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# Memorandum

**To:** Commissioners  
**From:** Stacie R. Beyer, Chief Planner  
**Date:** June 8, 2018  
**Re:** Subdivision Rule Review, Conceptual Layout and Design Standards

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## Introduction

Since early 2014, the Commission has had a process underway to review and revise its subdivision rules. Current LUPC layout and design standards focus on a community centered design concept as a way to ensure subdivisions fit harmoniously into the natural environment by avoiding linear placement of lots along roadways and shorelines. Level 2<sup>1</sup> subdivisions and certain subdivisions located on Management Class 4 or 5 lakes<sup>2</sup> must meet cluster development standards. During facilitated stakeholder meetings, participants indicated that the current LUPC subdivision layout and design standards are a high priority for review and possible revision. The highest priorities identified in that process included the appropriateness of the layout and design standards for the area served by the Commission, incorporating more flexibility, and allowing more design options for different areas/ regions of the unorganized territories.

From extensive research and outreach with design professionals, LUPC Staff has developed draft concepts for new subdivision layout and design standards to further the discussion. Ultimately, these concepts, subject to Commission revision and further stakeholder input, could be incorporated into rule and replace the existing Chapter 10 standards. At the Commission's June meeting, Staff will review the conceptual standards, and seek input and direction from the Commission on moving forward toward the drafting of revised subdivision rules.

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<sup>1</sup> Current identification criteria for Level 2 subdivisions, subdivisions allowed in General Management subdistricts without rezoning, are found in the Commission's Chapter 10 Rules, Section 10.25,Q,2.

<sup>2</sup> See Chapter 10, Appendix C and the Commission's Comprehensive Land Use Plan, Appendix C for information on lake management classes.



## Summary of Key Standards

The proposed conceptual layout and design standards:

- Add new subdivision layout options, increasing flexibility for subdivision design and replacing the existing community center model.
- Incorporate open space requirements across all subdivisions, tailored based on the location of the subdivision and proposed layout, with a focus on protecting rural character and natural resources, and providing continued wildlife passage.
- Replace Level II subdivisions with General Management subdivisions, and simplify the layout and design standards for these small-scale subdivisions which are located near roads and service communities, and away from major water bodies.
- Provide for preliminary, sketch plan review to help property owners with the siting and design of subdivisions, and minimize up-front technical costs.
- Remove the shared driveway requirement.
- Include access management standards that minimize new entrances onto existing roadways, plan for future access and connection of roadway systems, and provide for emergency egress.
- Ensure building envelopes are sited and sized to minimize direct and indirect impacts to natural resources, including wildlife habitat, and to fit with the overall character of the area.
- Create a new option, as part of the “Basic” subdivision layout, for identifying and incorporating land reserved for the creation of future back lots (i.e., non-waterfront lots) into the subdivision design, as an alternative to creating back lots today, if a market for the lots does not exist.
- Establish standards to ensure lot owners have reasonable access to recreational opportunities without overburdening existing public resources.

## Process

A draft of the Conceptual Subdivision Layouts and Standards document has been posted on the Commission’s website. Staff scheduled conference calls to provide stakeholders opportunities to ask questions, and invited submission of comments on the draft conceptual standards. A GovDelivery e-mail notice on the conference calls and comment opportunity went to the LUPC’s Subdivision Rule, Adjacency, and Rulemaking interest lists. Four interested persons participated on the conference calls, and one letter was received commenting on the concepts. During the conference calls, we received some feedback on the concepts including the need for additional hillside development standards, a definition for hillside, purpose statements for each of the subdivision layout options, clarification on how distances will be measured, and improvements in

the subdivision layout diagrams. The comment letter, a copy attached, recommended no changes to the Commission's existing subdivision rules.

**Next Steps**

The draft Conceptual Subdivision Layouts and Standards document has been revised in response to feedback provided during the recent conference calls, and further staff research and thinking. A copy of the current version of the conceptual standards document is attached. Comments from the Commission and any further stakeholder input will be considered during June and July with an anticipated schedule of having draft rule language ready for the Commission at its August meeting to consider posting for public comment and a public hearing in September. The attached timeline provides an outline of the schedule for reference.

Attachment 1. Conceptual Subdivision Layouts and Standards

Attachment 2. Comments from AMC

Attachment 3. Timeline: Subdivision and Adjacency Rule Revisions

# Attachment 1

## Subdivision Rule Review

### Conceptual Subdivision Layouts and Standards

June 08, 2018

Maine Land Use Planning Commission

Review of Subdivision Rules

**Conceptual Subdivision Layouts and Standards**

*June 8, 2018 DRAFT*

# Conceptual Subdivision Layouts and Standards

## Summary of Key Changes

The Maine Land Use Planning Commission has subdivision layout and design standards in Chapter 10, Section 10.25,Q,3 of its rules. Review of these standards has been underway since 2014. Incorporating what has been learned to date, staff have drafted conceptual layout and design standards. These concepts, subject to further public input and revision, could be incorporated into rule and replace the existing Chapter 10 standards. The proposed conceptual layout and design standards:

- Add new subdivision layout options, increasing flexibility for subdivision design and replacing the existing community center model.
- Incorporate open space requirements across all subdivisions, tailored based on the location of the subdivision and proposed layout, with a focus on protecting rural character and natural resources, and providing continued wildlife passage.
- Replace Level II subdivisions with General Management subdivisions, and simplify the layout and design standards for these small-scale subdivisions which are located near roads and service communities, and away from major water bodies.
- Provide for preliminary, sketch plan review to help property owners with the siting and design of subdivisions, and minimize up-front technical costs.
- Remove the shared driveway requirement.
- Include access management standards that minimize new entrances onto existing roadways, plan for future access and connection of roadway systems, and provide for emergency egress.
- Ensure building envelopes are sited and sized to minimize direct and indirect impacts to natural resources, including wildlife habitat, and to fit with the overall character of the area.
- Create a new option, as part of the “Basic” subdivision layout, for identifying and incorporating land reserved for the creation of future back lots (i.e., non-waterfront lots) into the subdivision design, as an alternative to creating back lots today, if a market for the lots does not exist.
- Establish standards to ensure lot owners have reasonable access to recreational opportunities without overburdening existing public resources.

## Introduction

Since early 2014, the Commission has had a process underway to review and revise its subdivision rules. Current LUPC layout and design standards focus on a community centered design concept as a way to ensure subdivisions fit harmoniously into the natural environment by avoiding linear placement of lots along roadways and shorelines. Larger Level 2<sup>1</sup> subdivisions and certain subdivisions located on Management Class 4 or 5 lakes<sup>2</sup> must meet cluster development standards. During facilitated stakeholder meetings, participants indicated that the current LUPC subdivision layout and design standards are a high priority for review and possible revision.

The highest priorities relating to subdivision layout included the appropriateness of the layout and design standards for the area served by the Commission, incorporating more flexibility, and allowing more design options for different areas/ regions of the unorganized territories. The Commission's Review of Subdivision Rules webpage provides reference materials and further details:

[http://www.maine.gov/dacf/lupc/projects/subdivision\\_review/subdivision\\_review.shtml](http://www.maine.gov/dacf/lupc/projects/subdivision_review/subdivision_review.shtml)

From extensive research and outreach with design professionals, LUPC staff has developed these draft concepts for new subdivision layouts and design standards to further the discussion. Ultimately, the concepts will be translated to draft language for a rulemaking proceeding to revise the Commission's subdivision rules.

The Commission has also been conducting a review of its adjacency principle, a policy that guides where new zones for development, including subdivisions, can be created. The Comprehensive Land Use Plan (CLUP) describes the adjacency principle and how it should be applied (2010 CLUP, pg. 62). To fully understand the conceptual layout types discussed in this proposal and where they may be allowed in the Commission's service area, see the complete information on the adjacency principle review found on the Commission's website at:

<http://www.maine.gov/dacf/lupc/projects/adjacency/adjacency.html>.

A key component of the adjacency review process is the proposed identification of primary and secondary locations, which will help determine where new development zones may be allowed. Primary and secondary locations, in general, will be near existing services and public roads. Outside of the primary and secondary locations, as presently proposed, rezoning to a residential subdistrict to allow for subdivision would only be an option for recreation-based subdivisions that satisfy specific requirements for location and connection to recreational resources.

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<sup>2</sup> See Chapter 10, Appendix C and the Commission's Comprehensive Land Use Plan, Appendix C for information on lake management classes.

## Table of Contents

I.	General Standards for All Subdivision Layouts.....	5
A.	Locations and Layouts.....	5
B.	Subdivision Lots, Sizes and Density .....	7
C.	Building Envelopes.....	7
D.	Open Space .....	8
E.	Access Management, Traffic Movement, and Roads .....	9
F.	Shoreland Development .....	10
G.	Hillside Development.....	11
H.	Recreational Amenities.....	13
I.	Procedures- Sketch Plan Review Meeting .....	13
II.	Layout Specific Standards .....	15
A.	Basic Subdivisions .....	15
B.	Clustered Subdivisions .....	16
1.	Density and Dimensional Requirements for Clustered Layouts.....	16
2.	Open Space .....	17
3.	Shoreland Development .....	17
C.	LowDensity Subdivisions.....	17
D.	FlexDesign Subdivisions .....	18
1.	Subdivision Objectives.....	19
2.	Subdivision Design .....	19
3.	Procedures- Sketch Plan Review Meeting .....	21
4.	Open Space .....	21



# Conceptual Subdivision Layouts and Standards

## I. General Standards for All Subdivision Layouts

The following conceptual standards in Section I apply to all subdivision layouts unless otherwise stated in the layout specific standards that follow in Section II.

### A. *Locations and Layouts*

#### 1. Residential Subdivisions

##### a) Subdivisions in Primary/ Secondary Locations

Residential subdivisions may be located in and designed for primary and secondary locations<sup>3</sup> in accordance with the rezoning standards for primary and secondary locations proposed for Chapter 10, Sections 10.08 and 10.08-A, and consistent with the Location and Layout Overview Table below.

##### b) Subdivisions Outside Primary/Secondary Locations – Recreation-based Subdivisions Only

- 1) Recreation-based subdivisions<sup>3</sup> may be located in and designed for areas outside primary and secondary locations in accordance with the rezoning standards for location-dependent activities proposed for Chapter 10, Sections 10.08 and 10.08-A, and consistent with the Location and Layout Overview Table below.
- 2) In addition, recreation-based subdivisions must have sufficient connection to an existing recreational resource, such as: Class 4 or 5 lakes, Class 7 lakes with existing development above a certain threshold<sup>4</sup>, or trailheads for permanent trails<sup>5</sup>, to facilitate use, and include safe legal right of access to, the resource by lot owners in the subdivision<sup>6</sup>.

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<sup>3</sup> Identification of primary and secondary locations, and what constitutes a recreation-based subdivision and where they may be located, is being considered as part of the Commission's adjacency policy review. See the Commission's website at <http://www.maine.gov/dacf/lupc/projects/adjacency/adjacency.html> for more details on the adjacency review process.

<sup>4</sup> This minimum density threshold is being developed in the Commission's adjacency principle review. It is currently proposed as: 1 dwelling unit per half mile of shoreline, at least one existing dwelling per 50 acres of lake surface area, and a minimum of five existing dwelling units.

<sup>5</sup> The definition for permanent trails is proposed in the Commission's Adjacency rulemaking as: A trail that is owned, managed, and maintained by one or more organizations or public entities for the purpose of allowing public access, and the location of which may vary slightly, but generally remains in the same physical location within a designated corridor.

<sup>6</sup> This language may be moved to the D-RS use listings depending on the final development of draft rule revisions.

## c) Location and Layout Overview Table

Residential Subdivision Location	Allowed Conceptual Layouts			
	Basic	Clustered	LowDensity	FlexDesign
In Primary/Secondary Locations (High, Medium, and Low Densities*)				
Inland (More than ½ mile from a major water body)	X	X	X*	X
Shoreland (Class 3, 4, and 7 Lakes)	X	X		X
Shoreland with Heavy Development (Lakes exceeding density guidelines <sup>7,8</sup> )		X		X
Outside Primary/Secondary Locations – Recreation-Based Subdivisions Only (Medium Density)				
Inland (More than ½ mile from a major water body)	X	X		X
Shoreland (Class 4, and 7 Lakes)	X	X		X
Shoreland with Heavy Development (Lakes exceeding density guidelines <sup>7,8</sup> )		X		X

\*Low density layouts must be >2 miles from a service community and > ½ mile from a major water body.

## 2. General Management Subdivisions

Any subdivision that meets all of the criteria below is considered a General Management subdivision. A General Management subdivision:

- a) Is a division within any 5-year period of an existing parcel of land within a single contiguous ownership into 3 to 14 lots or dwelling units, and occupies an aggregate land area less than 30 acres. For the purposes of this section, “aggregate land area” includes lots or parcels to be offered, and all roads and infrastructure associated with the subdivision, but excludes open space.
- b) Is located within a primary location and within ½ mile of a public road.
- c) Is located more than ½ mile from a major water body<sup>9</sup>.
- d) Is located wholly on land within an M-GN subdistrict, except that up to 20 percent of the aggregate land area may be designated or identified as minor flowing water or wetland at the time of the filing of a subdivision application.
- e) Is designed for a moderate or high-density subdivision in accordance with the standards for a Basic, Clustered, or FlexDesign layout as provided in Section II, Layout Specific Standards.

<sup>7</sup> Lakes exceeding density guidelines are lakes having more than one development unit per 10 acres of lake surface area, or having more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore.

<sup>8</sup> This category includes, but is not limited to Management Class 5 lakes.

<sup>9</sup> Major water body includes bodies of standing water greater than 10 acres in size and major flowing waters.

## B. *Subdivision Lots, Sizes and Density*

Density relates to the number of dwelling units per given area of land. In making sure that a subdivision fits with the existing character of an area, taken with other factors such as lot coverage, open space, and road design, the density of the proposal is a significant consideration. Medium density layouts are more common in the Commission's service area. However, high density developments can fit in growth areas closest to established service communities. Although low density development raises concerns about increased habitat fragmentation and negative impacts on delivery of services, in certain places, this level of density provides important opportunities for small family farms and woodlots.

The subdivision location determines what density is allowed. Density is generally measured by averaging the size of all lots in the subdivision, excluding common areas. The subdivision location also determines what subdivision layouts are allowed. See the Location and Layout Overview Table above. For Basic and LowDensity<sup>10</sup> layouts, the density calculation is straightforward following the general method. However, for Cluster and FlexDesign layouts, because individual lots may be smaller and the open space larger, the density measurement is modified to take this into account. In the Cluster and FlexDesign layouts, density (average lot size) is calculated by dividing the acreage of the entire subdivision, including common areas, by the number of lots or units.

1. Lot sizes must be designed to fit harmoniously with the natural and community character of the proposed location for the subdivision.
2. High density subdivisions are allowed in primary and secondary locations, and must meet the following: minimum lot size, 20,000 sq. ft.; maximum lot size, 3 acres; average lot size, < 2 acres.
3. Moderate density subdivisions are allowed in primary and secondary locations, and for recreation-based subdivisions outside primary and secondary locations, and must meet the following: minimum lot size, 1 acre; maximum lot size, 10 acres; average lot size, between 2 and 4 acres.
4. Low density layouts are allowed in certain primary and secondary locations<sup>11</sup>, and must meet the following: minimum lot size, 11 acres; maximum lot size, 25 acres; average lot size, >15 acres.
5. All subdivision and lot boundary corners and angle points must be marked by suitable, permanent monuments as required by the Maine Board of Licensure for Professional Land Surveyors.

## C. *Building Envelopes*

Building envelopes are areas of land within a lot that are designated on the subdivision plan and indicate where development can occur. They serve several planning purposes in the design of a subdivision, including showing that suitable area exists on each lot for development and all applicable dimensional

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<sup>10</sup> The design for a LowDensity layout must meet the low density subdivision standard, and that layout is the only option for a low density design.

<sup>11</sup> Low density layouts are allowed in primary and secondary locations provided they are also more than 2 miles from the boundary of a service community, and more than ½ mile from major water bodies.

requirements can be met, as well as ensuring the pattern of development will contribute to the design goals for the subdivision and fit with the overall character of the area.

1. Building envelopes must be identified on each lot designating suitable areas where structural development and permanently maintained cleared openings may occur. Activities not counted as permanently maintained cleared openings include a single driveway for access to the building envelope, cleared areas that are mowed less than twice a year, areas used for agricultural management activities, and trails for recreational access.
2. Building envelopes must be shown and labeled on the subdivision plan. Building envelope requirements must also be referenced in deed covenants for each lot specifying that structural development and maintained cleared openings must be located within the building envelope as shown on the Commission approved subdivision plan, as it may be amended from time to time.
3. Building envelopes must be located and sized to allow conformance with the Commission's dimensional requirements in terms of minimum setbacks and lot coverage, and vegetation clearing standards for shorelines and public roads.
4. Where practicable, building envelopes must be arranged:
  - a) In groups, allowing for larger open areas between groups of building envelopes;
  - b) To avoid placement along ridge lines, on prime farm land soils, in wetlands or drainage areas, on sustained slopes greater than 20 percent, or over any other topographic or natural features important to the site; and
  - c) To maximize privacy afforded to each dwelling unit.

#### *D. Open Space*

Open space is defined in Chapter 10 as “any parcel or area of land essentially unimproved and set aside, dedicated, designated, or reserved for the public use, for the common use of owners and occupants of land adjoining or neighboring such open space, or for purposes intended to preserve important natural features of the site.” Open space can serve many functions such as protecting rural character and natural resources, treating stormwater runoff, allowing for wildlife passage, and providing active or passive recreational opportunities. Given indirect impacts on wildlife from human disturbance, wildlife passages are intended to be open space areas that allow for the movement of wildlife around, between, or through areas of development.

The Commission recognizes that providing for common open space may be difficult for small subdivisions. However, the development of several small subdivisions along the same road could adversely impact rural character and wildlife movement, if there is no remaining open space. Land owner equity, in terms of who provides the necessary open space, is an important consideration. In certain limited situations (see Section I,D,3,a), and b)), the Commission may allow designs without provisions for wildlife passage.

1. Reasonable efforts must be made to locate any common open space in large contiguous blocks and connecting with off-site undeveloped land to form a continuous integrated open space system.

2. Significant wildlife habitats, imperiled and critically imperiled natural plant communities, and a minimum 250-foot undisturbed buffer around those resources must be included in common open space.
3. The subdivision design must include suitable open space for wildlife passage, at least 500 feet in width, around or through the development. The wildlife passage must be located adjacent to flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, or adjacent to one of the boundary lines of the subdivision, to the extent practicable. In addition, lots must be configured so that groups of lots are separated by at least 500 feet of undeveloped land such that lots within a group do not extend more than 1,320 feet along the existing access road or shoreline.
  - a) In cases where the subdivision design consists of four or fewer lots encompassing the entire existing parcel, and where the Commission has determined provision for wildlife passage exists within ¼ mile of the parcel, the Commission may allow subdivision designs without open space for wildlife passage.
  - b) In cases of subdivisions that constitute “in-fill” development, on parcels surrounded by existing development, for which designated open space would be an isolated pocket providing little long-term value, the Commission may also allow subdivision designs without open space for wildlife passage.
4. In cases where an existing recreational resource, such as a motorized or non-motorized trail managed for public access, is located in or within 1000 feet of the project boundary, the subdivision design must include provisions for all lot owners in the subdivision to safely access the resource without crossing private land outside the limits of the recreational resource, unless a legal easement is established for that use.
5. Common open space within the subdivision must be preserved and maintained in accordance with the Commission’s Chapter 10 rules, Section 10.25,S.
6. Where layout specific open space requirements reference net developable land and net developable shorefront, the terms are defined in Chapter 10, Section 10.25,R,2,a.
7. Open space must be clearly shown and labeled on the final plat as to its use or uses, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The plat must clearly show the open space land is permanently reserved for open space purposes, indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

#### *E. Access Management, Traffic Movement, and Roads*

Access management, relating to the regulation of new roadway intersections, proper roadway designs, and long-term maintenance, can ensure safe and efficient movement of people, goods, and services. In case of an emergency, when the principal access to a development could be blocked by downed trees or flooding, it is important to plan for a secondary egress to ensure that everyone can exit safely.

1. All subdivisions that include a new interior road(s) exceeding ¼ mile in length must include provisions for all lot owners to have at least two ways for emergency egress from the development.

Emergency egress may include egress by water for subdivisions on water bodies provided there is a legal right of egress off the water body such as a public boat ramp or dock, and may include existing motorized trails maintained for public access, provided all lot owners have a legal right of access to the trail.

2. The subdivision design must include no more than two entrances onto an existing roadway within any ½ mile section of road. Also, where practicable for the proposed development site, subdivision roads must be designed such that entrances onto existing roads are located directly across from existing entrances on the roadway, allowing for safe cross movement of traffic at the intersection.
3. If the subdivision layout includes a dead-end subdivision road, include in the design a reserved right-of-way for future connectivity offsite, unless existing site constraints make that impracticable. Also, where practicable, locate the reserved right-of way so that it does not cross the designated area for wildlife passage.
4. Whenever there is remaining land on a parcel proposed for subdivision that is not included in the subdivision layout and design, include in the subdivision design provisions for future access to the remaining land allowing opportunity for activities such as timber harvests, further lot development, or recreation.
5. Design roadways to fit the existing topography, minimize the need for cuts and fills, and meet the Commission's road design standards.
6. Design right-of-way widths for internal subdivision roads with sufficient room for future expansion, if needed. Rights-of-ways should be at least 50 feet in width.
7. Include provisions for long-term maintenance of the subdivision access road(s) such as maintenance of drainage structures, water crossings, and road grading or resurfacing.
8. If a lot owners' association is proposed for maintenance of common infrastructure or open space, the subdivision application must include draft documents necessary for establishing the association, providing for mandatory lot owner membership, lot owner rights and privileges, association responsibilities and authority, operating procedures, proper capitalization to cover operating costs, and the subdivision developer's responsibilities until development sufficient to support the association has taken place. Responsibilities of the association must include the maintenance of common property or facilities, levying annual charges against all owners to defray expenses, and the power to place liens on property of members who fail to pay assessments.

#### *F. Shoreland Development*

Shoreland areas are valuable resource assets and limited in extent. To ensure efficient use of these limited resources and minimize pressure on more remote areas, the Commission allows for some water front development in appropriate locations, while providing and balancing opportunity for non-waterfront development that has common water access. Where development is allowed, protection of surface water quality must be of utmost importance.

1. Shoreland subdivisions must include one of the following, except as allowed in this section below:
  - a) Non-waterfront lots that equal or exceed the number of waterfront lots in the layout;

- b) An area reserved for future layout and development of non-waterfront lots that is equal to or exceeds the area of waterfront lots in the layout; or
- c) A non-linear design that incorporates a majority of the waterfront in common ownership.

In cases where the Commission finds site specific constraints such as sustained steep slopes or wetlands do not allow for development of non-waterfront lots, the Commission may allow an alternative layout for a project site.

2. Shoreland subdivisions must also include provisions for useable common access to the water for all lots in the subdivision and for any future lots in reserve areas. Common water access must avoid open space designated for wildlife passage to the extent practicable.
3. Proposed permanent docks, trailered ramps, hand-carry launches or water-access ways must comply with the requirements of Section 10.27,L,2.
4. Designs must include best management practices for control of phosphorus in accordance with Section 10.25,L.

#### G. Hillside Development

*[LUPC Staff is seeking input from Commissioners and stakeholders on whether these standards should apply to all development not just subdivisions.]*

Development activities on hillsides can have significant impacts on scenic resources and users of those resources, and pose challenges for stormwater and erosion control. Particular attention to structural exteriors, buffers and screening vegetation, and stormwater best management practices can minimize those impacts.

##### 1. Definitions

- a) Hillside - Areas of two or more contiguous acres within a project area having sustained slopes of 15% or greater.
- b) Ridgeline - the line formed by the meeting of steeply sloping surfaces of land that are dropping away from each other. Significant ridgelines are ridgelines which, in general, dominate the landscape and are highly visible from public view points.
- c) Public view points - publicly travelled roadways, non-tidal water bodies and coastal wetlands, trails maintained for public access, public properties, and other public gathering places where observation and appreciation of the existing scenic character plays an important role in the public use of the place.

2. General Provisions. Except provisions for stormwater best management practices, hillside standards do not apply to developments or portions thereof that will be completely visually obstructed from public view points by topographic features or other existing natural conditions (such as slope or vegetation) that create visually obstructing conditions. In such cases, at the time of filing of a permit application, the applicant must demonstrate that these obstructing features or conditions will not be altered by any uses allowed with or without a permit.

3. Stormwater Management. The proposal must include plans for the construction and maintenance of stormwater best management practices designed to slow down and spread runoff from developed areas and ensure that increased runoff does not cause downstream soil erosion.
4. Ridgeline Protection. The development must be designed to ensure buildings, structures, and other improvements will not extend above the existing ridgeline or alter the ridge profile significantly when viewed from public view points.
5. Vegetative Clearing. The proposal must include a vegetation management plan that establishes and provides for long-term maintenance of clearing limits that will be sufficiently protective of public view points. The vegetation management plan must ensure:
  - a) There will be a sufficient area of clearing allowed around buildings to maintain the minimum extent needed for a fire safety defensible space.
  - b) There will be sufficient vegetation maintained on steep slopes to protect long-term slope stability.
  - c) Existing forest cover will be maintained to interrupt the façade of buildings, provide a forested backdrop to buildings and reduce or eliminate the visual impact of new development from public view points.
  - d) Clearing for views will be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades.
  - e) If clearcutting is allowed outside the building envelope, such as clearing for views, the plan must include a quantifiable standard for limiting that clearing such as: any trees removed for views will not exceed a 25-foot width of clearcutting and extend, outward therefrom at an angle of 45 degrees or less on both sides, beyond a point down-slope where the tops of the trees are at the same elevation as the lowest adjacent grade for the principal building. The 25-foot opening may be located at any point along the down-slope boundary of the building envelope.
  - f) The Commission may require additional vegetative clearing limitations or standards in cases where the public view point is a significant scenic resource.
6. Structural Development. The development must provide for building designs that will complement the site and topography (e.g., avoiding long unbroken roof lines; orienting buildings such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land; stepping the building down the slope rather than creating building pads that require extensive excavation and filling, and sloping roofs in the direction and general angle of the natural slope on the project site).
7. Construction materials. The proposal must ensure that:
  - a) Colors. The exterior colors of structures, including but not limited to siding, roofing, retaining structures, foundations, trim, gutters, vents and chimneys, will be earth tones naturally found at the specific site or in the surrounding landscape.



- b) Reflectivity. Structures use only low or non-reflective exterior building materials, including but not limited to windows, roofing, gutters, vents, and chimneys. If a highly reflective material, such as aluminum or other smooth metal, must be used for an essential component of the structure because no other material is reasonably available for that component, reduced reflectivity must be incorporated and maintained to the greatest extent practicable by, for example, painting the component with a neutral or earth tone color, boxing in the component with non-reflective material, or using a textured or pre-weathered version of the component.
8. Infrastructure. The proposal must include provisions for roads, driveways, utility corridors, and other similar linear infrastructure to be located and designed so as to minimize the visibility of corridor openings from public view points to the extent practicable (by, for example, following topographic contours and retaining existing vegetation).

#### *H. Recreational Amenities*

Recreational resources, whether water access points or multi-use trails, provide a number of benefits to seasonal and full-time residents of a local area. For subdivisions with limited on-site recreational opportunity, it is important to ensure that off-site opportunities within a reasonable distance are available for use by the lot owners. Also, where recreational resources are not located on-site, provisions are needed to ensure that added use of off-site resources by new lot owners does not overwhelm the resources, adversely impacting existing users.

1. Unless an existing publicly-available, recreational resource is (i) located within one-half mile of the project boundary, (ii) safely accessible for all subdivision lot owners, and (iii) has sufficient capacity to accommodate the lot owners, the proposed subdivision must include one of the following:
  - a) Provisions to increase the capacity at an existing, publicly-available recreational resource, that can be safely accessed by all lot owners, within one-half mile of the project boundary;
  - b) An on-site recreational amenity accessible to and able to accommodate all lot owners such as a common trail, common water access, or an open field; or
  - c) Permanent rights of access for all lot owners to a new off-site recreational resource located within one-half mile of the project boundary.

Examples of publicly available recreational resources include a public boat ramp, motorized or non-motorized trails managed for public access, downhill ski resorts, and other outdoor recreation centers.

2. Upon showing of good cause, the Commission may increase the distance an off-site recreational resource may be located from the subdivision.

#### *I. Procedures- Sketch Plan Review Meeting*

The purpose of a sketch plan review meeting is to discuss the characteristics of the site and the plan for development in conceptual terms at the earliest possible stage with the intent to streamline the formal

application process and minimize the applicant's costs for technical experts. The Commission may elect to hold a site visit at this preapplication stage.

1. Prior to submitting a permit application for a subdivision, the applicant must request and attend a sketch plan review meeting.
2. A sketch plan with no engineering details and with supporting submissions must be provided in advance of the meeting in conformance with guidance provided by the Commission.
3. The permit application for the subdivision must be submitted within 12 months after the sketch plan review meeting. If the application is not submitted within 12 months, the Commission may require a new sketch plan review.
4. Applicants may present a subdivision in phases, provided that the first phase contains at least 25% of the total number of lots as shown on the sketch plan.

## II. Layout Specific Standards

### A. Basic Subdivisions

Basic subdivision layout provides a straight-forward, simplified subdivision design while still meeting the Commission's subdivision objectives including maintaining rural character and protecting natural resources.

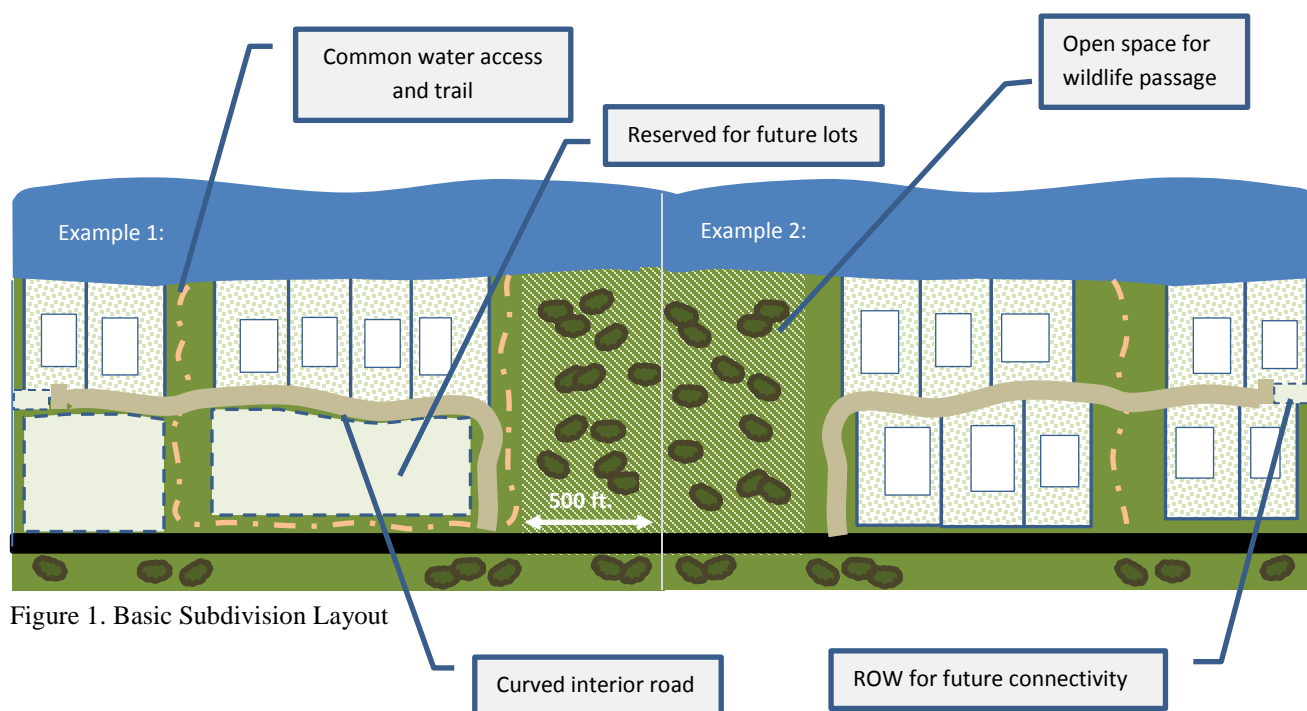


Figure 1. Basic Subdivision Layout

All general standards must be met, in addition to the following standards:

1. Building envelope size must be limited to no greater than 40% of the size of each lot.
2. Recreation-based subdivisions (which would be located outside primary or secondary locations) must meet the required open space percentage in Section II,A,3, below, unless the subdivision:
  - a) Abuts or is located within 1/4 mile of permanently conserved land, or
  - b) Includes provisions for the preservation of near-by, off-site conserved land.

Either of these options must include a total contiguous area and shore frontage on the same waterbody for shoreland developments that exceeds the open space percentage requirement for the subdivision.

3. Open space percentage—For recreation-based subdivisions, the total common open space must include at least 40% of the net developable land area and 40% of the net developable shoreline for shoreland developments.
4. Recreational trail incentive – For recreation-based subdivisions, the total open space percentage

for the subdivision may be reduced by 5% if an existing trail on the property is included in common open space or a new trail is constructed in common open space. An additional 5% reduction may be allowed if the on-site trail connects with an existing off-site trail managed for public access. Open space requirements for habitat protection and wildlife passage must still be met, and trail construction must minimize impacts to open space designated for wildlife passage.

### B. Clustered Subdivisions

This layout offers an opportunity to create a subdivision, particularly in highly developed or higher growth areas, with a reasonable balance between development and conserving open space. In this layout, smaller lots are grouped together to allow use of the rest of the project area for open space, recreation, or agriculture.

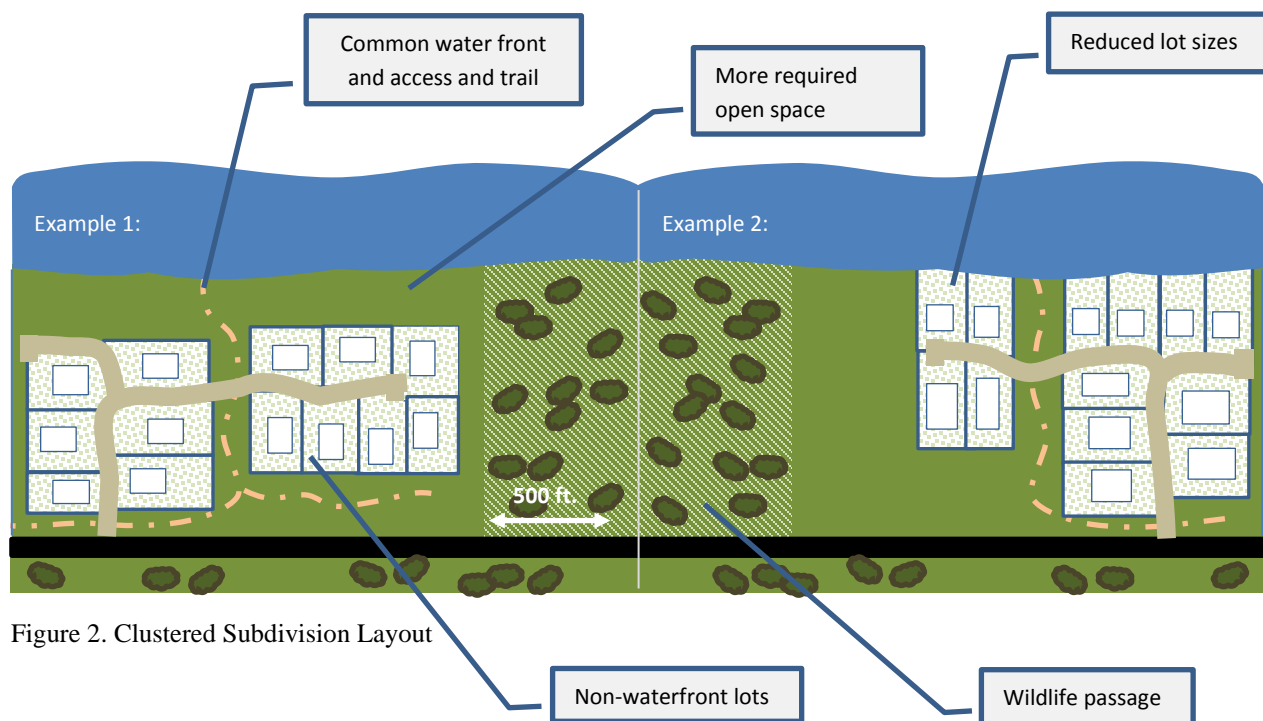


Figure 2. Clustered Subdivision Layout

All general standards must be met, in addition to or as otherwise stated in the following:

#### 1. Density and Dimensional Requirements for Clustered Layouts

- a) The Commission may reduce the minimum lot size for moderate density designs provided the lot density requirement for the subdivision is met in the aggregate, inclusive of proposed common open space; and may reduce the minimum road or shore frontage for individual lots in both moderate and high density designs, provided, in the aggregate, these dimensional requirements are met within the subdivision.
- b) In addition, the Commission may reduce dimensional requirements in the aggregate, provided:
  - 1) Dimensional requirements, in the aggregate, are not reduced by more than 50%;

- 2) Site conditions are suitable for more concentrated development on some portion of a site and such concentrated development will not adversely affect existing resources; and
- 3) The specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.

2. *Open Space*

- a) Open space percentage– the total designated open space must include at least 50% of the net developable land area and 50% of the net developable shoreline for shoreland developments.
- b) Subsurface disposal systems may be allowed in designated open space provided appropriate legal provisions are made for maintenance, access, and replacement; and the systems do not encroach on areas designated for wildlife passage or habitat protection.

3. *Shoreland Development*

- a) Shoreland subdivisions using a clustered subdivision layout must include non-waterfront lots that equal or exceed the number of water front lots in the layout. The general standard provision for using reserved area for future growth in lieu of non-waterfront lots is not allowed in this layout (reference Section I,F,1).

C. *Low Density Subdivisions*

The Low Density Subdivision layout, allowed in certain primary and secondary locations, offers larger lot sizes than other layouts and provides opportunity for rural land uses such as small woodlots and family farms.

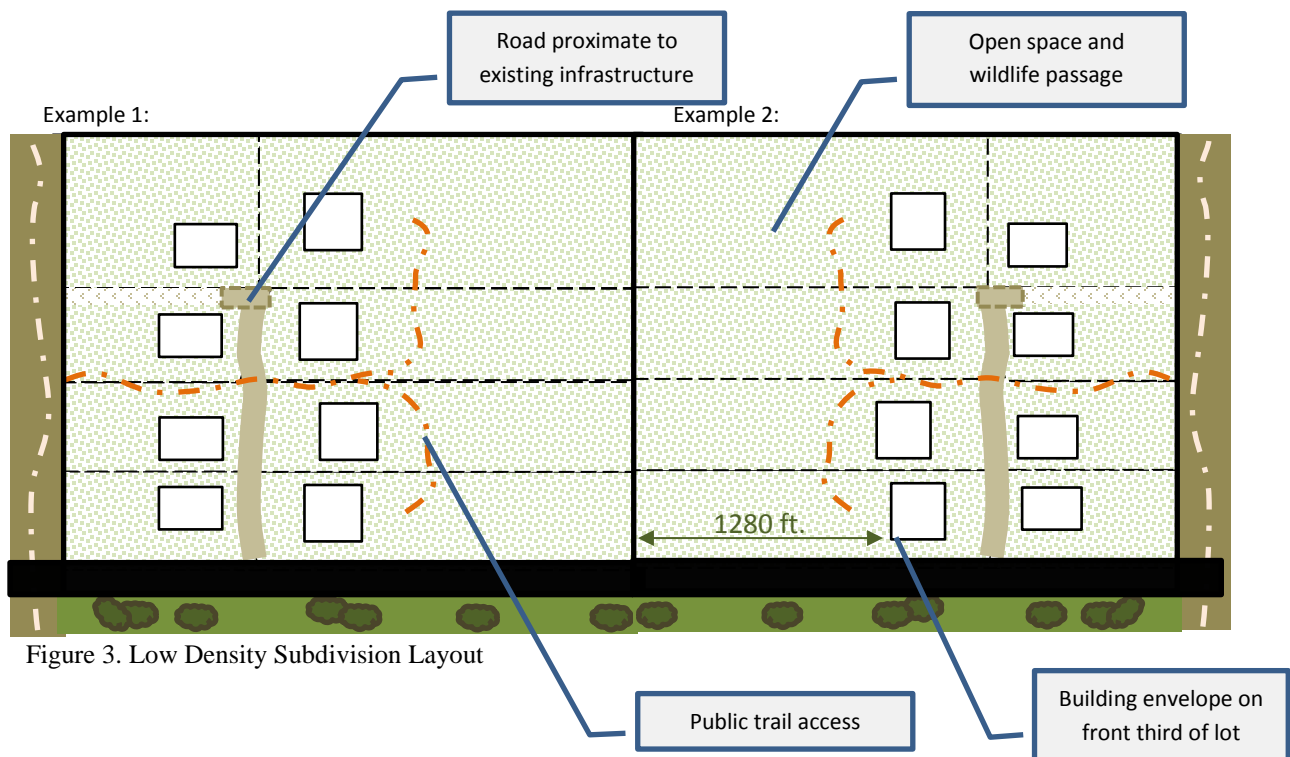


Figure 3. Low Density Subdivision Layout

All general standards must be met, in addition to or as otherwise stated in the following:

1. All building envelopes must be located in the front third of the lot to leave the back two thirds available for open space and wildlife passage.
2. Building envelopes must be no greater than 2 acres in size.
3. Design of the subdivision road must minimize fragmentation and indirect impacts on wildlife habitat by using practices such as minimizing the length of new roads, less than  $\frac{1}{4}$  mile where practicable, locating new roads proximate to existing on-site or off-site development or infrastructure, and locating new roads closer to one of the existing parcel lines.
4. The design must include suitable open space for wildlife passage. The open space may be on individual lots, must be outside designated building envelopes, must be at least 500 feet in width, extending around or through the development, and should be located adjacent to flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, or adjacent to a property line, to the extent practicable.
5. The access provision for existing trails in Section I,D,4 applies to low density subdivisions. Otherwise, the common open space provisions in Section I,D do not apply to this layout.
6. Also, the Commission may approve a low-density subdivision that does not include provisions for an on-site or off-site recreational amenity.

#### D. FlexDesign Subdivisions

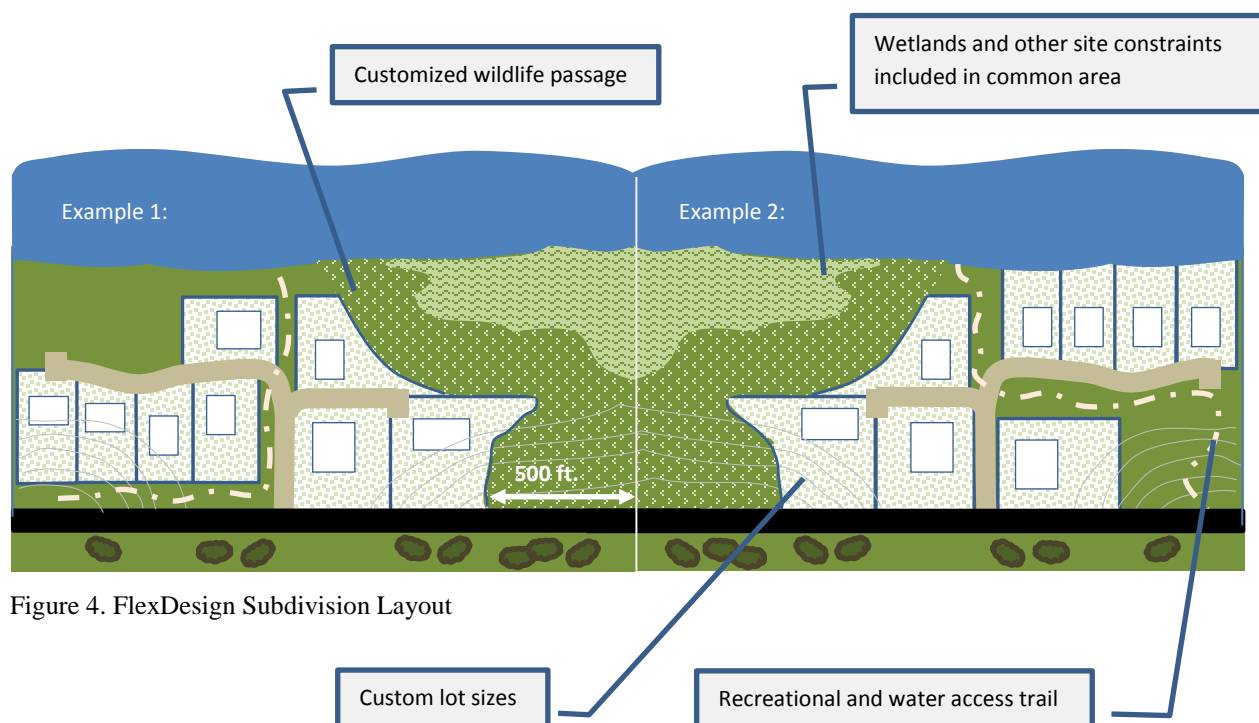


Figure 4. FlexDesign Subdivision Layout

FlexDesign Subdivisions allow for a customized subdivision layout and design, provided the following standards and procedures are met.

1. **Subdivision Objectives.** The proposed layout and design must meet the Commission's local scale subdivision design objectives, as follows:
  - a) **Good Fit.** Ensure well thought-out subdivision designs and quality infrastructure construction that are consistent with the local area's character, culture, land uses, and housing market; fit into the landscape to minimize the footprint and complexity of infrastructure, encourage continued timber and wood fiber production where appropriate, and protect existing resources where appropriate. Good fit recognizes the diversity of different regions.
  - b) **Limited Resources.** Provide for efficient use of limited land resources such as shorelines, frontage on public roads, and suitable soils to encourage more capacity for residential development in appropriate locations and create efficiencies in the provision of services such as roads, communication infrastructure, emergency services, schools, solid waste disposal, and recreation.
  - c) **High Value Resources.** Protect on-site and nearby high value resources including important farmlands, scenic resources, cultural features, wildlife habitats, waterbodies, wetlands, and other natural areas through good design, open space connectivity, and off-site conservation when appropriate to mitigate adverse impact on these resources.
  - d) **Recreational Resources.** Ensure that subdivision designs provide adequate access to on-site or off-site recreational opportunities to accommodate new residents and prevent negative impacts on existing public or private recreation resources, and encourage designs that provide access to a variety of, and interconnectivity between, recreational opportunities, where available.
  - e) **Adequate Infrastructure.** Ensure adequate infrastructure that has been designed to efficiently and effectively maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance, including provisions for systems that have interconnectivity, sufficient capacity, and resiliency in extreme weather events.
2. **Subdivision Design.** The development of the sketch plan must be consistent with the following design approach:
  - a) **Step One: Identify Priority and Supplemental Conservation Areas.** Identify the priority conservation areas, using existing information from State natural resource agencies and landowner knowledge, that must be considered for inclusion within common open space. Priority conservation areas include those areas of the parcel containing or supporting protected natural resources such as significant wildlife habitat, water bodies and wetlands; buffer areas to protect those resources; areas needed for wildlife passage around or through the development; imperiled and critically imperiled natural plant communities; special flood hazard areas; and sustained steep slopes (greater than 20%). Also, identify any supplemental conservation areas, features that the landowner has determined warrant secondary consideration for inclusion within common open space or protection from development, including other areas not-well suited for development, areas with connection to off-site open space, open fields, or other special features of the property that are important to maximize

opportunities such as protecting significant view sheds and providing solar access, and meet the applicant's design goals for the subdivision.

- b) **Step Two: Locate Building Envelopes.** Building envelopes must be located outside of priority conservation areas, and to the maximum extent feasible, should be located outside of supplemental conservation areas, as delineated in Step One. Building envelopes need to include sufficient area suitable for development and be located to reflect the Commission's local scale subdivision design objectives, outline in Section II, D, 1 above, as well as the applicant's design goals for the subdivision. The placement of building envelopes and lot lines must consider minimizing the creation of edges<sup>12</sup> between developed areas and open space, and consider the natural features of the landscape to the greatest extent possible, e.g., follow stone walls, lines of boundary trees, and streams. Locations of building envelopes should also consider the privacy provided for individual homeowners.
- c) **Step Three: Align Roads and Trails.** The minimum length and network of roads necessary to access each lot must be identified, subject to the road standards of the Commission, with consideration given to conforming roads to the natural landscape and to minimizing the creation of edges between developed areas and open space. Roads must be located in such a way that avoids or at least minimizes adverse impacts on those areas delineated in Step One. Where practicable for the proposed development site, entrances onto existing roads should be located to line-up directly across from existing entrances on the roadway, allowing for safe cross movement of traffic at the intersection. Proposed trails should be identified where access to designated open space or recreational resources on or off the development is appropriate.
- d) **Step Four: Draw Lot Lines.** Proposed lot lines must be identified. The placement of the lot lines should consider those areas identified in Step One, as well as conform to the cultural and natural features of the landscape to the greatest extent possible. The delineation of lots also should consider the privacy provided for individual lot owners and opportunity for future owners to reasonably expand the structures on the lot.

When a subdivision will not utilize the entire parcel and there are potential plans for future subdivision or development of the parcel, the request for sketch plan review also must include a conceptual long range development plan showing the potential utilization of the balance of the parcel not being subdivided. The conceptual long range development plan is intended to show that the current subdivision proposal will not compromise the long-term development of the parcel or important conservation values. This plan should show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land, as well as, in general terms, the potential road network and other infrastructure, development areas, and open space areas for the long-range development plan.

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<sup>12</sup> In this context, "edge" relates to the boundary between areas of human activity such as lawns and roads, and undeveloped natural areas, such as meadows and forests. Where an edge exists along a natural area, native wildlife species can be adversely affected for a distance from the edge, often called "the edge effect."



### 3. *Procedures- Sketch Plan Review Meeting*

Sketch plan submissions for FlexDesign Subdivisions, based on existing information available from State natural resource agencies and landowner knowledge, must be provided in advance of the meeting and must conform with guidance provided by the Commission, including the submission of a site context map; a site inventory map, site analysis map, conceptual sketch plan, and alternative design sketch developed using the four-step approach described above; and a project narrative discussing the applicant's design goals for the subdivision. Additional, site-specific survey work, wetland delineations, etc. is not expected and should not be a part of the sketch plan review.

### 4. *Open Space*

- a) The area to be designated as common open space or otherwise preserved as part of the development must include all identified Priority Conservation Areas. Supplemental Conservation Areas may also be included in common open space or conserved as needed to ensure the Commission's subdivision objectives and the applicant's design goals for the subdivision are met.
- b) Sufficient Supplemental Conservation Areas must be included in the common open space to meet at least the minimum area percentage requirement for common open space.
- c) Unless site conditions indicate less open space will meet the Commission's local scale subdivision design objectives in Section II,D,1, the open space percentage for FlexDesign Subdivisions must be at least 50% of the net developable land area, and 50% of the net developable shoreline for shoreland developments.
- d) All open space areas must be part of a larger continuous and integrated open space system within the parcel being developed, and connected to off-site undeveloped land to the fullest extent practicable.
- e) Subsurface disposal systems may be allowed in designated open space provided legal provisions are made for maintenance, access, and replacement; and the systems do not encroach on areas designated for wildlife passage or habitat protection.
- f) Common open space must be preserved and maintained in accordance with Section 10.25,S.

# Attachment 2

## Subdivision Rule Review

Written Comments from  
Appalachian Mountain Club

May 30, 2018



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## Written Comments on Conceptual Subdivision Layout and Design Standards

May 30, 2018

As a landowner and conservation organization in Maine, the Appalachian Mountain Club (AMC) has an interest in land use decision-making in the Unorganized Territories of the state. We appreciate this opportunity to participate in the process of reviewing the recently released conceptual subdivision layout and design standards. We work closely with the LUPC in our region and appreciate your efforts to balance appropriate land use with supporting Maine's nature-based economy.

AMC participated in the subdivision review stakeholder process back in 2014-2015. At that time we felt that LUPC taking on a comprehensive rule revision process was unnecessary. We were unable to find clear, jurisdiction-wide issues of concern with the current rules. Since then, we have actively followed the LUPC effort to update the Adjacency principle and understand the desire to align the two rule revisions. **After reviewing both sets of proposals, AMC continues to believe that the current planning and zoning scheme for the UT has worked well. We do not believe the major changes being proposed are needed or appropriate.**

We remain supportive of any effort to encourage development in or nearby UT communities. Any rule changes should meaningfully incentivize all types of development within these existing service centers to help bolster their vitality and protect them from the increased costs associated with providing services beyond their borders. We think criteria for subdivision development in the UT should encourage development in places that are already specified as appropriate by the current rules and are currently under-utilized.

As with any zoning ordinance, periodic reexamination and adjustment in response to changing circumstances and opportunities are warranted. However, these changes should be targeted at promoting smarter development, not more development. The core principles of promoting development in proximity to existing development and infrastructure while protecting the

undeveloped and remote nature of the core areas of the jurisdiction must be strengthened, not weakened.

We thank you for the opportunity to comment on these proposed concepts and look forward to a more thorough overview of these proposals at the June 20<sup>th</sup> LUPC meeting. Please do not hesitate to contact me ([kbernard@outdoors.org](mailto:kbernard@outdoors.org)) if you have any questions.

Sincerely,

*Kaitlyn Bernard*

Kaitlyn Bernard  
Maine Policy Manager

# Attachment 3

## Subdivision Rule Review

Timeline: Subdivision and Adjacency Rule Revisions

May 23, 2018

# Timeline: Subdivision and Adjacency Rule Revisions

**April 2014:** Outreach to stakeholders, including land owners, environmental groups, technical consultants, and others regarding subdivision layout and design

**September 2014:** Online survey re subdivisions; open to the public

**October 2014:** Workshop with panel of experts to discuss subdivision rule concepts

**November 2014—April, 2015:** Facilitated group meetings with stakeholders to discuss and prioritize issues

**December 2015—January, 2016:** Focus group meetings with stakeholders to discuss topics related to layout and design of subdivisions

**February 2016:** Commission begins review of adjacency for subdivisions and all types of development

**April 2016—May 2017:** Creation, distribution, and analysis of public survey of property owners of record (2,000+ responses)

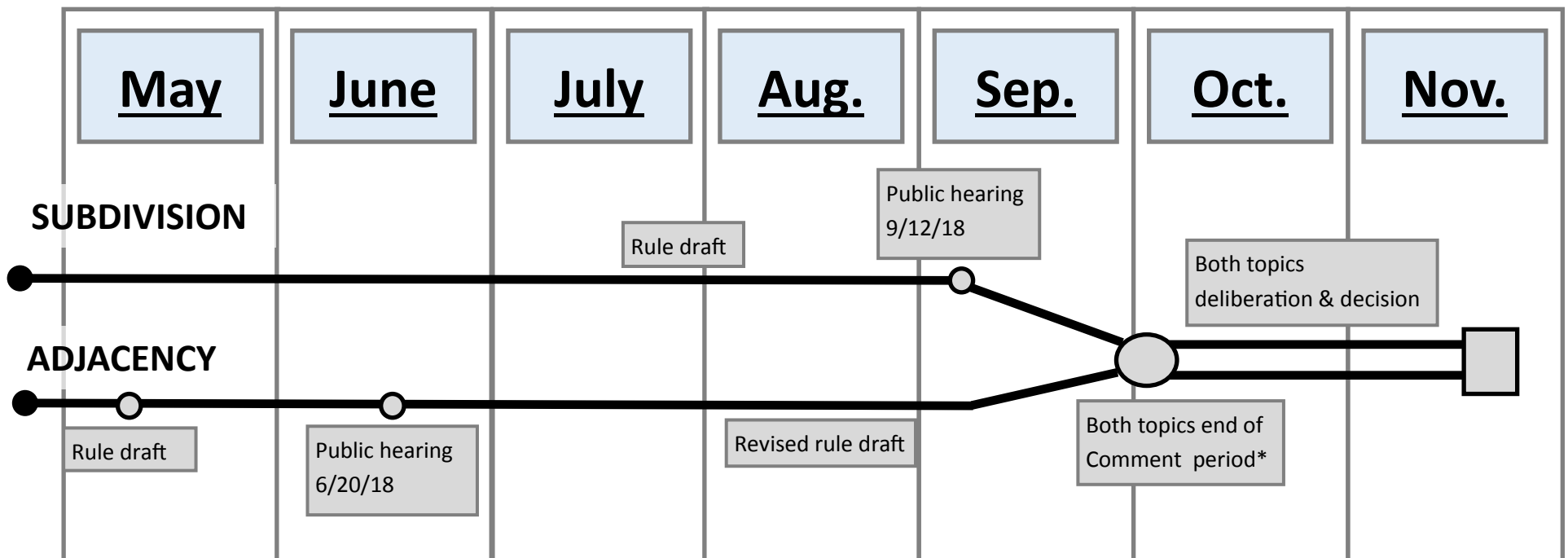
**June—July 2017:** Stakeholder focus group meetings to discuss economic development, issues important to property owners, conservation & wild-life, & provision of public services

**August 2017:** Public comment on proposed new planning framework

**February 2018:** Commission consideration of proposed adjacency rule concepts

**April 2018:** Public information meetings in Bingham and Millinocket

**April 2018:** Written and oral public comment opportunity on proposed adjacency rule concepts



**May—Nov.2018**

\*Notes:

- Written comment period ends 9/24/2018
- Rebuttal comment period ends 10/1/2018