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COMMISSIONER

# Memorandum

**To:** Commission Members  
**From:** Hugh Coxe, Acting Planning Division Manager  
Tim Beaucage, Senior Planner  
**Date:** March 30, 2012  
**Re:** 'Recreational Lodging' Update

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## Introduction

Over the last several years staff and the Commission have identified aspects of the Commission's rules which have not kept pace with the evolving recreational lodging industry. During the past year staff conducted some research and inquiry of those issues by meeting with four recreational lodging business owners and operators, specifically: Appalachian Mountain Club's operation in KIW; Libby Camps; Twin Pine Camps and Hammond Ridge Resort; and Candeloro Camps. These initial site visits were identified based on their variety of lodging types and issues and the fact that the owners recently sought permits from LURC that highlighted the potential need for rule changes. At these site visits staff met with the owners/operators to view the facilities; discuss the concepts of their future needs and plans and regulatory issues; and brainstorm opportunities to improve the Commission's rules. These site visits have been invaluable in tying the discussion of the concepts to the real world and the goals of these business owners.

For reasons not specific to the recreational lodging research, staff has also visited the Flagstaff Lake Hut of the Maine Huts and Trails, Tomhegan Camps (single-family dwellings also operated similar to a sporting camp), and reviewed numerous development proposals related to recreational lodging, including campsites for personal use, new and expanding campgrounds, rental cabins, youth wilderness camps and the necessity to rezone for recreational uses.

This memo provides an introduction to the issues and an update of the potential scope in order to determine appropriate action by the Commission.

## Regulatory Background

### Comprehensive Land Use Plan

LURC's statute and its Comprehensive Land Use Plan ("CLUP") provide significant guidance supporting recreational uses. The following represents a small sample of statements:

- LURC's purpose: "...To prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses..." 12 MRSA Section 681

- Principle Value: "Diverse and abundant recreational opportunities, including many types of motorized and non-motorized activities. Unique opportunities exist for recreational activities which require or are significantly enhanced by large stretches of undeveloped land, ranging from primitive recreation in certain locations to extensive motorized trail networks. Recreation is increasingly an economic driver in the jurisdiction and the State. ..."
- Policies:
  - Encourage forest, recreation and other resource-based industries and enterprises which further the jurisdiction's tradition of multiple use without diminishing its principal values.
  - Encourage diverse, non-intensive and nonexclusive use of recreational resources ...
  - Accommodate a range of recreational uses and facilities in appropriate locations, based on the level of use, size, scale and compatibility with existing recreational and non-recreational uses. ...
- While the Commission is charged with protecting the values of the jurisdiction, it will ensure that reasonable economic development is accommodated, particularly facilities related to forestry, agriculture or recreation. Considerable opportunities exist for facilitating economic development in appropriate areas, and the Commission will reexamine its standards to assess their effect on economic growth. Specifically, the Commission will evaluate its permitting process, as well as its approach to regulating certain recreational uses, and other forms of commercial or industrial development. page 130
- The Commission recognizes that a number of enterprises support or reinforce the principal values of the jurisdiction, and these types of activities will be promoted by the Commission's policies and regulations. Certain recreational facilities, for instance, can accommodate recreational uses with less impact than multiple individual second homes or camps (e.g., traditional nonintensive facilities such as sporting camps or primitive campsites in more remote areas), and the Commission's policies and regulations will promote these types of uses. page 131

### Land Use Districts and Standards

LURC's regulations are based, in part, on the CLUP and provide a range of subdistricts; each subdistrict serves a purpose and allows a range of uses which are compatible with the purpose and other allowed uses within the subdistrict. Further, standards within the rules work to avoid or minimize impacts of one use upon another. For example, commercial sporting camps are defined, in pertinent part, as containing less than 10,000 square feet of floor area. This standard works to allow sporting camps that will be compatible with the range of other uses allowed within the same areas.

As a result more intensive uses are typically allowed within Development Subdistricts, low intensity uses are common within Protection and Management Subdistricts. This regulatory approach has provided predictability until recently when it has become clear that the Commission's rules have become outpaced by changing industries and uses.

### **Summary of Issues**

Site visits and conversations identified above have helped staff develop a broad list of issues, both big and small. While the list is not yet complete, clear themes are already becoming apparent.

### Definitions and Use Listings

Recreational lodging related uses, which appear to be consistent with the Commission's statutory purpose and the Comprehensive Land Use Plan, are not fully or appropriately accommodated in the Commission's rules.

Examples):

- 1) Commercial Sporting Camps are defined as being limited to not more than 10,000 square feet of floor area for all principle buildings. While that limit was viewed as appropriate when adopted, the recreation industry continues to experience demand for more square footage per client; a trend which appears to remain consistent between various types of lodging.
- 2) Commercial sporting camps are defined to include outpost cabins, a term which is neither defined or otherwise quantified or qualified. Several sporting camp operations have acquired existing dwellings, set apart from the primary sporting camp facilities, for use as outpost cabins. Those outpost cabins become part of the sporting camp and often put the total floor area of the sporting camp over 10,000 square feet. While the use of outpost cabins as part of a sporting camp operation appears to be consistent with the policies and intent of the CLUP and LURC's statute, it often results in a violation of our standards.
- 3) Increasingly property owners are seeking to construct and operate numerous rental cabins, a use which at least due to its non-exclusive use, is consistent with the CLUP. However, Chapter 10 is inconsistent in its listing of rental cabins as an allowed use across various subdistricts. As a result these operations often require a rezoning.
- 4) Youth camps are neither defined nor do they clearly fit an existing use listing. This use can commonly include 20-30,000 square feet or more of principle buildings, activity fields, waterfront activities, etc. Current rules and interpretation would require a rezoning for this type of use. While that rezoning step may be necessary and appropriate, given the level of development intensity, the Commission and the applicant are left addressing the adjacency principle, which often can not be satisfied in the locations that appear to be necessary and appropriate for this use.
- 5) If a commercial operation outgrows the definition of "Commercial Sporting Camp", LURC does not have a reasonably clear use listing under which that business would fit.

Potential Action: Review, revise and create appropriate definitions and use listings to ensure rules are more comprehensive and up-to-date with current and anticipated trends, with particular focus on the following terms/uses: campground, commercial sporting camp, outpost cabin, rental cabin(s), campsite(s), lodging facilities (when a commercial sporting camp outgrows the definition, as what use is it regulated?); and resort; and increase use of use listing groupings (e.g. Lodging Facilities).

### Standards

Increasingly LURC's standards are outdated, silent, or do not appropriately distinguish between recreational lodging related uses.

Examples:

- 1) Section 10.25 R, Cluster Development only applies to residential development, while some non-residential development, particularly recreational lodging, could benefit from the options provided by those standards.
- 2) Section 10.17 Expiration of Permit requires that "uses authorized under a permit must be substantially started within 2 years of the effective date of the permit and substantially completed within 5 years of the effective date of the permit...". While this standard may be appropriate for residential and some small-scale non-residential development; the standard is unrealistic and prohibitive for many larger developments with multiple components.
- 3) Chapter 10 does not provide specific standards by which to review campgrounds. This poses issues ensuring consistency with subdistricts and minimizing or avoiding conflicts between uses. For example, more than 50 sites might require vegetative buffers to minimize impacts upon neighboring uses.

- 4) Many uses, including lodging related uses, experience pressure to convert to other uses over time. For example some sporting camp and rental cabin operations have sought to convert to condominium ownership. Chapter 10 does not clarify if and how such conversion could occur. Further, these uses were commonly not developed with subdivision standards or dimensional requirements in mind. This creates a lack of predictability for the property owner and LURC staff. Current rules and interpretation require a rezoning for some types of recreational lodging uses, particularly larger or more intensive types of uses. While that rezoning step may be appropriate given the level of development intensity, the Commission and the applicant are left addressing the adjacency principle, which often can not be satisfied in the locations that appear to be necessary and appropriate for this use.

Potential Action: Review, revise and create standards for all appropriate uses to ensure rules are comprehensive and up-to-date with current and anticipated trends, with particular focus on the following uses and topics: permit expiration for non-residential uses; assorted standards in regards to multiple component non-residential development (e.g. dimensional requirements, signs, roads, clustering provisions, etc.); and review standards for campgrounds with intensive development.

### Subdistricts

In a number of cases development proposals are located within subdistricts which do not allow the proposed use. As a result landowners need to rezone the property in order for the development to be located within an appropriate subdistrict and subsequently receive the necessary permits. In many cases when identifying the appropriate subdistrict the existing subdistrict options may not be accommodating enough for the range of uses or, more commonly, the subdistrict may over accommodate or over zone the property (i.e. allow for secondary development that is less consistent than proposed use).

Examples:

- 1) If a commercial operation outgrows the definition of "Commercial Sporting Camp" the property would need to be rezoned to the General Development (D-GN) Subdistrict, which allows commercial uses of more than 2,500 square feet of floor area. The D-GN also allows schools, churches, subdivision, fire stations, and golf courses. While these use listings may be reasonable for some locations, these other uses would likely be incompatible with a site in the core of the jurisdiction.

Potential Action: Review and enable appropriate subdistricts from the Rangeley Prospective Zoning Plan subdistricts and/or Moosehead Lake Concept Plan subdistricts; and/or create a new recreation subdistrict.

### **Approaches to Address Issues**

While the list of issues and potential actions has not benefited from a comprehensive stakeholder process and is not yet complete, the Commission may want to consider to what degree can/should it invest time and resources now or later to address these issues. Approaches to consider may? The range of options include a comprehensive review and stakeholder process leading to possible statute and rule changes; to a targeted review, stakeholder process and rule revisions.

We will be briefing the Commission at its April 6<sup>th</sup> meeting, though we will not be expecting any decisions from the Commission.