in place for the chestnut grove within the conservation easement. MNAP considers the special concern plant to be adequately protected without adding a protection subdistrict.

23. The Department of Inland Fisheries and Wildlife (IFW) had no concerns about the proposed zoning map. IFW recommends that, should development be planned near habitat resources, care should be taken to minimize impacts on species of special concern, deer wintering areas, and inland waterfowl and wading bird habitats at the permitting review stage.
24. The Maine Geological Survey (MGS) has no specific concerns about the proposed zoning map. They note, however, that there have been significant petroleum spills in Atkinson near the area of Atkinson Corners. These spills have been documented by the Maine Department of Environmental Protection and assigned spill numbers (B-541-2008 and B-47-1986). MGS recommends that if any residential subdivisions are proposed to be developed in the area of concern near Atkinson Crossroads, a hydrological assessment of potential impacts to water supply wells be required as part of the permit review.

Public Comments

25. No public comments were received concerning ZP 778.

Response to Comments

26. Peatlands are specifically addressed in the Commission's description of the P-WL1 (wetlands of special significance) subdistrict (10.23,N,2,a,(c), (v)), which reads, "consisting of, or containing, peatlands, except the Commission may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance." Therefore, it is appropriate to apply P-WL1 zoning, and any additional applicable protection subdistricts such as P-SL1, P-SL2, and P-FP, to the areas identified by MNAP as the Unpatterned Fen at Alder Stream and the Raised Level Bog at Bud Levitt Wildlife Management Area.
27. The Upper Floodplain Hardwood Forest freshwater wetland ecosystems identified by MNAP are within the FEMA Zone A, the 100 year flood event areas. As such, they fit within the description of the P-WL1 zone (10.23,N,2,a,(c), (iii)), which reads, "that are inundated with floodwater during a 100 year flood event." Therefore, it is appropriate to apply P-WL1 zoning, and any additional applicable protection subdistricts such as P-SL1, P-SL2, and P-FP, to those areas.
28. Neither IFW, nor MGS had specific concerns about the proposed zoning map. Information and impacts relating to habitat resources, species of special concern, and groundwater contamination from past petroleum spills will be considered during the permit review process for future development permits in the region.

Based upon the above findings and the following analysis, the Commission concludes:

Consistency with the Standards for District Boundaries:

1. Pursuant to 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute, a proposed rezoning must be consistent with the standards for district boundaries in effect at the time.

The proposed zoning map for Atkinson Township was developed in response to the deorganization of the municipality of Atkinson. The Commission inventoried land uses and existing natural resources, and consulted with property owners to learn more about development trends and land owner intentions. The resulting land use inventory formed the basis for proposed new development subdistricts.

- A. The proposed General Management subdistrict¹⁴ in Atkinson conforms to the M-GN subdistrict purpose and description in Chapter 10, Land Use Subdistricts and Standards, Section 10.22,A. The proposed M-GN zones would include all areas not otherwise eligible for a development or protection subdistrict.
- B. The six proposed General Development subdistricts in Atkinson conform to the D-GN subdistrict purpose and description in Chapter 10, Land Use Subdistricts and Standards,

¹⁴ Described in finding 17,A

Section 10.21,C. The proposed D-GN zones are intended to accommodate current non-residential development, future landowner plans for commercial uses, and future residentially compatible commercial development.

- I. The 'Crossroads D-GN'¹⁵ encompasses current residential, commercial, and non-residential land uses. The zone is also prospective, in that it provides sufficient commercially zoned area for future businesses to locate in Atkinson.

The Comprehensive Land Use Plan (CLUP) includes a discussion of prospective zoning, by which the Commission "uses information on existing development patterns, natural resources constraints and recent trends to identify and zone areas appropriate for future growth (CLUP, pg. 63). The CLUP goes on to describe several communities that have deorganized and been zoned in this way. In each Minor Civil Division, the Commission "developed and adopted zoning maps which included development zones that have sufficient undeveloped land to accommodate future growth" (CLUP, pg. 64).

- II. The Sweet Cemetery Rd. D-GN¹⁶ is intended to accommodate the landowner's plans to use the property for outdoor skills classes that are commercial in nature.
- III. The remaining four D-GN zones are all intended to accommodate current non-residential land uses: three operating businesses¹⁷ and the Atkinson Church.¹⁸

C. The two proposed Commercial and Industrial subdistricts in Atkinson conform to the D-CI subdistrict purpose and description in Chapter 10, Land Use Subdistricts and Standards, Section 10.21,A.

- I. The Range Rd. D-CI¹⁹ encompasses a current, legally existing auto recycling business. The location is nearby residences. If a new, undeveloped D-CI zone were proposed adjacent to residences, the Commission would be likely to find it to be incompatible with the nearby uses. However, the use of this property as a junk yard is long-standing and the business is legally existing. In this case, historic, legal development patterns create a situation in which a D-CI zone is appropriate even though there are nearby residences.
- II. The South Stagecoach Rd. D-CI²⁰ is intended to accommodate a future manufacturing use in an existing building. This location is adjacent to the Atkinson Church. Manufacturing activities are unlikely to occur at the same time as worship or other religious activities.

¹⁵ Described in finding 17,B,I

¹⁶ Described in finding 17,B,IV

¹⁷ Described in findings 17,B,II; 17,B,V; and 17,B,VI

¹⁸ Described in finding 17,B,III

¹⁹ Described in finding 17,C,I

²⁰ Described in finding 17,C,II

- D. The proposed Residential Development subdistricts in Atkinson conform to the D-RS subdistrict purpose and description in Chapter 10, Land Use Subdistricts and Standards, Section 10.21,M.
- I. The D-RS zone on Maple St. south of Pleasant Pond Rd. is a legally existing residential subdivision and therefore must be zoned D-RS. At present, only one of the lots is developed with a dwelling.
 - II. The remaining seven D-RS zones represent areas where four or more single family dwelling units exist within a 500 foot radius unless that area is also within another proposed development zone.
- E. The proposed protection subdistricts in Atkinson conform to the relevant subdistrict purposes and descriptions in Chapter 10, Land Use Subdistricts and Standards, for the following subdistricts: P-UA, (10.23,M); P-FP, (10.23,C); P-WL, (10.23,N); P-SL, (10.23,L).

Protection subdistricts include resources identified by staff during a land use inventory conducted for Atkinson in 2019. Information about existing natural resources comes from GIS data available through the Maine Office of GIS, from other state and federal resource agencies, and from professional wetlands delineators. Information about historical and cultural resources comes from Atkinson residents and landowners.

- I. The P-UA²¹ subdistrict is intended to protect the historic school house, which is known to be a historic and cultural resource by the residents and landowners in Atkinson.
- II. The P-FP²² subdistricts would include areas identified in the National Cooperative Soil Survey (USDA Soil Conservation Service Southern Piscataquis County Soil Survey) that contain soils formed on alluvial deposits
- III. The P-WL²³ subdistricts includes areas identified in the National Wetlands Inventory meeting the purpose and description of the subdistrict and refined by field-based wetlands delineations. Also included, are areas identified by MNAP²⁴ meeting the purpose and description of the subdistrict.²⁵
- IV. The P-SL²⁶ subdistricts includes areas within 250 feet of flowing waters, downstream from the point where such waters drain 50 square miles or more; and areas within 75 feet of flowing waters upstream from the point where such waters drain 50 share miles.

²¹ Described in finding 17,E

²² Described in finding 17,F

²³ Described in finding 17,G

²⁴ Described in finding 22

²⁵ See findings 26 and 27

²⁶ Described in finding 17,H

Consistency with the Commission’s Comprehensive Land Use Plan (CLUP)

2. Pursuant to 12 M.R.S. § 685-A(8-A)(A) of the Commission’s statute, the proposed land use subdistricts must be consistent with the CLUP.
 - A. The proposed map is consistent with the Broad Goals of the Commission.²⁷ The proposal seeks to preserve, to the extent practicable, development rights available to property owners prior to municipal deorganization, while simultaneously protecting and conserving existing natural resources. Prior to deorganization, Atkinson did not have any zoning beyond state mandated shoreland zoning (38 M.R.S. § 435). Extension of the principles of sound planning and management for multiple uses through the Commission’s regulatory framework will ensure existing natural resources and historical development patterns are supported and promoted by separating incompatible uses, and maintaining outstanding quality water, air, forest, wildlife, and other natural resources.
 - B. The proposed map is consistent with the Location of Development Goal.²⁸ The proposal includes Development Subdistricts that reflect historical development patterns and focus development near existing similar uses. The majority of Atkinson Township would be within the General Management Subdistrict (M-GN), which encourages land management activities such as forestry and agriculture. Proposed development and management subdistricts would exclude natural resources otherwise eligible for inclusion in a protection subdistrict.
 - C. The proposed map is consistent with the Location of Development on a Jurisdiction-wide Level Policy.²⁹ Proposed development subdistricts would include areas consistent with historical development patterns. While protection subdistricts were based on existing natural and historic resources identified during the land use inventory, development subdistricts considered historical development patterns, existing densities, and landowner intent. As a result, they include undeveloped areas to accommodate future growth.
 - D. The proposed map is consistent with the Location of Development on a Community or Regional Level Policy.³⁰ The proposed zoning map was developed in a manner similar to past efforts to prospectively zone deorganized municipalities. The CLUP includes a discussion of prospective zoning, by which the Commission “uses information on existing development patterns, natural resources constraints and recent trends to identify and zone areas appropriate for future growth” (CLUP, pg. 63). The proposed zoning map for Atkinson Twp. was developed in this way as well.³¹

The CLUP goes on to describe several communities that have deorganized and been prospectively zoned. In each MCD, the Commission “developed and adopted zoning maps which included development zones that have sufficient undeveloped land to accommodate

²⁷ Described in finding 20,A

²⁸ Described in finding 20,B

²⁹ Described in finding 20,C

³⁰ Described in finding 20,D

³¹ See findings 8-13

future growth” (CLUP, pg. 64). The prospective zoning process for Atkinson resulted in the same outcome.³²

- E. The proposed map is consistent with the Water Resources and Wetland Resources Goals³³ (described in findings 19, E & G). The proposal includes shoreland and wetland protection subdistricts to protect water and wetland resources within the township including emergent, scrub-shrub, and forested wetlands. The proposal is at least as protective of water-based natural resources in Atkinson Township as the municipality’s state mandated shoreland zoning ordinance. In some situations, the Commission’s regulatory framework would provide more protection for designated resources. For example, shoreland zoning would provide some level of protection for non-forested wetlands over 10 acres in size, while P-WL subdistricts provide additional protection to forested and other wetlands under 10 acres in size.
- F. The proposed map is consistent with the Cultural Resources Goal.³⁴ The proposed P-UA subdistrict will protect a historic resource, identified as being culturally important by the residents and property owners in Atkinson Twp. This zoning will help protect the historic Atkinson school house so that it will remain a historic and cultural resource in Atkinson in the years to come.

Consistency with Chapter 206-A

- 3. The Commission evaluated the petition and finds it to be consistent with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the locations of existing natural resources and development as described in findings 15-16, the review of agency and public comments, and the record, the Commission concludes approval of the petition would be an act of sound land use planning. Therefore, the Commission concludes the proposed rezoning is consistent with the purpose, intent and provisions of Chapter 206-A, which cumulatively are designed to promote sound planning.

Impacts on Existing Uses and Resources

- 4. A rezoning petition may not be granted unless 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.

The Commission finds that proposed district designations have no undue adverse impact on existing uses and resources. This proposal extends zoning to a township that now falls under the jurisdiction of the LUPC as a result of municipal deorganization, but which previously had no zoning, aside from state-mandated shoreline zoning, in place to protect and manage its existing uses and resources.

The proposed development subdistricts reflect historical development patterns, owner development plans, and growth centers identified in consultation with residents and property owners. These

³² In particular, see finding 17,B,I

³³ Described in findings 20,E and 20,F

³⁴ Described in finding 20,G

development subdistricts should, over time, result in an overall positive impact on the community. The zoning will serve to direct development to the areas identified as being the most appropriate for those types of development. The zoning also provides greater predictability for anyone interested in developing and therefore may facilitate some economic development in the community.

The zoning also serves to discourage development in places that are not appropriate due to the characteristics of the land, resources, and uses in the area. Potential future negative impacts from development would be minimized by establishing protection subdistricts in the new township where there was no prior protection in place for significant natural resources. Establishment of protection subdistricts would create a baseline from which future potential impacts from specific development proposals could be measured.

Potential impacts on existing uses and resources are considered broadly when land use districts are proposed for adoption. The Commission has made such considerations here through the land use inventory; community engagement, and resource data mapping. The Commission looks in greater detail at potential impacts from development during review of permit applications and would, for instance, consider special areas identified by Maine Natural Areas Program and the Department of Inland Fisheries and Wildlife during a development review process in Atkinson Township.

Final Conclusions

5. In summary, and for reasons explained above, the Commission concludes that the proposed rezoning of Atkinson Twp. to: D-GN; D-CI; D-RS; M-GN; P-UA; P-FP; P-SL; and P-WL subdistricts:
 - A. Is consistent with the standards for district boundaries in effect at the time;
 - B. Is consistent with the Commission's Comprehensive Land Use Plan;
 - C. Is consistent with the purpose, intent and provisions of Title 12, Chapter 206-A; and
 - D. Will not have undue adverse impact on existing uses or resources.

Therefore, the Commission approves the staff-initiated petition to rezone Atkinson Township to: D-GN; D-CI; D-RS; M-GN; P-UA; P-FP; P-SL; and P-WL subdistricts.

In accordance with 5 M.R.S. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

DONE AND DATED AT BREWER, MAINE, THIS 12th DAY OF February 2020.

By: _____
Judy C. East, Executive Director

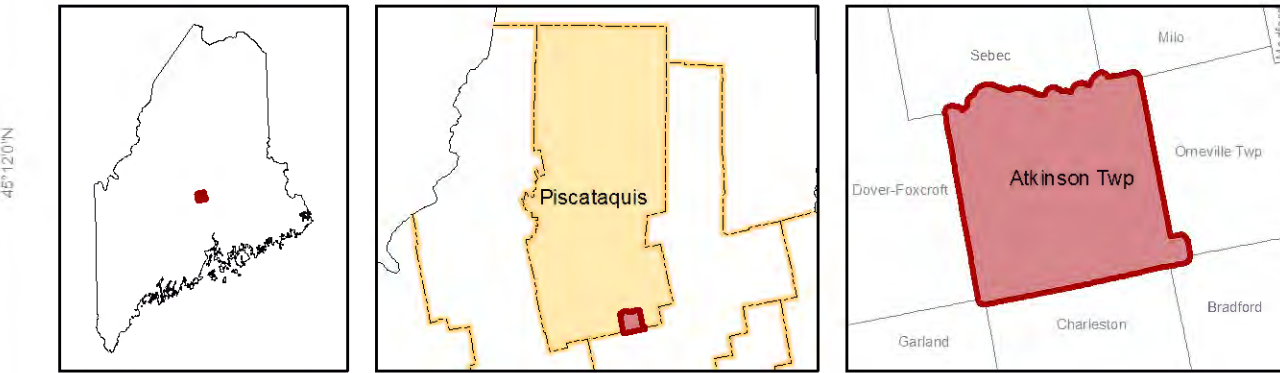
This change in subdistrict designation is effective on February 27th, 2020.

DRAFT

Atkinson Twp.



Piscataquis County



Land Use Guidance Map

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

Legend

DEVELOPMENT SUBDISTRICTS

- D-CI: Commercial Industrial
- D-GN: General
- D-RS: Residential

MANAGEMENT SUBDISTRICTS

- M-GN: General

PROTECTION SUBDISTRICTS

- P-FP: Flood Prone
- P-SL1: Shoreland - 250'
- P-SL2: Shoreland - 75'
- P-UA: Unusual Area
- P-WL1: Wetlands of Special Significance
- P-WL2: Scrub-shrub Wetlands
- P-WL3: Forested Wetlands

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For complete descriptions of those areas included within the various subdistricts, and the associated regulations, refer to the Commission's Chapter 10 rules: Land Use Districts and Standards. Where any inconsistencies exist between the district boundaries, as shown on this map, and those described by the Commission's Land Use Districts and Standards, the latter shall govern.

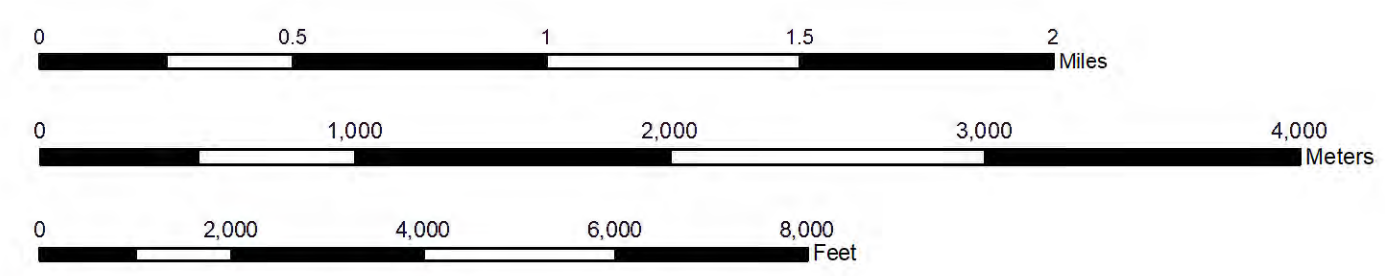
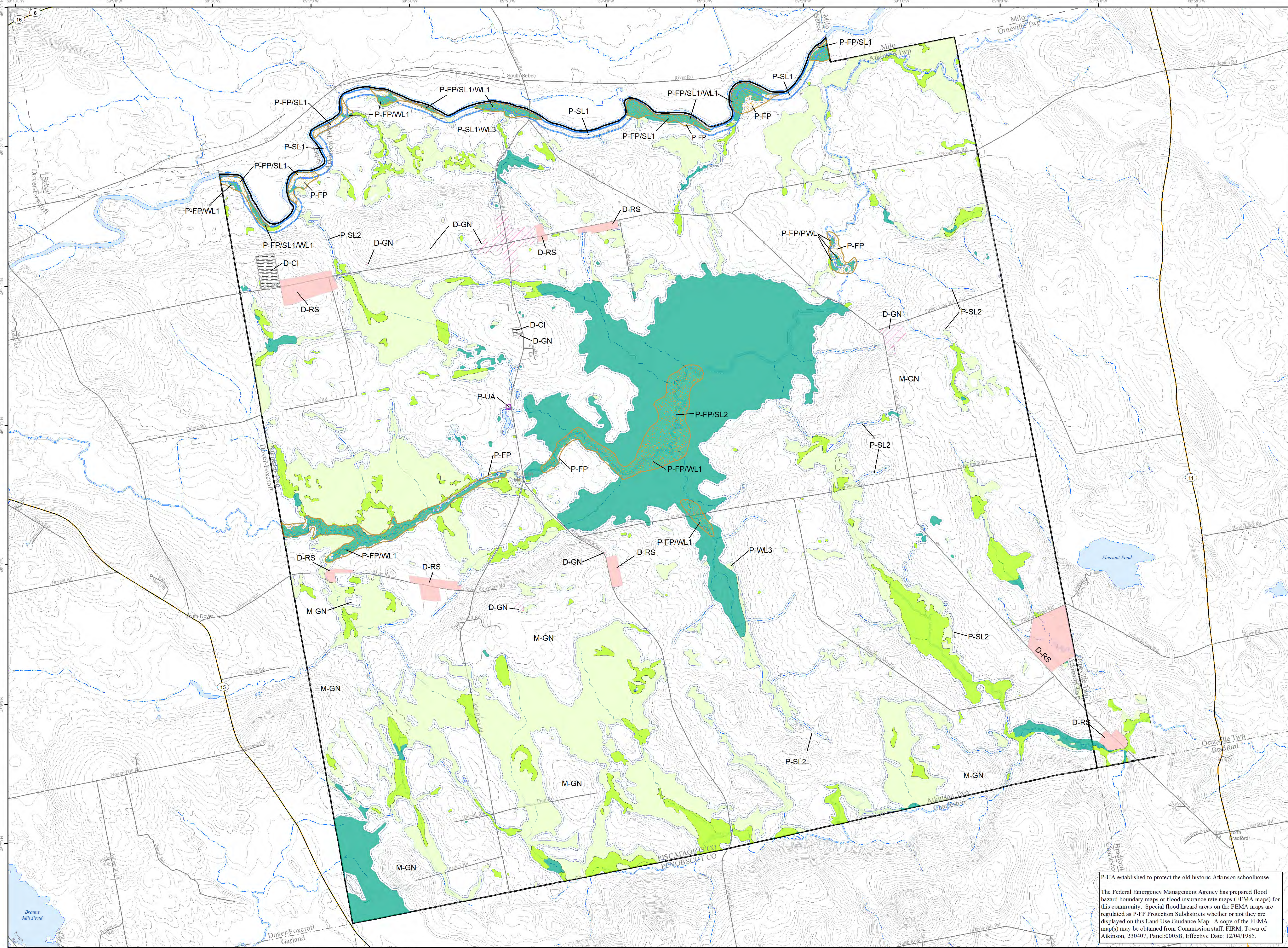
For simplicity, this map does not show all the Wetland Protection Subdistricts for areas identified pursuant to Section 10.23.N.2 such as the beds of rivers, lakes, and other water bodies, and freshwater wetlands within 25 feet of stream channels. Nevertheless, these areas are within P-WL Subdistricts. In addition, this map does not show the Shoreland Protection Subdistricts along stream channels flowing through wetlands. Nevertheless, these areas are within P-SL2 Protection Subdistricts. If the locations of flowing waters or bodies of standing water existing on the ground differ from those shown on the map, then, pursuant to 12 M.R.S., Section 685-A(2)(G), P-GP, P-RR, P-SL, P-WL, and other subdistrict boundaries that are based upon the location of such waters shall, as appropriate, be deemed to follow the flowing water or body of standing water existing on the ground.

This Land Use Guidance Map was adopted by the Maine Land Use Planning Commission on _____, and became effective on _____.

This map is certified to be a true and correct copy of the Official Land Use Guidance Map of the Maine Land Use Planning Commission.

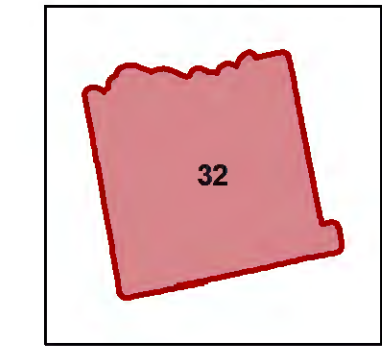
By: _____, Acting Director, Maine Land Use Planning Commission.

Amendments			
Location #	Zoning Permit	Effective Date	Remarks

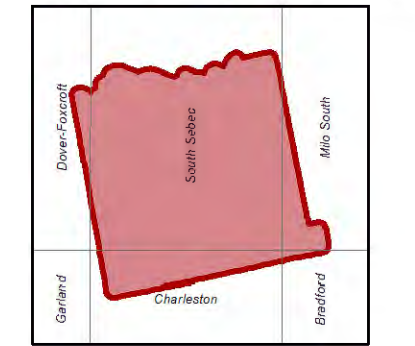


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DeLorme map locus



USGS 7.5' quad index



- Map amendment location
- Point at which a river drains 25 square miles - symbol points upstream (12 M.R.S. Sec. 682-B(4))
- 9999 MIDAS number: Unique number assigned to each standing body of water in Maine.
- WQLL Water Quality Limiting Lake - Refer to Section 10.23.E.3.g of the Commission's Land Use Districts and Standards.
- MC# Lake Management Classes - Refer to Section 10.02 (Definitions) of the Commission's Land Use Districts and Standards.